



CNR: KAHC010095112019

NC: 2026:KHC:46934-DB
CRL.A No. 619 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF AUGUST, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.619 OF 2019 (A)

BETWEEN:

STATE OF KARNATAKA
BY HOSAMANE POLICE
BHADRAVATHI TOWN
SHIVAMOGGA DISTRICT
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001

...APPELLANT

(BY SRI SUHAS GOWDA M., HCGP)

AND:

MR. HALAPPA
S/O. MOODLAPPA
AGED ABOUT 48 YEARS
LABOURER
R/O. ASHWATHNAGAR
ALEMANE MAIDANA
RIGHT SIDE
BHADRAVATHI-577 201

...RESPONDENT

(BY SRI J. S. HALASHETTI, ADVOCATE)

Digitally signed
by
SHARADAVANI
B

Location: HIGH
COURT OF
KARNATAKA



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THIS CRL.A. IS FILED U/S.378(1)(3) CR.P.C BY THE ADVOCATE FOR THE STATE PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER DATED 09.10.2018 PASSED BY THE LEARNED IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, SHIMOGA, SITTING AT BHADRAVATHI IN S.C.NO.5003/2016, ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION 302 OF IPC AND CALL FOR THE RECORDS AND SET ASIDE THE JUDGMENT OF ACQUITTAL AND ORDER DATED 09.10.2018 PASSED BY THE LEARNED IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, SHIMOGA, SITTING AT BHADRAVATHI IN S.C. NO.5003/2016 AND ALSO CONVICT AND SENTENCE THE ACCUSED/RESPONDENT FOR THE OFFENCE PUNISHABLE UNDER SECTION 302 IPC BY SETTING ASIDE THE JUDGMENT OF ACQUITTAL AND ORDER DATED 09.10.2018 PASSED BY THE LEARNED IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, SHIMOGA, SITTING AT BHADRAVATHI IN S.C.NO.5003/2016.

THIS APPEAL, 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)

Heard Sri Suhas Gowda M., the learned HCGP appearing for the State and Sri J.S.Halashetti, learned counsel appearing for the respondent/accused.

2. The present appeal is filed by the State against the judgment of acquittal dated 09.10.2018 passed in SC.No.5003/2016 by the IV Additional District and Sessions Judge, Shimoga, sitting at Bhadravathi, for the offence punishable under Section 302 of IPC and prayed the Court to convict the accused/respondent.

3. The factual matrix of the case of prosecution is that the deceased Gowramma and accused both were residing in Alemane of one Smt.Lakshamma, situated at Ashwath Nagar, Bhadravathi and were doing coolie work. That on 07.08.2015 at about 11.00 pm, when the deceased Gowramma questioned accused with respect to non-bringing the groceries to the house, the accused picked up quarrel with her and with an intention to take away the life of his wife, dragged her by



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holding her hands, pulled her down and tied her neck by using a plastic rope, strangled and murdered her. Based on the complaint of first informant, the Police have registered the case in Crime No.88 of 2015 and after investigation filed the charge sheet against the accused. The accused did not plead guilty and claimed trial and hence prosecution examined PW1 to PW10 and got marked document as Exhibit P1 to Exhibit P13 and also got marked material objects as MO1 to MO7. The Trial Court recorded the statement of accused under Section 313 CrPC and accused has not led any defense evidence.

4. The Trial Court having taken note of overall evidence available on record comes to the conclusion that as the case rests upon the circumstances and there is no evidence to link the role of the accused in committing the crime, extended the benefit of doubt in favour of the accused and acquitted the accused.

5. Being aggrieved by the order of acquittal, the present appeal is preferred by the State.



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6. Learned HCGP appearing for the State, in his argument, vehemently contend that the Trial Court has committed an error in not considering both oral and documentary evidence available on record and proceeded erroneously, though PW.2 and PW.7 in their evidence have supported the case of prosecution in proving the alleged act of the accused.

7. The learned HCGP further contend that when the daughter of deceased came to house in the morning at 08.00 a.m., the accused was sleeping and would contend that what made him to sleep till 08.00 a.m. that too when his wife has lost her breath, no explanation is given and apart from that under Section 106 of Evidence Act, it is the duty of the husband to explain how a death has taken place and the same is also not forthcoming. He would further contend that the Trial Court also fails to take note of 313 statement, except stating that he had gone on his masonry work in the previous day and when he came out, all were sleeping. That reasoning is nothing but falsehood and the same gives raise to additional link in respect of the act done by the accused and hence the Trial Court has not properly appreciated the evidence. Hence, he prays this



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Court to reconsider the evidence available on record and convict the accused.

8. Per contra, learned counsel appearing for the respondent/accused would submit that the Trial Court has given the reasoning that there is no any chain link establishing the circumstances to establish that the accused only committed the murder of his wife. He would submit that no doubt the wife has passed away, but it is the case of PW2 that when she came out from her house and noticed that the door was locked with rope, opened the door by removing the rope, found the mother was not alive, but the father i.e. accused was sleeping and had woke up her father, suspected the role of the father and gave the complaint. He would submit that evidence of PW1 is very clear that both of them were very cordial and not witnessed the quarreling of the father and mother and also the admission of PW1 takes away the case of prosecution.

9. The learned counsel would submit that PW7 who is the recovery witness also not supported the case of prosecution. Though there was a strangulation and Court has to take note of



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it was only a shed and Exhibit P5 depicts that it was a shed and covered with sheet and the same is not having permanent fixture of wall and anybody can come and go and the same is admitted by PW1. Under the circumstance, question of giving any explanation under Section 106 doesn't arise. He would further contend that the Trial Court took note of all these factors into consideration, rightly acquitted the accused.

10. The learned counsel in support of his argument relied upon the judgment of Hon'ble Apex Court in **Darbara Singh Vs. State of Punjab**¹ and brought to notice of this Court at paragraph No.15, wherein, a discussion was made with regard to the motive is concerned and that there was no any motive to commit the murder. The learned counsel also brought to notice of this Court the judgment of Hon'ble Apex Court in **Kanhaiya Lal Vs. State of Rajasthan**² and held in paragraph Nos.12 and 15 that merely because last seen together does not by itself and necessarily lead to the inference that it was the accused who committed the crime. Mere non-explanation on

¹ (2012) 10 SCC 476

² (2014) 4 SCC 715



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the part of the appellant, in our considered opinion, by itself cannot lead to proof of guilt against the appellant. The theory of last seen that the appellant having gone with the deceased in the manner noticed hereinbefore, is the singular piece of circumstantial evidence available against him and that cannot be a ground to convict him.

11. The counsel also relies upon the judgment of **Sujit Biswas Vs. State of Assam**³, brought to notice of this Court paragraph No.13, wherein also a discussion was made that in a criminal trial, suspicion, however grave it may be, cannot and must not be permitted to take place of proof. He would further contend that the Trial Court taking note of all these material available on record has rightly extended the benefit of doubt and acquitted the accused. Hence, no ground is made out to interfere with the findings of the Trial Court.

³ 2013 (12 SCC 406



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12. Having considered the contentions of the learned counsel for the respective parties and also the principles laid down in the judgment referred supra by the counsel appearing for the respondent and also on re-appreciation of evidence, the points that would arise for the consideration of this Court are:

(i) Whether the Trial Court has committed an error in acquitting the accused for the offence punishable under Section 302 of IPC and whether the judgment of acquittal calls for interference of this Court?

(ii) What order?

Regarding point No.(i):

13. Having heard the learned HCGP appearing for the State as well as the counsel appearing for the respondent and also considering the factual aspects of the case, it is the case of the prosecution that on 07.08.2015 accused quarreled with his wife with regard to the non-bringing of grocery to the house and when the wife had questioned, the accused, with an intention to take away



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the life of her wife committed the murder by strangulation. No doubt, the evidence of the Doctor before the Court is very clear that it is a case of strangulation. It is also not in dispute with regard to the fact that it is a case of homicide. But Court has to consider whether the other materials would connect the role of the accused as contended by the prosecution. No doubt the deceased and accused were living together in a shed. Having perused the photograph Exhibit P5, a shed and having only one door. But the very complainant who gave the complaint in terms of Exhibit P1, has been examined as PW2. She deposed that when she came near the house, the door was locked by using the rope from outside. But accused and deceased were inside. It is also to be noted that the house is only a temporary shed and not having any permanent structure and also the door is built by using a sheet. When such being the case, the very contention of the State that accused ought to have explained in terms of Section 106 of Evidence Act.



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14. Having taken note of it was a temporary shed and the same was built with covering the sheet and anybody can enter and evidence of PW1 is also very clear that anybody can come and go and the same is admitted in his cross examination. No doubt PW1 in the complaint Exhibit P1, though says that both of them were quarreling, but in the cross-examination she categorically admits that there was no any locking system in respect of the house and the same can be closed by using rope and anybody can come and go and both of them were also very cordial. It is also elicited from the mouth of PW1 that at what time they started quarrel and for what reason they are quarreling also she cannot say. It is also her evidence that no injuries were found. The medical evidence of the Doctor who conducted Post Mortem, says that there was an abrasion on the chin, but the evidence of PW1 also not supports the case of prosecution.



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15. PW7 says that the accused only produced the rope which he had used i.e. MO1 for committing the murder and further says that he cannot tell from where the rope was brought by the accused who produced the rope. He has not supported the case of prosecution with regard to the recovery and the very genesis of producing of the rope is also not proved. No doubt it is a case of homicidal and is based only on the medical evidence, but the prosecution witnesses not supported the case of prosecution. No doubt there is also no any motive for committing murder. Hence, the Trial Court took note of the factual aspect of that it was only a temporary shed and not having permanent structure and also the admission on the part of PW1 is very clear that anybody can come and go and there is an easy access to the house and no doubt that if the house is having a permanent structure and no other third person can enter the house. Under the circumstances, as interpreted under Section 106 of Evidence Act, the accused has to explain and such



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circumstances not warranted. Having taken note of this material on record and so also the evidence of PW2 and her evidence is also contradictory to the document of Exhibit P1 and also her oral evidence is not consistent and the same is not reliable. There are no other materials available before the Court to connect the accused that the accused only has committed the murder of his wife. When such materials were assessed by the Trial Court by considering the same, rightly comes to the conclusion that the evidence of the prosecution witnesses not corroborates with each other and there are inconsistencies in the evidence of the prosecution witnesses.

16. The Apex Court has consistently held that in criminal cases, particularly those relying on circumstantial evidence or where the prosecution case contains material inconsistencies, the benefit of the doubt must be given to the accused. The burden of proving guilt beyond reasonable doubt rests entirely on the prosecution, and



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this burden is never displaced merely because the Court feels that the accused might be guilty. Only where the evidence is cogent, convincing, and free from reasonable doubt can an acquittal be reversed.

17. The Trial Court by considering the oral and documentary evidence, it rightly comes to the conclusion that the evidence of the prosecution witnesses does not corroborate with each other and there are inconsistencies in the evidence of the prosecution witnesses and contradictions. When such a reasoned order is given by the Trial Court and view of the above discussion, we do not find any ground to interfere with the findings of the Trial Court, and the same does not come within the principles laid down by the Apex Court in the **MALLAPPA AND OTHERS V/s. STATE OF KARNATAKA** reported in **2024 (3) SCC 544** and while reversing the judgment of acquittal into conviction, there must be cogent and convincing evidence and only if perversity is found, the



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Court can reverse the same. Hence, we answer the point No.(i) in the Negative.

Regarding Point No.(ii):

18. In view of the discussions made above, we pass the following order.

ORDER

The appeal is dismissed.

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

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