



CNR: KAHC010135532019

NC: 2026:KHC:43911-DB
CRL.A No. 929 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF AUGUST, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.929 OF 2019 (A)

BETWEEN:

STATE OF KARNATAKA
BY ULLALA POLICE STATION
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001

...APPELLANT

(BY SRI SUHAS GOWDA M., H.C.G.P.)

AND:

JANNA @ JANARDHANA
AGED ABOUT 53 YEARS
S/O. VENKAPPA BELCHADA
R/O. JOYSON COMPOUND
KAPIKADU, ULLALA VILLAGE
MANGALURU-575 020

...RESPONDENT

(BY SRI JEEVAN K., ADVOCATE)

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 APPEAL AGAINST THE JUDGMENT AND ORDER PASSED BY THE LEARNED II ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K.,MANGALURU IN CRL.A.NO.56/2011, DATED 29.12.2018 THEREBY ALLOWING THE SAID APPEAL AND ACQUITTING THE RESPONDENT/ACCUSED OF THE OFFENCES PUNISHABLE

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by
SHARADAVANI
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Location: HIGH
COURT OF
KARNATAKA



CNR: KAHC010135532019

UNDER SECTIONS 325, 326 AND 506 OF IPC BY SETTING ASIDE THE JUDGMENT AND ORDER OF CONVICTION DATED 22.02.2011 PASSED BY THE I ADDITIONAL SENIOR CIVIL JUDGE AND C.J.M., MANGALURU IN C.C.NO.171/2005, THE SPP/STATE PRAYS THAT THE ABOVE ORDER OF ACQUITTAL MAY BE SET ASIDE AND CONFIRM THE JUDGMENT AND ORDER DATED 22.02.2011 IN C.C. NO.171/2005 PASSED BY THE I ADDITIONAL SENIOR CIVIL JUDGE AND C.J.M., MANGALURU CONVICTING ACCUSED/RESPONDENT FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 325, 326 AND 506 OF IPC.

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

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

ORAL JUDGMENT

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

Heard Sri. Suhas Gowda, learned HCGP appearing for the State and Sri. Jeevan K, learned counsel appearing for the for the respondent.

2. This appeal is filed against the judgment of acquittal dated 22.02.2011 passed by the I Additional Senior Civil Judge and C.J.M., Mangaluru, in C.C.No.171/2005, for the offences punishable under Sections 325, 326 and 506 of IPC, praying to set aside the acquittal and convict the accused.



CNR: KAHC010135532019

**NC: 2026:KHC:43911-DB
CRL.A No. 929 of 2019**

3. The factual matrix of the case of prosecution is that:

a) On 02.07.2005 at 07.15 a.m., in Jayson compound, Kapikadu, Ullala Village of Mangaluru Taluk, the accused picked up a quarrel with CW.1-Smt-Shreelatha for taking water from the tap. The accused pushed CW.1. As a result, she fell on the ground. When she screamed loudly, her husband CW.4-Bhaskar rushed out of his house. At that point of time, accused went to his house, brought a talwar and assaulted CW.4 on his head, below the right hand elbow, near left rib, below the left hand elbow. Thereafter the accused fled away from the spot with the talwar in his hand. The CW.4 sustained bleeding injuries. With the help of PW.3-Mohandas, CW.1-Smt-Shreelatha took CW.4-Bhaskar to the hospital and thereafter a complaint was registered by CW.10 - Head Constable 425 of Ullal Police Station. The case was registered in Crime No. 205/2005. CW.12-Anannd D Kabbury, PSI has conducted the investigation and prepared the spot mahazar, recorded the statement of witnesses and also the confessional statement of accused, collected the Wound Certificate and on conclusion of the



CNR: KAHC010135532019

investigation, filed charge sheet. The accused did not plead guilty and claimed the trial.

b) The prosecution in support of its case, examined witnesses as PWs.1 to 11 and also got marked documents at Exs. P1 to P10 as well as talwar as MO.1. The statement of the accused under Section 313 of Cr.P.C., was recorded and accused did not choose to lead any defence evidence.

c) The trial Court having considered the evidence of PWs.1 to 10 and on appreciation of the same, came to the conclusion that Ex.P7 is very silent about the history of the incident. Though PW.1 has stated that she had given the history to the doctor in terms of Ex.P7, as to who had assaulted her, but no such history is given and PW.9-doctor who has medically examined PW.1 in his cross-examination has stated that PWs.1 and 2 have not stated before him as to who had assaulted them, which also creates doubt in the mind of the Court and the same leads to doubt the veracity of the prosecution case.

