



CNR: KAHC010120492019

NC: 2026:KHC:48767-DB
CRL.A No. 494 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO. 494 OF 2019

BETWEEN:

SRI. GUDIKUMARA
@ GUDIHINDALU KUMARA
AGED ABOUT 42 YEARS,
S/O LATE MANJEGOWDA,
BOOVANAHALLI,
HASSAN TALUK
PIN-573 220.

...APPELLANT

(BY SRI. VEERANNA G. TIGADI, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH EXTENSION POLICE
HASSAN.
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDINGS,
BANGALORE-560 001.

...RESPONDENT

(BY SRI. VIJAYKUMAR MAJAGE, SPP-II FOR
SMT. SOWMYA R., HCGP)



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THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO ALLOW THIS APPEAL, SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION DATED 15.02.2019 AND SENTENCE DATED 16.02.2019 PASSED BY THE LEARNED PRINCIPAL SESSIONS JUDGE, AT HASSAN PASSED THE JUDGMENT IN SESSIONS CASE NO.88/2012 THEREBY CONVICTING THE APPELLANT FOR THE OFFENCE PUNISHABLE UNDER SECTION 341 AND 302 OF IPC AND CONSEQUENTLY ACQUIT THE APPELLANT OF ALL THE CHARGES LEVELED AGAINST HIM.

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

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE B.PRAMOD

ORAL JUDGMENT

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

The appellant/accused, feeling aggrieved by the judgment and order of conviction and sentence passed by the Court of the Principal Sessions Judge at Hassan in Sessions Case No.88/2012, has preferred this appeal.

2. Vide impugned judgment and order, the learned Sessions Judge has convicted the accused for the offences punishable under Section 341 and 302 of IPC and sentenced him to undergo imprisonment for a term of one



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month and to pay a fine of Rs.500/- for the offence punishable under Section 341 of IPC, in default of payment of fine, to undergo imprisonment for a term of 15 days, to undergo imprisonment for life for the offence punishable under Section 302 of IPC and to pay a fine of Rs.1,10,000/-, out of which a sum of Rs.1,00,000/- has been ordered to be paid to the legal representatives of the deceased.

3. We have heard the learned counsel Sri Veeranna G. Tigadi appearing for appellant, learned SPP-II Sri Vijaykumar Majage for the State. Perused the evidence and material on record.

4. The case of the prosecution, in a nutshell is that, on 19.09.2010 at about 6.30 p.m., near the poultry farm of Balakrishna, when the deceased Neelappa and his son-Durgaprasad (PW2) were returning to their house in a Maruthi Omni Vehicle bearing Registration No.KA-13-M-4818, the accused intercepted their vehicle and picked up



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quarrel with the deceased stating that he has not supported him in the Gram Panchayat Election, abused him in filthy language and assaulted him with a wooden club on his head, causing bleeding injuries. Neelappa who sustained grievous injury to his head was initially shifted to Government Hospital, Hassan and from there to SSM Hospital, Hassan and later shifted to NIMHANS, Bengaluru for higher treatment. He was then discharged from NIMHANS and brought back to Government Hospital, Hassan, wherein he died while undergoing treatment, on 29.12.2010 at 11.25 p.m.

5. Charges were framed against the accused for the offences punishable under Section 341, 504, 324, 323, 506 and 302 of IPC. The learned trial Court on appreciation of the oral and documentary evidence on record, convicted the accused for the offences punishable under Section 341 and 302 IPC and acquitted him of the other charges.



6. The law was set into motion by PW2-Durgaprasad, son of the deceased by lodging a complaint as per Ex.P1, based on which PW18 registered a case against the accused in Crime No.237/2010 of Hassan extension Police Station for the offences punishable under Section 504, 341, 323, 324 and 506 IPC. On the death of Neelappa, on 29.12.2010, Section 302 of IPC was incorporated.

7. According to the prosecution, the deceased-Neelappa and his son Durgaprasad (PW2) on 19.09.2010 at about 6.30 p.m., were returning from their land in a car bearing Registration No.KA-13-M-4818. When they reached the poultry farm of one Balakrishna, all of a sudden, the accused waylaid their vehicle, picked up quarrel with Neelappa in connection with a Gram Panchayat election, abused him in filthy language and stating that he has not supported him in the election, assaulted him with a club on his head. In Ex.P1, the complaint lodged by PW2, he stated that his father was



immediately shifted to Hassan Government Hospital and from there he was taken and admitted at SSM Hospital, Hassan. The Doctors advised to take him to NIMHANS, hence, he was taken to NIMHANS for treatment.

