



NC: 2026:KHC:47442-DB  
CRL.A No. 1074 of 2019

CNR: KAHC010169692019

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 1<sup>ST</sup> DAY OF SEPTEMBER, 2026**

**PRESENT**

**THE HON'BLE MR. JUSTICE H.P.SANDESH**

**AND**

**THE HON'BLE MR. JUSTICE B.PRAMOD**

**CRIMINAL APPEAL NO.1074 OF 2019 (A)**

**BETWEEN:**

STATE OF KARNATAKA  
REPRESENTED BY INSPECTOR OF POLICE  
EAST (KADRI) POLICE STATION  
MANGALURU CITY  
THROUGH THE STATE PUBLIC PROSECUTOR  
HIGH COURT BUILDING  
DR. AMBEDKAR VEEDHI  
BENGALURU-560 001

...APPELLANT

(BY SRI CHENNAPPA ERAPPA, H.C.G.P.)

**AND:**

1. SIDDAPPA @ SIDDU  
S/O. PRAKASHA AGASIMANE  
AGED ABOUT 26 YEARS  
RESIDENTS OF INANGOVANAKOPPA  
SHIRASANGI POST  
SAVADATHI TALUK  
BELAGAVI DISTRICT-591 126
2. MURTHUJA KHADRI @ RAFEEQ  
S/O. MOHAMMED  
AGED ABOUT 31 YEARS  
RESIDENT OF SAYYAD FEER BADAVANE

Digitally signed  
by  
SHARADAVANI  
B

Location: HIGH  
COURT OF  
KARNATAKA



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BEHIND NITTOLI I.T.I. COLLEGE  
DAVANGERE TALUK  
DAVANGERE DISTRICT-577 002

...RESPONDENTS

(BY MR. STEPHEN MATHEW, ADVOCATE FOR  
SRI P. KARUNAKAR, ADVOCATE FOR R-1,  
SRI P. B. UMESH, ADVOCATE FOR  
SRI R. B. DESHPANDE, ADVOCATE FOR R-2)

THIS CRL.A. IS FILED U/S.378(1) AND (3) CR.P.C BY THE STATE P.P. FOR THE STATE PRAYING TO GRANT LEAVE TO FILE AN APPEAL AGAINST THE JUDGMENT AND ORDER DATED 30.11.2018 PASSED BY THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K., MANGALURU IN S.C.NO.38/2015, ACQUITTING THE RESPONDENT NOS.1 AND 2 HEREIN FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 302, 448, 457 AND 380 READ WITH SECTIONS 511 AND 34 OF IPC AND SET ASIDE THE JUDGMENT AND ORDER OF ACQUITTAL DATED 30.11.2018 PASSED BY THE LEARNED III ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K., MANGALURU IN S.C.NO.38/2015 ACQUITTING THE RESPONDENTS/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 302, 448, 457 AND 380 READ WITH SECTIONS 511 AND 34 OF IPC AND ALSO CONVICT RESPONDENT NOS.1 AND 2/ACCUSED ABOVE NAMED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 302, 448, 457 AND 380 READ WITH SECTIONS 511 AND 34 OF IPC

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH  
and  
HON'BLE MR. JUSTICE B.PRAMOD



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**ORAL JUDGMENT**

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

Heard the learned HCCP for the State and learned counsel appearing for the respondents/accused.

2. This appeal is filed against the judgment of acquittal dated 30.11.2018 passed in SC.No.38 of 2015 by the III Additional District and Sessions judge, D.K. Mangaluru, for the offences punishable under Sections 302, 448, 457, 380 read with 511 and 34 of IPC and prayed this Court to convict the accused by setting aside the judgment of acquittal.

3. The factual matrix of the case of the prosecution is that on the intervening night of 20.09.2014 and 21.09.2014 at 01.45 am, the accused persons committed house breaking of PW1-Smt. Bharathi Jagadish bearing House name, 'Vajra', Door No.3-33/2917.4-(1), situated at Chandrika Layout, Netaji Subhashchandra Bose Road, Bejai, Mangaluru, with an intention to commit theft and



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had entered into the said house, accused No.2 held the legs of deceased with his hands, accused No.1 slit his neck with a knife and murdered him and the same was witnessed by PW.1, who is the wife of deceased. The accused persons were arrested in another case and accordingly, the Investigating Officer took the accused persons to police custody on 11.11.2014 and subjected them for interrogation.

3.1. It is also the case of the prosecution that based on the voluntary statements of the accused, recovered the weapons used for commission of offence and cloths belonged to the accused and recorded their statements, filed charge sheet and thereafter the matter was committed to the Sessions Court in compliance of Section 207 of Code of Criminal Procedure. The accused were secured before the Trial Court and they did not plead guilty and claimed trial.



