



CNR: KAHC010085612019

NC: 2026:KHC:43083-DB
CRL.A No. 568 of 2019
C/W CRL.A No. 950 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF AUGUST, 2026

R

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.568 OF 2019 (A)

C/W

CRIMINAL APPEAL NO.950 OF 2018 (A)

IN CRL.A NO.568/2019:

BETWEEN:

SRI SHIVAKUMAR
AGED ABOUT 40 YEARS
S/O. LATE MUNIYAPPA
SEETHIHOSUR
VEMGAL HOBLI
KOLAR TALUK

...APPELLANT

(BY MR. AMAR CORREA, ADVOCATE)

AND:

1. NARAYANASWAMY
AGED ABOUT 52 YEARS
S/O. DODDA RAMAIAH
2. SRINATH
AGED ABOUT 30 YEARS
S/O. NARAYANASWAMY

Digitally signed
by
SHARADAVANI
B

Location: HIGH
COURT OF
KARNATAKA



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3. BYRAREDDY
AGED ABOUT 43 YEARS
S/O. LATE NAREPPA
4. K. MANJUNATHA
AGED ABOUT 37 YEARS
S/O. C. KRISHNAPPA
5. G. KRISHNAPPA
AGED ABOUT 59 YEARS
S/O. GIDDAPPA

RESPONDENT NOS.1 TO 5 ARE
RESIDING AT
SEETHI HOSURU VILLAGE
VEMGAL HOBLI
KOLAR TALUK

6. STATE BY VEMGAL POLICE
KOLAR TALUK
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT COMPLEX
BENGALURU-01

(AMENDED CARRIED OUT AS
PER ORDER DATED 09.12.2019)

...RESPONDENTS

(BY SRI NANJUNDA GOWDA M. R., ADVOCATE FOR
R-1 TO R-5,
MR. MOHAMMED AYUB ALI, ADDITIONAL S.P.P.,
FOR R-6)

THIS CRL.A. IS FILED U/S.372 CR.P.C BY THE
ADVOCATE FOR THE APPELLANT/S PRAYING TO SET
ASIDE THE AFORESAID JUDGMENT AND ORDER OF
ACQUITTAL DATED 22.12.2017 PASSED BY I ADDITIONAL
SESSIONS JUDGE, KOLAR IN S.C.NO.03/2012 -
ACQUITTING THE RESPONDENTS/ACCUSED FOR THE



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OFFENCES PUNISHABLE UNDER SECTIONS 143, 148, 323 AND 302 READ WITH SECTION 149 OF IPC AND CONVICT AND SENTENCE THE RESPONDENTS/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 143, 148, 323 AND 302 READ WITH SECTION 149 OF IPC.

IN CRL.A NO.950/2018:

BETWEEN:

STATE OF KARNATAKA
BY VEMGAL POLICE STATION
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-01

...APPELLANT

(BY MR. MOHAMMED AYUB ALI, ADDITIONAL S.P.P.)

AND:

1. NARAYANASWAMY
AGED ABOUT 51 YEARS
S/O. DODDA RAMAIAH
2. SRINATH
AGED ABOUT 29 YEARS
S/O. NARAYANASWAMY
3. BYRA REDDY
AGED ABOUT 42 YEARS
S/O. LATE NAREPPA
4. K. MANJUNATHA
AGED ABOUT 36 YEARS
S/O. C. KRISHNAPPA



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5. G. KRISHNAPPA
AGED ABOUT 58 YEARS
S/O. GIDDAPPA

ALL ARE RESIDING AT
SEETI HOSURU VILLAGE
VEMGAL HOBLI
KOLAR TALUK

...RESPONDENTS

(BY SRI NANJUNDA GOWDA M. R., ADVOCATE FOR
R-1 TO R-5)

THIS CRL.A. IS FILED U/S.378(1) AND (3) CR.P.C BY THE STATE P.P. FOR THE STATE PRAYING TO GRANT LEAVE TO FILE AN APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 22.12.2017 PASSED BY I ADDITIONAL SESSIONS JUDGE, KOLAR IN S.C.NO.03/2012 THEREBY ACQUITTING THE RESPONDENTS/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 143, 148, 323 AND 302 READ WITH SECTION 149 OF IPC AND TO SET ASIDE THE AFORESAID JUDGMENT AND ORDER OF ACQUITTAL DATED 22.12.2017 PASSED BY I ADDITIONAL SESSIONS JUDGE, KOLAR IN S.C.NO.03/2012 - ACQUITTING THE RESPONDENTS/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 143, 148, 323 AND 302 READ WITH SECTION 149 OF IPC AND CONVICT AND SENTENCE THE RESPONDENTS/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 143, 148, 323 AND 302 READ WITH SECTION 149 OF IPC.

THESE APPEALS, COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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



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ORAL JUDGMENT

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

These two appeals are filed by the defacto-complainant and also the State as against the judgment of acquittal dated 22.12.2017 passed by I Additional Sessions Judge, Kolar in SC No.3 of 2012 for the offences punishable under Sections 143, 147, 323 and 302 and read with Section 149 of IPC and prayed this Court to convict the accused/respondents.

2. The factual matrix of case of prosecution is that, land bearing Survey No.280/2 measuring 1 acre 8 guntas stands in the name of informant father-H.Muniyappa, who had financial transaction with one Dayananda son of Venkatappa of Kadaguru Village and to repay the amount obtained on interest, said H.Muniyappa has sold the said property in favour of Dayananda under a nominal Sale Deed. In turn, Dayanand has sold the said property in favour of



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accused No.1-Narayana Swamy about six months prior to the incident. With respect to the said property, suit in OS No.147 of 2011 is pending before the Civil Court at Kolar, in which an injunction order has been granted. It is further alleged that there is an ill-will between deceased H.Muniyappa and accused No.1 and his sons with respect to the said property.

3. It is the further case of prosecution that on 27.07.2011 at about 10.30 a.m, Narayanaswamy (A1) was ploughing the disputed land along with his son Srinatha (A2) and the said fact was informed by Ramesh son of Thammanna. When the informant and his father Muniyappa were proceeding to stop the ploughing of the land, on seeing them, all the accused persons formed an unlawful assembly with a common object to take away the life, came and assaulted the victim and others, in furtherance, accused No.2 kicked the victim on his private part, as a result, he fell down at the spot and lost his breath. Accused



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persons also assaulted PW.1 and PW.2 with hands and PW2 took treatment in the hospital. Based on the complaint at Exhibit P1, a case has been registered in Crime No.140 of 2011 of Vemagal Police Station. The Police, after investigation have filed the charge sheet against the accused for the offences punishable under Sections 143, 147, 323 and 302 read with Section 149 of IPC. The accused persons were secured and they did not plead guilty and claimed to be tried.

4. The prosecution to bring home the guilt of the accused, examined PW1 to PW21 and got marked 17 documents as per Exhibit P1 to Exhibit P17. The prosecution relies upon the material objects at MO1 to MO4. The accused persons were subjected to 313 statement as contemplated under the provisions of Code of Criminal Procedure and they have not led any defense evidence.



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5. The Trial Court, having taken note of both oral and documentary evidence and also inconsistencies in the evidence of PW.1, PW.2 and PW.9, so also there was no independent eye-witnesses to the incident and though PW1, PW2 and PW9 are treated as interested witnesses, but they all belongs to the very same complainant family and also taken note of the cause of death as per the PM report, PW.1 and PW.2 had not sustained any injuries. Apart from that, the major inconsistencies in the evidence of PW1, PW2 and PW9, who claims that they are the eye-witnesses to the incident and also the law was set in motion at 03.30 p.m., as per Exhibit P11-FIR and the information was received at the police station on 27.07.2011 at 03.00 p.m., and as per the evidence of prosecution witnesses, police were present at the spot from 10.30 a.m. till 06.00 evening, so also only a single blow hit to the deceased though it attracts within the ingredients of



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Section 304 part-II of IPC, but comes to the conclusion that the very incident is not proved with regard to the accused persons have formed unlawful assembly and shared their common object in inflicting the injury and committing the murder and extended the benefit of doubt in favour of the accused persons and acquitted the accused. Being aggrieved by the same, the defacto-complainant and State are before this Court by preferring the appeals.

6. The learned counsel for the defacto-complainant in Criminal Appeal No.568 of 2019, would vehemently contend that the Trial Court has committed an error in considering the material available on record, particularly both ocular evidence as well as documentary evidence. It is contented that the Trial Court has failed to appreciate the enmity between the family of the deceased and accused persons with regard to the land dispute and also a



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civil suit is pending, so also the motive for committing the murder is not appreciated.

7. The learned counsel would vehemently contend that though the evidence of complainant was not shaken by the defense, the Court below had acted contrary to the pleadings and evidence on record. Learned counsel would vehemently contend that though the contention taken by the defense before the trial Court that while travelling on the bike and by applying sudden brake the testicles of the deceased were squeezed, but to prove the same, the defense has not produced necessary documents. In-spite of the same, the Court below had come to an erroneous conclusion and acquitted the accused. The counsel would vehemently contend that though the defense had not elicited anything from the mouth of PW1 and PW2 regarding non-occurring of the incident, the Trial Court failed to consider the case of the prosecution and appreciate the evidence on record.



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8. Further, the learned counsel during the course of his argument would vehemently contend that accused Nos.1 and 2 and other accused have witnessed coming of the deceased and their family members and a specific allegation is only assault with hands, only accused No.2 kicked on the private part of the deceased, which has resulted in death of the victim at the spot. PW2 had also sustained the injuries in the incident.

9. The learned counsel also referring to the document at Exhibit P16-Report would contend that cause of death is on account of cardio failure and there was a swelling of testicles of the deceased. The counsel would vehemently contend that PW1 and PW2 evidence is very consistent and there is no contradiction with regard to the incident is concerned. PW9-son of the deceased also supported the case of prosecution. It is further contended that though PW3 and PW4 being the independent witnesses have



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turned hostile, but the evidence of PW1, PW2 and PW9 is very consistent with regard to the incident is concerned. The Trial Court has committed an error in appreciating the evidence of PW1, PW2 and PW9.

10. The learned counsel would vehemently contend that though single blow was made by accused No.2 that too on a private part, which has resulted in death of victim at the spot, the evidence of PW1 and PW2 is not discredited by the defense and there is no any material to discredit the evidence of PW1, PW2 and PW9. Though there is delay in registering FIR, but it will not take away the case of the prosecution and the Court has to take note of material available on record.

11. The learned counsel in support of his argument, relies upon the judgment of the Apex Court in ***State of Madhya Pradesh Vs. Balveer***



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***Singh*¹** and brought to the notice of this Court particularly in paragraph No.66, wherein the Apex Court discussed in detail with regard to appreciation of evidence and held that in assessing the value of the evidence of the eyewitnesses, two principles considerations are firstly, whether, in the circumstances of the case, it is possible to believe their presence at the scene of occurrence or in such situations as would make it possible for them to witness the facts deposed to by them and secondly, whether there is anything inherently improbable or unreliable in their evidence. In respect of both these considerations, the circumstances either illustrated from those witnesses themselves or established by other evidence, tending to improbabilise their presence or to discredit the veracity of their statements, will have a bearing upon the value which a Court would attach to their evidence. The learned

¹ 2025 (8) SCC 545



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counsel referring to this principle laid down in the judgment of the Apex Court would vehemently contend that the Trial Court has committed an error in considering the evidence of eye-witnesses i.e. PW1, PW2 and PW9.

12. The counsel relies upon the judgment in ***State of Uttar Pradesh Vs. Harichand***², wherein the Apex Court has held that appreciation of evidence, ocular evidence vis-a-vis medical evidence and also eye witness account of firearms injuries which corresponds with medical evidence and also the Court has to take note of the time of the incident and reasoning adopted by the Court also should not be hypothetical. The counsel also relies upon the judgment in ***Ramakant Rai Vs. Madan Rai and others***³ in paragraphs 23, 24, 25 wherein also Apex Court held that the concept of probability, and the

² 2009 (13) SCC 542

³ 2003 (12) SCC 395



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degrees of it, cannot obviously be expressed in terms of units to be mathematically enumerated as to how many of such units constitute proof beyond reasonable doubt. There is an unmistakable subjective element in the evaluation of the degree of probability and quantum of proof to be considered while considering the material on record, whether there is a reasonable material available before the Court to come to a conclusion that doubt must be actual and substantial doubts as to the guilt of the accused persons arising from the evidence or from the lack of it, as opposed to mere vague apprehensions unless the same is found the Court has to accept the evidence of eye witnesses.

13. The learned counsel also relies upon the judgment of **State of UP Vs. Krishna Gopal and another**⁴. The counsel referring to this judgment also brought to the notice of this Court that the Court has

⁴ 1988 (4) SCC 302



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to take note of the material available on record and also the principle laid down in the judgment regarding reversal of acquittal and converting the same for conviction. The Court has to take note of the gross error committed by the Trial Court in considering the material, only to rule out that unless there are substantial or compelling reasons or very substantial reasons or strong reasons, the findings in a judgment of acquittal should not be interfered with.

14. With regard to delay in lodging FIR is concerned, the learned counsel relies on the judgment of **State of Madhya Pradesh Vs. Ratan Singh and others**⁵ wherein held that duty of Court in such case no hard-and-fast rule which can be applied to determine effect of delay in filing FIR. The Court is duty bound to determine whether explanation offered is plausible enough based on given facts and circumstances of each case. The delay in filing the

⁵ 2020 (12) SCC 630



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case itself will not take away the case of the prosecution and the same will not go to the very root of the case. The counsel also relies upon the judgment of Hon'ble Apex Court in **Apren Joseph @ Current Kunjukunju and others Vs. State of Kerala⁶** and referring to this judgment would vehemently contend that the appreciation of evidence, particularly FIR, and value and purpose need not be made by eye-witnesses and delay in lodging the report. In a case of eye-witnesses to a gruesome murder, Court has to take note of the same and explanation to delay in a case of registering the FIR.

15. The learned counsel relying upon the judgment of the Hon'ble Apex Court in **Shambhu Das @ Bijoy Das and Another Vs. State of Assam⁷**, with regard to FIR is concerned would

⁶ 1973 (3) SCC 114

⁷ 2010 (10) SCC 374



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vehemently contend that investigation and inquest can start with telephonic information even prior to lodging of formal FIR and it would not affect the trial and evidence in Court - Submission that FIR loses its authenticity if lodged after inquest is a general proposition and cannot be universally applied. In this case, the judgment also the scope of Section 174 with regard to the inquest object scope and ambit and necessary contents are also discussed in detail.

16. With regard to the opinion of the doctor is concerned, the learned counsel relies upon the judgment in **State of Karnataka Vs. Mohammed Nazir⁸** wherein the doctor opined that all the injuries were ante-mortem in nature and that the cause of death was due to neurogenic shock as a result of the injury on the testicles and the scrotum. The doctor deposed that such an injury is sufficient in the normal course immediate death and relied upon this

⁸ 2003 (1) SCR 55



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judgment with regard to the medical evidence is concerned.

17. Mr. Mohammed Ayub Ali, learned Additional S.P.P, appearing for the State reiterating the grounds urged in Criminal Appeal No. 568 of 2019 vehemently contend that when the eyewitness evidence available on record before the Court, particularly PW1, PW2 and PW9 is suffice to come to a conclusion that the accused persons only with the common object have inflicted the injury which has led to the death of Muniyappa and the same has not been properly appreciated. Hence, he prays to allow the appeal by setting aside the judgment of acquittal passed by the Trial Court.

18. Per contra, the learned counsel appearing for the respondents-accused would justify the judgment of the trial court and vehemently contend that the Court has to take note of that there was a



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civil dispute between the parties and a suit is pending in that regard and there was an interim order of *status quo*. The learned counsel brought to the notice of this Court to Exhibit P4-spot mahazar and would vehemently contend that investigation started even prior to law was set in motion.

19. The learned counsel would vehemently contend that inquest was started before 03.00 p.m. to 05.30 p.m. and complaint was given at the spot according to the prosecution at 03.00 p.m. and case was registered at 03.30 p.m. as per the endorsement made in the complaint. The learned counsel also vehemently contend that when the cognizable offence information is received and the same has to be reduced in the station house diary and no material before the Court that as soon as information is received the same is mentioned in the station house diary. The counsel would vehemently contend that the evidence available before the Court is that though



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case was registered at 03.30 by issuing the FIR-Exhibit P11, but the evidence available before the Court i.e. PW1, PW2 and PW9 have categorically deposed that from 10.30 a.m. onwards itself the police were present at the spot. The counsel would vehemently contend that if really the accused persons were ploughing the land belongs to the material witnesses would be the driver of the tractor and he has not been cited whether they were ploughing the land or not. But the Investigating Officer, who conducted the spot inspection categorically stated that no such ploughing was made in the said land.

20. The learned counsel also vehemently contend that PW1 evidence is very clear that police were at the spot at 10.30 a.m. itself and even clear admission was given that they were present at the spot from 10.00 a.m. to 06.00 p.m. and whole day they were at the spot according to the evidence of PW1. The counsel also brought to the notice of this



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Court that PW2 was also an eye-witness according to the prosecution. According to the prosecution, PW2 was taken to the hospital in an ambulance, but no history was given that as a result of assault made by the accused persons she has sustained the injuries. The document Exhibit P10 is very clear that she was treated only for the giddiness and anxiety and there were no any external injuries. But as per the prosecution, the accused persons have assaulted PW2 at the spot, PW1 has not sustained any injuries. PW1 in his evidence says that he was also assaulted by the accused persons. PW2 says that she was admitted in the hospital on the same day and was discharged on the very same day.

21. It is the further case of prosecution that, PW.2 was admitted in the hospital for 2 to 3 days. The medical evidence also very clear that the Doctor, who has been examined as PW15 before the Court has deposed that on examination of PW2 there are no



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any injuries and even at what time she came to the hospital and his evidence do not support the case of prosecution.

22. PW9 also in his evidence in one breadth says that PW1 and his mother went together to the spot but in another breadth he says that he went alone to the spot later. But the complaint is otherwise against the evidence of PW9. The learned counsel also brought to the notice of this Court to medical evidence. PW21-Doctor in his evidence says that autopsy was conducted at 03.00 p.m. and there cannot be autopsy as well as inquest at the same time. The PW1, PW2 and PW9 are all interested witnesses and the same was also taken note of by the Trial Court and though the PW.4 and PW.5 witnesses are treated as independent witnesses, they have not supported the case of the prosecution. The very case of the prosecution is that accused persons have assaulted the material witnesses by forming an



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unlawful assembly with the common object, but the same is not proved by adducing evidence.

23. The learned counsel in support of his argument relies upon the judgment of the Apex Court in **Lalita Kumari Vs. State of UP and others**⁹, wherein has held that when the Investigating Officer has received the information of cognizable offence, it is mandatory to register the FIR and word shall use in 'Section 154' leaves no discretion in police officer to hold preliminary enquiry before recording FIR. The learned counsel relying on the judgment of **Rajendra Singh Vs. State of Uttaranchal**¹⁰ would vehemently contend that in a case of appeal against acquittal, interference by High Court, scope is discussed. Offence of murder, order of acquittal passed by Trial Court is generally not open to interference, unless findings recorded are *per se* perverse or erroneous.

⁹ AIR 2014 SC 187

¹⁰ AIR 2025 SC 4767



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24. The learned counsel also relies upon the judgment reported in **Babu Sahebagouda Rudragoudar Vs. State of Karnataka¹¹**, and brought to the notice of this Court that in a case of murder, FIR was post-investigation document which did not inspire the confidence. Evidence showed that no one had seen the incident and it was a case of blind murder which came to light much later. If it was raining, incessantly, reason assigned for deceased and forced servants to have gone to agricultural land for putting up a bund was not acceptable. The counsel referring to this judgment also vehemently contend that in the present case on hand, case was registered after the police officials were present throughout from the morning till evening.

25. The counsel also relies upon the judgment in **Chandrappa Vs. State of Karnataka¹²** wherein the

¹¹ 2024 CRI.L.J. 2021

¹² AIR 2007 SC (Supp) 111



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Apex Court has held that appeal against acquittal and in this judgment also powers of appellate Court while dealing with its general principles also stated under what circumstances Court can interfere with in the findings of the acquittal of the judgment. The learned counsel also relies upon the judgment in **Niranjan Panja Vs. State of West Bengal**¹³, wherein also the Apex Court has pointed out with regard to major discrepancies in prosecution evidence. Reversal of the acquittal and relied on paragraph No.18 of this judgment with regard to time since death is concerned the doctor is very clear that no time is mentioned since death is concerned since according to the prosecution incident was taken place in the early morning itself and autopsy was conducted at 03.00 p.m. But time since death is not mentioned and doctor evidence is also very silent to that effect.

¹³ 2010 (6) SCC 525



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26. The learned counsel would vehemently contend that according to the prosecution, accused No.2 kicked on the private part of the deceased. But the evidence available before the Court is the case of squeezing of the testicles. When such being the case, the very case of the prosecution is doubtful and hence not a case for reversal of the judgment of acquittal.

27. Having heard the counsel appearing for the appellant, in both the appeals as well as the submissions of the counsel appearing for the respondents and also material available on record, the point that would arise for consideration of this Court are:

i) Whether the trial Court committed an error in acquitting the accused persons for the offences invoked against them?

ii) Whether it is a fit case to convert the acquittal order for conviction in view of the



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principles laid down in the judgments of the Apex Court as the settled law?

iii) What order?

28. Having heard the appellant counsel and also the counsel appearing for the respondent, this Court has to consider before appreciating the evidence available on record for reversal of judgment of acquittal.

29. This Court would like to rely upon the judgment of the Apex Court in **Mallappa and others Vs. State of Karnataka**¹⁴, wherein the principles which come into play while deciding an appeal from acquittal could be summarized. The Apex Court has observed at paragraph No.42, which reads as under:

"42. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarised as:

¹⁴ 2024 (3) SCC 544



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(i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive — inclusive of all evidence, oral or documentary;

(ii) Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;

(iii) If the court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed;

(iv) If the view of the trial court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;

(v) If the appellate court is inclined to reverse the acquittal in appeal on a reappraisal of evidence, it must specifically address all the reasons given by the trial court for acquittal and must cover all the facts;

(vi) In a case of reversal from acquittal to conviction, the appellate court must demonstrate an illegality, perversity or error of law or fact in the decision of the trial court".

30. This Court also would like to rely upon judgment of the Apex Court in **State of Rajasthan Vs. Islam and others**¹⁵ wherein also in paragraph No.16 Apex Court has held that principle to be followed by the appellate Court considering an appeal against an order of acquittal is to interfere only when there are compelling and substantial reasons to do

¹⁵ 2011 (6) SCC 343



so. In paragraph No.17 also held that in reversing an acquittal, this Court keeps in mind that presumption of innocence in favour of the accused is fortified by an order of acquittal and if the view of the High Court is reasonable and founded on materials on record, this Court should not interfere.

31. This Court would like to rely upon the Apex Court judgment in the case of **Muralidhar Alias Gidda and Another Vs. State of Karnataka**¹⁶ has held while considering the approach of the Appellate Court in the appeal against acquittal has been dealt with by this Court. Referring to the several judgments in paragraph No.12 wherein also reiterated as under:

- (i) There is presumption of innocence in favour of an accused person and such presumption is strengthened by the order of acquittal passed in his favour by the trial Court;
- (ii) The accused person is entitled to the benefit of reasonable doubt when it deals with the merit of the appeal against acquittal;

¹⁶ 2014 (5) SCC 730



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(iii) Though, the powers of the Appellate Court in considering the appeal against acquittal are as extensive as its powers in appeals against convictions, but the appellate Court is generally loath in disturbing the finding of fact recorded by the Trial Court. It is so because the trial Court had an advantage of seeing the demeanour of the witnesses. If the trial Court takes a reasonable view of the facts of the case, interference by the appellate court with the judgment of acquittal is not justified. Unless, the conclusions reached by the trial Court are palpably wrong or based on erroneous view of the law or if such conclusions are allowed to stand, they are likely to result in grave injustice, the reluctance on the part of the Appellate Court in interfering with such conclusions is fully justified and

(iv) Merely because the appellate court on re-appreciation and re-evaluation of the evidence is inclined to take a different view, interference with the judgment of acquittal is not justified if the view taken by the trial court is a possible view. The evenly balanced views of the evidence must not result in the interference by the appellate court in the judgment of the trial court.

32. This Court by considering the principles laid down in the judgment referred supra has to consider the material and records particularly in view of the submissions made by the respective counsel with regard to the registration of the case belatedly and also before registration of the case, the inquest is



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conducted and the same has to be kept in mind while appreciating the evidence.

33. In this regard, this Court would like to rely upon the judgment of the Apex Court in **Mohd. Muslim Vs. State of Uttar Pradesh**¹⁷, wherein the Apex Court has held that FIR is also found ante-timed, losing its evidentiary value. Even if certain other minor discrepancies in oral evidence are ignored, it is a case where prosecution has miserably failed to prove, that appellants have committed offence, beyond any reasonable doubt. It is held that FIR in a criminal case and particularly in a murder case is a vital and a valuable piece of evidence especially for purpose of appreciating evidence produced at trial. It is for such reason that infirmities, if any, in FIR casts a doubt on its authenticity. FIR in such case may also lose its evidentiary value. On account of infirmities, such as ante-timing of FIR, it

¹⁷ 2023(7) SCC 350



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loses its evidentiary value. Thus, it may entitle accused to be given benefit of doubt, in the present case wherein FIR has been ante-timed.

34. This Court also would like to rely upon the judgment of the Apex Court in **State of A.P. Vs. Punati Ramulu and Others**¹⁸, wherein the Apex Court has held with regard to invoking of Sections 154 and 162. FIR -when can be treated as statement under Section 162. Police officer deliberately not recording FIR on receipt of information about cognizable offences. FIR prepared after reaching the spot and after due deliberations, consultations and discussions. Held, such a complaint could not be treated as FIR. It would be a statement made during the investigation of a case and hit by Section 162. Consequently, it would be unsafe to rely on such a tainted investigation.

¹⁸ 1994 (1) SCC 590



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35. Further, this Court in **Lalitha Kumari** (supra) relied upon by the learned counsel appearing for the respondents, wherein categorically held that if it is a cognizable offence, it is mandatory on the part of the police to register FIR on receipt of information, disclosing a cognizable offence as the general rule. Held, the registration of FIR is mandatory under Section 154, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation. This is a general rule and must be strictly complied with.

36. This Court would like to rely upon the Judgment in **Meharaj Singh Vs. State of U.P.**¹⁹ wherein also discussion was made with regard to the scope of Sections 154, 157 and so also 174. With regard to the registration of FIR, the Apex Court has held that FIR had been ante-timed and had not been recorded till the inquest proceedings were over at the

¹⁹ 1984 (5) SCC 188



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spot by the Investigating Officer. FIR in a criminal case and particularly in a murder case is a vital and valuable piece of evidence for the purpose of appreciating the evidence led at the trial. The object of insisting upon prompt lodging of the FIR is to obtain the earliest information regarding the circumstances in which crime was committed, including the names of the actual culprits and the parts played by them, the weapons, if any, used, as also the names of the eyewitnesses, if any. Delay in lodging the FIR often results in embellishment, which is a creature of an afterthought. On account of delay, the FIR not only gets bereft of the advantage of spontaneity, danger also creeps in of the introduction of a coloured version or exaggerated story with a view to determine whether the FIR was lodged at the time it is alleged to have been recorded, the courts generally look for certain external checks. One of the checks is the receipt of the copy of the FIR, called a



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special report in a murder case, by the local Magistrate.

37. The Apex Court in the recent judgment delivered on 15th July 2026 in **Deo Prasad and Another Vs. State of Uttar Pradesh** in paragraph No.52 has held that where allegations of ante-timing, ante-dating and fabrication are not merely speculative but find substantive support from attendant circumstances appearing on the record, and are coupled with surrounding facts generating genuine suspicion regarding the fairness and integrity of the investigation, such delay acquires considerable significance. In such a situation, the delay ceases to be a mere procedural irregularity and assumes substantive importance in evaluating the authenticity of the prosecution narrative, the spontaneity of the FIR and the possibility of subsequent embellishment and manipulation. The Court is then required to assess the effect of such delay not in isolation but



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cumulatively with the other circumstances brought on record while testing the overall credibility of the prosecution case.

38. The Apex Court also in the judgment of **Amit Kumar Vs. Union of India** delivered on 24th March, 2025 in paragraph No.24 has held that the investigations conducted under Sections 154 and 174 of CrPC respectively are distinct in nature and purpose. A study of Chapter XII of the CrPC reveals that these two provisions cater to different procedural objectives. The former begins with information about the commission of a cognizable offence referred to in Section 154(1), culminating in registration of FIR and ending with filing of a chargesheet / challan before the competent court under Section 173 or a final report as the case may be. This procedure to be undertaken for initiating an investigation into a cognizable offence has been explained by this court in **Ashok Kumar Thodi Vs. Kishwar Jahan** 2011 (3)



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SCC 758 and also in paragraph No.48 wherein held that investigation commences with lodgement of information relating to the commission of an offence. If it is a cognizable offence, the officer in charge of the police station, to whom the information is supplied orally has a statutory duty to reduce it to writing and get the signature of the informant. He shall enter the substance of the information, whether given in writing or reduced to writing as aforesaid, in a book prescribed by the State in that behalf. The officer-in-charge has no escape from doing so if the offence mentioned therein is a cognizable offence and whether or not such offence was committed within the limits of that police station. The scope of Section 154 is discussed in this judgment.

39. The counsel appearing for the respondents referring to paragraph No.22 of the judgment in **Sambhu Das Alias Bijoy Das** (supra), wherein also clearly discloses no doubt in inquest report was



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prepared by PW8 at 09.30 p.m. and formal FIR was lodged by PW1 at 11.30 p.m. and the same will not go to the very root of the case. However, the inquest report is prepared under Section 174 CrPC. The object of the inquest proceedings is to ascertain whether a person has died under unnatural circumstances or an unnatural death and if so, what the cause of death is?. The very scope under Section 174 is also discussed in this judgment. In paragraph No.30 regarding the principle now well settled is that when information regarding a cognizable offence is furnished to the police that information will be regarded as the FIR and all enquiries held by the police subsequent thereto would be treated as investigation, even though the formal registration of the FIR takes place only later.

40. Having considered the principles laid down in the judgment referred supra and also the scope of the appellate Court in a case of reversal and also the



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scope of Sections 154 and 174, this Court has to analyze the material available on record before this Court on the heading of evidence.

**DISCUSSION AND ANALYSIS OF THE
EVIDENCE OF PROSECUTION FOR
CONSIDERATION OF THIS CASE.**

41. The PW1 who is the complainant and also son of the deceased Muniyappa, and on receipt of the information from one Ramesh about ploughing of the land which is the subject matter of litigation, rushed to the spot along with his father and mother, on seeing them, the accused persons formed an unlawful assembly with a common object to take away the life, came and assaulted the victim and others, accused No.2 kicked the victim on his private part, as a result, he fell down at the spot and lost his breath. When the mother came to rescue, accused persons also assaulted her and PW.1 with hands and PW2 took



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treatment in the hospital and this incident was witnessed by Sri Ramappa, Venkateshappa, Ramesha, Lokesha and when they came to the spot, accused persons ran away from the spot. Immediately they secured the ambulance and sent his mother to hospital in the ambulance and father already lost his breath. Hence, he had lodged the complaint as per Ex.P1.

42. Having perused the complaint, the timing is mentioned as 03.00 p.m., on 27.07.2011 and the person who has received the written complaint made an endorsement in the complaint that he came back to police station at 15.30 and registered the Crime No.140 of 2011. This Court has to analyze the evidence of P.W.1 available before the court. In his evidence, P.W.1 says that there was civil dispute between himself and accused. On 27.07.2011 in the morning at 10.30 a.m., the accused Nos.1 to 5 were ploughing the land and the same was informed by



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C.W.7-Ramesh over phone. Accordingly, himself, his father Muniyappa, mother Tayamma and P.W.9-Amaranatha have all went near the land of Gopalakrishna. At that time, all the accused persons forming an unlawful assembly with an intention to take away the life of his father, came and inflicted injuries and the same is reiterated in the complaint at Ex.P1. When P.W.9 came near the spot, already father had passed away and he gave the written complaint. But, in the cross-examination, he says that the property was purchased by accused No.1 from Dayananda i.e., 1 acre, 8 guntas and he admits the transaction between his father and Dayananda and in turn, Dayananda sold the same in favour of accused No.1. But, it is his case that they were ploughing the land using tractor and he admits that complaint at Ex.P1 is not in his handwriting, but claims that the same is in the handwriting of his brother i.e., P.W.9. The complaint was written at 10.30 a.m., but



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endorsement available before the Court as per Ex.P1 shows that, it was at 3.00 p.m. as per the Police. But, he categorically says that when the complaint was written at 10.30 a.m., the Police were very much present and the same was written for about half an hour. But, he did not give instructions to write Ex.P1 and admits that, in Ex.P1, it is categorically stated that himself, his mother, his father and his brother were going together. It is also his evidence that while preparing the complaint between 10.30 a.m. to 11.00 a.m., his mother and Police were present and Police also recorded the statement of his mother and his father was lying at the spot and his brother P.W.9 was also very much present. But, he did not accompany his mother when she was sent in the ambulance and also his brother P.W.9 and he cannot tell, who had accompanied his mother in the ambulance. However, admits that when the ambulance came to the spot, Police were also present



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at the spot and he himself called the ambulance and Police were there from morning 10.30 a.m. to evening 6.00 p.m. at the spot and during inquest also, he was very much present. But, he says that, his mother was in the hospital for 2 to 3 days. The suggestion that while proceeding in the motorcycle, when he suddenly applied brake, his father had sustained injuries to his testicles, as a result, he passed away and the same was denied. It is suggested that mother was not subjected to assault and she was admitted to hospital due to shock and the same was denied by P.W.1.

43. The other witness is P.W.2 i.e., the mother of P.W.1. In her evidence, she says that her husband and P.W.1, on information went to the spot. But, she did not accompany them, however she followed them and there are material contradictions in the evidence of P.W.1, P.W.2 and so also the contents of Ex.P1,



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wherein it is categorically stated that all of them went together. But, P.W.2 says that when she reached the spot, by that time, already accused No.3 was holding P.W.1 and was assaulting with his hands and legs and accused No.2 was inflicting injury to her husband on his chest and remaining accused persons were assaulting her husband surrounding him on the chest and there are no injuries all over the body, except injury on the private part of the deceased. But, P.W.2 in her chief-evidence never says that accused No.2 kicked her husband. But, she says that accused No.1 kicked on the private part of her husband, as a result, he fell down and there are material contradictions even with regard to kick by accused No.1. But, P.W.1 says that accused No.2 kicked his father. In the cross-examination, she says that she was taken to hospital in an ambulance by her relatives and even, she is not aware as to who had taken her to the hospital. But, she says that ambulance came at



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around 10.30 a.m. and suggestion was made that already Police were there, but this witness denies the same. However, P.W.1 says that when the ambulance came to the spot, already Police were there. But, P.W.2 in her evidence, she says that she was in Vemagal Government Hospital for 1 day. But, again she says that she was discharged on the very same day in the evening and PW.1 says she was in hospital for 2 to 3 days. The evidence available before the Court i.e., the evidence of P.W.1 and P.W.2 is contradictory to each other with regard to the incident as well as arrival of ambulance and taking her to hospital in the ambulance is concerned.

44. It is important to note that with regard to the evidence of P.W.2, at this juncture itself, this Court would like to rely upon the documentary evidence Ex.P10 i.e., Medical Certificate in respect of P.W.2 is concerned, wherein the Doctor certifies that she was treated by him on 27.07.2021 for giddiness,



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anxiety, and generalized weakness with hypertension and nowhere, history is given that she was assaulted in the incident while taking away the life of her husband and nothing is stated in this regard.

45. This Court also would like to rely upon the evidence of P.W.15, who is the treated Doctor of P.W.2. The P.W.15 in his evidence says that he examined P.W.2 and gave Certificate as per Ex.P10. In the cross-examination, he admits that Ex.P10 is not in the prescribed proforma and hospital has got prescribed proforma to issue such Certificate. He also admits that if a patient alone comes to the hospital, his/her signature or LTM has to be obtained in MLC Register and there is no such signature or LTM of Smt.Tayamma. He also further admitted that in MLC Register and Ex.P10-Medical Certificate, there is no mention of the time of examination of Smt.Tayamma and further admitted that, in MLC Register and Ex.P10-Medical Certificate, not mentioned at what



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time Smt. Tayamma had visited the hospital. He further admits that Smt. Tayamma was not referred for hospitalisation, as she was not in a serious condition and admits that, she has not ascertained the reason for shock and anxiety of Smt. Tayamma. He further admits that sometimes, due to general weakness, there is possibility of hypertension. Having considered the evidence of P.W.15 also, the very presence of P.W.2 at the spot and that she has sustained injury in the incident is doubtful and she was also a witness to the incident cannot be accepted as she has not sustained injuries even though she was shifted to the Ambulance.

46. Now, this Court has to consider the evidence of P.W.9. According to the prosecution, P.W.9 is also an eye witness to the incident. P.W.9 is also the son of the deceased and in his evidence, he says that there was civil dispute between his father and Dayananda. In his evidence, he says that P.W.7-



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Ramesh came to know about ploughing of land by the accused persons and he informed his father over phone. But, P.W.1 in his chief-evidence says that he received phone call from Ramesh and immediately, having come to know about the same, his father and P.W.1 went near the land of Gopalakrishna and says that himself and his mother went near the said land. Later his evidence is very clear that he has not accompanied P.W.1 and the deceased, but, his evidence is that he accompanied his mother and when they reached the spot, already accused persons had surrounded his father and they were assaulting on his chest and they were kicking on the private part of his father. When he himself and mother went to the spot, accused No.2 was inflicting injury on the chest of his father and accused No.1 kicked on the testicles of his deceased-father, as a result, he fell down. When his mother tried to rescue him, accused Nos.3 to 5 have assaulted his mother, but no injuries,



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when three persons have assaulted on his mother i.e., accused Nos.3 to 5 and in Ex.P10, there are no injuries mentioned by the Doctor, who has been examined as P.W.15. In the cross-examination also, he says that when C.W.6, C.W.7 and P.W.4 came to the spot, already his father was lying at the spot and his mother was sitting tiredly and he cannot give any description of the spot, where his father was lying. He also admits that within one hour of the incident, Police came to the spot and village people have also assembled at the said spot and ambulance came around 11.30 a.m. and taken his mother in the ambulance. But, he says that after the ambulance left the spot, Police have prepared the sketch at 12.00 p.m. itself and says that he has not given any statement to the Police at 12.00 p.m. However, he claims that his brother P.W.1 and relatives have taken the dead body to S.N.R. Hospital at around 2.00 p.m. He also admits that he did not notice any



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injury on his mother, but only says that injuries are not external injuries, but they are internal injuries and he cannot tell how many internal injuries are sustained by his mother. Having considered the admission that there was civil dispute between the parties and the same is admitted by all the witnesses i.e., P.W.1, P.W.2 and P.W.3, it is very clear that there was civil dispute between the parties and suit was also pending and Doctor evidence no such either external and internal injuries to his mother.

47. The other witness is P.W.8, who is the brother of P.W.1 and P.W.9, but he was not there on the date of the incident. In the cross-examination, he categorically admits that he had been to Seethihosuru Village at around 12.30 p.m. But, he also admits that when he came to the spot, already Police and general public were there at the spot and his mother was already sent to the hospital. He also says that Police recorded the statement at the spot at around 12.30



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p.m. itself and again, in the evening at 5.30 p.m. Having considered the evidence of these witnesses, it is clear that Police were there at the spot at 10.30 a.m. and even statement of witnesses were also recorded before registration of the case.

48. It is important to note that P.W.16, P.S.I. of Vemagal Police Station who received the information categorically deposed that he went to spot at 3.00 p.m. and recorded the statement of P.W.1 as per Ex.P1. In the cross-examination, he says that, when cognizable offence is received over phone, it should be entered in the Station House Dairy and also categorically admits that, before registration of the case, already CPI and Higher Officers had received the information regarding the incident. He says that when he recorded the statement of P.W.1, at that time, C.W.26-Jayashankar was also present.



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49. This Court has to take note of evidence of Deputy Superintendent of Police, who conducted further investigation in the matter, who has been examined as P.W.18 i.e., T.R.Jayashankar. He says that he received information through P.W.16-Sonnappa at around 1.30 p.m. itself from the spot. In the cross-examination, he categorically admits that P.W.16-Sonnappa gave information from the spot itself. He also admits that inquest was conducted in between 3.00 to 5.30 p.m. and spot panchanama was conducted between 5.30 to 6.15 p.m. and the evidence of P.W.16 and P.W.18 is contrary to each other with regard to cognizable offence is concerned. In the cross-examination, though he admits that he received the information through P.W.16, who was at the spot, but P.W.16 says that he went to spot at 3.00 p.m and P.W.18 says that he went to the spot at 2.30 p.m. immediately after receipt of information from P.W.16.



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50. Having considered the principles laid down in the judgments referred supra and the evidence available before the Court and so also the evidence of P.W.21-Doctor, who deposed before the Court with regard to post mortem report is concerned, according to him, he identifies the signature of the Doctor, who conducted post mortem i.e., Dr. Mahaboob Sheriff D.R. His evidence is very clear that as per Ex.P16, no external injuries over the chest and abdomen. But, the very specific case of the prosecution is that all the accused persons were assaulted on the chest of the deceased. Hence, the very incident itself is doubtful that accused persons itself assaulted and inflicted injuries on the deceased and there are no injuries to P.W.1 and P.W.2 and the same goes to very root of case of the prosecution, when there are no external injuries over chest and abdomen of the deceased and there was only swelling of right side testicles. But, in the cross-examination, he has admitted that



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neurogenic shock occurs due to various factors. It is true that disease of genitourinary system may lead to neurogenic shock. It is also elicited in the cross-examination that kicking on the testicles is different from squeezing the testicles. He admits that injuries found by kicking the testicles is different from squeezing the testicles. The post-mortem was conducted at the mortuary of S.N.R. Hospital at about 3.00 p.m. on 27.07.2011 and the Court has to take note of the fact that inquest was conducted in between 3.00 to 5.30 p.m. and simultaneously, how an autopsy and an inquest could be conducted.

51. Further, it is important to note that Ex.P16-post mortem report does not state the time since death and there is no time since death. The defence has also elicited answer from the mouth of P.W.21 that if a person is a pillion rider in a two wheeler and if the rider suddenly applies the brake, the injury mentioned in Ex.P16-post mortem report is



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likely to occur to the testicles of the pillion rider and the same is the defence of accused persons.

52. Having assessed the evidence available on record, particularly the post mortem report, the same clearly discloses that post mortem was conducted in the hospital. In the document at Ex.P16-post mortem report, cause of death is mentioned as cardio respiratory arrest secondary to traumatic asphyxia and neurogenic shock. The evidence of the Doctor, who has been examined as P.W.21 is also clear with regard to such cause and the same is elicited during the course of cross-examination. The Court also has to take note of Ex.P5-inquest and timings of inquest as per Ex.P16 and it was commenced at 3.00 p.m. and it has taken about 2½ hour as per column No.28 of the inquest report. As per post mortem report, it is mentioned that inquest was conducted from 3.00 p.m. to 5.00 p.m. and the very case of the prosecution is doubtful with regard to incident,



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conducting the investigation and also with regard to witnessing the incident. Throughout, the witnesses P.W.1, P.W.2 and P.W.9 have categorically deposed that incident has taken place in the morning at 10.00 a.m. and all the Police Officers were there at the spot from 10.30 a.m. to 6.00 p.m. and the evidence of P.W.16 and P.W.18 i.e., Police witnesses is contrary to each other and the law set in motion itself doubtful since police were there at the spot from morning at 10.30 a.m., itself.

53. When the very incident is doubtful that accused persons itself assaulted the deceased, no other witnesses have deposed before the Court, except the interested witnesses i.e., P.W.1, P.W.2 and P.W.9, the family members and the evidence of all the family members is also contrary to each other with regard to rushing to the spot where the incident had taken place. In the complaint, it is stated that all the four went together. But, P.W.2 and P.W.9 say



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that they went later and P.W.1 says that all of them went together and there is an inconsistency in the evidence of these witnesses. When such being the case, even it is not a case for invoking Section 304-Part II of IPC considering the observations made by the Trial Court that a single blow was caused to the deceased and that single blow is also inconsistent considering the evidence of P.W.1, P.W.2. and P.W.9. When all the eyewitnesses depose before the Court that all of them have assaulted P.W.1, P.W.2 as well as the deceased, but no injuries to P.W.1 and PW2. The medical evidence also not supports the case of the prosecution.

54. When such being the case, this Court, before discussing the evidence relied upon the judgment of the Apex Court with regard to the principles in a case of acquittal and converting the same for conviction and so also, the evidentiary value of FIR is concerned under Section 154 of Cr.P.C., The



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Apex Court also discussed in detail with regard to Section 162 in the judgments referred supra and also Section 154 of Cr.P.C., Hence, it is very clear that in a serious case of murder, the registration of FIR is very important and vital and Court has to consider intrinsic evidence. In the case on hand, autopsy was had commenced at 3.00 p.m. and inquest had commenced at 3.00 p.m., but complaint of P.W.1 is that it was commenced at 3.00 p.m., and the same is in the hand writing of PW.9 brother and FIR was registered at 3.30 p.m. and during that time, inquest as well as autopsy simultaneously cannot be conducted. The material available on record is very clear that Police have reached the spot at 10.30 a.m. itself as per the evidence of P.W.1, P.W.2 and P.W.9 and they were having the knowledge about very death of Muniyappa in the morning itself and post mortem report also does not specify time since death. When the Police were having knowledge about death,



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the delay in registering FIR at 3.30 p.m. creates doubt with regard to intrinsic value of the evidence of the prosecution and the same is against the principles laid down in the judgment of Lalitha Kumari's case as referred Supra and after deliberation and consultation, subsequently, implicated the accused persons in view of evidence available on record. Apart from that, motive for implicating the accused persons is also that admittedly, there was civil dispute between the parties and suit in O.S.No.147/2011 was pending before the Court and also an order of statement.

55. When such being the case, we do not find any grounds to reverse the finding of the Trial Court and the judgments which have been relied upon by learned counsel appearing for the appellant on behalf of the defacto-complainant will not come to the aid of appellant to consider the matter for reappraisal as contended and there are contradictions and



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inconsistencies in the evidence of the witnesses. No dispute with regard to the principle in paragraph No.66 of the judgment referred by the Court for defacto-complainant the Court has to take note of overall evidence available on record. But, those judgments which have been relied upon by learned counsel for the appellant will not come to the aid of the appellant to reverse the judgment and in keeping the principles laid down in the judgments referred supra, it is not a case for reversing the judgment of acquittal for conviction and the evidence of the witnesses not inspires the confidence of this Court to come to an other conclusion that point outs the very role of the accused persons in the death of deceased-Muniyappa. Hence, we answer the point as 'negative'.

56. In view of the discussions made above, we pass the following:



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ORDER

Both the criminal appeals are ***dismissed.***

Sd/-
(H.P.SANDESH)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

MKM, ST
List No.: 2 Sl No.: 1