



CNR: KAHC010169642019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1072 OF 2019 (C)

BETWEEN:

NAGARAJ D M @ CHIKKONU @ KAPPAL
S/O LATE MUNISWAMAPPA
AGED ABOUT 48 YEARS
R/O 9TH CROSS, 13TH WARD,
BHUWANESHWARI NAGAR,
DODDABALLAPURA TOWN.

...APPELLANT

(BY SRI. RAJAVARDHANA REDDY, ADV. FOR
SRI. RANGANATH REDDY R., ADV.)

AND:

THE STATE OF KARNATAKA
BY DODDABALLAPURA RURAL POLICE STATION
DODDABALLAPURA DISTRICT,
REP. BY THE SPP,
HIGH COURT BUILDING,
BANGALORE-560001.

...RESPONDENT

(BY SRI. RAHUL RAI K., HCGP.)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C PRAYING TO
SET ASIDE THE JUDGMENT OF CONVICTION DATED
19.01.2019 AND ORDER OF SENTENCE DATED 04.02.2019
PASSED BY THE IV ADDITIONAL DISTRICT AND SESSIONS
JUDGE, DODDABALLAPURA IN S.C.NO.10010/2017 -
CONVICTING THE APPELLANT/ACCUSED NO.1 FOR THE
OFFENCE P/U/S 302 OF IPC.



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THIS APPEAL, COMING ON FOR FINAL 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)

1. This appeal is preferred by accused No.1 against his conviction and sentence passed by the Court of IVth Additional District and Sessions Judge at Doddaballapura, Bengaluru Rural District, in SC No.10010/2017.

2. The learned Sessions Judge vide judgment dated 19.01.2019 has convicted accused No.1 for the offence punishable under Section 302 of IPC and acquitted accused Nos.2 to 4 of the offences punishable under Sections 302 and 341 read with Section 34 of IPC and vide order dated 04.02.2019, sentenced accused No.1 to undergo life imprisonment with fine of Rs.5,000/- for the offence punishable under Section 302 of IPC, and to



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undergo simple imprisonment for a period of six months in default of payment of fine.

3. The brief facts of the prosecution case are that, accused No.1 had advanced a loan of Rs.20,000/- to the deceased Ramesh and in spite of repeated requests, deceased had not made good the payment. On 31.07.2010 at about 05.00 p.m., accused No.1 called Ramesh and told him to meet him at Tanuja Bar and Restaurant. Thereafter, accused No.1 along with accused Nos.2 to 4 went to the said Bar and Restaurant, wherein the accused as well as the deceased consumed liquor. An altercation took place between the accused and the deceased inside the bar and restaurant in connection with non-returning of the loan taken by the deceased from accused No.1. All the accused and deceased-Ramesh came out of the bar and restaurant and once again quarrelled. Accused Nos.2 to 4 held the hands of Ramesh and accused No.1 took a granite stone and assaulted on his head, causing bleeding injuries. The injured Ramesh



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was shifted to Columbia Clinic, from there he was shifted to Navachethana Hospital, where he was declared brought dead, at about 06.30 p.m.

4. The complaint-Exhibit P2 is lodged by the brother of the deceased examined as PW3. He is not an eye-witness to the incident. In the complaint, it is stated that his brother's friend by name B.N.Harish, informed him over phone that accused No.1 and others were quarrelling with his brother and therefore, he rushed to the spot and by that time his brother was already shifted to Columbia Clinic for treatment. It is further stated that the cashier of Tanuja Bar and Restaurant by name Madhusudan informed him that at about 05.00 pm, complainant's brother and his friends, viz. accused 1 to 4 had came to the bar and after consuming liquor, they were quarrelling in front of the bar and all the accused assaulted his brother Ramesh and accused No.1 had assaulted him with a granite stone and after noticing the public, ran away from the spot.



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5. B.N.Harish, who informed about the quarrel to the complainant, is examined as PW1 and the cashier of the bar and restaurant has been examined as PW4. B.N.Harish-PW1 is not an eye-witness to the incident. Apart from PW4-cashier of the bar and restaurant, the prosecution has got examined PW2 and PW6, the suppliers of the bar and restaurant, PW7-Assistant Cashier and PW5, a Beeda shop owner, as the eye-witnesses to the incident. However, insofar as the actual assault is concerned, all the said witnesses have turned hostile and they were cross-examined by the prosecution. From their evidence it can only be gathered that there was a quarrel between the accused and the deceased in front of the bar and restaurant and then the deceased-Ramesh was found lying on the concrete floor with bleeding injuries.

6. As per the Post Mortem report-Ex.P26, the cause of death is due to shock and haemorrhage on account of injury sustained to the head. The autopsy is



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conducted by PW22. He has noticed the following external injuries on the dead body.

1. *Lacerated wound of 1 x 3cms with contusion on inner aspect of molar region of left side of the face.*
2. *Incised and lacerated wound over the left side of eyebrow to the length of 4 x 0.25cms with upper aspect and 0.5cm width in lower aspect.*
3. *Left Eye is contusion.*
4. *Incised wound of size 10cm over frontal region of vertex scalp deep*
5. *Incised wound of size 11cm vertex region to the occipital region, is of scalp deep.*
6. *Incised wound of size 12 cm scalp deep over temporal perital region on right size*
7. *Lacerated wound of size 3x2 cm over right temporal region behind ear.*
8. *Incised wound over left size of tempo partial region behind ear of 5cmx0.5cms.*

All thee injuries are fresh and ante-mortem in nature and likely to have occurred in between 12 to 24 hours.

After dissection of the dead body, found under mentioned injuries:-

1. *There is fracture of skull over the frontoral and right side of temporal region.*



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2. *Haemorrhages present in frontal and right side of temporal region.*
3. *Hemotoma is present in frontal and right side of brain.*

7. The injuries noticed in the Post Mortem report are mentioned in the inquest report-Ex.P15.

8. According to the prosecution, the deceased Ramesh had borrowed a sum of Rs.20,000/- from accused No.1 and in spite of repeated demands, had not returned the said amount. Therefore, accused No.1 told him to come to Tanuja Bar and Restaurant and then went along with accused Nos.2 to 4, wherein he picked up quarrel with the deceased inside the bar and also outside the bar. Further, accused Nos.2 to 4 held the deceased and accused No.1 assaulted him with a granite stone.

9. The prosecution has got examined the wife of the deceased as PW21, who speaks about the loan of Rs.20,000/- received by her husband from accused No.1 and the said accused demanding him to return the loan amount. However, none of the witnesses examined by the



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prosecution have deposed about the reason for the quarrel between the deceased and the accused. The trial Court has acquitted accused Nos.2 to 4 due to lack of evidence, however, convicted accused No.1 for the offence punishable under Section 302 of IPC.

10. It is contented by the learned HCGP that at the instance of accused No.1 the blood-stained granite stone (MO6) was seized under a mahazar-Ex.P14 and the panch witness-PW11 to the said recovery mahazar has supported the case of the prosecution.

11. The learned counsel for the appellant has contended that even according to prosecution, it was the deceased who owed money to the accused and there are materials to show that in the incident even accused No.1 had sustained several injuries as per Ex.P53, which are not explained. He therefore, contended that the incident might have taken place in a sudden quarrel and in the scuffle, and when the deceased caused injuries to accused No.1, chances of accused pushing the deceased and he



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falling on the concrete floor and sustaining injuries is not ruled out.

12. Ex.P53 is the wound certificate pertaining to accused No.1. PW27 is the Doctor who treated accused No.1 on 02.08.2016 at about 6.15 p.m. On examination of accused No.1, PW27 has noticed the following injuries.

- 1. An incised oblique wound at the right thumb, over the palmer surface of 2c.m, X 2mm.*
- 2. Another superficial wound obliquely 6 c.m X 2.mm over the right joint below the elbow joint.*
- 3. Mild brownish contusion swelling over the left cheek measuring 3c.m X 3c.m.*
- 4. Brownish contusion/swelling exactly on the middle of the right tibia antiquary horizontally 3c.m, X 1c.m.*

13. According to the Investigating Officer-PW26, accused No.1 sustained injury to his right hand, while he assaulted the deceased with the granite stone. However, we have noticed that accused No.1 has sustained injuries not only to his right thumb, but also on the elbow, face and right leg, which are not explained by the prosecution.



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14. Admittedly, it is not the case of the prosecution that accused No.1 went to the bar and restaurant along with accused Nos.2 and 4, armed with any weapon. From the material on record, it can be gathered that there was a sudden quarrel between the accused and the deceased inside the bar and restaurant, as well as outside the said bar and restaurant and in the said quarrel, deceased as well as accused No.1 sustained injuries and the deceased, who had sustained injuries to the head, succumbed to the injury. Without any premeditation and in the heat of passion upon a sudden quarrel, accused No.1 has assaulted the deceased with a granite stone, which was later recovered at his instance.

15. Considering the nature of injuries and the injuries sustained to the head, it can be held that though the injuries caused are without premeditation and in a heat of passion upon a sudden quarrel, but with the intention of causing death or of causing such bodily injury, as is likely to cause death. Hence, the offence committed



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by the accused No.1 i.e., the appellant falls under Section 304 Part I of IPC.

16. For the foregoing reasons, we proceed to pass the following:

ORDER

- i. The appeal is partly allowed.
- ii. The judgment of conviction dated 19.01.2019 and the order on sentence dated 04.02.2019 passed by the Court of IVth Additional District and Sessions Judge, Doddaballapura, Bengaluru Rural District in SC No.10010/2017, convicting and sentencing the appellant/accused No.1 for the offence punishable under Section 302 of Indian Penal Code are hereby set aside.
- iii. The appellant/accused No.1 is convicted for the offence punishable under Section 304 Part-I of IPC. He is sentenced to undergo rigorous imprisonment for a period



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of 10 years and to pay fine of Rs.5,000/-, in default of payment of fine, he shall undergo simple imprisonment for a period of 6 months.

iv. He is entitled to set off for the period of sentence already undergone by him, under Section 428 of CrPC (468 of BNSS, 2023).

**Sd/-
(MOHAMMAD NAWAZ)
JUDGE**

**Sd/-
(G BASAVARAJA)
JUDGE**

KBM
List No.: 1 Sl No.: 13