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3.2. The prosecution, in order to prove its case, examined PW1 to PW20 and got marked documents Exhibit P.1 to Exhibit P.73 and also got marked material objects as MO1 to MO13. On closure of the evidence of prosecution, statements of the accused under Section 313 Cr.PC were recorded. The accused have totally denied the case of prosecution and submitted their written statement and copies of some judgments passed in the proceedings against them. They also summoned a witness and examined him as DW1 and got marked the documents as per Exhibit D.1 to D.11.

3.3. The prosecution has mainly relied upon both oral and documentary evidence particularly evidence of PW1 as she witnessed the incident and also identified accused No.2 in the Test Identification Parade conducted by PW16. The Trial Court having taken note of evidence of PW7 who is the recovery witness, evidence of Post Mortem Report, and the medical evidence of Doctors who have been



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examined as PW.11, PW.12, PW.13 and so also the experts who have conducted the tests regarding seizure of the cloths, which were sent to the FSL, comes to the conclusion that the very identification made by PW1 is doubtful. The PW1 claims that she has witnessed the accused on the strength of street light and the Trial Court has taken note of the fact that Investigating Officer, who conducted the investigation has failed to collect any material regarding the very existence of the street light and the evidence of star witness for the prosecution i.e. PW1. The Trial Court also took note of the Test Identification Parade conducted by PW16, held in the month of January, 2015 and also taken note of the contents of Exhibit P1 in paragraph No.39 that at the time of giving statement about the incident, PW1 has specifically stated that room was dark when she woke up on hearing the scream of her husband. Further, in her complaint, PW1 has used a word 'ತಡಕಾಡಿದಾಗ' which



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indicates that after waking up PW1 could not see her suspect and she had made efforts to reach him by using her hands. PW1 has reiterated said word during her examination-in-chief. Thereby the materials on record create a reasonable doubt as to there being sufficient light in the room i.e. street light passing through the windows of the room, so that PW1 could see the face of the offenders in her bedroom and hence doubtedly may be identifying the accused at the time of conducting the Test Identification Parade and so also the evidence of PW16 in paragraph No.43, the Trial Court also took note of in paragraph No.42 with regard to the evidence of PW.1, rough sketch marked at Exhibit P31 and spot sketch marked at Exhibit P20 show the police where the body of the deceased was found as the spot of the crime, though the injury was inflicted in the bedroom of the house. Thereby the prosecution has failed to place corroborative evidence to support the claim of PW1 and probabilsed she



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having seen the base of the offenders before they ran away from the place.

4. The Trial Court also having discussed in detail with regard to the evidence of PW.16 is concerned and comes to the conclusion that regarding seizure of the clothes of the accused persons containing human blood based on the voluntary statement of the accused persons and that those materials to prove the involvement of the accused in the crime. The prosecution mainly relies upon the evidence of PW7 and produced the seizure mahazar at Exhibit P.5 and got marked the same as MO.6 to MO.11. The Trial Court having discussed in detail in paragraph No.45 that Urva Police had apprehended the accused persons on 06.10.2014 in connection with a case in Crime No.99 of 2014. PW17 has stated that on 06.10.2014 he had subjected the accused persons for interrogation, during which the accused persons gave voluntary statement admitting their offence including the crime pertaining to this case.



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4.1. The Trial Court also took note of the fact that during course of investigation till 18.10.2024, no effort was made to secure the presence of the accused persons and PW20 has claimed that only on 18.10.2014 he learnt about arrest of the accused persons and on the same day he applied for police custody. It seems even then PW20 did not make effort to get custody of the accused persons at the earliest point of time. The concerned Magistrate has passed an order on 11.11.2014 and gave the accused persons to the custody of PW20. The Trial Court took note of there was a delay even though arrested on 06.10.2014 and voluntary statement of the accused admitting the guilt of this crime long back on 06.10.2014 and subsequently on 11.11.2014 only made an effort to make the recoveries. The Trial Court also took note of in paragraph No.46 that without weapons which were recovered from a vacant site situated near the house of PW1, at the instance of accused No.1 and 2. Though PW7 has supported the case of the prosecution by stating that the



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weapons marked MO.6 and MO.7 had been recovered in his presence and at the instance of the accused persons, which contained the blood stains. The Investigating Officer PW20 and PW11, the Scientific Officer of RFSL have stated that blood stains were found on the knife as well as on the sickle in question. However, it is to be noted that seizure mahazar marked as Exhibit P.5 does not contain any mention regarding blood stains found on the sickle, seized at the instance of the accused.