d) In the case on hand, PWs.1 and 2 are the material witnesses to believe the case of the prosecution and their



CNR: KAHC010135532019

evidence is not consistent and with regard to particularly with regard to the incident is concerned, PW.1 in her cross examination has stated that MO.1-talwar was used for assaulting her from its back side. But PW.2 in his cross-examination has stated that talwar's front portion was used for committing the assault. But Ex. P10 is the opinion given by PW.9-doctor, in which, it is stated that injury No.2 and 5 could have been caused by the handle of the weapon. The weapon used as per the prosecution is talwar and hence it was doubt of the Court that how it was possible for the accused to assault with the handle of the weapon is not explained by the prosecution. The PW.1 who is a teacher by profession has not stated with regard to the injuries sustained by her as a result of the incident. Absolutely Exhibit P1 is also silent as regards to the injuries sustained by her.

e) Further, the trial Court held that there are major discrepancies with regard to the type of incident and also the statement of PWs.1 and first information statement was recorded by the police in the hospital from 09.15 a.m. to 10.15 a.m., but PW.1 admitted that she was examined by the doctor



CNR: KAHC010135532019

at 12.00 p.m. All these material contradictions were taken note of and comes to the conclusion that the evidence of the prosecution does not inspire the confidence of the trial Court and acquitted the accused. Being aggrieved by this acquittal order and judgment, the present appeal is filed.

4. Learned HCGP appearing for the State would vehemently content that the trial Court failed to take note of injured witnesses i.e., evidence of PWs.1 and 2 is very consistent with regard to occurrence of the incident, but comes to the conclusion that the very incident is doubtful. He would further vehemently contend that trial Court failed to take note of MO1 which was used for committing the offence and the same was not taken note of and minor omissions and contradictions which do not go to the very root of the case of the prosecution. Even though prosecution proved the case beyond reasonable doubt by examining witnesses, produced the relevant material documents, the trial Court failed to appreciate the same in a proper perspective and hence it requires interference of this Court and prays for allowing this appeal.



CNR: KAHC010135532019

NC: 2026:KHC:43911-DB
CRL.A No. 929 of 2019

5. Per contra, learned counsel appearing for the respondent-accused would vehemently contend that material witnesses are PWs.1 and 2 and their evidence is very inconsistent. PW.1 says that MO.1-talwar was used for assaulting with its back side, but, PW.2 says with the front portion of MO.1 assault was made and also taken note of Wound Certificate and nature of injuries and doctor's evidence and also taken note of by the trial Court while giving the benefit in favour of the accused and hence it does not require any interference of this Court and seeks dismissal of this appeal.

6. Upon hearing the counsel for the parties and having considered the material and record, the point that would arise for the consideration of this Court is:

i) Whether the trial Court committed an error in acquitting the accused for the offence punishable under Sections 325, 326 and 506 and, whether it requires interference of this Court by exercising the appellate jurisdiction?

ii) What order?"

7. Having heard the counsel appearing for the respective counsel and also perusal of the material on record the sum and substance of the case of the prosecution is that



CNR: KAHC010135532019

incident occurred while drawing the water in a water tap. Having considered the material on record, particularly the evidence of PWs.1 and 2, both are the husband and wife and no other independent evidence available before the trial Court. Particularly when the injured went to the hospital and gave the statement before the doctor, but nowhere it is stated that the PW.1 has sustained injury on account of assault made by the accused and the same is missing and the same is taken note of in paragraph nos.14 and 15 of its judgment and so also in the evidence of PWs.1 and 2 found material contradictions particularly with regard to incident as well as Ex.P10 is the opinion given by the doctor- PW.9 and injury nos. 2 and 5 could have been caused by the handle of the weapon. PW.1's evidence with regard to that no bloodstained clothes and bloodstained mud and sample mud have been collected by the investigating agency, when it was specifically deposed by PW.1 that her husband's lungi having stained with blood and blood was also dropped in the spot. But no such seizure and also PW.1 is not an ordinary illiterate and she is a teacher by profession has not stated with regard to the injury sustained by



CNR: KAHC010135532019

her, as a result of the incident. Ex.P1 is absolutely silent as regards the injuries sustained by her. There are major discrepancies with regard to the time of incident as well as Ex. P1 states that incident happened at 07.15 a.m. on 02.07.2005. Ex.P6-information was received by the police on 09.00 a.m. Ex. P2-spot mahazar was done from 11.30 a.m. to 12.15 a.m. PW.1 was admitted and examined by the doctor at 12.00 p.m. PW1 did not go to the hospital immediately and only after the registration of the case and intimation given to the police and mahazar was done and even mahazar was done from 11.30 to 12.15 p.m. But she was treated by the doctor at 12.00 p.m. Even at that stage also PW.1 has not stated the history of the assault and also injuries caused due to the assault by the accused.

