



CNR: KAHC010058512019

NC: 2026:KHC:46542-DB
CRL.A No. 291 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 291 OF 2019 (C)

BETWEEN:

YOGANANDA @ YOGESH
S/O RAJEGOWDA,
AGED ABOUT 34 YEARS,
RESIDING AT KIRUNASA VILLAGE,
BELAGODU HOBLI,
SAKALESHPURA TALUK,
HASSAN DISTRICT-573 118.

...APPELLANT

(BY SRI. H.S. SURESH, ADVOCATE)

AND:

STATE OF KARNATAKA BY
SAKALESHPURA RURAL
POLICE STATION,
REP. BY HIGH COURT GOVERNMENT
ADVOCATE,
HIGH COURT OF KARNATAKA,
BENGALURU-560 001.

...RESPONDENT

(BY SRI. VIJAY KUMAR MAGAGE, SPP-II)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO:
(A) CALL FOR RECORDS IN S.C.NO.192/2016 ON THE FILE OF



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THE V ADDITIONAL DISTRICT AND SESSIONS JUDGE AT HASSAN; (B) SET ASIDE THE JUDGMENT OF CONVICTION AND SENTENCE DATED 20.11.2018 IN SESSIONS CASE NO.192/2016 ON THE FILE OF THE V ADDITIONAL DISTRICT AND SESSIONS JUDGE AT HASSAN AND ACQUIT THE APPELLANT OF THE ALLEGED CHARGES FOR THE OFFENCES PUNISHABLE UNDER INDIAN PENAL CODE BY ALLOWING THE APPEAL AS PRAYED FOR.

THIS APPEAL, COMING ON FOR DICTATING JUDGMENT, 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 by the accused against the judgment and order dated 20/22.11.2018 passed by the Court of V Additional District and Sessions Judge at Hassan in Sessions Case No.192/2016.

2. Vide impugned judgment and order, the learned Sessions Judge has convicted the accused for the offence punishable under Section 302 of IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.25,000/- and in default of payment of fine, to undergo further



rigorous imprisonment for a period of one year. Further, convicted him for the offence punishable under Section 201 of IPC and sentenced him to undergo rigorous imprisonment for a period of 7 years and to pay a fine of Rs.5,000/- and in default of payment of fine, to undergo simple imprisonment for one year.

3. We have heard the learned counsel Sri H.S.Suresh appearing for the appellant, learned SPP-II Sri Vijay Kumar Majage for the respondent/State. Perused the evidence and material on record.

4. Brief facts of the prosecution case:- deceased, Drakshayini @ Preethi is the wife of the accused. Their marriage was performed about 4 years prior to the incident. In their marriage, they were blessed with a daughter aged 2 years. The deceased having noticed the accused talking over phone with someone, was suspecting that he was having an affair with another woman. In this connection there used to be quarrel between the couple. Since, the deceased was picking up quarrel with the



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accused, on 30.06.2016 at about 11.15 a.m., in their house situated at Belagodu Hobli, Kirunase Village, Sakleshpura Taluk, the accused assaulted his wife Drakshayini with a chopper on her neck and committed her murder. Thereafter, removed the Mangalya sara and a pair of ear hangings from the dead body and also took away the gold ornaments and a cash of Rs.23,300/- from the cupboard and concealed them along with blood stained clothes and chopper in a pit in the coffee estate, situated near the house.

5. The charges were framed against the accused for the offences punishable under Section 302 and 201 of IPC. The accused pleaded not guilty to the charges and claimed for a trial. In order to establish the charges, the prosecution got examined 22 witnesses and got marked 34 documents and 28 material objects.

6. The accused denied all the incriminating evidence appeared against him in the evidence of the prosecution witnesses, while he was examined under



Section 313 Cr.P.C. He put forth a defence that at the time of incident he was not present in the house and he had gone to Sakleshpura to buy household articles along with his parents and daughter and when he returned home, he found his wife lying dead with injuries.

7. According to the defence, when the accused and his parents were not present in the house, someone entered the house and committed robbery and murder.

8. According to the prosecution, since the deceased was quarrelling with the accused, suspecting that he was having an illicit relationship with another woman, the accused committed her murder and thereafter, removed the gold ornaments from the dead body and cash and gold jewellery from the cupboard and concealed the said articles as well as the blood stained clothes and the weapon in a pit, near his house, so as to destroy the evidence.

9. The learned Sessions Judge, relying on the evidence of the prosecution witnesses with regard to



motive, homicidal death, recovery of incriminating articles, the report of the finger print expert, and observing that the defence of alibi taken by the accused was not established and the burden will be upon the accused to explain the circumstances and the fact especially within his knowledge, but he has failed to explain the circumstances that had taken place inside the house and miserably failed to explain the same, applying Section 106 of the Evidence Act, proceeded to convict and sentence him as noted supra.

10. In the case on hand, the homicidal death of Drakshayini is not seriously disputed by the defense. As per Ex.P1- Post Mortem Report, the death is on account of cerebral Anoxia Secondary to neck injury. PW15 is the Doctor who conducted the autopsy. On dissection, he noticed the injuries which was horizontal incised wound over the anterior aspect of midpart of neck measuring 6 x 3" wide gaping and depth up to posterior pharyngeal wall, cutting trachea, oesophagus, neck vessels, nerves and



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muscles and presence of blood in the wound. PW15 has stated that he has furnished the autopsy report opining that the cause of death was cerebral anoxia secondary to neck injuries.

11. It is the contention of the learned counsel for the appellant that the prosecution has examined PWs.2, 3 and 7 as the eye witnesses, but they have turned hostile and not supported the case of prosecution. He contended that the prosecution has failed to establish the presence of the accused at the relevant point of time and the various circumstances relied upon by the prosecution are not established beyond reasonable doubt, as there are several missing links in the chain of circumstances. He contended that the accused had lent a loan of Rs.2,00,000/- towards the marriage expenses of his brother-in-law and when he demanded the complainant to return the said amount, false complaint was filed. He contended that there are discrepancies in the evidence of the prosecution witnesses who speak about the motive, recovery of incriminating



articles and therefore, the trial Court has committed a grave error in convicting the accused for a serious charge of murder.

12. Per contra, the learned SPP-II contended that the accused has failed to establish the defence of alibi taken by him and therefore, the trial Court has rightly held that when he has failed to establish the said defense, the burden shifts on him to explain the fact which was especially within his knowledge, which burden he has failed to discharge. He further contended that the parents and brother of the deceased have categorically deposed regarding the quarrels that used to take place between the accused and the deceased, prior to the incident, on account of the accused having an illicit relationship with another woman. He further contended that, after the arrest of the accused, the gold ornaments belonging to the deceased, blood stained clothes of the accused and the blood stained chopper and cash of Rs.23,300/- were recovered at his instance. The FSL report clearly shows



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that the clothes and chopper were stained with AB group blood, which matched with the blood stains found on the clothes of the deceased. He further contended that the fingerprint expert has given a report as per Ex.P20 which establishes that the chance finger print lifted from the scene of crime matched with the finger print of the accused. Hence, the learned SPP-II contended that all the circumstances relied upon by the prosecution have been established without any missing link and therefore, the trial Court has rightly convicted and sentenced the accused for the offences punishable under Section 302 and 201 of IPC.

13. According to the prosecution, the incident took place on 30.06.2016 at about 11.15 a.m., in the house of the accused, where he was residing with his wife Draksayini, his parents and daughter. The incident is stated to have been witnessed by PWs.2, 3 and 7. The said witnesses who are projected as eyewitnesses, have completely turned hostile. We have perused their entire



evidence. They have denied having any knowledge about the illicit relationship between the accused with another woman and quarrels between the accused and the deceased taking place for that reason. They have denied having heard the quarrelling sound on the date of incident at about 11.15 am, from the house of the accused and also denied the presence of the accused in the house and witnessing him committing the murder.

14. In view of the hostility of the eye witnesses, the prosecution rests its case on the circumstantial evidence viz. motive, presence of the accused in the house at the relevant point of time, recovery of incriminating articles, FSL report, the Finger Expert's report and the conduct of the accused.

15. Insofar as the motive aspect is concerned, in Ex.P1-complaint lodged by the father of the deceased, he has stated that his daughter was complaining to them that her husband used to talk to someone over phone and therefore, she was suspecting that her husband had an



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affair with another woman and for that reason, they were quarrelling. A perusal of Ex.P1 goes to show that because of suspicion raised by the deceased, which she informed to her parents and as there was quarrel between them, PW1 lodged the complaint suspecting the role of the accused in the commission of murder. In Ex.P1, PW1 has stated that at about 4:00 pm on 30.06.2016, someone from Kiruhunase village had telephoned his son Ramesha (PW11) and informed him about the incident and on hearing the same, all of them went to the house of the accused wherein, they saw the dead body of Drakshayini @ Preethi lying in the kitchen with bleeding injuries. They noticed that a karimani sara and a pair of ear hangings were missing. Further, when the complainant questioned the accused and his parents, they did not give satisfactory answers. Hence, entertaining suspicion regarding the cause of death, complaint was lodged against the accused.



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16. Though it is deposed by the complainant-PW1, father of the deceased, PW5-mother, PW8-sister and PW11-brother of the deceased, that the accused was having an illicit relationship with some other woman and on that count there used to be quarrels between the accused and the deceased, the prosecution is silent as to the identity of that person with whom, the accused was allegedly having an illicit relationship. The Investigation Officer has not conducted any investigation in this regard to ascertain as to whether the accused was indeed having an illicit relationship with any other woman. PW1, in his testimony, has stated that the accused used to visit the house of a woman with whom he was having illicit relationship and speak with her telephonically. However, no call record details are collected or there is any other evidence to establish the said fact. The independent witnesses examined by the prosecution, to speak about the motive, have turned hostile. PW9 and PW10 have deposed that the accused and the deceased were residing



cordially. According to PW5, mother of the deceased and PW11, brother of the deceased, since, the accused and the deceased were quarrelling, Panchayaths were held. However, PW1, father of the deceased and PW8, sister of the deceased have not deposed about any such Panchayaths having been held to sort out the differences between the accused and the deceased. It is also not forthcoming as to who all participated in the Panchayaths. Hence, it cannot be held that the prosecution has proved beyond reasonable doubt that the accused had a strong motive to commit the murder of his wife. Infact, the evidence of PW1, PW5, PW8 and PW11 does not show that they are the witnesses to the quarrel between the accused and deceased.

17. According to the prosecution, after the arrest of the accused on 03.07.2016, pursuant to his voluntary statement-Ex.P33, MOs.1 to 16-Gold ornaments and MOs.23 to 28-Blood stained clothes of the accused, blood stained chopper and cash of Rs.23,300/- were recovered



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at his instance, from a pit situated near his house, where he had concealed those articles in a plastic bag. The recovery mahazar is marked as Ex.P20. According to the prosecution, the recovery was done in the presence of two panch witnesses. The prosecution has examined one of the panch witnesses as PW14.

18. As per Ex.P1, *Karimani* chain and earrings (ear *ole*) worn by the deceased were missing. In his deposition, PW1 has stated that they noticed the neck chain (mangalya/tali), earrings and two bangles were missing. Neither PW1 nor any other witnesses have spoken about the missing of other gold ornaments from the house. According to PW1, he had purchased the gold ornaments from a jeweller's shop at Puttur. The receipts are marked as Exs.P10 and P11. The said receipts do not show that the ornaments were purchased from Puttur. On the other hand, they were purchased from one Anand Jewellers in Sakaleshpura. Further, Inquest Mahazar-Ex.P15 shows



that one nose-stud, a pair of ear maati and one pair of silver tow rings, were intact on the dead body.

19. A reading of Ex.P1, clearly goes to show that, when the complainant and his other family members went to the house of the accused, at about 4:00 pm on 30.06.2016, the accused was very much present in the house. A perusal of the examination in chief of PW1 further shows that, not only the accused, even the Police were present in the house. PW1 has stated the concerned police had not allowed him to speak with the accused. Further, PW8, in his cross-examination, has stated that, on the date of incident at about 12:00 am in the midnight, the accused had confessed about committing the offence, in the police station. Hence, the material on record clearly shows that the accused was present in the house when the complainant visited the house and he had not absconded. Further, the accused was present in the police station on the date of incident itself. However, according to the Investigation Officer, the accused was arrested on



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03.07.2016 and thereafter his voluntary statement was recorded, pursuant to which incriminating articles were recovered at his instance. This throws doubt on the prosecution case regarding the arrest and recovery of the incriminating articles under Ex.P20.

20. We have perused the evidence of PW14, the panch witness to Ex.P20. He has stated that, the accused led them to the place where he had concealed the chopper, blood-stained clothes and the gold ornaments and showed the said place. The plastic bag was then removed, which contained a chopper, blood-stained jeans pant, blood-stained shirt, gold ornaments and cash.

21. As per PW21-Investigation Officer, on 03.07.2016, accused was produced before him with a requisition. On enquiry, accused confessed about committing the crime and led them to the place where he had hidden the gold jewellery, clothes, weapon and cash. PW21 has nowhere stated that, before effecting the recovery, he had secured the panch witnesses. He has not



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mentioned about the presence of PW14 at the time of conducting the recovery mahazar. From his evidence, it is very clear that no prior intimation was given to the panchas before conducting the recovery. His evidence also discloses that the police have not interrogated the accused in the presence of PW14.

22. A perusal of the evidence of PW14, goes to show that, he was in contact with the brother of the deceased. His village is situated at distance of about 35 kilometres from the police station. According to him on 03.07.2016, he was in Sakaleshpura along with the brother of the deceased. At that time, he visited the police station, wherein, the accused had confessed about committing the offence. However, the same is not spoken by the Investigation Officer.

23. The evidence of PW14 reveals that he was known to the brother of the deceased. In the cross-examination, he has stated that he is not aware as to whether the concerned police had obtained the signature



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of the locals, to the mahazar. He has stated that the police had not enquired the locals in his presence and not enquired any person when he was requested to be a witness to the mahazar. He has further stated that he volunteered to be a witness to the recovery mahazar. His evidence goes to show that he is closely acquainted with the brother of the deceased. He was not called to act as a pancha to the recovery mahazar. He is not from the locality. He is a resident of Hassan and his shop is situated about 35 kilometres from the police station. Further, the Investigating Officer has nowhere stated that he had called upon PW14 to act as a pancha. He has not stated about the presence of PW14 in the police station or at the place where Ex.P20 was prepared. Another signatory to Ex.P20 by name D.Prakash, who acted as a panch witness, has not been examined by the prosecution. Further, the material on record reveals the presence of the accused in the police station on the very night of the incident. Hence, the arrest of the accused on 03.07.2016 and the recovery



of the incriminating articles at his instance effected under Ex.P20-mahazar, appears to be doubtful.

24. According to the prosecution, on the date of incident i.e., on 30.06.2016 at about 9.30 pm, PW18, the finger print expert, visited the place of incident along with the dog squad and other officials. The presence of the dog squad is also spoken by PW1. The Investigating Officer- PW21 has also stated that when he visited the place of incident, the Sniffer Dog Squad was present and Fingerprint Expert was examining the place of incident. Immediately thereafter, he conducted the spot mahazar as per Ex.P2. According to PW1, the accused was very much present in the house and even the police were present, on the date of the incident. PW8 has stated about the presence of the accused in the police station at about 12.00 am on the date of incident. Though the Sniffer dog squad was summoned to the place of incident and the presence of the accused has been established, there is no evidence adduced by the prosecution as to whether the



Sniffer dog had pointed towards the accused or led the police to the place where the incriminating articles were allegedly buried, near the house of the accused. PW18 and PW21 Investigation Officers are silent as to what the dog squad did, after it was summoned to the spot.

25. PW18 has deposed that he collected the chance fingerprints from the cupboard and requested the IO to collect the fingerprints of the family members of the deceased, including the finger print of the deceased. He has further stated that on 04.07.2016, the fingerprints of the deceased, parents of the deceased and the accused were produced before him and the same were marked as Ex.P27 to P30. He verified the said fingerprints with the chance fingerprints and the same matched with the fingerprints of the accused at Ex.P30 i.e., the fingerprints of the middle and ring fingers on the right hand of the accused with that of the chance fingerprints. He furnished his report at Ex.P31 stating it was matching with the chance fingerprints.



26. It is contended by the learned counsel for the appellant that the presence of the fingerprints of the accused in his own house is natural and even if the chance fingerprints were found and matched with the fingerprint of the accused, the same cannot be treated as an incriminating circumstance against him. There is considerable force in the said submission. As per the prosecution, PW18 lifted two chance fingerprints from the almirah, which matched with the fingerprint of the accused. Admittedly, the house from where the chance fingerprints were collected, is occupied by the accused. Admittedly, he is a resident of the said house. He is not an outsider or a stranger. Hence, mere finding of his fingerprints on the almirah is not an incriminating circumstance against him. Moreover, PW18 is not a person who has collected the admitted fingerprint of the accused. According to him, he requested the IO to collect the fingerprints of the family members of the deceased. The fingerprints of the family members of the deceased



including of the accused were collected by PW17, another police constable. However, neither PW17 nor the IO-PW21 have spoken about collecting the admitted fingerprints of the accused, after his arrest. Hence, no reliance can be placed on the experts' report. Consequently, the report of PW18 can not be relied and can not form the basis for conviction.

27. The accused has taken a plea of alibi contending that on the date of incident he was not present in the house, but he had gone to Sakaleshpura along with his parents and daughter to buy some household articles. Though the defence theory has not been established, at the same time, the prosecution has failed to discharge its initial burden, proving the presence of the accused in the house, at the relevant point of time. The eye-witnesses to the incident examined as PW2, PW3 and PW7, have not supported the case of the prosecution and have completely turned hostile. Even though the homicidal death of Drakshayini stands established, the other circumstances



relied upon by the prosecution to bring home the guilt of the accused have not been proved beyond reasonable doubt. Hence, the reasoning of the trial Court for convicting and sentencing the accused is not sustainable.

28. For the foregoing reasons and discussions, we proceed to pass the following:

O R D E R

1. The appeal is **allowed**.
2. The judgment of conviction dated 20.11.2018 and order on sentence dated 22.11.2018 passed by the 5th Additional District and Sessions Judge at Hassan in Sessions Case No.192/2016, are **set aside**.
3. The appellant/accused is acquitted of the offences punishable under Section 302 and 201 of IPC.



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4. He shall be released, forthwith, if he is not required in any other case.
5. The Registry is directed to communicate this order to the concerned Jail Authority.

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

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

HB,DHA,KBM
List No.: 1 Sl No.: 9