



CNR: KAHC010139202019

NC: 2026:KHC:49385-DB
CRL.A No. 254 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.254 OF 2019 (C)

BETWEEN:

P. SRINIVASA @ GIRISH
S/O. PUTTARAJU
AGED ABOUT 28 YEARS
R/O. KAVERI NAGAR
2ND STAGE, 3RD CROSS
MYSURU-571 401

...APPELLANT

(BY MR. VASIM PASHA, ADVOCATE)

AND:

STATE OF KARNATAKA
BY METAGALLI P.S.
MYSURU
REPRESENTED BY
STATE PUBLIC PROSECUTOR
AMBEDKAR VEEDHI
HIGH COURT BUILDING
BENGALURU-560 001

...RESPONDENT

(BY SRI VIJAYKUMAR MAJAGE, S.P.P.-II A/W
SRI RANGASWAMY R., H.C.G.P.)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C BY THE
ADVOCATE FOR THE APPELLANT PRAYING TO SET ASIDE THE
ORDER OF CONVICTION AND SENTENCE DATED 13.11.2018

Digitally signed
by
SHARAD DAVANI
B

Location: HIGH
COURT OF
KARNATAKA



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AND 15.11.2018 RESPECTIVELY, IN S.C.NO.201/2013 BY THE LEARNED I ADDITIONAL SESSIONS JUDGE, MYSURU, CONVICTING THE APPELLANT FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 302 AND 379 OF IPC AND SENTENCING THE APPELLANT TO UNDERGO LIFE IMPRISONMENT FOR THE OFFENCE PUNISHABLE UNDER SECTION 302 OF IPC AND TO PAY FINE OF RS.5,000/-, IN DEFAULT TO PAY, SUFFER RIGOROUS IMPRISONMENT FOR TWO MONTHS AND SENTENCED TO UNDERGO RIGOROUS IMPRISONMENT FOR A PERIOD OF TWO YEARS FOR THE OFFENCE PUNISHABLE UNDER SECTION 379 OF IPC.

THIS APPEAL, COMING ON FOR 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)

This appeal is preferred by the accused, assailing the Judgment and Order of conviction and sentence passed by the Court of the I Additional District and Sessions Judge, Mysore in SC No.201 of 2013 (hereinafter referred to as the 'Trial Court', for short).

2. Vide impugned Judgment and Order, the learned Trial Court has convicted the accused for the offences punishable under Section 302 and 379 of Indian Penal



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Code (for short, 'IPC'). For the offence punishable under Section 302 of IPC, the accused has been sentenced to undergo life imprisonment and to pay fine of Rs.5,000/-, in default of payment of fine, to suffer rigorous imprisonment for a period of two months. For the offence punishable under Section 379 of IPC, the accused has been sentenced to undergo rigorous imprisonment for two years.

3. Heard Sri Vasim Pasha, learned counsel for the appellant and Sri Vijaykumar Majage, learned SPP-II along with learned HCGP Sri Rangaswamy R., for the respondent-State. Perused the evidence and material on record.

4. The brief facts of the prosecution case are that, the deceased, Jayamma was doing money lending business. She was living alone at House No.536, BB Block, I Stage, HUDCO Bannimantapa, Mysore. Her sons Basvaraju and Nagaraju were living separately. The



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accused was an Auto driver by profession. The deceased used to go in his auto, hence, he had an acquaintance with her. The deceased had lent loan to others and even the accused had borrowed loan from her. The deceased was insisting the accused to return the loan amount. Hence, the accused was waiting for an opportunity to commit her murder.

5. On 10.02.2013 at about 10.30 p.m., accused took the deceased in his auto bearing Registration No.KL-10/G-6794, in the guise of taking her to the house of one Mujju (CW16), to recover the amount borrowed by him from her. While proceeding, the accused stopped his auto by the side of railway bridge, situated on the ring road stating that the accelerator wire of the auto was cut and he has to repair the same. The accused then asked the deceased to get out of the auto and to hold the wire. When the deceased was holding the wire, the accused hit on her head with a club and committed her murder. Thereafter, he robbed the two gold bangles and gold chain



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worn by the deceased and dumped the dead body in a drain, near the railway under bridge.

6. On 11.02.2013 about 11.30 a.m., the first informant Sri Basavaraju, son of the deceased got the information from his friend by name Narayan, over the phone, about the dead body of his mother lying in the drain, near the railway bridge in Belavatta Village. Immediately, he went to the spot along with his brother Nagaraju and others and found the dead body of his mother with injuries. He also noticed the missing of a gold chain, a pair of bangles and a pair of rings. Based on his complaint-Exhibit P3, a case was registered against unknown persons.

7. The accused was arrested on 12.02.2013. His voluntary statement was recorded as per Exhibit P.29. The incriminating articles were recovered at his instance, in the presence of panch witnesses.



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8. The spot mahazar and inquest mahazar were conducted. The dead body was subjected to Post Mortem examination. The Doctor, PW.13, who conducted the autopsy, furnished his opinion that the death was due to hemorrhagic shock, following cranio-intracranial lesions, sustained due to multiple transactions to head, consistent with the history of assault. On completion of investigation, the charge sheet was filed.

