



CNR: KAHC010024342019

NC: 2026:KHC:50109-DB
CRL.A No. 142 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO. 142 OF 2019 (C)

BETWEEN:

SRINIVAS @ SEENAPPA
S/O LATE CHINAPPA,
AGED ABOUT 53 YEARS,
R/AT NANDAGUDI,
HOSKOTE TALUK,
BENGALURU-560 000.

...APPELLANT

(BY SRI. N. DEENABANDU RAI, ADVOCATE)

AND:

STATE OF KARNATAKA BY
NANDAGUDI POLICE STATION,
BENGALURU RURAL DISTRICT
PIN CODE-560 000.
(REPRESENTED BY LEARNED
STATE PUBLIC PROSECUTOR)
HIGH COURT OF KARNATAKA,
(HIGH COURT BUILDING)
BENGALURU.

...RESPONDENT

(BY SRI. VIJAYKUMAR MAJAGE, SPP-II A/W
SRI. SMT. SOWMYA R., HCGP)



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THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO CALL FOR THE RECORDS OF THE COURT BELOW AND SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION AND SENTENCE DATED 20.04.2018 AND 27.04.2018 PASSED IN SESSIONS CASE NO.162/2015 ON THE FILE OF THE IX ADDITIONAL DISTRICT AND SESSIONS JUDGE, BENGALURU RURAL DISTRICT, BENGALURU AND CONSEQUENTLY, ACQUIT THE APPELLANT.

THIS APPEAL, COMING ON FOR FINAL 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)

The judgment and order passed by the trial Court, convicting the accused for the offence punishable under Section 302 IPC and sentencing him to undergo imprisonment for life and to pay a fine of Rs.10,000/-, in default, to pay the fine, to undergo SI for 3 months, is assailed in this appeal.

2. In a nutshell, the case of the prosecution is that the accused was suspecting the fidelity of his wife and on 09.06.2015 at about 01.00 p.m., he picked up quarrel with



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her and poured kerosene and set her ablaze. She succumbed to the injuries at about 05.30 a.m. on 10.06.2015, while undergoing treatment at Victoria Hospital. Based on the statement given by the deceased at Victoria Hospital, marked as Ex.P10, the PSI-PW11 registered a case against the accused. The investigation was taken over by the CPI-PW14, who on completion of the investigation, filed the charge sheet.

3. In order to establish the charge levelled against the accused, the prosecution got examined 15 witnesses and got marked 15 documents and MOs 1 to 3. The defence of the accused was one of total denial.

4. Learned Sessions Judge vide impugned judgment and order, came to the conclusion that, though the circumstantial witnesses not fully supported the case of the prosecution, but they say that the deceased died due to pouring of kerosene and lighting fire and the quarrel between the accused and deceased in respect of an illicit



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relationship of the deceased with one Muniraju (PW8) is in corroboration to the case of the prosecution.

5. Further, the trial Court relying on Ex.P10, the dying declaration held that the said statement of the victim is in corroboration with the oral evidence of the witnesses and also other circumstances and the accused has not offered acceptable reason for the burn injuries sustained by his wife, hence, drawing an adverse inference against the accused, held that the prosecution has proved its case beyond all reasonable doubt.

6. From the material on record, it is seen that the marriage of the deceased-Bhagyamma, took place with the accused about 6 to 7 years prior to the date of incident. They had two children aged about 6 years and 4 years respectively. The accused was doing welding work. It is the specific case of the prosecution that he was addicted to drinking habits and assaulting the deceased, suspecting her fidelity. On 06.06.2015 at about



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10.30 a.m., one Muniraju had visited the house of the deceased and distributed sweets on behalf of a candidate who had won the Nandagudi Grama Panchayath election. After the said Muniraju left the house, the accused scolded the deceased stating that she has some connection with the said person. On 08.06.2015 in the night, the accused who was drunk, once again quarreled with the deceased, abused and assaulted her. Again on 09.06.2015, the accused returned to the house from work, at about 01.00 p.m., in an inebriated condition and picked up quarrel with the deceased. He then took a can containing kerosene oil and poured it on the deceased and set fire with a matchstick.

7. As per Ex.P10, the neighbour's put off the fire and called the ambulance. The victim's brother by name Ramanjanappa, took her to Victoria Hospital, Bengaluru for treatment.



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8. In the case on hand, the death of Bhagyamma due to burn injuries, is not seriously disputed. However, the contention of the learned counsel for the appellant is that the contents of Ex.P10 is not given by the deceased. To buttress the said argument, the learned counsel has contended that as per the post mortem report, the deceased had sustained 90 to 95% of burn injuries and therefore, she could not have given a detailed statement as per Ex.P10. He contended that the doctor who endorsed on Ex.P10, has not been examined. No attempt was made by PW11 to secure the Tahsildar to record the dying declaration. Further, drawing the attention of the Court to the evidence of PW11, the learned counsel contended that the left thumb impression of the deceased was taken even before recording her statement, which creates a doubt in the case of the prosecution. It is contended that all the witnesses including the close relatives of the deceased have turned hostile and there is no material to show that the accused was suspecting the fidelity of his wife and in



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that connection he picked up quarrel with the deceased and set her ablaze. Accordingly, he sought to allow the appeal and set aside the impugned judgment and order of conviction and sentence passed by the trial Court.

9. The learned SPP-II has contended that the dying declaration at Ex.P10 is believable, since the doctor has made an endorsement on the said document that the patient was conscious and she was fit to give statement. He further contended that the brother of deceased examined as PW2 has admitted in the cross-examination that they had settled the matter and therefore, it is obvious that the relatives of the deceased have turned hostile. He contended that Ex.P10 is reliable and acceptable and therefore, the trial Court has rightly convicted the accused and sought to dismiss the appeal.

10. The incident took place on 09.06.2015 at about 1.00-1.05 p.m. In Ex.P10, it is stated that the neighbours put off the fire and then the brother of the deceased by



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name Ramanjenappa (PW2), shifted the victim in the ambulance to Victoria Hospital, for treatment. Surprisingly, there is no material placed on record to show that the hospital authorities have sent the MLC intimation to the concerned Police Station, on the admission of the victim with burn injuries. According to PW11, he received a telephone message from one person from Ramagovindapura stating that the injured had been admitted to the hospital. He has not stated about receipt of any intimation from the hospital. The case sheet from the hospital has not been produced by the prosecution to show as to what was the condition of the patient and what was the history furnished at the time of her admission. PW11 has stated that at about 03.00 p.m. he went to Victoria Hospital and requested the concerned doctor to record the statement of Bhagyamma and the doctor told that the patient is fit to give statement at about 05.00 p.m. In Ex.P10 there is an endorsement made by the doctor, that the patient is conscious and she is fit to give



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statement physically and mentally. It is not forthcoming as to who was the doctor, who made the said endorsement on Ex.P10. Though he has stated that the doctor was very much present at the time of recording of the statement of the victim, in his cross-examination, PW11 has stated that he cannot remember the name of the doctor who was present at the time of recording of statement of the victim. The said doctor is not examined by the prosecution. Further, PW11 in his chief examination has stated that he obtained the left thumb mark of Bhagyamma and signature of the doctor before recording of Ex.P10.

11. As per the Post Mortem Report, death is due to shock as a result of burn injuries sustained. PW12 is the doctor who conducted the autopsy. As per medical evidence, the deceased had sustained second and third degree burns over face, including limbs, front and back of neck, front and back of chest, front and back of abdomen including external genitalia, front and back of both upper limbs sparing right palm, patches over front and back of



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both lower limbs sparing both soles. The victim had sustained 90% to 95% anti-mortem, second and third degree burns. In the cross-examination, he has admitted that the left hand fingers and palm of Bhagyamma were burnt. The prosecution has not produced the medical case sheet of the hospital to show as to the condition of the patient, the treatment given to her, till her death. When such is the case, it is difficult to accept the evidence of PW9 that the deceased was in a position to narrate the contents of Ex.P10, which is not in the question and answer form. According to PW11, he recorded the statement of the deceased for 45 minutes to 1 hour. There is no evidence to show that the doctor was present throughout when the said statement was recorded. Further, PW11 has not made any attempt to secure the Tahsildar to record the dying declaration. He has admitted in the cross-examination that he has not stated any reason for not calling the Tahsildar to record the statement of the deceased and also admitted that the



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doctor has not specifically mentioned that the statement was recorded in his presence.

12. As per Ex.P10, the statement of the victim was recorded at about 07.30 p.m. on 09.06.2015. The victim died in the early morning at about 05.30 a.m. on 10.06.2015. The FIR was received by the Magistrate after her death, i.e. at about 11.00 a.m. on 10.06.2015. Though, FIR has been registered on 09.06.2015 at about 07.30 pm itself, for the offences under Section 498A and Section 307 of IPC, it was not immediately forwarded to the Magistrate, which also creates a doubt regarding the recording of the statement of the victim by PW11, on 09.06.2015 at about 07.30 pm.

13. The manner in which the dying declaration came to be recorded gives an impression that it is suspicious. Hence, without any corroborative evidence the said dying declaration cannot be acted upon. All the material witnesses, examined by the prosecution to



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establish that the accused was suspecting the fidelity of his wife and he was abusing and assaulting her, have turned hostile to the prosecution. The panch witness to Ex.P3-spot mahazar, under which MOs.1 to 3 i.e., burnt cloth, match box and plastic can were seized, has stated in the cross-examination that the said mahazar was prepared in the police station. There is no convincing and acceptable material on record to hold that the accused was suspecting the fidelity of his wife and he picked up quarrel with her and then poured kerosene on her and set her ablaze.

14. For the foregoing reasons, the trial Court was not justified in convicting and sentencing the accused for the offence punishable under Section 302 IPC. Accordingly, the appeal succeeds.

ORDER

Appeal is ***allowed***.

The judgment and order dated 20.04.2018 and 27.04.2018 passed by the Court of IX Additional District



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and Sessions Judge, Bengaluru Rural District, Bengaluru in
S.C.No.162/2018 is set aside.

The appellant/accused is acquitted of the offence
punishable under Section 302 IPC.

He shall be set at liberty forthwith, if not required in
any other case.

The copy of the order shall be communicated to the
concerned jail authority, by the Registry.

**Sd/-
(MOHAMMAD NAWAZ)
JUDGE**

**Sd/-
(B.PRAMOD)
JUDGE**

HB
List No.: 1 Sl No.: 10