4.2. Further, it is the specific case of the prosecution that MOs.1 and 2 has caused murder of Jagadish K by slitting his neck with a knife while accused No.2 was holding the legs of the deceased. Hence, the Trial Court made an observation that there is a reasonable doubt arises to use of sickle for commission of the offence and there being any chance to find any blood stain on it as claimed by PW7, PW11 and PW20. The recovered bloodstain cloths of the accused persons marked at MOs.8



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to 11 as per the voluntary statement. The Court finds that a reasonable doubt emanates from the face of the case as to there being any chance to occur bloodstains on the clothes of both the offenders, particularly on the clothes of accused No.2 when the injury was allegedly caused by accused No.1, on the neck of the victim and who was on sleep and while accused No.2 was holding the legs of the deceased, the Trial Court indeed has taken note of the material and also taken note of the weapons are seized in the open place that is admitted by PW.20-IO and considering the material on record that the investigation had not learnt about the theft of a knife or sickle from the house of PW1. Even then, Investigating Officer has stated that he got identified the weapons through PW1 that too in the police station. The same are seized on 12.11.2014 from his site and in detail discussed the same in paragraph No.15. The Trial Court also took of evidence of PW.1 with regard to the nature of the weapon which was seized in paragraph 16 i.e. machete and also the knife and the front



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portion of knife was not sharp. However, identity of the knife and the machete are belongs to their house only.

4.3. Having considered all these materials, the Trial Court comes to the conclusion that the very case of the prosecution is doubtful with regard to the recovery and also involvement of these accused persons and also recovery is made belatedly although they were apprehended in the month of October, recovery was made in the month of November and incident was taken place in the month of September and also when the knife and machete were thrown in the open place, the very finding of the blood stains in both the weapons and when only one weapon was used for splitting the neck of the deceased by accused No.1 comes to a conclusion that very case of prosecution is doubtful and acquitted the accused persons.

5. Being aggrieved by the judgment of acquittal, the present appeal has been preferred by the State.



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6. The learned HCGP for the State, in his argument, would vehemently contend that even though the weapons were recovered belatedly, but the evidence of PW7 is very consistent with regard to the recovery of the weapons as well as cloths of the accused. He would contend that the RFSL Report Exhibit P.10 is very clear that it belongs to the blood group of the deceased i.e. 'O' group and also PW1 has identified the accused during the Test Identification Parade by PW16-Tahsildar. He would vehemently contend that when the recovery was made and the same is proved and including the incriminating materials of blood stains found in the weapons MO.6 to MO.11 i.e. knife and sickle as well as the cloths of the accused persons, but the Trial Court has committed an error in acquitting by extending the benefit of doubt in favour of the accused persons. Hence, he prays this Court to reconsider the evidence available on record and convict the accused persons.



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7. Per contra, learned counsel appearing for the respondents/accused persons would vehemently contend that the incident was taken place on the intervening night of 20/21.09.2014 and the accused persons were arrested on 06.10.2014 in connection with other Crime 99 of 2014 of Urva Police. But when the accused persons have admitted their guilt with regard to this offence is concerned and an effort was made by the IO PW20, belatedly took his custody in the month of November. The seizure was also very delayed and question of blood stains found in the weapons and also the cloths after long gap of more than two months is very doubtful and therefore the Trial Court rightly comes to the conclusion that there cannot be any blood stains on both the weapons. That the very case of the prosecution is that only knife was used for slit the neck of the deceased by accused No.1 and question of blood stains in other weapon i.e. sickle does not arise and that is not the case of the prosecution that other sickle was also used for committing the offence and



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hence rightly comes to the conclusion that the very case of prosecution is doubtful. The learned counsel further contend with regard to the recovery of cloths is concerned, though PW7, who is examined before the Court, has categorically admits that while conducting the recovery at the instance of the accused persons he never signed the documents at the spot that is the clear admission and hence this evidence cannot be accepted. The counsel also vehemently contend that when the case rests upon the circumstantial evidence and though PW1 is an eye-witness, but she has not identified accused Nos.1, but only identified accused No.2 in the same parade. No evidence before the Court that there was an existence of electric pole near the place. The Trial Court took note of the evidence that there was dark night and she could not find any persons including her husband at the time of the incident. When such evidence is considered by the Trial Court, question of perversity finding of the Trial Court doesn't arise.



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8. Having considered the contentions taken by the learned HCGP and learned counsel appearing for the respondent Nos.1 and 2/accused and also on re-appreciation of evidence available on record both oral and documentary evidence, the points that would arise for the consideration of this Court are:

*i) Whether the Trial Court has committed an error in acquitting the accused for the offences punishable under Sections 302, 448, 457, 380 read with 511 and 34 of IPC and whether it requires interference of this Court?*

*ii) What order?*

**Regarding Point No.(i):**

9. Having heard the learned counsel for the respective parties, it is not in dispute that the incident has taken place on the intervening night of 20/21.09.2014 at 01.45 p.m. It is also not in dispute that deceased and the wife were there in the house. It is also important to note that PW1 claims that she had witnessed the accused persons with the help of street light and to that effect the



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Trial Court has taken note of the evidence of PW1 as well as the evidence of I.O and not found any such electric pole near the bedroom and that she could identify the accused persons. It is also important to note that the Trial Court in paragraph No.14, taken note of the evidence of PW1 and also the contents of Exhibit P1 wherein she has stated that when her husband screamed, she was awakened and in the dark night when she searched her husband, she found two persons and the word used is 'ತಡಕಾಡಿದಾಗ', which indicates that after waking up, PW1 could not see her husband and she has made her efforts to reach him by using her hands. The same was taken note of in paragraph No.39 and also in paragraph Nos.40, 41 and 42, the evidence of PW1 and also the sketch Exhibit P.20 and also the evidence of PW1, it clearly disclose that the same does not probabilise that she had seen the face of the offenders before they ran away from the place.



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10. It is important to note that, it is also the case of PW1 and PW2 that weapons which have been seized belonged to them only. The Trial Court took note of the fact that these weapons were seized subsequently and the charge is also that accused No.1 slit the neck of the deceased and also the admission on the part of PW1 is very clear that the nature of the knife is not sharp and so also the sickle. It is the case of prosecution that in the incident only seen the knife which has been used for commission of offence. It is very clear that according to the RFSL Report that both the weapons were having blood stains. But there is no any explanation on the part of the prosecution with regard to using of both the weapons as well as both are stained with the blood. Apart from that, when the mahazar was conducted also there is no any mention of that both the weapons are stained with blood and the same is also took note of by the Trial Court while appreciating the evidence available on record.



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11. It is also important to note that when PW7 who is an independent witness to recovery of these weapons and the MOs and also the cloths of the accused and he categorically says that he had not signed any of such mahazars at the spot. When such being the case, the very seizure itself is doubtful. The Trial Court also took note of that incident was taken place in the month of September and accused persons admitted their guilt on 06.10.2014 and they were taken to custody on 11.10.2014 and seizure was made on 12.11.2014 and also both the weapons were lying in the open place, even according to the evidence of the IO also. When such being the case, when the weapons are lying in the open place, that too for a period of almost two months, the very weapons are stained with blood is also doubtful. The RFSL Report at Exhibit P10, though it is stated that the blood group is 'O' group, with regard to the very seizure itself is doubtful. The very case of the prosecution that both the weapons are containing the blood also cannot be accepted and so also it is the case of



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the prosecution that only accused No.1 slit the deceased by using the knife and how the cloths of the accused No.2 also stained with blood, there is no any explanation even though there was a recovery of cloths of accused Nos.1 and 2 and says that both the accused persons' cloths are stained with blood. The very seizure of stained MOs and also the stained cloths of the accused persons is also doubtful.

12. PW1 also says that when she visited Kadri police station on 12th of November, the police officials showed the knife and the sickle and also witnessed the nature of weapon. If it is seized at the instance of the PW.7, how could it will be opened. Where the instead of the one witnessed the same is also doubtful circumstances and if it is seized at the instance of the Panchas and ought to have been seized with seal and the same ought to have sent to the RFSL. But very seizure with seizing the same and sealed the same and sent the same to the RFSL also very doubtful and even though the FSL report Exhibit P10



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is positive and the same cannot be taken into consideration that prosecution has proved the case.

13. Having taken note of all materials available on record, though the incident has taken place in the intervening night and the death of the deceased is also homicidal, but in order to convict the accused persons, there is no any credible evidence before the Court and unless the present evidence is placed before the Court, the question of connecting the accused doesn't arise. The prosecution has failed to prove the guilt of the accused beyond reasonable doubt.

14. When such materials were assessed by the Trial Court by considering the same, rightly comes to the conclusion that the evidence of the prosecution witnesses not corroborates with each other and there are inconsistencies in the evidence of the prosecution witnesses. When such a reasoned order is given by the Trial Court, we do not find any ground to interfere with the



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findings of the Trial Court and the same not comes within the principles of the judgment of the Apex Court in the **MALLAPPA AND OTHERS V/s. STATE OF KARNATAKA** reported in **2024 (3) SCC 544** and while reversing the judgment of acquittal into conviction, there must be cogent and convincing evidence and only if perversity is found, the Court can reverse the same. Hence, we answer the point No.(i) in the Negative.

**Regarding Point No.(ii):**

15. In view of the discussions made above, we pass the following:

ORDER

The appeal is dismissed.

**Sd/-**  
**(H.P.SANDESH)**  
**JUDGE**

**Sd/-**  
**(B.PRAMOD)**  
**JUDGE**