9. The charges were framed against the accused for the offences punishable under Section 302 and 397 of IPC. The accused pleaded not guilty and claimed to be tried.

10. To establish the charges, the prosecution got examined PWs 1 to 18, got marked Exhibits P1 to P35 and MOs.1 to 13. The accused denied the incriminating evidence appeared against him, while he was examined under Section 313 CrPC.



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11. The Accused filed his written statement, stating that he is innocent and he was falsely implicated in the case. He has stated that, on hearing the news of Jayamma's death, he went to the spot and he was present along with the complainant and other family members of the deceased till the dead body was shifted to the Hospital. He further stated that, one year prior itself he had repaid a sum of Rs.30,000/- hand loan taken from Jayamma and while giving a paper publication on 12.02.2013, it was alleged that two persons have committed the murder, but the police have not registered any case against another accused. He has further stated that he has not robbed any ornaments and the recovery of cash etc was false.

12. Assailing the impugned judgment, the learned counsel for the appellant has contended that, initially two accused were arrested, whereas, the charge sheet was filed only against the appellant, without assigning reasons for dropping the other accused. He contended that the



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case is based on circumstantial evidence and according to the prosecution, murder was committed for gain, whereas, during inquest proceedings certain ornaments were found intact on the dead body. He further contended that there are no witnesses who have last seen the deceased in the company of the accused and only on the basis of the recovery, the trial Court has convicted the accused. He contended that, even if the recovery of gold ornaments are proved, the only inference which can be drawn is that the accused has committed theft and the recovery will not lead to a conclusion that the accused has committed the murder. It is his further contention that the deceased was a money lender and several persons had obtained hand loan from her and therefore, some other person committing the murder is not ruled-out. He therefore contended that the trial Court on an erroneous consideration and without properly appreciating the above aspects, convicted the accused. Hence, sought to set-aside



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the judgment and order of conviction and sentence passed against the appellant.

13. Per contra, the learned SPP-II contended that the prosecution has established the close acquaintance of the accused with the deceased, the hand loan received by the accused from the deceased, recovery of jewelleries of the deceased and blood stained clothes and club at the instance of the accused. He contended that the recovery made immediately after the incident clearly establishes that the accused is the perpetrator of the crime. Hence, he contended that the learned trial Court has rightly convicted the accused.

14. The charges were framed against the accused for the offences punishable under Section 302 and 397 of IPC. Appreciating the oral and documentary evidence on record, the learned Sessions Judge has come to the conclusion that the prosecution has established the charge of murder. However, insofar as Section 397 of IPC is



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concerned, the trial Court was of the view that it was not the case of prosecution that while snatching the gold ornaments the accused caused the death. On the other hand, the accused has stolen the gold ornaments after the deceased was done to death. Hence, theft would be robbery, if for committing theft or in carrying a stolen article, the offender voluntarily causes or attempts to cause the death of any person and in the instant case, death is not caused while committing theft and therefore, Section 397 of IPC is not applicable. Hence, the trial Court convicted the accused for the offence punishable under Section 379 of IPC, instead of Section 397 of IPC.

15. The case of the prosecution rests on circumstantial evidence. The fact that the deceased died a homicidal death is not seriously disputed. As per the post mortem report-Ex.P27, about 16 injuries were noticed on the dead body. The Doctor-PW13 who conducted the autopsy has furnished his final opinion, as per which, the cause of death owed to hemorrhagic shock, following



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cranio-intracranial lesions, sustained due to multiple transactions to head, consistent with the history of assault. The injuries on the dead body were also noticed during inquest proceedings and from the fact that the dead body was found in a drain with multiple injuries and in view of the opinion regarding the cause of death, prosecution has established that deceased – Jayamma died a homicidal death.

16. According to the prosecution, the deceased was a money lender and she was residing alone in the house. Her two sons were staying separately. As per Ex.P3, the complainant, namely her son Basavaraja, along with his brother and wife had visited the house of the deceased on the date of the incident and after having dinner, they left the house at 9.30 p.m. On the next day at about 11.30 a.m., he was informed by one Narayana about the dead body of his mother lying in a drain with injuries on her body. Immediately, he went to the spot along with others and on arrival of the police, he lodged the



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complaint as per Ex.P4, based on which the case was registered.

17. It is contended by the learned counsel for the appellant that, one more accused was arrested during investigation but he was not chargesheeted. The investigation Officer-PW17 has denied the said suggestion. This Court has to see as to whether the prosecution has established its charges leveled against the accused. To establish the charges the prosecution has relied on the acquaintance between the accused and the deceased, the loan borrowed by the accused from the deceased, the recovery of incriminating articles such as the gold ornaments of the deceased, the autorickshaw, the blood stained club and clothes of the accused.

18. The accused was arrested on 12.02.2013. His voluntarily statement was recorded as per Ex.P29. He confessed to have pledged two gold bangles and a chain belonging to the deceased in a pawn brokers shop. Based



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on the said statement, the police have recovered the two gold bangles and one chain from the shop of PW2 under Ex.P1, in the presence of the panch witnesses namely PWs.10 and 14.

