



CNR: KAHC010128552022

NC: 2026:KHC:42936-DB  
CRL.A No. 386 of 2022

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 12<sup>TH</sup> DAY OF AUGUST, 2026**

**PRESENT**

**THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ**

**AND**

**THE HON'BLE MR. JUSTICE G BASAVARAJA**

**CRIMINAL APPEAL NO. 386 OF 2022 (C)**

**BETWEEN:**

LAKSHMIPATHI @ LACHCHIGA  
AGED ABOUT 47 YEARS  
S/O LATE ANJINAPPA,  
R/O MANIYANAHALLI VILLAGE,  
VEMAGAL HOBLI,  
KOLAR TALUK AND DISTRICT-563102.

...APPELLANT

(BY SRI. N. R. KRISHNAPPA, ADV.)

**AND:**

STATE OF KARNATAKA  
BY KOLAR RURAL POLICE,  
REP. BY SPL. PP  
HIGH COURT BUILDING  
BANGALORE - 560 001.

...RESPONDENT

(BY SRI. RANJITH KUMAR N., HCGP)

THIS CRL.A IS FILED U/S 374(2) CR.PC PRAYING TO SET  
ASIDE THE JUDGMENT AND ORDER OF CONVICTION AND  
SENTENCE DATED 21.10.2021 PASSED BY THE I ADDL.  
SESSIONS JUDGE, KOLAR IN S.C.NO.58/2020, CONVICTING  
THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 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)

This appeal is preferred by the accused against the judgment and order dated 21.10.2021 passed by the Court of I Addl. District and Sessions Judge, Kolar in SC No.58/2020, wherein he has been convicted for the offence punishable under Section 302 of Indian Penal Code and sentenced to undergo imprisonment for life and to pay fine of Rs.20,000/-, in default of payment of fine, to undergo simple imprisonment for four months.

2. Heard both sides and perused the material on the record.

3. It is the case of the prosecution that on 21.09.2019 at around 02.00 p.m., in the land bearing Survey No.24/2 of Maniyanahalli Village, the accused, with an intention to commit the murder of his wife,



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Smt.Chandrakala, kicked on her back, fisted on her chest and strangulated her neck with his hands, resulting in her death on 22.09.2019 at about 11.00 a.m. at SNR Hospital, Kolar.

4. The law was set into motion by Sri Venkataramanappa, father of the deceased. On the typed complaint-Ex.P24 dated 22.09.2019, the PSI-PW8 registered a case against the accused and issued FIR-Ex.P25 to the Jurisdictional Court. The investigation was handed over to the CPI-PW12, who on completion of investigation, filed the charge-sheet.

5. A perusal of the complaint Ex.P24 goes to show that the complainant was informed by one Madhu about the incident. It is stated therein, that the complainant went to the hospital and when enquired with his daughter, she informed that her husband i.e., the accused, kicked on her back and when she fell down, he sat on her chest and assaulted on the chest and pressed her neck and seeing



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the villagers by name Madhu and others approaching, left her and ran away from the spot. However, her statement has not been recorded. The de-facto complainant died during the pendency of the case before the trial commenced and therefore he could not be examined by the prosecution.

6. The case of the prosecution mainly depends on the evidence of the eye-witnesses viz. PW1 and PW9. PW1 is one Munikrishna. He has stated that when he was returning from the village, he heard some shouting and noticed the accused holding his wife and assaulting her with hands. The accused was sitting on the deceased and assaulting her and when he went near, he ran away from the said place. Further stated that, CW2-Madhu came to the said place and both of them called for an ambulance and the deceased was shifted in the ambulance to the SNR Hospital, Kolar.



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7. Madhu is examined as PW9. He has deposed that while he was proceeding to his land, he heard some quarrel and shouting taking place near the land of Anjinappa in Survey No.24/2 and when he reached the said place, PW1-Munikrishna and CW4-Jayanthi also came there. When they went there, they noticed the accused quarrelling with his wife and assaulting her. The accused had consumed alcohol and he was quarrelling with his wife. He was sitting on the chest of his wife and assaulting her and by the time they reached there, the accused saw them and ran away. He has further stated that the accused was seen pressing the neck of his wife and when they enquired with her, she informed that the accused, having consumed alcohol, quarrelled with her and assaulted her. Thereafter, they called for an Ambulance and got her shifted to SNR Hospital, Kolar.

8. The learned counsel for the appellant contended that PW1 and PW9 could not have witnessed the incident and their evidence is not believable. However, the said



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contention is not acceptable. PW1 and PW9 have categorically stated that they have witnessed the accused assaulting his wife and then running away from the spot after seeing them approaching. Further, during spot mahazar-Ex.P30 a pair of chappal belonging to the accused are also seized, apart from a plastic pipe and a broomstick.

9. It is the case of the prosecution that the accused was addicted to alcohol and he used to quarrel with his wife demanding money. The brother of the deceased, examined as PW2, in his testimony has deposed that the accused and the deceased lived happily for about one year after their marriage and thereafter, the accused started harassing her and in spite of their advice, the accused continued to harass her and whenever the quarrels intensified, the deceased would come and stay in their house. He has also stated that the accused was doing agricultural work in his lands. He has further deposed that the accused continued to give mental and physical



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harassment to the deceased and several panchayats were held in the presence of the elders in the village and the accused had taken away all the gold ornaments and sold them, etc.

10. Insofar as conducting the panchayats and the accused selling the gold ornaments of the deceased, except the oral testimony of PW2, there is no other material placed on record. It is also not the case of the prosecution that the accused had sold the gold ornaments of his wife, prior to the incident.

11. According to prosecution, on the date of incident the accused went to the land where the deceased was working and demanded a sum of Rs.750/- from her and at that time a quarrel ensued between them and in the said quarrel the accused kicked on her back, assaulted her on the chest and then pressed her neck. The incident took place at about 02.00 p.m. on 21.09.2019. The deceased was immediately shifted to SNR Hospital, Kolar.



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However, she died on the following day i.e. on 22.09.2019 at about 11.00 a.m.

12. As per the Post Mortem report-Ex.P9 and Final opinion-Ex.P11, the cause of death is due to anoxia as a result of compression of neck. In the cross-examination of the doctor-PW5, it was suggested by the defense that the deceased had expired due to lack of proper treatment and oxygen support, which has been denied. However, admittedly, at the time of admission to SNR Hospital Kolar, the victim was alive. She died on the next day at about 11 a.m. The prosecution has not produced the case sheet or the medical records pertaining to the treatment given to the deceased.

13. Admittedly, the marriage between the deceased and the accused had taken place in the year 2001, as stated in Ex.P24. It is also stated that the accused used to quarrel and assault his wife for petty reasons. According to the prosecution, on the date of the incident, the accused went



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to the land and demanded a sum of Rs.750/- from his wife. At that time the quarrel took place between the two. It is not the case of the prosecution that when the accused went to the land, he was armed with any weapon. Even though a plastic pipe was seized from the spot, neither PW1 nor PW9 have stated that the accused has assaulted the deceased with the said pipe. According to them the accused kicked his wife, assaulted on her chest and pressed her neck. However, she survived till the next day. The cause of death is on account of anoxia, as a result of compression of neck.

14. From the above facts and circumstances, we hold that the act of the accused was without pre-meditation and the incident was on account of a sudden quarrel. Though the victim survived till the next day, the prosecution has not produced the medical documents pertaining to the treatment given to her, from the date of admission till her death. The doctor has also not stated that the injury caused to the deceased was



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sufficient in the ordinary course, to cause death. From the sum and substance of the material placed on record, there is no clinching evidence to reasonably establish the culpability of the accused for the charge of murder. The incident has taken place in a spur of the moment and in a quarrel, without any premeditation. The absence of intention to cause the death coupled with the lack of knowledge that the death would be inevitably caused on account of the injury make the offence fall under Section 304-II of IPC.

15. The learned counsel for the appellant submitted that the accused is in custody from 27.9.2019. He is being regularly treated at the Institute of Nephro-Urology, Victoria campus Hospital for complain of Bilateral Lower Limb swelling. As per the report of the Chief Medical Officer, Central Prison, Bengaluru, the accused has Grade-I fatty liver/Gall bladder sludge with calculi, however, he does not require any Nephrology treatment. It is also



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submitted that the accused has two young children.

Hence, we proceed to pass the following:

#### ORDER

- i. The appeal is **partly allowed.**
- ii. The Judgment and Order dated 21.10.2021 passed by the Court of I Additional Sessions Judge, Kolar, in SC No. 58/2020, convicting and sentencing the accused/appellant for the offence punishable under Section 302 IPC is hereby **set aside.**
- iii. The accused is convicted for the offence punishable under Section 304-II IPC and sentenced to undergo imprisonment for a period of 8 years and to pay a fine of Rs.20,000/- and in default of payment of fine, he shall undergo simple imprisonment for a period of one year.



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- iv. If the fine amount is deposited, a sum of Rs.15,000/- shall be paid as compensation to PW2, as ordered by the trial Court.
- v. Accused is entitled to the benefit of set off under Section 428 of Cr.P.C. (Section 511 of BNSS).

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

**Sd/-  
(G BASAVARAJA)  
JUDGE**

KBM,TL  
List No.: 1 Sl No.: 24