



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 886 OF 2019

C/W

CRIMINAL APPEAL NO. 837 OF 2019

CRIMINAL APPEAL NO. 988 OF 2019

IN CRL.A No. 886/2019

BETWEEN:

SRI. MANJESH
S/O CHIKKANNA,
AGED ABOUT 34 YEARS,
NO.2508, 3RD MAIN,
6TH CROSS, PADUVARAHALLI,
MYSURU-570 002.

...APPELLANT

(BY SRI. C.N. RAJU, ADVOCATE FOR
SRI. S.K. VENKATA REDDY, ADVOCATE)

AND:

STATE OF KARNATAKA
STATE BY SARASWATHIPURAM
POLICE STATION,
REPRESENTED BY ITS
PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE-560 001.

...RESPONDENT



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C/W CRL.A No. 837 of 2019
CRL.A No. 988 of 2019

(BY SRI. VIJAY KUMAR MAJAGE, SPP-II A/W
SRI. RANJITH KUMAR N., HCGP (PH))

THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO:
(A) CALL FOR RECORD IN S.C.NO.277/2012 FROM THE V
ADDL. SESSIONS JUDGE, MYSURU; (B) SET ASIDE THE
JUDGMENT/ORDER OF CONVICTION AND SENTENCE PASSED
BY THE V ADDL. SESSIONS JUDGE, MYSURU IN
S.C.NO.277/2012 DATED 14/18.03.2019.

IN CRL.A NO. 837/2019

BETWEEN:

SOORAJ
S/O MERAVANNA,
AGED ABOUT 25 YEARS,
R/AT NO.2452/6, 3RD CROSS,
BEHIND JANAHITHA SOCIETY,
PADUVARAHALLI,
MYSORE-570 006.

...APPELLANT

(BY SRI. B.V. PINTO, SENIOR COUNSEL A/W
SRI. C.N. RAJU, ADVOCATE (PH))

AND:

THE STATE OF KARNATAKA
BY SARASWATHI PURAM
POLICE STATION, MYSORE,
REPT. BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560 001.

...RESPONDENT

(BY SRI. VIJAY KUMAR MAJAGE, SPP-II A/W
SRI. RANJITH KUMAR N., HCGP (PH))



THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO:
(A) CALL FOR THE ENTIRE RECORDS IN S.C.NO.277/2012
PENDING ON THE FILE OF V ADDL. SESSIONS JUDGE AT
MYSURU; (B) TO SET ASIDE THE JUDGMENT OF CONVICTION
DATED 14.03.2019 AND ORDER OF SENTENCE DATED
18.03.2019 PASSED IN S.C.NO.277/2012 PASSED BY V ADDL.
SESSIONS JUDGE AT MYSORE AND ACQUIT THE ACCUSED
NO.10.

IN CRL.A NO. 988/2019

BETWEEN:

1. SRI. ASHOKA
S/O LATE GIRIGOWDA,
AGED ABOUT 28 YEARS,
R/AT NO.1248,
3RD MAIN, 6TH CROSS,
PADUVARAHALLI,
MYSURU-570 023.
2. SRI. HEMANTH
S/O REVANNA,
AGED ABOUT 22 YEARS,
R/AT NO.15/1B,
4TH MAIN, 5TH CROSS,
PADUVARAHALLI,
MYSURU-570 023.
3. SRI. S. PRAVEENA
S/O SOMANNA,
AGED ABOUT 23 YEARS,
R/AT NO.2461,
3RD MAIN, 4TH CROSS,
PADUVARAHALLI,
MYSURU-570 023.
4. SRI. B.K. RAMESH @ PALLI
S/O KRISHNA SHETTY,
AGED ABOUT 21 YEARS,



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R/AT NO.2406,
4TH MAIN, 5TH CROSS,
VIJAYANAGAR,
MYSURU-570 017.

...APPELLANTS

(BY SRI. M. SHARASS CHANDRA, ADVOCATE
FOR SRI SUDHARSHAN L, ADV. FOR A2;
SRI. B.V. PINTO, SENIOR COUNSEL A/W
SRI. C.N. RAJU, ADVOCATE
FOR A1, A3 & A4 (PH))

AND:

STATE BY SARASWATHIPURAM
POLICE STATION,
MYSURU,
REP. BY SPP. HIGH COURT,
BANGALORE-560 001.