8. When such being the case and when material contradictions are found by the trial Court while appreciating the evidence and particularly when PWs.1 and 2 who are the interested witnesses, their evidence does not inspire the confidence of the Court and hence the trial Court rightly comes to the conclusion that no case is made out. The Hon'ble



CNR: KAHC010135532019

NC: 2026:KHC:43911-DB
CRL.A No. 929 of 2019

Supreme Court in the case of **RAJESH PRASAD V. STATE OF BIHAR**, reported in **2022 (3) SCC 471**, while considering the material and approach or reasoning of the High Court, if it is perverse, where incontrovertible evidence has been rejected by the High Court, based on suspicion and surmises which are rather unrealistic, at paragraph 31.2.1 of the judgment, has observed thus:

"31.2.1. Where the approach or reasoning of the High Court is perverse:

- (a) *Where incontrovertible evidence has been rejected by the High Court based on suspicion and surmises, which are rather unrealistic. [State of Rajasthan v. Sukhpal Singh, (1983) 1 SCC 393 : 1983 SCC (Cri) 213 : AIR 1984 SC 207]] For example, where direct, unanimous accounts of the eyewitnesses, were discounted without cogent reasoning. [State of U.P. v. Shanker 1980 Supp SCC 489 : 1981 SCC (Cri) 428]]*
- (b) *Where the intrinsic merits of the testimony of relatives, living in the same house as the victim, were discounted on the ground that they were "interested" witnesses. [State of U.P. v. Hakim Singh [State of U.P. v. Hakim Singh, (1980) 3 SCC 55 : 1980 SCC (Cri) 534 : AIR 1980 SC 184]]*
- (c) *Where testimony of witnesses had been disbelieved by the High Court, on an unrealistic conjecture of personal motive on the part of witnesses to implicate the accused, when in fact, the witnesses had no axe to grind in the said matter. [State of*



CNR: KAHC010135532019

Rajasthan v. Sukhpal Singh, (1983) 1 SCC 393 : 1983 SCC (Cri) 213 : AIR 1984 SC 207]]

- (d) Where dying declaration of the deceased victim was rejected by the High Court on an irrelevant ground that they did not explain the injury found on one of the persons present at the site of occurrence of the crime. [Arunachalam v. P.S.R. Sadhanantham] (1979) 2 SCC 297 : 1979 SCC (Cri) 454]]*
- (e) Where the High Court applied an unrealistic standard of "implicit proof" rather than that of "proof beyond reasonable doubt" and therefore evaluated the evidence in a flawed manner. [State of U.P. v. Ranjha Ram, (1986) 4 SCC 99 : 1986 SCC (Cri) 374]]*
- (f) Where the High Court rejected circumstantial evidence, based on an exaggerated and capricious theory, which were beyond the plea of the accused; [State of Maharashtra v. Champalal Punjaji Shah, (1981) 3 SCC 610 : 1981 SCC (Cri) 762]] or where acquittal rests merely in exaggerated devotion to the rule of benefit of doubt in favour of the accused. [Gurbachan Singh v. Satpal Singh, (1990) 1 SCC 445 : 1990 SCC (Cri) 151]]*
- (g) Where the High Court acquitted the accused on the ground that he had no adequate motive to commit the offence, although, in the said case, there was strong direct evidence establishing the guilt of the accused, thereby making it unnecessary on the part of the prosecution to establish "motive". [State of A.P. v. Bogam Chandraiah, (1986) 3 SCC 637 : 1986 SCC (Cri) 357 : AIR 1986 SC 1899] "*

9. In the light of above discussion, the question of converting the acquittal to a conviction does not arise. The



CNR: KAHC010135532019

principles laid down by the Hon'ble Apex Court is very clear that if any perversity is found and also the evidence of the prosecution witnesses has not considered in a proper perspective which has resulted in miscarriage of justice, then only this Court can reverse the finding of the trial Court and such circumstance is not warranted in the case on hand and hence, we answer the point raised for consideration as ***negative***.

10. Accordingly, we pass the following:

ORDER

Appeal is ***dismissed***.

Sd/-
(H.P.SANDESH)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE