



CNR: KAHC010162382015

NC: 2026:KHC:40176
CRL.A No. 125 of 2015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

CRIMINAL APPEAL NO. 125 OF 2015 (C)

BETWEEN:

1. SATHISHA S/O SHANTAPPA
AGED ABOUT 29 YEARS,
OCC: AGRICULTURIST,
R/O KADURALLI VILLAGE, KADUR TALUK,
CHIKKAMAGALUR DISTRICT-577 548.
2. SHANTHAIAH S/O VEERAAIAH
AGED ABOUT 62 YEARS,
OCC: AGRICULTURIST,
R/O KADURALLI VILLAGE, KADUR TALUK,
CHIKKAMAGALUR DISTRICT-577 548.
3. HANUMANTHAPPA @ HANUMANTHA
S/O RANGAPPA,
AGED ABOUT 21 YEARS,
OCC: AGRICULTURIST,
R/O KADURALLI VILLAGE, KADUR TALUK,
CHIKKAMAGALUR DISTRICT-577 548.

...APPELLANTS

(BY SRI. R B DESHPANDE, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA BY
KADUR POLICE STATION,
CHIKKAMAGALUR DISTRICT-577 548.

...RESPONDENT

(BY SRI. RAHUL RAI K., HCGP)

Digitally
signed by
LAKSHMI T
Location:
High Court
of Karnataka



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THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO SET ASIDE THE JUDGEMENT AND ORDER OF CONVICTION AND SENTENCE DATE 6.1.2015 PASSED IN S.C.NO.07/2014 BY THE II ADDL. SESSIONS JUDGE, CHIKKAMAGALUR - CONVICTING THE APPELLANT/ACCUSED NO.1 to 3 FOR THE OFFENCES P/U/S 304 (II) AND 201 R/W SEC.34 OF IPC.

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

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

ORAL JUDGMENT

This appeal is preferred by accused Nos.1 to 3 in S.C.No.7/2014, on the file of the Court of the II Additional Sessions Judge at Chikkamagalur.

2. The accused have challenged the Judgment and Order dated 06.01.2015, passed by the trial Court, convicting and sentencing them for the offences punishable under Section 304(II) and 201 read with Section 34 of IPC.

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



4. Brief facts of the case: On the night of 11.07.2013 at about 08:00 p.m. accused No.1, along with accused Nos.2 and 3 took the deceased, Chidananda and Huchappa and other workers in his tractor and trailer bearing No. KA-18/T-6873 and 6874 to the bank of Vedavati river at Srirampura Village, Kattehole for removal and transportation of sand mixed mud, from the said place. At about 11:45 p.m., deceased Huchappa and Chidananda had removed one load of sand mixed mud and transported in the tractor. Thereafter, accused No.1 once again asked them to remove the mud for second load. Though, the deceased and other workers expressed that it is dangerous to remove the mud again, he insisted them to remove the sand mixed mud and to load the mud to the tractor. When the deceased, Chidananda and Huchappa were removing the mud from about 25 to 30 feet depth, the surrounding mud fell on them. Deceased Huchappa was buried in the mud and died at the spot. Deceased Chidananda was caught in the mud up to his chest. While he was being shifted to the hospital, he died on the way



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to the hospital. Accused Nos.1 to 3 instead of reporting the matter to the police, burried the dead body of Chidananda near Vedavati river.

5. Accused Nos. 1 to 3 were charged for the offences punishable under Section 304, 201 read with Section 34 of IPC. The prosecution got examined 18 witnesses and got marked 26 documents and MO.1-tractor.

6. The trial Court on appreciation of the evidence and material on record, came to the conclusion that the version of the prosecution witnesses is credible, consistent and trustworthy and their version have been corroborated by the Investigating Officer, examined as PW.18. Further, holding that there was no intention on the part of the accused to cause death, convicted them for the offences punishable under Section 304(II) and 201 read with Section 34 of IPC.

7. PW.1 is the first informant and he is one of the coolie workers and an eye witness to the incident. PWs.2 and 3 are the panch witnesses to the spot mahazar-Ex.P2. PW.4 is



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a witness to the inquest mahazar-Ex.P7, conducted on the dead body of deceased, Huchappa. PW.5 is the son and PW.6 is the wife of deceased Huchappa. PWs.7, 8 and 12 are labourers and eye witnesses to the incident. PW.9 speaks about exhumation of the dead body of deceased Chidananda. PW.10 is the brother of deceased, Chidananda. PW.11 speaks about exhumation of the dead body of deceased Huchappa. PW.13 is the panch witness to Ex.P2, under which the tractor was seized. PW.14 is the head constable who seized the tractor. PW.15 is the Assistant Commissioner, Tarikere, in whose presence, the dead body of Chidananda was exhumed. PW.16 is the A.S.I., Kadur Police Station, who conducted the inquest Mahazar-Ex.P7, PW.17 is the PSI, Kadur Police Station, who registered the case and PW.18 is the Investigation Officer, who filed the charge sheet.

8. It is the specific case of the prosecution that accused No.1 along with accused Nos.2 and 3 took both the deceased and other workers in a tractor near Vedavati river at Srirampura Village on 11.07.2013 at about 08:00 p.m., for



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removal of sand mixed mud. At about 11.45 p.m., when the deceased were removing the sand, the heap of sand fell on them. Deceased Huchappa was buried in the mud and died on the spot, whereas, deceased Chidananda died on the way to the hospital, but he was buried near the river, to cause disappearance of the evidence.

9. The material witnesses who speak about the incident are PWs.1, 7, 8 and 12. They are the coolie workers who went in the tractor along with the deceased near the river, for removal of the sand mixed mud. PW.8 has turned hostile and not supported the case of prosecution. However, the evidence of PWs.1, 7 and 12 shows that it was accused No.1 who took them and the deceased in the tractor and instructed them to remove the sand. They have stated that, first load of sand was unloaded in the garden land of accused No.1 and again, when they were removing the sand and loading to the tractor, the mud slided and fell on the deceased. Deceased, Huchappa was buried in the mud and died at the spot. The accused No.1 took Chidananda in the



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tractor stating that he will take him to the hospital, but later they came to know that his dead body was buried near the river.

10. A careful perusal of the evidence of PWs.1, 7 and 12, goes to show that they have not seen the accused burying the dead body of Huchappa. They have deposed that after the incident, accused Nos.1 to 3 took Chidananda in the tractor in order to take him to the hospital. Though it is stated that all the three accused took Chidananda in the tractor to the hospital, there is no definite evidence to show that even accused Nos.2 and 3 along with accused No.1 have buried the dead body of Chidananda and thereby caused disappearance of the evidence. Insofar as accused No.1 is concerned, it is not in dispute that he brought the workers, including the deceased in his tractor, to remove the mud, as spoken by PWs.1, 7 and 12. They have also stated that Chidananda was taken in the said tractor, in order to admit him in the hospital. Admittedly accused Nos.2 and 3 are also labourers who went along with the deceased and PWs.1, 7, 8



and 12 near the river, at the instruction of accused No.1. As there is no clinching evidence insofar as accused Nos.2 and 3 are concerned, the said accused are entitled to benefit of doubt.

11. Insofar as accused No.1 is concerned, the evidence on record is sufficient to show that on 11.07.2013 at about 08:00 p.m., he took both the deceased as well as other workers in a tractor and trailer bearing registration number KA-18/T-6873-6874 by the side of Vedavathi river, near Srirampura village, Kattehole and instructed them to remove the mud. It has come in the evidence of PWs.1, 7 and 12 that after removing the mud, it was transported and unloaded in the garden land of accused No.1 and while removing the mud for the second time, as instructed by accused No.1, the surrounding mud caved in and fell on both the deceased, due to which they died.

12. The judgment of conviction passed against accused No.1 for the offence punishable under Section



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304(II) and 201 read with Section 34 of IPC is sound and proper. However, insofar as convicting and sentencing accused Nos.2 and 3, for the offences punishable under Section 304(II) and 201 read with Section 34 of IPC is not sustainable in law.

13. The incident took place on 11.07.2013. A period of 13 years have elapsed since the incident. Accused No.1 was aged about 28 years at the time of incident. He has no criminal antecedents.

14. For the offence punishable under Section 304(II) of IPC, The trial Court has passed a sentence of simple imprisonment for a period of 2 years and to pay a fine of Rs.30,000/- as against accused No.1. Further, for the offence punishable under Section 201 IPC, the trial Court has passed a sentence of simple imprisonment for a period of 1 year and to pay fine of Rs.2,000/-.

15. It is submitted that Accused No.1 was in custody for a period of 15 days, i.e., from 12.07.2013 to 27.07.2013.



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No purpose will be served, if he is sent to the prison at this stage. On the other hand, if the fine amount is enhanced, which could be paid as compensation to the victims' kith and kin, that would meet the ends of justice. For the foregoing reasons, the following:

ORDER

- i) The appeal is ***partly allowed***.
- ii) The Judgment and Order dated 06.01.2015 passed by the Court of the II Additional Sessions Judge, at Chikkamagalur in Sessions Case No.7/2014, convicting accused No.1 for the offences punishable under Section 304 (II) and 201 of IPC read with Section 34 of IPC is confirmed
- iii) The judgment and order insofar as convicting accused Nos.2 and 3 for the offences punishable under Sections 304 (II) of IPC and 201 of IPC is **set aside**. The said accused are acquitted of the said offences.
- iv) The sentence imposed against accused No.1 for



the offence punishable under Section 304 (II) and Section 201 of IPC is modified.

v) Accused No.1 is sentenced to imprisonment for the period already undergone by him for both the offences and he shall pay a total fine of Rs.2,00,000/- (Rupees Two lakhs only). In default of payment of fine, he shall undergo imprisonment for a period of one year.

It is submitted by the learned counsel for the appellants that deceased Huchappa has one surviving son by name Lohith. Further, elder sister, Smt. Shobha, is the only legal heir of deceased Chidananda.

If the fine amount is deposited, a sum of Rs.1,00,000/- (Rupees One lakh only) shall be paid to the son of deceased, Huchappa by name Lohith.

A sum of Rs.1,00,000/- (Rupees One lakh only) shall be paid to Smt. Shobha, the sister of deceased Chidananda.

If part of the fine amount was already paid to any other



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legal heirs of the deceased, the balance amount shall be paid equally, as ordered by this Court.

The registry is directed to communicate a copy of this judgment to the trial Court, for compliance.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

LDC
List No.: 1 Sl No.: 9