...RESPONDENT

(BY SRI. VIJAY KUMAR MAJAGE, SPP-II A/W
SRI. RANJITH KUMAR N., HCGP (PH))

THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO
SET ASIDE THE JUDGMENT OF CONVICTION AND SENTENCE
DATED 14.03.2019 IN S.C.NO.277/2012 ON THE FILE OF
V ADDITIONAL SESSIONS JUDGE AT MYSURU FOR THE
OFFENCES PUNISHABLE UNDER SECTION 143, 147, 148,
120(B), 449, 302 AND 324 R/W 149 OF IPC.

THESE APPEALS, COMING ON FOR DICTATING
JUDGMENT, THIS DAY, JUDGMENT WAS DELIVERED THEREIN
AS UNDER:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE G BASAVARAJA



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ORAL JUDGMENT

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

These appeals arise out of the judgment and order dated 14.03.2019 and 18.03.2019, passed by the Court of the V Additional Sessions Judge, Mysuru in S.C.No.277/2012 and S.C.No.163/2013, wherein accused Nos.2 to 6 and 10 are convicted for offences punishable under Section 143, 147, 148, 120-B, 449, 302 and 324 read with Section 149 of IPC.

2. The trial Court has acquitted accused Nos.2 to 6 and 10 of the offences punishable under Section 114, 504, 506-B read with Section 149 of IPC and accused Nos.8, 9 and 11 of the offences punishable under Section 143, 147, 148, 120-B, 449, 302, 324, 504, 506-B read with Section 149 of IPC.

3. Criminal Appeal No.886/2019 is preferred by accused No.3, Criminal Appeal No.837/2019 is by accused No.10 and Criminal Appeal No.988/2019 is by accused No.2, 4, 5 and 6 respectively.



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4. We have heard the arguments of the learned counsel appearing for the appellants, learned SPP-II for the respondent / State and perused the evidence and materials on record.

5. In brief, the case of the prosecution is that deceased Kariyappa was doing business of renting centering items and jelly mix machine, having office at J.C.Road, Vagdevinagar under the name 'Sri. Bhairaveshwara Concrete Mixer'. The first informant-Sridhara (PW.1) is a friend of the deceased. He used to go to the office of the deceased every day in the evening and after having a chat with him, proceed to his house at about 09:00 p.m. When such was the routine, on 03.10.2010 at about 07:00 p.m., as usual, the first informant was sitting and chatting with the deceased in his office. One Nagaraju (PW.2), who works in the office was also sitting in front of the office. At about 08:00 p.m. all the accused, named in the FIR, residents of Paduvarahalli, holding deadly weapons like longs, barged into the office,



hurled abusive words at the deceased and assaulted him on the head and other parts of the body. When the first informant, Sridhara intervened to prevent the attack on the deceased, he was also assaulted by the accused on his left hand causing bleeding injuries to him. Further, the accused broke the office window and door glasses and smashed the TV and went away in two cars, which were parked outside the office. The deceased-Kariyappa, who had sustained multiple injuries died at the spot.

6. The motive behind the incident is the difference of opinions which arose between the group of deceased-Kariyappa and the group of accused No.1-Devendra and other accused regarding formation of a trust in respect of "Paduvaralli Rural Development Association".

7. On the complaint-Ex.P27 of Sridhara (PW.1), PW.43-Police Inspector of Saraswathipuram Police Station, registered a case in Crime No.230/2010 and forwarded the FIR-Ex.P66 to the jurisdictional Court. He visited the spot



and conducted the spot mahazar on the same night at about 11:15 p.m. On the next day at 08:00 a.m., he visited K.R. Hospital and conducted the inquest mahazar-Ex.P5. The dead body was then subjected to Autopsy.

8. The accused were arrested and incriminating articles were recovered at their instance. On completion of the investigation, charge sheet was filed against 11 accused.

