



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 482 OF 2021 (C)

BETWEEN:

SRI. ARUN KUMAR K.H.
S/O LATE HANUMANTHAPPA,
AGED ABOUT 23 YEARS,
R/AT KEMPATHIMMANA HALLI VILLAGE,
KASABA HOBLI,
BENGALURU RURAL DISTRICT-562 110.

...APPELLANT

(BY SRI. H.S. CHANDRAMOULI, SENIOR COUNSEL A/W
SRI. RAJATH, ADVOCATE (PH))

AND:

THE STATE OF KARNATAKA
BY THE POLICE OF
VISHWANATHAPURA POLICE STATION,
BENGALURU RURAL DISTRICT-562 110,
REP. BY: THE STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDINGS,
BENGALURU-560 001.

...RESPONDENT

(BY SRI. RANJITH KUMAR N., HCGP (PH))

THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO
CALL FOR RECORDS, SET ASIDE ORDER OF CONVICTION AND
SENTENCE IN JUDGMENT DATED 27.01.2021, PASSED BY THE



LEARNED V ADDL. DIST. & SESSIONS JUDGE, BENGALURU RURAL DISTRICT, AT DEVANAHALLI IN S.C.NO.15018/2018 FOR OFFENCES PUNISHABLE U/S. 302, 504 AND 506 OF THE INDIAN PENAL CODE, AND ACQUIT THE ACCUSED.

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 G BASAVARAJA

ORAL JUDGMENT

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

The appellant/accused No.1 has preferred this appeal challenging his conviction and sentence passed by the Court of V Additional District and Sessions Judge, Devanahalli, Bangalore Rural District in SC No.15018/2018.

2. Vide impugned Judgment and Order dated 27.1.2021, the appellant has been convicted for the offences punishable under Sections 504, 506 and 302 IPC., and sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.25,000/-, in default of payment of fine, to further undergo SI for a period of 2 years for



the offence under Section 302 IPC; further, to undergo simple imprisonment for a period of 6 months and to pay a fine of Rs.2,000/-, in default of payment of fine, to undergo simple imprisonment for a period of 3 months for the offence under Section 504 of IPC; and further, to undergo simple imprisonment for a period of 1 year and to pay a fine of Rs.5,000/-, in default of payment of fine, to undergo further simple imprisonment for 6 months for the offence punishable under Section 506 of IPC.

3. The learned Sessions Judge has acquitted accused No.2 of the offences punishable under Sections 504, 506, 302, 114 r/w Section 34 of IPC.

4. Brief facts of the prosecution case:

Deceased Jayamma @ Jayashree is the first wife of Hanumanthappa. In their wedlock, three children were born to them. Accused No.2-Pushpalatha is the second wife of Hanumanthappa. She was residing at Kempathimmanahalli Village, Devanhalli, along with one of



the sons of Hanumanthappa by name Arun Kumar-accused No.1. On 18.12.2017, the deceased went to Kempathimmanahalli Village, along with the complainant-Sunitha (PW1) to perform some rituals and prayers in the place where a temple was to be constructed, in the land of her husband late Hanumanthappa. At about 3.30 p.m., when the deceased was engaged in prayers and rituals in front of the house of her husband, accused No.2 i.e., second wife of her husband came out of the house and started abusing her. Accused No.1 also came out of the house and started the truck which was stationed nearby the place where the deceased was performing pooja and went inside the house along with accused No.2. Once again, accused No.2 came out of the house and instigated accused No.1 to run the truck over the deceased as she had not left the place, despite asking her to leave. Immediately, accused No.1 came out of the house, started the truck and drove the same in reverse direction at a high speed with the intention to commit murder of Jayamma



and run the truck over her, due to which she sustained multiple injuries and succumbed to the injuries at the spot.

5. The trial Court framed charges under Section 302, 504, 114, 506 r/w 34 of IPC, for which the accused pleaded not guilty and claimed to be tried.

6. Before the trial Court, the prosecution got examined PW.1 to PW.22 and got marked Ex.P1 to Ex.P30 and MOs.1 to 25.

7. On appreciation of the oral and documentary evidence on record, the trial Court held accused No.2 not guilty of the charges levelled against her, however, convicted and sentenced accused No.1/appellant as noted supra.

8. While acquitting accused No.2, the trial Court has come to the conclusion that her presence in her own house is not unusual and cannot be held incriminating and the place of incident admittedly is the land situated in front of their house. The proven facts does not suggest



that accused No.2 had preplanned to commit the murder. Further held, the testimony of PW1 to the extent of accused No.2 abetting accused No.1 to commit murder of the deceased has not been corroborated by any other witnesses and there is no overt act attributed to accused No.2.

