



CNR: KAHC010027262019

NC: 2026:KHC:42209-DB
CRL.A No. 172 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 172 OF 2019 (C)

BETWEEN:

NAGESH
AGED ABOUT 35 YEARS,
S/O. SHIVAMALLAIAH,
R/AT ALAGANCHI VILLAGE,
NANJANGUD,
MYSORE DISTRICT-571 301.

...APPELLANT

(BY SRI. NAGARAJA REDDY D., ADVOCATE (PH))

AND:

STATE OF KARNATAKA
BY BADANAVALU POLICE,
REP. BY SPL. PP,
HIGH COURT BUILDING,
BANGALORE.

...RESPONDENT

(BY SRI. VIJAY KUMAR MAJAGE, SPP-II (PH))

THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING
TO CALL FOR RECORDS OF THE COURT BELOW AND SET

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LAKSHMI T
Location:
High Court
of Karnataka



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ASIDE THE JUDGMENT AND ORDER OF CONVICTION DATED 21.07.2018 AND SENTENCES DATED 26.07.2018 PASSED BY THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, MYSURU, IN S.C.NO.200/2016, AND CONSEQUENTLY ACQUIT THE APPELLANT FROM THE ALLEGED CHARGES.

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 G BASAVARAJA

ORAL JUDGMENT

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

This appeal is preferred against the Judgment of Conviction dated 21.07.2018 and Order on Sentence dated 26.07.2018 passed by the Court of the III Additional District and Sessions Judge, Mysuru, in SC No.200/2016.

2. Vide impugned Judgment and Order, the learned Sessions Judge has convicted the appellant for the offences punishable under Sections 302, 307 and 427 of IPC and passed the following sentence:



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"Acting under Section 235 (2) of Cr.P.C., the Accused - Nagesh is sentenced to undergo imprisonment for life and to pay fine of Rs.10,000/- for the offence under Section 302 of I.P.C. In case of default of payment of fine, he shall further undergo Simple Imprisonment for a period of 6 [six] months.

In so far as offence under Section 307 of I.P.C. is concerned, the accused is sentenced to undergo Rigorous Imprisonment for 7 [Seven] years and to pay fine of Rs.5,000/-. In case of default of payment of fine, the accused shall further undergo Simple Imprisonment for a period of 3 [three] months. On recovery of the said fine amount of Rs.5,000/-, the whole of such fine amount shall be applied towards payment of compensation to P.W.2 - Smt. Vinayashree.

In so far as offence under Section 427 of I.P.C. is concerned, the accused is sentenced to undergo Rigorous Imprisonment for 1 [One] year and to pay fine of Rs.2,000/-. In case of default of payment of fine, the accused shall further undergo Simple Imprisonment for a period of 15 [fifteen] days. The fine amount of Rs.2,000/-, if recovered, shall be applied in defraying the expenses incurred for the prosecution."

3. Heard learned counsel Sri Nagaraja Reddy, for the appellant and learned SPP-II Sri Vijay Kumar Majage for the respondent-State and perused the material on record.



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4. It is the case of the prosecution that on 1.1.2026 at about 11.15 a.m., PW1, PW2, deceased Venkatesh, his wife and his grand son were proceeding in a Indica Car bearing No.KA.02-Z-8189 from Mysore to Bannari temple in Tamilnadu. When they were near Alaganchi, the accused who was driving the lorry bearing registration No.KA-09-2805, came from the opposite direction and hit against their car causing scratches and went ahead without stopping the lorry. Enraged by the act of the accused, they chased the lorry and by overtaking it stopped their car in front of the lorry signaling the lorry to stop, near Milk Diary, Alaganchi village. A quarrel took place between the accused and the inmates of the indica car. The villagers also gathered at the spot and tried to pacify the quarrel. At that time, the deceased Mantelingaiah, scolded the accused for using filthy language against Vinayashree (PW2). Being enraged by the act of Mantelingaiah, the accused got into the lorry and drove it rashly by saying he will finish off all of them



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and ran over the deceased Venkatesh and deceased Mantelingaiah, as a result, both of them died instantaneously at the spot and complainant's wife, Vinayashree sustained injuries to her leg. Further, the accused, while speeding away from there, hit one Ertiga car bearing No.KA-10-M-3415 which was coming from the opposite direction and caused severe damage to the said car.

5. The law was set into motion by PW1. On the basis of his complaint, marked as Ex.P10, PSI of Badavanavalu Police Station registered a case against the accused. The investigation was taken over by the CPI-PW11, who conducted the inquest, prepared the spot mahazar and the sketch. On completion of the investigation, charge sheet was filed against the accused.

6. Before the trial Court, prosecution got examined 12 witnesses, got marked 38 documents and 17 material objects. The defence taken by the accused was that it was



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a case of accident and he is innocent of the offence. while examining, under Section 313 of Cr.P.C., he put forth a defence that he was not driving the lorry in question, but it was the cleaner of the lorry who was driving the lorry on the date of incident.

7. The learned counsel for the appellant contended that, even accepting the case of the prosecution as true, this is a case wherein, the incident was on account of a sudden quarrel and as the accused got deprived of his power of self-control, committed the act by grave and sudden provocation and therefore, his act would come within the purview of Exception 1 to Section 300 of the IPC.

8. Elaborating the above contention, the learned counsel for the appellant argued that the accused and the victims are strangers and there was no intention on the part of the accused to commit the murder. He contended that the case of the prosecution itself would narrate that



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the incident occurred on account of a sudden quarrel and in the heat of passion and therefore, the trial Court committed a grave error in convicting the accused for the offence punishable under Section 302 IPC.

9. The learned SPP-II, on the other hand, vehemently contended that PWs.1, 2 along with deceased Venkatesh were traveling in their car bearing registration No. KA.02-Z-8189 and at that point of time, the accused who was driving the lorry in a rash and negligent manner grazed against the said car. When the inmates of the car questioned the accused about his act, he intentionally drove the lorry and ran the vehicle over deceased Venkatesh and deceased Mantelingaiah, who sustained severe injuries and died, and further, caused injuries to PW2. Hence, contended that the trial Court has rightly convicted the accused for the charged offences.

10. PW1 is the complainant and an eye witness to the incident. PW2 is also an eye witness and she is the



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injured in this case. PW3 is the inmate of Ertiga car, which also got damaged, while the accused was trying to speed away from the place of incident. PW4 is a relative of the deceased Mantelingaiah and he is an eye witness to the incident. PW5 is the doctor, who issued MLC-Ex.P27 and the case sheet-Ex.P26 in respect of the injured-PW2. Ex.P6 is the doctor, who treated PW2 and issued the wound certificate marked as Ex.P28. PW7 is the doctor, who conducted the autopsy over the dead body of Mantelingaiah. Post Mortem report is marked as Ex.P30 and the opinion furnished by the doctor is marked as Ex.P31. PW8 is the Motor Vehicle Inspector, who issued a report-Ex.P32 regarding the damages caused to the three vehicles. PW9 is the Doctor, who conducted the autopsy on the dead body of Venkatesh. The Post Mortem report is marked as Ex.P34 and the opinion furnished by the doctor is marked as Ex.P35. PW10 is the PSI, who received the complaint-Ex.P11 from PW1 and registered the case and issued the FIR-Ex.P36, to the jurisdictional Court. PW11 is



the CPI, who took over the investigation from PW10 and on completion of the investigation, filed the charge sheet. PW12 is the owner of the lorry, which is involved in this case.

11. A perusal of the evidence of PW1, PW2 and PW4 goes to show that on 01.01.2016, at about 8.00 a.m., the first informant -G.N.Chidambara-(PW1) along with his wife Vinayashree (PW2), deceased Venkatesh and his wife-Smt. Jayamma and their grandson Hitesh were proceeding in a car bearing registration No.KA.02-Z-8189 to Bannari temple in Tamil Nadu, through Suthuru. When they were near Alaganchi Village, the accused, who was driving his lorry bearing registration No.KA-09-2805 came from the opposite direction and hit their car, damaging the side mirror and causing scratches to the vehicle. PW2, who was driving the car followed the lorry and stopped the car in front of the lorry. At that time, the accused got down from the lorry and engaged in an altercation. By that time,



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the villagers, including Mantelingaiah, gathered at the spot. When the inmates of the car and Mantelingaiah questioned the accused about his rash driving and when Mantelingaiah admonished the accused and told him that he was speaking rudely, the accused got into the lorry and deliberately ran the lorry over the deceased Venkatesh and deceased Mantelingaiah and over the left leg of PW2, who sustained grievous injuries.

12. In Ex.P11, it is stated that both the deceased were shifted to Nanjanagud Govt. Hospital and the injured PW2-Vinayashree was taken to K.R.Hospital, Mysuru, for treatment. PW5 and PW6 are the doctors working at KR Hospital. PW5 has issued the case sheet and MLC extract, pertaining to PW2, marked as Ex.P26 and Ex.P27. Further, PW6 has treated PW2 and noticed six injuries. Ex.P28 is the wound certificate issued by PW6 in respect of PW2. Ex.P29 is the opinion furnished by the said doctor.



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13. The post-mortem of deceased Mantelingaiah is conducted by PW7 and deceased Venkatesh by PW9. The post mortem reports are marked as Ex.P30 and Ex.P34 respectively wherein, the cause of death is mentioned as instantaneous as a result of intracranial injuries due to hard and blunt force injury to the head.

14. With regard to the damages caused to the vehicles bearing number KA-02-Z-8189 and KA-10-M-3415, the prosecution has got examined the Motor Vehicle Inspector as PW8. He has issued a report-Ex.P32, which clearly depicts the damages caused to the said two vehicles.

15. The prosecution has also got examined PW3-the owner of the Ertiga car which was also damaged in the incident, while the accused tried to flee from the spot, in order to escape.



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16. PW1, PW2 and PW4 have identified the accused as the one who was driving the lorry and engaged in the altercation and subsequently, ran the lorry over the two deceased as well as PW2, who sustained grievous injuries to her left leg. Further, PW12 is the owner of the lorry, whose evidence clearly goes to show that the accused was engaged as the driver of the lorry in question. During his chief examination, he has identified the accused as the driver of the lorry.

17. PW3 has deposed that, when he was travelling in their Ertiga car bearing No.KA-10/M-3415, along with his family members, they saw some disturbance taking place and a number of people gathered and therefore, they stopped their car to allow the road to clear and he got down from the car. At that time, suddenly, the lorry came from the opposite direction and hit their Ertiga car and went away on sugar factory road. He has stated that, as a result of the incident, the bonnet of his car was



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damaged, the bumper was cut and the fender was fully taken out of the vehicle. He has identified the photographs of the lorry marked as Exs.P8 to P10 as the vehicle which caused the damage.

18. There is nothing elicited in the cross-examination of the above witnesses, to disbelieve the case of the prosecution. The defence taken by the accused that it was a mere case of accident, cannot be accepted, as PW1, PW2 and PW4 have categorically stated about the act committed by the accused and the manner in which the incident took place. A careful perusal of their evidence clearly goes to show that the accused got into the vehicle and intentionally drove the lorry over both the deceased and also caused injuries to PW2. Fortunately, PW2 survived. She sustained injuries to her left leg, as noticed in the wound certificate-Ex.P28, issued by PW6.

19. It was not the defence of the accused, while cross-examining the witnesses that he was not the driver



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of the lorry in question. It was only during his examination under Section 313 Cr.P.C., he took a defence that he was not driving the lorry, but it was the cleaner who was driving. However, in view of the categorical, consistent and cogent testimony of PW1 and PW4, the eye witnesses and PW2, the injured, the claim of the accused that it was the cleaner who was driving the car, cannot be accepted.

20. Insofar as the contention of the learned counsel for the appellant that the incident took place, as the accused was deprived of his power of self-control and due to grave and sudden provocation, and therefore, the case would fall under Exception 1 of Section 300 of IPC, we are of the considered view that the said contention is also not acceptable.

21. PW1 has stated that, they told the accused what he had done was wrong because he did not stop the lorry and therefore, he should come with them to the police station or to hold a panchayat at the spot itself and



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compensate them for the damage caused to their car. At that time, the accused abused his wife in vulgar language for which, he protested. Seeing the quarrel, the local people gathered at the spot. Amongst the said persons, Mantalingaiah tried to pacify the quarrel. However, the accused got into his lorry and started the lorry, saying that he is going to finish off all of them on that day and drove the lorry and dashed against the car and against Venkatesh, Mantalingaiah and his wife-Vinayashree.

22. From the above evidence on record, we are of the considered view that the case will not fall under any exception to Section 300 of IPC. In fact, the learned Sessions Judge, at paragraph 42 of the judgment, has dealt with the said contention of the defence and held that 'the question whether the provocation was grave and sudden enough to prevent the offence from amounting to murder, is always a question of fact. It is not every provocation or perceived provocation which saves an act



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of causing death from becoming murder. The provocation must be so grave and sudden as to justify the accused losing his self-control'. It is further held that 'in the case on hand, the provocation set up by the defence i.e. 'the occupants of Indica car and villagers stopping the lorry of the accused', occurred due to earlier act of the accused hitting the Indica car causing scratches and moving further without stopping the lorry and therefore, the occupants of Indica car stopped the lorry seeking just compensation for the damages caused and hence, it cannot be said that the same amounts to such a grave and sudden provocation as to justify the accused losing his power of self-control'.

23. The reasons assigned by the learned trial Judge for convicting the accused for the charged offences are in accordance with law. We find no illegality or perversity in the judgment of the trial Court. Hence, we proceed to pass the following:



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ORDER

- i. Appeal is **dismissed**.
- ii. The copy of the judgment shall be forwarded to the Member Secretary, District Legal Services Authority, Mysuru, to comply with the direction issued by the trial Court to pay compensation.

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

**Sd/-
(G BASAVARAJA)
JUDGE**

TL/LNN
List No.: 1 Sl No.: 11