9. Before the Trial Court, the accused pleaded not guilty to the charges framed against them. In order to establish the charges leveled, the prosecution got examined 44 witnesses and got marked 73 documents and Mos. 1 to 45. The defence got examined one witness as DW.1 and got marked Ex.D1.

10. The trial Court, on appreciation of the evidence and material on record, passed the following order:

- ◆ *Acting U/s 235(2) of Cr.P.C., the accused No.2 to 6 and 10 are convicted for*



offences punishable U/s 143, 147, 148, 120-B, 449, 302 and 324 R/W Section 149 of IPC.

- ◆ *Acting U/s 235(1) of Cr.P.C the Accused No.2 to 6 and 10 are acquitted for the offences U/s 114, 504, 506-B R/W Sec.149 of IPC and Accused No.8, 9 and 11 are acquitted for the offences U/s 143, 147, 148, 120-B, 449, 302, 324, 504, 506-B R/W Sec.149 of IPC.*
- ◆ *Accused No.2 to 6 and 10 are sentenced to undergo imprisonment for a period of three months and shall pay a fine of Rs.3,000/- each for the offence punishable under section 143 of IPC and in default of payment of fine shall undergo simple imprisonment for fifteen days.*
- ◆ *Accused No. 2 to 6 and 10 are sentenced to undergo imprisonment for a period of six months and shall pay a fine of Rs.5,000/- each for the offence punishable under section 147 of IPC and in default of payment of fine shall undergo simple imprisonment for one month.*
- ◆ *Accused No.2 to 6 and 10 are sentenced to undergo imprisonment for a period of one year and shall pay a fine of Rs.5,000/-each for the offence punishable under section 148 of IPC and in default of payment of fine shall undergo simple imprisonment for two months.*
- ◆ *Accused No. 2 to 6 and 10 are sentenced to undergo imprisonment for a period of one year and shall pay a fine of Rs.5,000/- each for the offence punishable under section 120-B of IPC and in default of payment of fine shall undergo simple*



imprisonment for one month.

- ◆ *Accused No. 2 to 6 and 10 are sentenced to undergo imprisonment for a period of three years and shall pay a fine of Rs.10,000/-each for the offence punishable under section 449 R/W Section Se.149 of IPC and in default of payment of fine shall undergo simple imprisonment for six months.*
- ◆ *Accused No.2 to 6 and 10 are sentenced to undergo imprisonment for life and shall pay a fine of Rs.25,000/- each for the offence punishable under section 302 R/W Section Sec.149 of IPC and in default of payment of fine shall undergo simple imprisonment for one year.*
- ◆ *Accused No.2 to 6 and 10 are sentenced to undergo imprisonment for a period of one year and shall pay a fine of Rs.3,000/- each for the offence punishable under section 324 R/W Sec.149 of IPC and in default of payment of fine shall undergo simple imprisonment for two months.*
- ◆ *Out of the fine amount deposited 50% of the amount is directed to be paid to PW-3 wife of deceased U/s 357 of Cr.P.C.,.*
- ◆ *All the sentences imposed shall run concurrently.*
- ◆ *Accused are entitled for set off of custody period under section 428 of Cr.P.C.,.*
- ◆ *Office is directed to furnish free copy of judgment to the convicts forthwith.*
- ◆ *The bail bonds of Accused No.8, 9 and 11 and their sureties shall stand canceled and*



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they are set at liberty forthwith.

- ◆ *Case against 1 and 7 is abated.
Mos.1 to 45 shall be destroyed after the
appeal period is over."*

11. Assailing the impugned judgment, the learned counsel for the appellants contended that there is delay in lodging the complaint which has been used to falsely implicate the accused. One of the accused by name Ramakrishna named in the First Information Report was not charge sheeted and the Investigating Officer has not offered any explanation for dropping his name in the charge-sheet. PW1 is a highly interested witness and his evidence is not corroborated with the complaint averments, any other evidence, therefore, his testimony cannot be believed. Except PW1, there is no other evidence to connect the accused and another eye-witness by name Nagaraja, who is examined as PW2 has turned hostile. The scribe of the complaint by name Raghu is also not examined. The recovery of weapons is planted, it is highly improbable that all the weapons were recovered



from one place. The injury sustained by accused No.1 is not explained by PW1. Though in the FIR names of 8 accused are mentioned, their names are not mentioned in the wound certificate of PW1, while giving history. Both PW1 and deceased are rowdy sheeters and there are several criminal cases registered against them.

12. The learned counsel for the appellants would contend that the trial Court has not properly appreciated the above aspects, on the other hand, relying on the interested testimony of PW1 has convicted the accused. He contended that the reasons assigned by the trial Court are not in accordance with law and the same has resulted in miscarriage of justice. Hence, sought to allow the appeals and acquit the accused.

13. *Per contra*, learned SPP-II contended that PW1 is not only an eye-witness but he is an injured witness. Hence, his presence at the spot is probalised. He further contended that, PW1 has no motive to falsely implicate the accused and he has categorically named the accused as



well as their overt acts. The fact that he was injured is also established by examining the doctor and marking the wound certificate-Ex.P23.

14. The learned SPP-II further contented that as per PM report-Ex.P20, the deceased has sustained as many as 20 injuries and the doctor-PW18 has opined that the said injuries are possible by the weapons which are seized at the instance of the accused. He contended that the nature of injuries sustained by the deceased clearly demonstrates that he was assaulted by multiple accused on the vital parts of the body and in view of the evidence of PW1, namely the injured witness, the prosecution has proved the charges leveled against the accused. He contended that the trial Court based on the evidence and material on record has rightly convicted and sentenced the accused for the charged offences. Accordingly, sought to dismiss the appeal.

15. The incident took place on 03.10.2010 at about 08.00 p.m. at the office of the deceased, namely



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'Bhairaveshwara Concrete Mixer Office', JC Road, Vagdevi Nagar, Mysuru. It is the specific case of the prosecution that, PW1 a friend of the deceased, would regularly visit the office of the deceased and he would sit in the office till 09.00 p.m. and then proceed to his house and as usual, on the date of incident he went to the office of the deceased and while chatting with him, all the accused having formed an unlawful assembly armed with longs barged into the office and assaulted the deceased indiscriminately all over his body. It is the further case of the prosecution that when PW1 tried to intervene, he was also assaulted with a long.

16. The case was registered on the same day at about 10.30 p.m. PW43-Police Inspector has deposed in his evidence that at about 10.30 p.m. on 03.10.2010, PW1 visited the police station and submitted a written complaint, based on which he registered a case and forwarded the FIR to the learned Magistrate. From the FIR-Ex.P66, we have noticed that the FIR was dispatched



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to the Magistrate at about 11.00 p.m. on 04.10.2010 and it reached the learned Magistrate at 03.15 a.m. on 04.10.2000. Further, the prosecution has got examined PW19-the doctor who treated PW1. He has deposed that at about 09.30 p.m. on 03.10.2010, one Sridhara(PW1) was brought to the hospital by a person by name Chandrashekar with a history of assault and he has issued wound certificate as per Ex.P22.

17. From the above, it is clear that immediately after the incident, PW1 went to the hospital and took treatment from PW19 and thereafter went to the police station and lodged a complaint. The case was registered on the very same night and by 3.15 a.m. on the following day, FIR has reached the Magistrate. Hence, the contention of the learned counsel for the appellant that there is inordinate delay in lodging the complaint and forwarding the FIR to the Magistrate cannot be accepted and on that score alone the case of the prosecution cannot be discarded.



18. According to prosecution, PW1 was at the spot when the incident took place and he also sustained injuries when he tried to intervene. As per Ex.P27-complaint, one more person by name Nagaraju was also present near the office. The said Nagaraju has been examined as PW2. However, PW2 has deposed in his evidence that he had gone to fetch milk and by the time he returned at about 08.15 p.m., the incident was over. He has stated that the deceased was done to death by some persons and he had sustained injuries to his hand and leg. He has further stated that PW1 was present at the spot and he had also sustained injuries to his hand. PW2 was treated hostile by the prosecution and cross examined by the learned Public Prosecutor. However, nothing is elicited regarding the incident and the participation of the accused.