9. The trial Court held that there is no convincing evidence adduced by the prosecution to prove the charge against accused No.2 for the offence under Section 114 of IPC and further, holding that merely because of her presence at her own house, she cannot be convicted for the offence under Section 114 and Section 302 with the aid of Section 34 of IPC, acquitted her of those charges. The findings recorded by the trial Court insofar as acquitting accused No.2 has become final as there is no appeal preferred by the State.

10. Assailing the impugned judgment convicting accused No.1, the learned Senior counsel Sri. H.S.Chandramouli, vehemently contended that all the



material witnesses, projected as eye witnesses, except PW1 have turned hostile and not supported the case of prosecution. The evidence of PW1 suffers from material contradictions and her presence at the spot itself is doubtful. In her cross-examination, she has admitted that she saw accused No.1 for the first time in the police station and further admitted that she was standing behind the lorry and therefore, she could not see as to who was driving the said lorry. He has further contended that according to PW1, she came to know the names of both accused Nos.1 and 2 from the neighbours and therefore, both the said accused are utter strangers to her and without there being any Test Identification Parade, her evidence cannot be believed.

11. Further, the learned Senior counsel contended that even accepting the case of the prosecution, it cannot be said that the accused had premeditation to commit any offence much less the one now alleged, on the other hand, it was the deceased herself who had gone and started



performing some rituals in front of the house of the accused, by trespassing into their property, which might have provoked the accused to commit the offence.

12. It is further contended that there was no opportunity for the defence to further cross-examine PW1 and though the application filed under Section 311 Cr.P.C. was allowed by the trial Court, by that time, PW1 had died and therefore, without any corroboration to the evidence of PW1, her sole testimony is not sufficient to convict the accused.

13. Per contra, the learned HCGP contended that evidence of PW1 is natural and acceptable since she had accompanied the deceased, Jayamma to Kempathimmanahalli village and she was very much present with the deceased when she was performing the rituals. He contended that PW1 has narrated the incident and mentioned the names of the accused in her complaint. Her statement was recorded by the Police at the spot. He contended that, evidence of PW1 does not suffer from any



infirmities and therefore, despite the absence of corroboration to her evidence, the trial Court rightly accepted her testimony and convicted accused No.1.

14. The incident took place on 18.12.2017 at about 3.30 p.m. at Kempathimmanahalli village, Devanahalli, in front of the house where accused Nos.1 and 2 were residing. It is the case of the prosecution that the deceased, Jayamma along with the complainant (PW1) went to Kempathimmanahalli to perform some rituals for construction of a temple in the land of her late husband. It is the further case of the prosecution that when she was performing the rituals, both accused Nos.1 and 2 abused her in filthy language and asked her to leave the place and not to perform any rituals in front of their house. However, the deceased continued to perform the rituals and therefore, accused No.2 abetted accused No.1 to commit her murder by running the lorry over her. In view of the said abetment, accused No.1 started the lorry which was parked in front of their house and took it in reverse



direction and by running the lorry over her, committed her murder.

15. PW11 is the doctor, who conducted the Autopsy. Ex.P17 is the P.M. report. The doctor has opined that the cause of death was on account of shock and haemorrhage as a result of multiple injuries sustained.

16. The cause of death is not seriously disputed by the defence, however, it is the contention of the learned counsel for the appellant that PW1 is not an eye witness and her presence at the spot is doubtful and except her evidence, there is no other material to prove the charges leveled against the appellant.

17. The prosecution has examined PW1, PW3 to PW8 as the eye witnesses to the incident. Out of them, PW3 to PW8 have turned hostile and not supported the case of prosecution. Hence, the entire case of the prosecution is based on the direct evidence of PW1. Before referring to the evidence of PW1, it is necessary to see the



complaint averments. In Ex.P1-complaint lodged by PW1, she has averred that Jayamma @ Jayashree (deceased) is her relative and about three months prior she got acquainted with her and they were conversing over phone. Deceased had requested her to accompany her for performing some rituals at the place of construction of a temple. Hence, on 18.12.2017, at about 3.00 p.m. both of them went to Kempathimmanahalli. The deceased started the rituals, for which both accused Nos.1 and 2 objected and told the deceased not to perform rituals in front of their house. They abused them and then accused No.2 instigated accused No.1 to run the lorry over her and to commit her murder. All of a sudden, accused No.1 started the lorry and took the lorry in reverse direction and ran it over the deceased and also threatened her that she too would meet the same fate as the deceased.

18. It is true that PW1 in her complaint has stated that she was not aware of the names of the two accused. However, she has further stated that, on enquiry with the



neighbours, she came to know the names of accused Nos.1 and 2. She identified accused No.1 before the Court. Her evidence further discloses that immediately after the incident, she telephoned to the police and 2-3 police constables came to the spot before whom she narrated the entire incident. On receiving her statement/complaint, Ex.P1 by PW15, a case was registered by PW20 against both the accused.

19. PW15 has deposed in his evidence that on 18.12.2017, he went to the spot and at that time the complainant was present at the spot and she gave her written complaint. His evidence, therefore, goes to show that the complainant was very much present at the spot and on the basis of her complaint-Ex.P1, FIR was registered. Hence, the presence of the complainant (PW1) at the spot is probalised and the contention of the learned counsel for the appellant that PW1 was not at all present at the spot and she is not an eye-witness, cannot be accepted.



20. Even though, in the cross-examination, PW1 has stated that she saw accused No.1 in the police station, she has withstood the test of cross-examination with regard to accused No.1 driving the lorry in reverse direction and hitting the deceased. We are satisfied that PW1 was cross examined by the defence on all the material aspects and therefore, her further cross-examination which could not be conducted on account of her death, has not prejudiced the defence.

21. The next question is as to whether the prosecution has proved that there was premeditation or intention on the part of accused No.1 and as to whether the act committed by accused No.1 constitute the offence of culpable homicide amounting to murder or the incident was on account of sudden provocation, in a heat of passion, without premeditation?

22. Admittedly, the incident took place in front of the house where accused Nos.1 and 2 were residing. On the date of incident, the deceased had gone to



Kempathimmanahali to perform rituals, along with PW1. She was performing the rituals in front of the house of accused. The evidence of PW1 clearly goes to show that both accused Nos.1 and 2 objected and told her to leave the place. Since the deceased did not leave the place, accused No.2 got enraged and instigated accused No.1 to kill her by running the lorry over her. All of a sudden, accused No.1 went outside the house and started the lorry which was parked in front of the house and took it in reverse direction and run over the deceased, due to which the deceased, sustained multiple injuries and succumbed to the injuries at the spot.

23. The narration of the above events goes to show that the incident took place all of a sudden, in the heat of passion. It was the deceased herself who had come near the house of the accused and started performing the rituals in front of their house. The proven facts does not suggest that the accused had pre-planned to commit the murder of the deceased. In spite of requesting the



deceased to leave the place and not to perform rituals, she continued with the rituals. Hence, accused No.1 on a grave and sudden provocation, deprived of the power of self control, committed the act in a spur of the moment. Hence, in our considered opinion, the act committed by accused No.1 falls within Exception 1 of Section 300 of IPC. He is therefore, liable to be convicted under Section 304-I of IPC.

24. It is submitted that the appellant/accused No.1 is in custody from the date of his arrest i.e., from 18.12.2017 till date and he has undergone imprisonment for 8 years 6 months 21 days as on today.

25. The learned counsel for the appellant also submitted that the trial Court has not passed any order while passing the judgment, regarding release of the lorry bearing registration No.CNX 6518 which was seized in this case. He submitted that the said lorry is in the name of late Hanumanthappa, father of the appellant and still lying in front of the police station.



26. From the material on record, we have noticed that the trial Court has rejected the application seeking interim custody of the vehicle. However, no order was passed under Section 452 of Cr.P.C., at conclusion of trial.

27. It is open for the legal heirs of Hanumanthappa to file necessary application before the trial Court for release of the lorry. If any such application is filed, the same shall be considered and disposed of by the trial Court, in accordance with law.

28. For the forgoing reasons, we pass the following:

ORDER

- i. Appeal is **partly allowed**.
- ii. The Judgment and Order dated 27.01.2021 passed by the Court of V Additional District and Sessions Judge, Devanahalli, Bangalore Rural District, in SC No.15018/2018, convicting and sentencing the appellant/accused No.1 for the offence punishable under Section 302 of IPC is hereby **set aside**.



- iii. Appellant/accused No.1 is convicted for the offence punishable under Section 304-I of IPC. He is sentenced to undergo R.I. for 10 years and shall pay fine of Rs.25,000/-, in default of payment of fine, he shall undergo simple imprisonment for a period of one year.
- iv. The conviction and sentence passed by the trial Court for the offence punishable under Section 504 and 506 of IPC is unaltered.
- v. All the sentences shall run concurrently.
- vi. Appellant is entitled to set off for the period of sentence already undergone by him.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE