



CNR: KAHC010090782019

NC: 2026:KHC:45071-DB
CRL.A No. 602 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 602 OF 2019 (C)

BETWEEN:

PARASHURAMA
S/O CHAPPERA BAAVANYAPPA,
AGED ABOUT 46 YEARS,
FARMER, R/O SANDA VILLAGE-577 428
SHIKARIPURA TALUK, SHIVAMOGGA DISTRICT
PRESENTLY AT CENTRAL PRISON (CTP NO.108)
SHIMOGA-577 201

...APPELLANT

(BY SRI. CHINNAPPA REDDI P.C., ADV. A/W
SMT. SUMA HIREBIDARI, ADV.)

AND:

STATE OF KARNATAKA
R/BY RURAL POLICE STATION
SHIKARIPURA-577 427
NOW R/BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560 001.

...RESPONDENT

(BY SRI. RAHUL RAI K., HCGP)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C PRAYING TO
SET ASIDE THE CONVICTION AND SENTENCE DATED
02.05.2018, PASSED BY THE III ADDITIONAL SESSIONS
JUDGE AT SHIVAMOGGA IN S.C.NO.73/2017, CONVICTING
THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 498A AND
302 OF IPC.



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

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
AND
HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

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

1. This appeal is preferred by the accused against the Judgment and Order dated 02.05.2018 passed by the Court of III Addl. Sessions Judge, Shivamogga, in SC.No.73/2017, whereby he is convicted for the offences punishable under Sections 498-A and 302 of IPC and sentenced to undergo imprisonment for life and to pay a fine of Rs.25,000/-, in default of payment of fine, to further undergo SI for a period of 1 year for the offence punishable under Section 302 of IPC; and to undergo imprisonment for 2 years and to pay fine of Rs.5,000/-, in default of payment of fine, to further undergo SI for a period of 3 months for the offence punishable under Section 498-A of IPC.



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2. We have heard Sri Chinnappa Reddi P.C along with Smt. Suma Hirebidari, learned counsel appearing for the appellant and the learned HCGP, Sri Rahul Rai K, appearing for the State. Perused the evidence and material on record.

3. Briefly stated, the case of the prosecution is that, deceased Geetha is the wife of the accused, their marriage was solemnized about 18 years prior to the date of incident. They are blessed with two female and three male children. The couple along with the children, were staying in the house situated in Khata No.44/1, S.C.Colony, Sanda village. Since 8 years, the accused was subjecting the deceased to physical and mental torture, for one or the other reason and suspecting her fidelity. On 07.05.2016, at about 10:00 pm, the accused noticed his wife talking with a person in the backyard of their house. On seeing both of them, he took an axe which was in the



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kitchen and tried to assault the person who was talking to his wife, however, the said person ran away. The accused dragged his wife inside the house and pushed her and when she fell down on the floor, he raised the TV volume and assaulted her with the axe below her right eye, back of the right ear and committed her murder.

4. Before the trial Court, the charges were framed against the accused for the offences punishable under Sections 498-A and 302 of IPC, for which the accused pleaded not guilty and claimed to be tried.

5. To establish the charges, the prosecution, got examined PWs.1 to 13; got marked Exs.P1 to 29 and MOs.1 to 9.

6. The statement of the accused under Section 313 of Cr.PC was recorded. The accused denied the incriminating evidence appearing against him, however he did not lead any defence evidence.



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7. The learned Sessions Judge, on appreciating the oral and documentary evidence on record, held that the prosecution has proved the charges levelled against the accused and accordingly convicted and sentenced him for the aforementioned offences, as noted *supra*.

8. The trial Court relying on the evidence of PWs.1 and 4, held that their evidence clearly established that the accused was consistently subjecting the deceased to cruelty as defined under Section 498-A of IPC and the efforts to harmonise the relationship between the deceased and the accused went in vain and ultimately on the fateful night, the accused has committed her murder in a brutal manner. Further, the learned Sessions Judge held that under Section 106 of Evidence Act, the burden is upon the accused, who admittedly being the inmate of the house, to explain under what circumstance, the deceased had sustained such injuries and died. Further, held that the prosecution has successfully proved that, at the time



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of incident the accused was present in the house and PW4 has witnessed the alleged incident and there is no explanation offered by the accused even in his statement recorded under Section 313 of Cr.P.C.

9. The learned counsel for the appellant contended that, all the material witnesses except PW4, has turned hostile and not supported the case of the prosecution. PW4 is the minor son of the deceased and accused and perusal of his evidence goes to show that he has not witnessed the incident. He contended that, on the sole testimony of a child witness, the trial Court was not justified in convicting the accused for a serious charge of murder.

10. The learned counsel for the appellant would also contend that even accepting the case of the prosecution, the incident has occurred in a spur of the moment and in the heat of passion, wherein the accused noticing his wife talking with another person during night



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hours, deprived of his power of self-control, has committed the act and therefore, the act of the accused would not attract Section 302 of IPC but would fall within the exception to Section 300 of IPC.

11. Per contra, the learned HCGP has contended that, the accused has not denied his presence in the house where the incident took place. PW4, none other than the son of the deceased and the accused, whose presence in the house is also not disputed, has categorically stated that his mother was killed by his father i.e., the accused. He further contended that the blood-stained axe-MO1 was also recovered at the instance of the accused and as per the FSL report, the said axe was found stained with human blood of 'O' Group. Hence, contended that the prosecution has established the guilt of the accused beyond reasonable doubt and accordingly, sought to dismiss the appeal by confirming the judgment and order of conviction and sentence passed by the trial Court.



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12. The law was set into motion by PW1, brother of the deceased. As per Ex.P1-Complaint lodged by him, he was residing at Udri village, Soraba Taluk in Shivamogga District. The accused and the deceased were married for 18 years and they had 5 children. They were residing at Sanda village in Shikaripura. The accused was suspecting the fidelity of his wife and he was quarrelling with her for one or the other reasons, since 8 years. It is further stated that, on 07.05.2016 at about 12:30 am, the maternal uncle of the accused namely, Gadigappa (PW2) informed over phone that the accused has committed the murder of complainant's sister. On 08.05.2016 at 5:00 am, the complainant along with his father, other relatives and villagers went to Sanda village to the house of the accused and found the dead body lying there with bleeding injuries. When enquired with PW2-Gadigappa, Ravikumar-PW6 and others who were present, they informed that at about 11:50 pm on 07.05.2016, the accused picked-up quarrel with the deceased on the



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ground that she was having an illicit relationship with some other person and committed her murder by assaulting with an axe.

13. The Complainant examined as PW1, has deposed in consonance with the complaint averments, regarding PW2 informing over phone that the accused has committed the murder of his sister. PW3, PW5, the neighbours of the accused and PW6 and PW7, the Village Panchayat Members have turned hostile and not supported the case of the prosecution. The material evidence available on record is that of PW4, minor son of the deceased and the accused, an eye-witnesses to the incident.

14. PW4, in his evidence has stated that his father used to quarrel with his mother and on the date of incident, he was present in the house along with his brother. He has stated that he and his brother were sleeping near their mother and his father has assaulted his



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mother with an axe. He has further stated that he woke up when they were quarrelling and he saw his mother was bleeding in the head, ears and nose. Thereafter, the grand parents and Gangamma (PW3), a neighbour came to the house and enquired with his father, who told that he has intentionally assaulted her. PW4 has further stated that, they used to keep the axe in the kitchen. He has identified the said axe-MO1.

15. The suggestion put to PW4 that his mother sustained injuries on account of a fall in the backyard, has been denied by him. He has also denied the suggestion that his father was not present in the house that night. There is nothing elicited in the cross-examination of PW4, to hold that the accused was not present in the house at the relevant point of time and that he had not assaulted his wife with an axe.

16. As per Post-mortem report-Ex.P11 issued by PW9-Doctor, the following injuries are noticed:



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"Wound description

- 1) *Bone depth lacerated wound measuring about 7cm x 1cm over right side of the head showing depression of skull, 2cm above the right ear pinna*
- 2) *Bone depth lacerated wound measuring 1 x 0.5cm on the outer edge of the right eye brow*
- 3) *Bone depth lacerated wound measuring 0.5 x 0.5 just below the injury No.2*
- 4) *Bone depth lacerated wound irregular in shape over the right cheek*
- 5) *Irregularly torn lacerated wound of the tragus of right ear*

Clothes were examined, packed, sealed and handed over to the concerned police."

17. PW9 has opined that the cause of death is due to shock and haemorrhage due to head injury sustained by blunt force impact. He has furnished his opinion as per Ex.P12 regarding the weapon, stating that the external injuries found on the body of deceased, could be caused by assaulting by the weapon examined.



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18. In the cross examination, PW9 has denied the suggestion put to him that the injuries found on the dead body could be caused if a person falls on the hard surface.

19. After the arrest of the accused, based on his voluntary statement, Ex.P28, MO1/blood-stained axe was recovered at his instance. PW10 is the panch witness to Ex.P16-Mahazar conducted at the time of seizure of MO1. As per the FSL report-Ex.P13, the said axe was stained with human blood. The clothes of the deceased as well as the axe-MO1 were stained with the human blood of 'O' Group.

20. It is not in dispute that the accused and deceased were married for 18 years and they have 5 children in their wedlock. As per the complaint-Ex.P1, since 8 years, the accused used to quarrel with the deceased, for one or the other reason and he was suspecting her fidelity. It is not the case of the prosecution that the accused had attempted on the life of



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his wife any time prior to the incident in question. It is the specific case of the prosecution that, on the date of incident, i.e. on 07.05.2016, at about 10:30 pm, the accused noticed the deceased going to the backyard of their house and talking to a person. On seeing them, he took an axe kept in their house and wielded the said axe on the said person who was along with his wife, however, the said person escaped and fled away. Thereafter, it is alleged that the accused dragged the deceased inside the house and pushed her, due to which she fell on the floor and with the axe which he was holding, he gave blows on the right side eye and back of her ear, which proved fatal.

21. From the Post-mortem Report, we have noticed that there are no incised or cut injuries but the injuries sustained are lacerated injuries. Cause of death was due to shock and haemorrhage due to head injury sustained by blunt force impact. The incident, as narrated by the prosecution, goes to show that after having dinner, couple



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and their children had gone to sleep in the house and at about 10:30 pm, the accused noticed his wife going to the backyard of the house and talking to someone. At that moment, probably, in a fit of anger and heat of passion, the accused tried to assault the said person who was with his wife and when the said person fled away, the accused having lost self-control, dragged his wife inside the house and pushed her on to the floor and assaulted her with the axe. The complaint was lodged at about 7:30 am on 08.05.2016 and on the same day, the accused was arrested.

22. Having carefully assessed the entire evidence and material on record, we are of the considered view that the act of the accused would fall within exception 1 to Section 300 of IPC. However, the accused has committed the act with the intention of causing death and causing such bodily injury as is likely to



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cause death and hence, would attract the offence punishable under Section 304 Part I of IPC.

23. The accused has been in custody since 08.05.2016. He has already undergone 10 years 3 months and 12 days of incarceration. It is submitted that, he has five children, who are now being looked after by the relatives. He has no criminal antecedents.

24. For the foregoing reasons and discussion, we proceed to pass the following:

O R D E R

- i. Appeal is **partly allowed;**
- ii. The Judgment and Order dated 02.05.2018 passed by the Court of III Addl. Sessions Judge, Shivamogga, in SC.No.73/2017, convicting and sentencing the appellant/accused for the offence punishable under Sections 302 of IPC, is hereby **set aside;**



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- iii. The accused is convicted for the offence punishable under Section 304 Part I of IPC and he is sentenced to undergo RI for 10 years and to pay a fine of Rs.25,000/- and in default of payment of fine, shall undergo SI for 1 year;
- iv. The conviction and sentence passed by the Trial Court for the offence punishable under Section 498-A of IPC, is **confirmed**;
- v. Both sentences shall run concurrently;
- vi. If the appellant/accused has already undergone the sentence as imposed by this Court and paid the fine amount, he shall be released, if not required in any other case.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE

DHA
List No.: 1 Sl No.: 16