



CNR: KAHC010084442019

NC: 2026:KHC:44968-DB
CRL.A No. 560 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.560 OF 2019 (A)

BETWEEN:

DHANANJAYA
AGED ABOUT 23 YEARS
S/O. BANJIAIAH
R/O. NEAR YALLAMMA TEMPLE
KATAPPANAHATTI
CHALLAKERE TOWN
CHITRADURGA DISTRICT-577 522

...APPELLANT

(BY SRI HARSHA KUMAR GOWDA H. R., ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY
CHALLAKERE POLICE STATION
REPRESENTED BY S.P.P.
HIGH COURT BUILDING
AMBEDKAR VEEDI
BENGALURU-560 001
2. JAK @ JAKIR
AGED ABOUT 26 YEARS
S/O. SYED BASHA
R/O. NEAR COURT BUILDING
AMBEDKAR NAGAR

Digitally signed
by
SHARADAVANI
B
Location: HIGH
COURT OF
KARNATAKA





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CHALLAKERE TOWN
CHITRADURGA-577 522

3. KOTHI @ ASHOKA
AGED ABOUT 25 YEARS
S/O. NARASIMHAPPA
R/O. NEAR MARAMMA TEMPLE
CHITRAIAHNAHATTY
CHALLAKERE TOWN
CHITRADURGA-577 522

4. VEERESHA
AGED ABOUT 28 YEARS
S/O. SHANTHAPPA
R/O. MADAKARINAGARA
CHALLAKERE TOWN
CHITRADURGA-577 522

...RESPONDENTS

(BY SRI CHENNAPPA ERAPPA, H.C.G.P., FOR R-1;
SRI R. B. DESHPANDE, ADVOCATE FOR R-2;
SRI N. SRINIVAS, ADVOCATE FOR R-3;
SRI KIRAN KUMAR, ADVOCATE FOR R-4)

THIS CRL.A. IS FILED U/S.372 CR.P.C BY THE ADVOCATE FOR THE APPELLANT PRAYING TO SET ASIDE THE JUDGMENT OF ACQUITTAL DATED 18.01.2019 IN SPL.C. (SC/ST)NO.43/2017 PASSED BY THE SPL. II ADDITIONAL DISTRICT AND SESSIONS JUDGE CHITRADURGA, ACQUITTING THE ACCUSED NOS.1 TO 3 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 302, 307, 323, 324, 326, 504 READ WITH 34 OF IPC AND SECTIONS 3(1)(r), 3(1)(s) AND 3(2)(5) OF SC/ST (POA) ACT, 1989.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



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CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE B.PRAMOD

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

Heard Sri Harshakumar Gowda H.R., learned counsel for the appellant, Sri R.B.Deshpande, learned counsel appearing for respondent No.2, and N. Srinivas, learned counsel for respondent No.3 and Sri Chennappa Erappa, learned HCGP for respondent No.1-State.

2. This appeal is filed against the judgment of acquittal passed in Special C No.43 of 2017 (SC/ST) dated 18.01.2019 acquitting all the accused persons for the offences punishable under Sections 302, 307, 323, 324, 326, 504 read with Section 34 of IPC and Section 3(1)(r) 3(1)(s) and 3(2)(5) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'SC/ST (POA) Act of 1989') and prayed to convict the accused.

3. The factual matrix of the case of prosecution is that on 19.07.2017 at 07.30 pm, PW1-the complainant, the



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deceased Raghu and CW19 had food at Aiswarya Hotel, situated at Challakere of Chitradurga road. CW19 told complainant and the deceased that accused No.1 abused him, and all of them went in an Autorikshaw belonging to CW17 and CW18 at around 08.00 p.m. near the Nagarkatte and deceased Raghu questioned accused persons why they abused CW.19, accused No.1 abused him in a filthy language by taking his caste name. When CW17 went to pacify the galata, accused Nos.2 and 3 pushed him and accused No.1 inflicted injury with the club on the complainant and also assaulted CW19 and Raghu and caused injuries, as a result, the injured-Raghu died while he was shifting to the hospital. The Police came and recorded the statement of PW1, registered the case and after investigation, filed the charge sheet against the accused persons.

3.1. The accused persons were secured before the Trial Court and they did not plead guilty and claimed to be tried.

3.2. Hence, prosecution in order to bring home the guilt of the accused, examined 17 witnesses as PW1 to PW17 and



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got marked 27 documents as Exhibits P1 to 27 and also got marked the material objects as MO1 to M10.

4. The Trial Court, after appreciating both oral and documentary evidence, comes to the conclusion that the evidence of injured witnesses PW1, PW9, PW11 is not consistent and also taken note of the fact that PW15, who registered the case, says that the complainant came to the police station at 10.15 pm and gave the written complaint, but PW1, in his evidence has deposed that he cannot say who wrote the complaint and he is also not aware of the author of the complaint Exhibit P1. It is also his evidence that there were 30 persons at the spot, but he was not having any acquaintance with the persons who are present at the spot. The Trial Court further considering the evidence of PW9, who deposed that the people who are the residents of that particular area also present, but he cannot say total number of persons present at the spot. PW11 says that there were 20 persons at the spot. The Trial Court also in detail analyzed the evidence in paragraph No.26 and taken note of discrepancy and inconsistencies in the evidence both in respect of the evidence



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of PW1, PW9, PW11 and also taken note of the evidence of PW6 who is the inquest witness in paragraph No.27 and also with regard to the seizure is concerned take note of discrepancy that PW1 says that he found the club in the police station itself and the police have also shown the same under mahazar Exhibit P2 otherwise that mahazar was conducted on the next day and the club was seized at the spot in terms of Exhibit P2. The evidence of PW14 who examined the injured witnesses, nowhere it is mentioned the names of the accused persons except an assault was made on them and no history was given that the accused persons were the assailants with PW14. The Trial Court having taken note of all these materials on record, comes to the conclusion that the prosecution has not made out the case for conviction. Being aggrieved by the judgment of acquittal, the present appeal is filed by the State.

5. The learned counsel appearing for the defacto-complainant, in his argument would vehemently contend that Trial Court has committed an error in relying upon the evidence of PW1, PW.9 and PW.11, who are the injured witnesses and though their evidence is clinching and acceptable evidence, but



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the Trial Court erred in appreciating the same. Instead, based on the minor discrepancy in the evidence comes to the erroneous conclusion that the evidence of these witnesses are not consistent and with regard to the assailant is concerned also committed an error that the prosecution has failed to prove that these accused persons only committed the murder and caused the injury. When the injured witnesses' evidence is very clear that these accused persons only inflicted the injuries, the Trial Court ought not to have acquitted the accused by extending the benefit of doubt. Hence, prays to allow the appeal.

6. The learned HCGP for the State reiterating the contentions taken by the learned counsel for the defacto-complaint would contend that the Trial Court has committed an error in appreciating the material on record. He would vehemently contend that though PW1, PW9, PW11 and other witnesses have supported the case and so also there were number of persons were present at the spot to show that the accused persons have involved in the offence, but the Trial Court has failed to take note of the same.



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7. Per contra, the learned counsel appearing for respondent No.2 Sri R.B. Deshpande, in his argument, vehemently contend that the Trial Court has taken note of very genesis of the case that PW1 says that police came and recorded his statement and he is not aware of the author of the complaint, but PW15, who registered the case has deposed that PW1 only came and gave the written complaint at 10.15 p.m. The counsel also brought to the notice of this Court that under Mahazar-Exhibit P2 weapon was seized on the next day morning at the spot. But PW1 in his evidence says that when he went back to the police station in the night at 10'clock, the police only showed the weapon i.e. club in the police station itself. This creates a doubt with regard to the very seizure of the weapon is concerned. The counsel would submit that there is an inconsistency in the evidence of the prosecution with regard to the very incident that these persons have indulged in such act.

8. The learned counsel appearing for respondent No.3/accused No.3 would submit that no role is attributed against this accused. The only allegation against this accused is



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that he was very much present, and instructed accused No.1 to inflict the injuries, which has resulted in his death. The learned counsel also submits that none of the witnesses speak about overt-act act this accused and also there is a discrepancy in the evidence of prosecution. The Trial Court having taken note of all these facts and has rightly acquitted the accused.

9. Having heard the counsel appearing for the defacto-complainant, learned counsel appearing for the State as well as the learned counsels appearing for respondent No.2 and respondent No.3, the points that would arise for the consideration of this Court are:

i) "Whether the accused persons have committed the offences which have been invoked and whether the trial Court committed an error in acquitting the them for the offences punishable under Sections 302, 307, 323, 324, 326, 504 read with Section 34 of IPC and Section 3(1)(r) 3(1)(s) and 3(2)(5) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and whether it requires interference of this Court to convict the respondents by reversing the judgment of acquittal?

ii) What order?"



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10. Having heard the respective counsel for the parties and also on perusal of materials, it is not in dispute that incident has taken place on 19.07.2017 at around 08.30 p.m. It is also the case of the prosecution that these accused persons have inflicted the injury to the deceased as well as PW1, PW9 and PW11. Having perused the material on record, no doubt it is a case of homicidal of deceased Raghu alias Raghavendra and also it is clear from FSL Report-Exhibit P23 that Item Nos.1, 2, 4, 5, 6, 7, 8 and 9 were stained with human blood i.e. wooden club, blood stain, cotton with hair sample, short one night pant, banian, underwear and there is no any recovery at the instance of the accused. The only evidence remaining before the Court is PW1, PW9 and PW11 and they claim that they are the injured witnesses in the incident. But the very arrival to the place of incident itself is concerned. There is an inconsistency in the evidence of PW1, PW9 and PW11.

11. It is also important to note that with regard to very genesis of the crime is concerned, P.W.1 says that Police came to the hospital when they shifted the injured to the hospital and he was declared as dead by the Doctor. But, the Police, who



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came to the hospital recorded his statement. However, he cannot tell, who is the author of the document of Ex.P1. But, P.W.15 says that complainant himself came to the police station and gave Ex.P1 and he brought written complaint Ex.P1. But, he did not visit the hospital prior to arrival of complainant-P.W.1. It is also important to note that when the injured persons went to the hospital and though they were treated by the Doctor, who has been examined before the Court, his evidence is clear that he examined the injured witnesses i.e., P.W.1, P.W.9 and P.W.11 and no doubt, it is stated that a hit was made with stick at 8.30 a.m., the history also discloses the same i.e., at Nagarakatte Cross. But, no specific mention that accused persons have assaulted them. It is also important to note that accused persons were not known to each other. Though, P.W.1 says that he was not aware of name of accused No.3, but he was aware of name of accused Nos.1 and 2. Even, the name of accused Nos.1 and 2 are not stated when they went to the hospital and there is no specific evidence before the Court with regard to involvement of these accused persons.



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12. Learned High Court Government Pleader for respondent No.1 and learned counsels for respondent Nos.2 to 4 also brought to notice of this Court with regard to seizure of very article i.e., club which was used for committing the offence. No doubt, club was marked, it was stained with blood and FSL report also discloses the same and the same was not seized at the instance of the accused persons and it was seized at the spot in terms of Ex.P2. Hence, the very seizure is also doubtful in view of answer elicited from the mouth of P.W.1, wherein he says that when he went to the Police Station at night, the Police themselves have showed the club i.e., even prior to seizure and seizure was made on the next day between 9.50 to 10.30 and all these discrepancies were taken note of by the Trial Court while acquitting the accused persons. There is no material evidence before the Court to bring home the guilt of the accused persons and there is no recovery and evidence of injured witnesses.

13. No doubt, the witnesses P.W.1, P.W.9 and P.W.11 have sustained injuries, their evidence also not inspires the confidence of the Court that these accused persons only



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committed the murder of deceased Raghu @ Raghavendra and these accused persons have inflicted injury on these injured witnesses. No doubt, the Court has to consider the evidence of injured witnesses, the evidence of injured witnesses' is best piece of evidence. But, there is no credible evidence before this Court that these accused persons itself inflicted injuries and the same cannot be considered. Apart from that, P.W.1 admits that there were 30 persons at the spot at the time of the incident and P.W.11 also says that there were 20 persons and P.W.9. says that there were number of persons, who are the residents of those area. But, none of these witnesses were examined before the Court and the same not supports the case of the prosecution.

14. Under the circumstances, we do not find any ground to reverse the finding of the Trial Court to convert the acquittal for conviction, in view of the judgment of the Apex Court in **MALLAPPA AND OTHERS v. STATE OF KARNATAKA** reported in **(2024) 3 SCC 544**, wherein the Apex Court has held that principles have to be followed while reversing the acquittal to conviction and there must be perversity in the



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finding of the Trial Court, in order to come to an other conclusion and no such perversity is found in the case on hand to reverse the case of acquittal into conviction. Therefore, we do not find any ground to reverse the same.

15. In view of the discussion made above, we pass the following:

ORDER

The appeal is ***dismissed.***

**Sd/-
(H.P.SANDESH)
JUDGE**

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

MKM,ST
List No.: 1 Sl No.: 14