19. In view of the hostility of PW2, the only material evidence in the form of oral evidence available is that of PW1. As rightly contended by learned SPP-II, PW1 being an injured witness, his evidence cannot be brushed



aside lightly. However, taking into consideration that he is a close friend of the deceased and in view of the motive narrated in the complaint, the evidence of PW1 has to be scrutinized carefully.

20. Admittedly, PW1 lodged a written complaint with the police naming 8 persons as the assailants including one Ramakrishna. Though specific overt act has been attributed against the said Ramakrishna and his role was specifically mentioned in the FIR, surprisingly, his name was dropped by the I.O.-PW43, while filing the chargesheet. There is no explanation forthcoming from the I.O. as to why the said person, named as an accused in the FIR was not chargesheeted. In the FIR, accused Nos. 1 to 4, 6, 9 and 10 were named as the assailants. However, while filing the chargesheet, 4 more accused are added namely accused Nos.5, 7, 8 and 11. The I.O., in his deposition, has not at all stated as to the material collected against the said accused. Both the I.O. and the



complainant-PW1 are silent about naming accused Nos.5, 7, 8 and 11.

21. According to prosecution, all the accused were holding longs and they entered the office of the deceased and abused him in filthy language and assaulted him and committed his murder. Further, when PW1 tried to intervene, he was also assaulted.

22. As per Ex. P27, accused Nos. 1, 9, Ramakrishna, accused Nos.2, 3, 6, 4 and 10 were holding longs and the said accused barged into the office of the deceased and out of them, accused No.1, Ramakrishna, accused Nos.2, 4 and 9 assaulted the deceased with longs on his head, accused Nos. 4, 3, 6 and 10 assaulted him on his left hand and other parts of the body. Further, accused no. 1 assaulted on the right thumb and accused Nos.6, 3, 10 and 4 assaulted on the left hand of PW1 and caused bleeding injuries to him.



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23. PW1 in his deposition has not corroborated with the contents of Ex.P27. He has stated that accused Nos.3, 5, 2, 6 and 10 and in all 6 accused Holding choppers entered the shop and assaulted the deceased on his head and back. He has stated that accused No.1 assaulted him with a chopper on his right hand. Further, from the evidence of PW1, it is clear that immediately after the incident the police and other public gathered at the spot and he was taken to the hospital by them. Even though it is stated by PW1 in the complaint that he was assaulted by accused Nos.1 and 6 with a long, in evidence he has not at all alleged that accused No.6 has assaulted him. On the other hand, he has stated that he was assaulted by accused No.1 on his hand with a chopper. The wound certificate of PW1 is marked as Ex.P22. The evidence of PW19, the doctor who treated PW1 as well as Ex.P22 goes to show that he has sustained two simple injuries i.e., i) deep lacerated wound over the right palm near root of



thumb and ii) superficial lacerated wound on the left forearm.

24. The IO-PW43 has stated that on 5.10.2010, accused No.1 was admitted in the hospital and after his discharge, he was produced before him by his staff. He recorded his voluntary statement and seized the clothes under a mahazar.

25. It is the contention of the learned counsel for the appellants that accused No.1 was admitted in the hospital with a history of assault by known persons on 03.10.2010 with a sickle on his right forearm and hand. The injuries sustained by accused No.1 has been suppressed by PW1 while lodging the complaint. It is their contention that MLC was sent to the police immediately after the admission of accused No.1 in the hospital, however, no case was registered against the assailants and therefore, the prosecution has suppressed the genesis of the incident.



26. The fact that accused No.1 has also sustained injuries is an admitted fact. The prosecution has examined PW20-doctor, who treated accused No.1. Ex.P23 is the wound certificate. PW20 has deposed that on 3.10.2010 at about 10.00 p.m. he examined one devu (accused No.1) brought to the hospital by his friends and relatives with a history of assault by sickle and noticed the following injuries:

"1. There was severe bleeding from the dorsum of right hand and swelling and deformity was noticed.

2. Lacerated wound measuring 6' x 1' bone deep starting from middle of the right finger extending 2 little finger.

3. There was fracture of fifth, fourth and third bone with extension tendon injuries of fifth, fourth and third and flexon tendon injury of the right hand."

27. PW20 has opined that injury No.3 is grievous and injury Nos.1 and 2 are simple in nature. He has



further stated that the above injuries may be caused by the sharp tip of any of the weapons examined by him marked as MOs.15 to 25.

28. Even though the prosecution has got examined the doctor, and tried to explain the injuries sustained by accused No.1, the genesis of the incident has been suppressed by PW1. It is not stated by him as to how accused No.1 sustained the above mentioned injuries such as fractures to fifth, fourth and third bone with extension tendon injuries of fifth, fourth and third and flexon tendon injury of the right hand.

29. In Ex.P27, PW1 has named 8 accused including accused by name Ramakrishna. The names of accused Nos.5, 7, 8 and 11 are not named in the FIR. Further, Ramakrishna against whom it is alleged that he has assaulted with a long on the head of the deceased along with other accused persons, was not chargesheeted. PW1, in his evidence, has not at all whispered about the said Ramakrishna. Ex.P27 came to be registered after PW1



took treatment in the hospital. At the earliest point of time, while giving history, PW1 has not given the names of all the accused named in the FIR, though he has mentioned the names of accused Nos.1 and 6 as the assailants along with the others.

30. It has come in the evidence of PW1 that both the deceased as well as PW1 are rowdy sheeters and there are number of criminal cases registered against them. He has also stated that there was a dispute with regard to formation of the Trust. In the facts and circumstances of the case, the evidence of PW1 alone, even though he is projected as an injured witness, cannot be relied upon to base conviction, without corroboration.

31. As already discussed, PW2, another eyewitness to the incident has turned hostile and not supported the case of prosecution. PWs.27 and 28 are the mother and brother of the deceased. PW29 is the cousin of the deceased. The said witnesses are hearsay witnesses and their evidence is not helpful to the case of prosecution to



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establish the charges. Further, as per PW1, when the incident took place, about 10-15 persons had assembled near the gate. However, none of them are cited or examined as witnesses. From the evidence of PW2, it can be gathered that when he returned to the office, he enquired with PW1 about the names of the assailants, but PW1 did not disclose the names. PW1 telephoned CW6 and secured him to the spot and then discussed something with him. PW28, brother of the deceased has deposed that when he went to the spot, PW1 was present and he enquired about the assailants and at that time, PW1 stated that Devu (accused No.1) and others have assaulted the deceased. He has not mentioned the names of any other accused as the assailants.

32. Regarding recovery of the weapons and blood stained clothes under a mahazar Ex.P17, the prosecution has got examined the panch witness/PW15. According to PW15, there were 5 accused at whose instance, longs marked as Exs.P15 to P25 were seized from a small house



situated behind Lobos Hotel. He has stated that due to passage of time, he is not able to identify the accused. His evidence does not disclose that the weapons were blood stained. There is no scientific corroborative evidence in support of seizure of weapons. The recovery evidence does not inspire the confidence of the Court.

33. From the above, it is highly unsafe to convict the accused on the sole basis of the evidence of PW1. Hence, the judgment of the trial Court in convicting and sentencing the accused for the charged offences is not sustainable in law.

34. Having re-appreciated the entire evidence and material on record and viewed from any angle, we do not find sufficient, reliable and acceptable evidence to sustain the judgment of conviction and order on sentence passed by the trial Court.

35. For the forgoing reasons, we proceed to pass the following:



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ORDER

- i. Appeals are **allowed**.
- ii. The Judgment and Order dated 14.03.2019 & 18.3.2019 passed by the V Additional Sessions Judge, Mysuru, in SC No.277/2012 and SC No.163/2013 convicting and sentencing the appellants/accused Nos.2 to 6 and 10 are **set aside**.
- iii. Appellants/accused Nos.2 to 6 and 10 are **acquitted** of the offences punishable under Sections 143, 147, 148, 120B, 449, 302 and 324 r/w Section 149 of IPC.
- iv. They shall be set at liberty, if not required in any other case.

Operative portion of the order shall be communicated to the concerned jail authority.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE