



CNR: KAHC010062152021

NC: 2026:KHC:48784-DB
CRL.A No. 245 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO. 245 OF 2021 (C)

BETWEEN:

SRI SHANKARA
S/O RAMAPPA,
AGED ABOUT 49 YEARS,
RESIDING AT 1ST MAIN,
12TH CROSS, KTJ NAGARA,
DAVANAGERE-577 002.

...APPELLANT

(BY DR. SHYAM KUMAR S.U., ADVOCATE)

AND:

STATE OF KARNATAKA
BY CENTRAL CIRCLE
DAVANAGERE
(KTJ NAGARA POLICE STATION),
REP. BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE-560 001.

...RESPONDENT

(BY SRI. RANGASWAMY R., HCGP)



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THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO CALL FOR THE LOWER COURT RECORDS AND SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION AND SENTENCE AND FINE AMOUNT, PASSED BY THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, DAVANAGERE IN S.C.NO.36/2017 DATED 12.10.2020 & 13.10.2020 FOR THE ALLEGED OFFENCES UNDER SECTIONS 302, 342 AND 506 OF INDIAN PENAL CODE AND ACQUIT THE APPELLANT BY ALLOWING THE ABOVE APPEAL.

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)

This appeal is preferred by the accused against the Judgment and Order passed by the Principal District and Sessions Judge, Davanagere, in SC No.36/2017, convicting and sentencing him for the offences punishable under Sections 302, 342 and 506 of IPC.



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2. We have heard the learned counsel for the appellant and the learned HCGP for the State and perused the material on record.

3. Briefly stated, the case of the prosecution is that on 5.11.2016 at about 1.00 am., in the house situated at 1st Main, 12th Cross, Door No.22/1, within the jurisdiction of KTJ Nagara Police Station, Davanagere, the accused, suspecting the character of his wife-Veena (deceased), assaulted her with a vegetable slicer, club, tepoy and Mixer, on her head, face, hands, fingers, neck and right elbow and hit her head to the wall and committed her murder. Further, threatened his children and wrongfully confined them in the house by latching the door from outside and committed the charged offences.

4. In order to establish the charges, the prosecution has got examined 19 witnesses and got marked 29 documents and 18 material objects. On behalf of the defence, DW1 and DW2 were examined.



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5. Vide impugned judgment and order, the trial Court has come to the conclusion that there were only husband, wife and young children in the house and the said children were unable to protect their mother. The accused assaulted his wife and committed her murder. Further, the accused has wrongfully confined the children in the house and went by latching the door from outside and also threatened them, when they requested not to assault their mother and therefore, the prosecution has established the charges levelled against the accused.

6. The defence of the accused was that on the date of incident, the deceased insisted that she would leave the house, to meet a Swamiji, which was objected by him and at that time, his wife tried to assault him with a vegetable cutter and when he tried to prevent the said assault, he sustained injuries to both his hands and became unconscious and therefore, he was unaware of the cause of death of his wife.



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7. The fact that the accused and the deceased were living in the house is not seriously disputed. According to the prosecution, PWs.3, 6 and 9 namely, the children of the deceased are the eye witnesses to the incident. It is contended by the learned counsel for the appellant that the children are tutored by the complainant-brother of the deceased and they are not the eye witnesses. He, contended that as per the evidence of PWs.3, 6 and 9, they were asleep when the incident took place and therefore, they could not have seen as to how their mother sustained injuries.

8. The incident took place on 5.11.2016 at about 1.00 am. The complaint was lodged by PW2, brother of the deceased at about 9.05 am, as per Ex.P10. On receiving the said complaint from PW2, PW15-ASI of KTJ Nagara Police Station, Davanagere, registered the FIR-Ex.P11 against the accused. In Ex.P10, it is stated that, earlier the accused had married Asha, the elder sister of the complainant and she lived with him for about 1



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year. A child was born to them. However, being unable to tolerate the ill-treatment meted to her, Asha left the company of the accused. Thereafter, the accused married complainant's sister by name Veena (deceased) about 10 years prior to the date of incident. In the said wedlock they have two children aged about 9 years and 6 years. It is stated that the accused was repeatedly picking up quarrel with Veena and subjecting her to physical and mental cruelty, suspecting her character. It is further stated that on 05.11.2016 at about 07.00 a.m., his sister's son, Ganesh (PW9) came near his house and informed that on the previous night their parents have quarrelled and his father assaulted his mother with a stick, teapoy, vegetable slicer etc., The complainant then went to the house of the accused and saw the dead body of his sister lying inside the house with bleeding injuries. On enquiry, Ganesh narrated as to how the incident took place.

9. We have perused the evidence of PW3, PW6 and PW9, namely, the daughters and son of the accused



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and the deceased. The defence has not seriously disputed about their presence in the house. However, it is the contention of the learned counsel for the appellant that the children were sleeping and they woke up in the morning and therefore, they are not the eye witnesses to the incident. However, a careful perusal of their evidence clearly reveal that the accused was very much present in the house at the relevant time and he picked up a quarrel and assaulted the deceased with vegetable slicer, stick, teapoy and Mixer. At the time of conducting the spot mahazar-Ex.P12, those material objects were seized. They are marked as MOs.12 to 15. As per the FSL report, the said articles were stained with 'O' group blood.

10. It is relevant to see that, in this case, the accused has been examined himself as DW1. He has got examined one more witness as DW2. In his evidence, he has stated that on 04.11.2016 at about 08.30 p.m., he returned to his house and after having dinner, all of them slept in the house. During midnight, he noticed his wife



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packing her clothes. Even earlier she had left him and his children and gone somewhere, hence, he questioned her. At that time, she brought a vegetable cutter from the kitchen and tried to assault him. When he tried to prevent the said assault, he sustained injuries to both his hands. He, further stated that his wife was having an illicit relationship with one Swamiji and she would leave the house 3-4 times a week by abandoning her children. He has further stated that, due to the assault, his hands started bleeding and he lost his consciousness.

11. According to the defence taken by the accused, his wife had an illicit relationship with a Swamiji and on the date of incident when he questioned his wife (deceased) as to why she was packing the clothes, she assaulted him with a vegetable cutter, due to which he sustained injuries to his hands and lost his consciousness. He has pleaded his ignorance as to how his wife sustained injuries.



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12. It is not in dispute that the accused sustained injuries. The prosecution has examined the doctor-PW14, the medical officer of District Hospital, Davanagere. A perusal of evidence goes to show that on 09.11.2016 he examined the accused and noticed the following injuries:

- 1) Cut wounds present over the index finger and middle finger of the left hand.
- 2) Cut wounds present over palmar aspect of right thumb, index finger & middle finger.
- 3) Little finger – Tenderness present ® referred to surgery and ortho.

13. The incident took place on 05.11.2016. The accused was examined by PW14 on 09.11.2016. The wound certificate of the accused is marked as Ex.P24, wherein it can be seen that injuries sustained by him are 4-5 days old. As per the X-ray report, he had sustained a fracture of distal end of 5th metacarpal bone (Rt. side). The said injury is stated to be grievous in nature.



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14. Ex.P20 is the post mortem report. As per Ex.P20, the deceased sustained about nine injuries. PW11, the doctor who conducted the autopsy has opined that the deceased died due to hemorrhagic shock with associated irreversible "COMA" state consequent upon severe injuries sustained to head and injuries sustained to chest, both upper limbs and left hip joint. From the PM report, Ex.P20 and the evidence of PW11, it is established that the deceased died on account of injuries sustained to her and the death is homicidal in nature.

15. Admittedly, the accused and the deceased were living as husband and wife for the past 10 years. In their wedlock, they have two children. The incident has taken place inside the house during night hours. The prosecution has established that the deceased died on account of injuries inflicted to her by the accused and the death was homicidal in nature. At the same time, the material on record reveals that the accused has also sustained injuries at the time of incident. Injury No.3 is said to be grievous



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in nature. According to the defence taken by the accused, the deceased was having an illicit relationship and in the midnight she was trying to pack her clothes so as to leave the house and when he questioned her, she tried to assault him with a vegetable cutter and at that point of time, he sustained those injuries to both of his hands. Though he pleaded ignorance as to how the deceased sustained injuries, however, from the evidence of PW3, PW6 and PW9, it is clear that those injuries to the deceased were inflicted by the accused. A careful consideration of the entire evidence and material on record goes to show that in the midnight, a quarrel took place between the couple and in the said quarrel, the accused also sustained injuries due to the assault by the deceased. One of the injuries is grievous in nature. The accused took a plea of right of private defence before the trial Court, which was not accepted. The learned Sessions Judge has observed that, the deceased assaulted the accused only once, however, the accused inflicted more



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than nine injuries on her vital parts and then pushed her to the wall.

16. The material on record goes to show that, the incident was an account of a quarrel which took place during midnight and in the said quarrel, the deceased assaulted the accused with a vegetable cutter and caused injuries to him. The accused deprived of the power of his self control and by grave and sudden provocation, assaulted her, leading to her death. The act committed by the accused, therefore, falls within Exception 1 of Section 300 of IPC. However, considering the nature of injuries inflicted, we are of the view that the accused had the intention to commit the murder and the offence therefore, would fall under Section 304 Part-I of IPC.

17. The learned counsel for the appellant submits that the accused was arrested on 09.11.2016 and from the date of arrest, he is in custody. The accused has therefore, undergone 9 years 10 months in custody. The incident



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took place in the year 2016. Already 10 years have elapsed from the date of the incident. It is submitted that the accused is now aged about 58 years. Hence, the period of imprisonment already undergone by the accused can be held to be sufficient. Accordingly, we pass the following:

ORDER

- i) The appeal is **allowed-in-part**.
- ii) The Judgment dated 12.10.2020 and order on sentence dated 13.10.2020 passed by the Court of the Principal District and Sessions Judge, Davanagere, in SC No.36/2017, insofar as convicting and sentencing the appellant/accused for the offence punishable under Section 302 IPC is hereby **set aside**.
- iii) The conviction and sentence passed for the offences punishable under Sections 342 and 506 of IPC are **confirmed**.



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iv) The appellant/accused is **convicted** for the offence punishable under Section 304-I of IPC.

v) The appellant/accused is sentenced to undergo imprisonment for the period already undergone by him.

vi) All the sentences shall run concurrently.

vii) The appellant/accused is entitled to set off.

viii) If the appellant/accused is not required in any other case, he shall be released forthwith.

ix) The appellant/accused is sentenced to pay a fine of Rs.50,000/- (Rupees fifty thousand only). Out of which, a sum of Rs.15,000/- **each**, shall be paid as compensation to PWs.3, 6 and 9 respectively and Rs.5,000/- (Rupees five thousand only) shall be remitted to the State.

x) As directed by the trial Court, the DLSA shall determine and pay compensation to PWs.3, 6 and 9, if not already paid.



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Copy of the operative portion of the order shall be communicated to the concerned Jail authority.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

TL
List No.: 1 SI No.: 24