8. It is contended by the learned counsel for appellant that as per the medical records, the victim has sustained one injury to the head and there is no evidence to show that he had sustained a fracture. Further, after the Doctor's at NIHMANS found him fit to discharge, he was discharged from the said hospital but he was brought back and admitted at Government Hospital, Hassan, wherein he died on 29.12.2010, after more than 100 days from the date of the incident. He contended that the accused was not armed with any weapon when he allegedly stopped the vehicle of the deceased and the incident occurred on account of a sudden quarrel, wherein, the accused picked up a wooden stick which was lying on the ground and inflicted a single blow without any intention or knowledge that the said act would result in



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death. He therefore, contended that even accepting the evidence placed on record, this is not a case wherein the act committed by the accused would not fall under the definition of culpable homicide amounting to murder.

9. Per contra, the learned SPP-II contended that the evidence on record clearly establishes that the accused has assaulted with a wooden club, a dangerous weapon, on the vital part of the body of the deceased and as per medical evidence, the death was due to complication of the injury sustained. He contended that the intention of the accused is clear from the evidence of the eyewitnesses examined as PWs.1 and 2, wherein they have stated that the accused after stopping the vehicle of the deceased, abused and quarreled with him and stating that he has not supported him in the gram panchayat elections, assaulted on his head which resulted in his death. He therefore contended that considering the weapon used and the part of the body chosen by the accused, the learned Sessions



judge has rightly convicted the accused for the offence punishable under Section 302 IPC.

10. The incident took place on 19.09.2010 at about 6.30 p.m. PWs.1 and 2 are the eyewitnesses to the incident. We have perused the evidence of the said witnesses. Both the said witnesses have stated that when the deceased was on the way to his village in his Maruthi Van, the accused forcibly stopped the vehicle, abused him in filthy words, dragged him outside the van and assaulted him with the stick and also kicked him with his leg. There is nothing elicited in the cross-examination of PWs.1 and 2, to disbelieve their testimony.

11. According to PW2, on receiving the blow on his head, his father fell unconscious and he was shifted to Government Hospital, Hassan and when they were near the said Hospital, his maternal uncle asked them to take his father to SSM Hospital, wherein after scanning was done, the doctors referred him to NIMHANS Hospital,



Bengaluru. His father took treatment at NIMHANS Hospital for one month and later got discharged and admitted at Government Hospital, Hassan and his father died in Government Hospital, after two months.

12. We have perused Ex.P11-wound certificate pertaining to the victim, issued by PW12-Doctor Palachandra, Consultant Surgeon at SSM Hospital, Hassan. As per Ex.P11, a tenderness was noticed over the occipital region. CT scan was done, wherein, it was noticed that the victim had sustained *Sub dural haematoma, Multiple hemorrhagic contusion temporal bone, Sub arachnoid hemorrhage, difine central edema secondary to blunt injury to head by stick*. The injury was stated to be grievous in nature.

13. According to PW12, he gave first-aid treatment to the injured and they took a scanning report and found that his condition was serious and therefore, he referred him to NIMHANS Hospital.



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14. PW14 was the doctor working at NIMHANS, Bengaluru. He has deposed about the admission of the victim on 20.09.2010 with the history of alleged assault. He has furnished the investigation report marked as Ex.P13. He has stated that the injured underwent an emergent surgery for removal of blood clot and treated with medication support with the help of ventilators and thereafter, they sent him back to General Hospital for medical treatment. The case sheet is marked as Ex.P15.

15. PW9 is the doctor who conducted the autopsy. The PM report is marked as Ex.P6. As per final opinion, furnished by PW9, which is on the basis of the case sheet of the hospitals at Haasan and NIMHANS, the death was due to complications of the head injury sustained.

16. The defense got examined DW1, who has deposed that while he was returning on his moped at about 07.00 p.m., he noticed 8 to 10 people quarrelling on the road, and he saw Neelappa was lying on the road. He



has stated that Neelappa had sustained head injury on account of a fall. He has expressed his ignorance regarding the cause of the quarrel.

17. The name of DW.1-Lakshmeesha finds a place in the complaint/son of the deceased, Ex.P1. According to the complainant-PW2, at the time of the incident Shivakumara (PW1) and Lakshmegowda (DW1) intervened and pacified the quarrel. Hence, Lakshmegowda is a crucial witness. However, he was not examined by the prosecution. On the other hand, he was examined by the defense. According to him, the injury sustained by the deceased was on account of a fall. However, a careful perusal of his evidence reveals that he has not seen as to how the deceased fell on the road. At the same time, his evidence that 8 to 10 people were seen quarrelling assumes importance.

18. The material on record goes to show that, accused was not armed with any weapon when he



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allegedly waylaid the vehicle in which the deceased was returning from his land. According to PWs.1 and 2, the accused started abusing the deceased in filthy words and dragged him outside the van and assaulted him with a stick on his head. A perusal of the evidence of DW1 goes to show that he saw 8 to 10 persons quarrelling. The same is not spoken either by PW1 or PW2. The PW2 is none other than the son of the deceased. PW1 in the cross-examination has admitted that the deceased may be his brother in relation. Hence, they are close relatives of the deceased. The said witnesses suppressing the quarrel which had taken place at the time of incident is not ruled out. They being the close relatives, would not have kept quiet, when they saw the accused. The cumulative effect of the entire evidence goes to show that a quarrel ensued between the accused, deceased and others, as deposed by DW1 and in the said quarrel, the accused has picked up a wooden stick which was lying on the ground and gave one blow on the head of the deceased.



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19. The deceased died at Hassan Government Hospital on 29.12.2010, i.e., after more than 100 days from the date of the incident. A perusal of the evidence of PWs.1 and 2 goes to show that the accused gave one blow on the head of the deceased. They have not stated that after giving the said blow, the accused once again tried to assault the deceased.

20. As per Ex.P11, PW12 has noticed tenderness over the occipital region. The fact that the deceased was unconscious at the time of his admission to SSM Hospital, is not disputed. As per Ex.P13, the report issued by PW14, even at the time of discharge, the victim had not regained his consciousness. He was discharged on 18.10.2010. It is relevant to refer to the cross-examination of PW.14. He has stated that the deceased was in the hospital for about 29 days as an inpatient and discharged on 18.10.2010. They issued the Discharge Certificate on 16.10.2010, but the patient stayed 2 more days. He was not discharged against the medical advice. PW14 has admitted in the



cross-examination that he has mentioned the condition of the patient at the time of discharge as "*patient recovered well, hence planned for discharge*". He has further stated that the operation was successful and if proper post-operative treatment was given by the local hospital, there was every chance of survival.

21. Having given our anxious consideration to the entire evidence and material on record, we are of the considered view that the offence committed by the accused will fall under the definition of culpable homicide not amounting to murder punishable under Section 304-II of IPC. The accused though had knowledge that the act committed by him would result in the death of the deceased, had no intention to cause death. The incident occurred in the course of a quarrel. A single blow was inflicted without any cruel or unusual manner. Therefore, the conviction requires to be altered. The reasons assigned by the trial Court for convicting the accused for the offence punishable under section 302 of IPC is therefore, not



sustainable. The accused is liable to be convicted under Section 304 Part-II of IPC. His conviction for the offence punishable under section 341 of IPC, is however, justified.

22. The incident took place in the year 2010. Already 16 years have lapsed. It is stated that the accused was in custody for a total period of 278 days. Learned counsel for the appellant submits that the marriage of the appellant's son has been fixed. In the facts and circumstances, and considering that 16 years have lapsed since the date of incident, sending the accused to prison at this stage, will not serve any purpose; instead, adequate fine can be imposed and can be ordered to be paid as compensation to the legal heirs of the deceased. Accordingly, we proceed to pass the following:

ORDER.

- i. The appeal is ***allowed-in-part***.
- ii. The judgment dated 15.02.2019 and the order on sentence dated 16.02.2019,



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passed by the Court of the Principal Sessions Judge at Hassan in S.C.No.88/2012, insofar as convicting and sentencing the appellant/accused for the offence p/u/s 302 of IPC is hereby set aside.

- iii. He is convicted for the offence punishable under Section 304-Part II of IPC.
- iv. Conviction and sentence passed for the offence punishable under section 341 of IPC is confined.
- v. He is sentenced to imprisonment for the period already undergone by him.
- vi. He shall pay a fine of Rs.3,00,000/- (Rupees Three Lakh only) including the amount already deposited, if any, within thirty days. In default of payment of fine, he shall undergo simple imprisonment for a period of one year.



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- vii. The sentences shall run concurrently.
- viii. If the entire fine amount is deposited, the same shall be paid as compensation, to the wife of the deceased, on due identification.
- ix. The copy of the judgment shall be communicated to the trial Court.

**Sd/-
(MOHAMMAD NAWAZ)
JUDGE**

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

HB,BSV
List No.: 1 Sl No.: 14