



CNR: KAHC010007652020

NC: 2026:KHC:52506-DB
CRL.A No. 574 of 2020
C/W CRL.A No. 839 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.574 OF 2020 (C)

C/W

CRIMINAL APPEAL NO.839 OF 2019 (C)

IN CRL.A NO.574/2020:

BETWEEN:

VIJAY KUMAR
S/O. NARASIMHAIAH
AGED ABOUT 30 YEARS
R/AT LAKKENAHALLI
DASANAPURA HOBLI
BENGALURU NORTH TALUK
BENGALURU-562 123

...APPELLANT

(BY SRI A. S. KULKARNI, ADVOCATE)

AND:

STATE OF KARNATAKA
BY DODDABELAVANGALA
POLICE STATION
BENGALURU DISTRICT-561 204
REP. BY ITS S.P.P.
HIGH COURT OF KARNATAKA
BENGALURU-560 001

...RESPONDENT

(BY SRI VIJAYKUMAR MAJAGE, S.P.P.-II A/W
SRI RANGASWAMY R., H.C.G.P.)

Digitally signed
by
SHARADAVANI
B

Location: HIGH
COURT OF
KARNATAKA



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THIS CRL.A. IS FILED U/S.374(2) CR.P.C BY THE ADVOCATE FOR THE APPELLANT PRAYING TO SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION DATED 16.01.2019 AND SENTENCE DATED 02.02.2019, PASSED BY THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, DODDABALLAPURA IN S.C.NO.10003/2017, CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION 302 READ WITH SECTION 34 OF IPC.

IN CRL.A NO.839/2019:

BETWEEN:

T. S. LAKSHMI NARASIMHAIAH
@ NARASIMHA @ CHAIRMAN
S/O. T. L. SRINIVAS
AGED ABOUT 26 YEARS
R/AT AMBEDKAR ROAD
NEAR CHURCH, KENGERI ROAD
THAVAREKERE, BENGALURU SOUTH TALUK
BENGALURU-562 123

...APPELLANT

(BY SRI SHANMUKHA K. P., ADVOCATE)

AND:

STATE OF KARNATAKA
BY DODDABELVANGALA
POLICE STATION
BENGALURU DISTRICT-561 204
REP. BY ITS S.P.P.
HIGH COURT BUILDING
BENGALURU-560 001

...RESPONDENT

(BY SRI VIJAYKUMAR MAJAGE, S.P.P.-II A/W
SRI RANGASWAMY R., H.C.G.P.)



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THESE APPEALS, COMING ON FOR FURTHER HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE B.PRAMOD

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ)

Accused Nos.1 and 2 have preferred these appeals, against their conviction and sentence passed by the trial Court for the offence punishable under Section 302 r/w. Section 34 of IPC. They are sentenced to undergo life imprisonment with fine of Rs.10,000/- each, and in default of payment of fine, to further undergo SI for a period of 6 months.



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2. Crl.A.No.574/2020 is preferred by accused No.1 and Crl.A.No.839/2019 is preferred by accused No.2.

3. We have heard both sides and perused the material on record.

4. The learned SPP-II appearing for the State has submitted that accused No.1 has died. The police report along with copy of the death certificate of accused No.1 has been furnished. As per the death certificate, he died on 13.03.2026.

5. Learned counsel Sri A.S. Kulkarni, appearing for accused No.1 submitted that the legal representatives of the said accused have not filed any application to continue the appeal, challenging his conviction.

6. In a nutshell, case of the prosecution is that the deceased-Chandpasha and wife of accused No.1-Mala (PW.19) were in an illicit relationship. Accused No.1 was quarreling with his wife and therefore, she had deserted his company and staying in her parental home. Hence,



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accused No.1 was nurturing ill-will against Chandpasha and he was waiting for an opportunity to commit his murder. On 23.09.2016 when Chandpasha was driving his autorikshaw bearing Reg.No.KA-53/A-2008, accused No.1 along with accused No.2 followed him in the autorikshaw, bearing Reg.No.KA.52-337. Near Indian Navy land in Udichikkanahalli village, they intercepted the autorikshaw of the deceased and assaulted him with clubs and stone on his head and other parts of the body and committed murder.

7. Since, deceased had not returned home on the night of 23.09.2016, PW.10-Banu, wife of the deceased informed PW.2, brother of the deceased. PW.2 came to know that the autorikshaw was parked in Udichikkanahalli village near the bridge. Immediately, he went to the spot. He noticed the dead body of his brother, Chandpasha about 100 meters away from the place where the autorikshaw was stopped. He informed the matter to the police and on his complaint-Exhibit P3, a case was



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registered at Doddabelavangala Police Station, against accused No.1 and others for the offence punishable under Section 302 IPC. PW.1, took over the investigation and upon completion of the investigation, he filed charge sheet against accused Nos.1 and 2.

8. It is the specific case of the prosecution that accused No.1 was nurturing ill-will against deceased Chandpasha, as he had an illicit relationship with his wife. Hence, followed the autorikshaw of the deceased along with accused No.2 and both the accused assaulted him with clubs and stone and committed the murder.

9. The entire case is based on circumstantial evidence. The prosecution is relying on the homicidal death, motive, last seen theory, recovery of clubs, recovery of bloodstained clothes of accused No.1, the FSL report and purchase of the clubs from the shop of PW16.

10. PW.20 is the Doctor, who conducted the autopsy. The Post Mortem Report is marked as Exhibit P31. PW.20



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has opined that the cause of death is due to cardio respiratory arrest as a result of head injuries sustained.

11. As per Exhibit P32-the following opinion was furnished by him:

"(a) injuries sustained to the head or face can occur when hit by a rock; and

(b) injuries sustained to the left arm, left forearm, base of the left shoulder are possible when hit by bamboo stick presented."

It is stated that the injuries sustained to the head was sufficient to cause death.

12. PW.2, the brother of the deceased, PW.9, a person known to the deceased and accused No.1 and PW10, the wife of the deceased have all spoken about the illicit relationship between the deceased and the wife of accused No.1. Their evidence reveals that accused No.1 had quarrelled not only with his wife but also with the deceased and he had threatened him with dire consequences. PW9 has deposed that in this connection,



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he had advised both accused No.1 as well as the deceased. PW10, the wife of the deceased has also stated that her husband had an apprehension that accused No.1 would kill him.

13. The prosecution has relied on the evidence of PW3 and PW5, to establish that accused Nos.1 and 2 were seen following the autorikshaw of the deceased on the relevant point of time. Both the said witnesses were working as the security guards in a land situated near Udichikkanahalli-Guddepalya. They have deposed that at around 05.00 p.m., they saw an autorikshaw going towards Udichikkanahalli and another autorikshaw in which two persons were present, following the first autorikshaw. They have stated that the two persons who were following the first autorikshaw, enquired with them as to whether any autorikshaw had proceeded on that road towards Udichikkanahalli. They have stated that on the next day morning at about 08.00 a.m., they saw the dead body lying near the land and identified it as the dead body of



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the person who was driving the first autorikshaw. They have also identified accused Nos.1 and 2 as the persons who were in the second autorikshaw which was following the autorikshaw driven by the deceased.

14. The learned counsel for accused No.2 vehemently contented that both PW3 and PW5 have admitted that they worked as security guards from 08.00 a.m. to 06.00 p.m. and therefore, their claim that they saw the autorikshaw at about 5 p.m., when they were proceeding to their village after the work hours, cannot be believed.

15. We have perused the evidence of PW3 and PW5. PW3 has stated that on that day, he along with PW5, in order to go to their village, were waiting for the bus on the main road of Udichikkanahalli at about 05.15 p.m. Merely because the witnesses have stated that their work hours is from 08.00 am to 06.00 pm, that itself is not sufficient to disbelieve their evidence that they had seen the two autorikshaws at about 05.15 p.m., while they were waiting



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for the bus on the main road in Udichikkanahalli. In fact they have withstood the cross-examination conducted by the defense.

16. After the arrest of accused Nos.1 and 2, two clubs were recovered at their instance. Further, the bloodstained clothes of accused No.1 were also seized. The bloodstained clothes were subjected to FSL examination and as per the FSL report-Exhibit P.60 and the evidence of PW26, the wooden clubs (MOs 10 and 11) and the clothes of accused No.1 (MOs.8 and 9) were stained with 'O' group blood, which matched with the bloodstains found on the clothes of the deceased.

17. The learned SPP-II has contended that both accused Nos.1 and 2 have purchased the clubs from the shop of PW16, in order to commit the murder and both the said accused have gone in the autorikshaw bearing Reg.No.KA-52/337 and followed the autorikshaw of the deceased bearing Reg.No.KA-53/A-2008. The clubs are



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recovered at the instance of both the accused, which shows that accused Nos.1 and 2 with a common intention to commit the murder have followed the deceased and assaulted him with clubs and stone and committed murder.

18. PW16, the shopkeeper who allegedly sold the two clubs-MO.10 and MO.11 to accused Nos.1 and 2 has turned hostile. The recovery of two clubs under Exhibit P14 has been spoken by the panch witness-PW8. The said clubs were recovered from the road side situated near one Santhosimatha Temple, Guddepalya.

19. PW7 and PW.13 are the panch witnesses to the recovery of bloodstained clothes-MO8 and MO9 at the instance of accused No.1. The mahazar is marked as Exhibit P13. PW7 has not supported the case of the prosecution. However, PW11 has deposed about the said recovery of the clothes MO8 and MO9, belonging to accused No.1. As per the FSL report, the clothes were



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stained with 'O' blood group, which matched with the blood stains found on the clothes of the deceased.

20. According to the prosecution, both accused Nos.1 and 2 have purchased the clubs from the shop of PW16. The mahazar-Ex.P16 drawn at the shop of PW.16 is not proved, as said witness namely the shop keeper has turned hostile to the prosecution case. According to PW9, an autorikshaw driver, on 23.09.2016 at about 03.30 p.m. while he was driving his auto near the hardware shop i.e. the shop of PW16, accused No.1 suddenly came in front of his autorikshaw and at that time he was holding the clubs. He also noticed an autorikshaw bearing Reg.No.KA-52/337 parked nearby. He has stated that accused No.2 was present in the autorikshaw and the accused went towards the road leading to Gollahalli.

21. Admittedly, the motive is attributed against accused No.1. The prosecution has not alleged any motive insofar as accused No.2 is concerned. PW9 has deposed



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that he saw accused No.1 with two clubs. Even though the clubs were recovered at the instance of accused Nos.1 and 2, there is no other material against accused No.2. No incriminating materials such as bloodstained clothes of accused No.2 are seized. Even accepting the presence of accused No.2 in the autorikshaw, that will not lead to a conclusion that accused No.2 went to the spot along with accused No.1 with a common intention of committing the murder. The presence of accused No.2 along with accused No.1 on the evening of 23.09.2016 will not lead to a conclusion that he accompanied accused No.1 to the spot and assaulted the deceased. There are no eye witnesses to the incident. The circumstances relied upon by the prosecution, are not sufficient to hold that the charges levelled against accused No.2 are proved beyond all reasonable doubt. Even the trial Court, while discussing the evidence on record has observed that accused No.2 was not at all having any criminal intention to commit murder of Chandpasha. However, observing that he had



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accompanied accused No.1, held that he is also equally liable for punishment. In view of foregoing discussion, we are of the view that accused No.2 is entitled to the benefit of doubt.

22. Hence, we proceed to pass the following:

ORDER

(i) Crl.A.No.574/2020 is **dismissed**.

(ii) Crl.A.No.839/2019 is **allowed**.

(iii) The Judgment of conviction dated 16.01.2019 and Order on sentence dated 02.02.2019, passed in SC.No.10003/2017 by the Court of IV Additional District and Sessions Judge at Doddaballapura, insofar as accused No.2, for the offence punishable under Section 302 r/w Section 34 of IPC, is set aside.



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(iv) Accused No.2 is acquitted of the offence
under Section 302 r/w Section 34 of IPC.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

MKM
CT: VC