19. We have perused the evidence of the above witnesses. They have supported the case of the prosecution. PW2 has stated that on 11.02.2013 accused came to his shop and pledged a pair of gold bangles and a neck chain stating that his sister-in-law is very serious and admitted to the hospital and he requires a sum of Rs.90,000/-. He has stated that the ornaments were weighing 52.500 grams and he gave a sum of Rs.85,000/- to the accused and issued a receipt. The said receipt was recovered from the accused, marked as Ex.P31. The said gold ornaments were recovered after the arrest of the accused from the shop of PW2 on 12.02.2013 under a mahazar-Ex.P1. PW2 has identified the gold ornaments from the photo-Ex.P2. PWs.10 and 14, the panch witnesses to Ex.P1 have deposed regarding the recovery



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of gold ornaments from the shop of PW2 and identified their signatures in Ex.P1.

20. Apart from the gold ornaments, a wooden club, the weapon used in the commission of the offence as well as the clothes of the accused and a mobile phone were recovered at the instance of the accused under a mahazar-Ex.P15. Both PWs.10 and 14 have deposed about the seizure of the said articles at the instance of the accused. There is nothing elicited in the cross-examination of the said witnesses to disbelieve the recovery. Further, PW3 has identified the pair of bangles and the neck chain from the photo-Ex.P2, as the ornaments belonging to his mother. It is no doubt true that at the time of inquest proceedings, certain ornaments namely, nose stud, ole, silver leg chain and silver toe rings were found intact on the dead body. That by itself is not sufficient to disbelieve the recovery of the gold ornaments such as, a pair of gold bangles and a neck chain at the instance of the accused.



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21. It is also the case of the prosecution that the accused had parked the auto in the auto stand after committing the murder and took a token for parking the auto. The prosecution has examined PW6. He has testified to the fact of the accused parking his auto in the auto stand and receiving a token from him, informing him that he will not be available for 2 to 3 days. The said autorickshaw bearing registration No.KA-10-G-6794 was seized under a mahazar Ex.P11 from the auto stand. The token-Ex.P30 received by the accused was recovered from him.

22. A perusal of the evidence of PWs.7 and 8, neighbours of the deceased, reveals that the deceased was doing money lending business and she was residing alone in the house. The accused was running an autorickshaw. Further, the deceased used to travel in the autorickshaw of the accused. Though the said witnesses have pleaded their ignorance about the accused obtaining hand loan



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from the deceased, they have stated that the deceased used to insist the accused to return the amount.

23. PW8 has deposed that he had seen the deceased lending money to the accused and she insisting him to return the said amount. In the statement of the accused recorded under Section 313 Cr.P.C., he has stated that he obtained a loan to Rs.30,000/- for the purchase of the autorickshaw and he had returned the said amount to the complainant. The accused who is examined as DW1 has admitted that he had purchased the auto from the complainant and he owed a sum of Rs.40,000/- to him, but he had returned the said amount, but, the complainant had not given him the documents of the vehicle. He has further admitted that the deceased was doing money lending business and for the purpose of recovery of the amount, she used to travel in his autorickshaw and she had reposed trust in him.



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24. The incident took place on the night of 10.02.2013. In the complaint-Ex.P4 itself, the son of the deceased has mentioned about the missing of a pair of gold bangles and a gold neck chain. On the very next day, i.e., on 11.02.2013, the accused was arrested and at his instance, those gold ornaments were recovered from the shop of PW2 in the presence of panch witnesses. PW2 as well as the panch witnesses namely PWs.10 and 14 have supported the case of the prosecution. The fact that the gold ornaments were recovered within a short span of time, leads to an inference that the accused has not only committed the murder but also took away the gold ornaments from the deceased. As per the FSL report, the clothes of the accused and the wooden club were stained with human blood. The DNA report-Ex.P35 reveals that the *"alleles in the DNA profile of blood stains detected on item nos.1, 3, 4, 5, 6, 7, 8, 9, 10 and 11 are identical and matching with the alleles in the DNA profile of the*



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deceased Jayamma from whom the post mortem blood stain was collected".

25. From the above evidence and material on record, the prosecution has established the guilt of the accused beyond reasonable doubt. The conviction of the accused for the offence punishable under Sections 302 and 379 of IPC is in accordance with law.

26. Learned counsel submits that the appellant is in custody for the past 10 years and therefore, he may be sentenced to imprisonment for the period already undergone by him. He submitted that the appellant is suffering from tuberculosis and his left lung has been completely collapsed.

27. The defense has got examined a doctor as DW2. The defense has also got marked the medical documents pertaining to the accused showing his ill-health, through a doctor - DW2. The medical documents shows that there is



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"complete collapse of left lung with gross cardiomediastinal Shift".

28. Since the appellant is convicted for the offence p/u/s 302 IPC, the sentence of life imprisonment cannot be reduced. In view of the ill-health of the appellant, the prison authority is directed to give adequate and timely treatment to the appellant whenever the need arises.

ORDER

- i. The appeal is ***dismissed***.
- ii. In view of the dismissal of the appeal, pending IA if any, is disposed of.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

MKM,HB,BSV
List No.: 1 Sl No.: 18