



CNR: KAHC010188592019

NC: 2026:KHC:46821-DB
CRL.A No. 1260 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF AUGUST, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.1260 OF 2019

BETWEEN:

1. THE STATE OF KARNATAKA
BY YADATI POLICE STATION
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560 001.

...APPELLANT

(BY SRI. CHENNAPPA ERAPPA, HCGP)

AND:

1. NAVEEN P.,
S/O PARAMESHWARAPPA
AGED ABOUT 27 YEARS
R/O KOTTIGERE
YAGATI HOBLI
KADUR TALUK
CHIKKAMAGALURU-577548.

...RESPONDENT

(BY SRI. CHANDRASHEKAR, ADVOCATE FOR
SRI. KASHINATH J.D., ADVOCATE)

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by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) OF CR.P.C PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 25.10.2018 PASSED BY THE LEARNED I ADDITIONAL SESSIONS AND SPECIAL JUDGE, CHIKKAMAGALURU IN S.C.NO.37/2016, IN SO FAR AS IT RELATED TO ACQUITTING THE ACCUSED/RESPONDENT FOR THE OFFENCE PUNISHABLE UNDER SECTION 324, 504, 506, 307 AND 302 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

ORAL JUDGMENT

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

Heard learned High Court Government Pleader for the appellant and learned counsel for the respondent.

2. This appeal is filed against the judgment of acquittal passed by the Trial Court in S.C.No.37/2016 dated 25.10.2018 and prays this Court to convict and sentence the accused.

3. The factual matrix of case of the prosecution before the Trial Court is that on 26.12.2015 at 05.30 p.m., deceased Ammayamma was sitting on Jagali of her house at Kothigere Village, Kadur Taluk. At that time, the accused, who is her grandson came there and asked money for drinking alcohol.



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When Ammayamma refused to give money, the accused abused her in filthy language and told that he would not leave her. By saying so, the accused by holding a big stone in his hand moved towards Ammayamma and the same is witnessed by Sharadamma and in turn, she informed the same to Chandrappa, Basavarajappa and Nethramma. All of them rushed to the spot and saw that accused was standing near Ammayamma by holding a stone. When both of them went near the accused and told that if he hit Ammayamma, she would die, the accused bashed with the said stone. As a result, she had sustained severe injuries. When C.W.1 and C.W.2 tried to rescue, at that time, the accused inflicted injury on both of them with the sickle. As a result, both of them have sustained injuries. When injured Ammayamma was taken to the hospital, she died due to the injuries sustained by her. Hence, complaint was filed, case was registered and police investigated the matter and filed charge sheet for the offence punishable under Sections 324, 504, 506, 307 and 302 of IPC. The accused was secured before the Trial Court and he did not plead guilty and claims the trial.



4. Hence, the prosecution examined P.W.1 to P.W.18 and got marked the documents Exs.P1 to P29. M.O.1 to M.O.7 are also marked.

5. The Trial Court having considered the material on record comes to the conclusion that evidence of prosecution witnesses, particularly P.W.1, P.W.2 and P.W.6 are contrary to each other and the very presence of these witnesses witnessing the incident not inspires the confidence of the Court. The testimony of eyewitnesses is not credible. They being the interested witnesses, it is necessary to insist upon corroboration from independent witnesses. But, no such corroboration is available in the case on hand. The evidence of P.W.1, P.W.2 and P.W.6 are contradictory to each other. Though M.O.2 is also identified, but M.O.2 would not cause any injury as sustained by P.W.2. The M.O.1-stone, the manner of assault as testified by P.W.1, P.W.2 and P.W.5 seems improbable. The Trial Court also taken note of medical evidence. Though P.W.2 claims that he had sustained injuries caused by M.O.2, the Doctor has opined that injury found on P.W.2 may not happen if assaulted with M.O.2 and the same



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would cause only with blunt weapon. The delay in delivery of FIR is also taken note of, since the same was given to the Court on the next day at 11.45 a.m., though incident has taken place on the previous day and case was registered on the previous day itself.

6. Having considered the material available on record, the Trial Court comes to the conclusion that evidence of P.W.1, P.W.2 and so also P.W.6 do not inspire the confidence of the Court and the very presence of the accused at the spot itself is doubtful. In respect of injuries sustained by P.W.1 is also concerned, the Doctor has admitted that such kind of injuries may happen, if a person slips and falls on a surface. Hence, comes to the conclusion that it is difficult to hold that death of deceased Ammayamma is a homicide and given the benefit of doubt in favour of the accused that prosecution has not proved the case. Being aggrieved by the judgment of acquittal, present appeal is filed by the State.

7. The learned High Court Government Pleader appearing for the State would vehemently contend that when the evidence of eye witness inspires the confidence of Court,



the Trial Court committed an error in disbelieving the evidence of P.W.1 and P.W.2, who have sustained the injuries in the incident and also failed to take note of the evidence of P.W.6, who also deposes with regard to the incident and erroneously comes to the conclusion that evidence of P.W.1, P.W.2. and P.W.6 are contradictory to each other. The Trial Court also committed an error in coming to the conclusion that medical evidence not supports the case of prosecution that P.W.2 had sustained injuries by use of M.O.2 and the same not tallies with each other and erroneously comes to the conclusion that very death of the victim and also the very presence of the witnesses is doubtful. It is contended that the very approach of the Trial Court is erroneous and it requires interference of this Court.

8. Per contra, learned counsel appearing for the respondent would submit that material on record is properly considered by the Trial Court and the Trial Court taken note of contradictions in the evidence of P.W.1, P.W.2 and P.W.6, who are the eyewitnesses to the incident and their evidence is contradictory to each other. Apart from that, medical evidence



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is also taken note of by the Trial Court and rightly acquitted the accused and it does not require any interference.

9. Having heard the learned High Court Government Pleader for the State and also learned counsel appearing for the respondent and also on re-appreciation of material available on record, the points that would arise for consideration of this Court are:-

- (i) Whether the Trial Court committed an error in acquitting the accused and whether it requires interference of this Court converting the acquittal into conviction?
- (ii) What order?

Point No.(i)

10. Having heard the respective counsels and also on perusal of the material, according to the prosecution, incident has taken place on 26.12.2015 at 5.30 p.m. The witnesses, who have been relied upon before the Trial Court are the family members i.e., P.W.1 and P.W.2 and other independent witness is P.W.6. The Trial Court also taken note of contradiction in



respect of the very incident is concerned and so also the nature of injuries sustained by P.W.1 and P.W.2. It is the evidence of P.W.2 that he had sustained the injuries when he tried to rescue the victim. So also, it is the evidence of P.W.1 that when he tried to rescue the victim, at that time, when he tried to ward off the said blow, the accused inflicted injury with the very same sickle and he sustained injury to the finger.

11. No doubt, the medical evidence i.e., wound certificate is very clear that P.W.1 has sustained injuries, the same is simple injury. But, the evidence of the Doctor is very clear that, if a person falls on the hard surface, he might sustain the injuries mentioned in the wound certificate. So also, in respect of P.W.2 is concerned, he had suffered three injuries as mentioned in wound certificate in terms of Ex.P16. But the opinion of the Doctor is that the injuries are simple in nature caused by blunt object. But, the P.W.2 says that accused caused the injury with sickle and there is a material contradiction in the evidence of P.W.2 as well as opinion of the Doctor and the evidence of the Doctor, who has been examined is not in consonance with the evidence of P.W.1 and P.W.2. The



Trial Court also taken note of nature of injuries sustained by P.W.1 and P.W.2 and also the evidence available on record, particularly, the admissions on the part of P.W.1, P.W.2 and P.W.6 with regard to the very presence of the witnesses, who have witnessed the incident.

12. When such being the material contradictions available on record, the medical evidence also not supports the case of the prosecution and the Trial Court also considering the material on record comes to the conclusion that prosecution have not examined any independent witnesses to prove the incident, except the relative witnesses i.e., P.W.1 and P.W.2. P.W.6-Nethramma has gone one step further and has testified that neighbours were trying to prevent the accused by holding him from assaulting Ammayamma. When such evidence is given by P.W.6, the same is not supported by examining any independent witnesses. No such independent witnesses have been examined by the prosecution to prove the charges. Failure of the prosecution in this regard draws an adverse inference against them. Unless and until the prosecution wanted to



suppress the evidence of independent witnesses, there were no need for them to have omitted to cite these witnesses.

13. Apart from that medical evidence is also taken note of by the Trial Court and particularly in paragraph No.35 comes to the conclusion that evidence of P.W.1, P.W.2 and P.W.6 is contradictory to each other with regard to the very incident is concerned. Though, it is contented that M.O.1 was used to assault P.W.2, but the same is not in consonance with the medical evidence. M.O.1 stone, the manner of assault as testified by P.W.1, P.W.2 and P.W.5 seems improbable considering the nature of injuries sustained by the deceased as well as the injured witnesses P.W.1 and P.W.2 and medical evidence is also contradictory to each other. But, the medical evidence itself is in conflict with the very evidence of P.W.1 and P.W.2 and the same is taken note of in paragraph No.35. The Doctor has opined that injuries sustained by P.W.2 may not happen if assaulted with M.O.2 and also taken note that there was delay in registering the case and sending the same to the Court. The FIR was sent to the Court on next day at 11.45 and the same is very clear that investigation, including recovery of



M.O.2 is doubtful and it appears that with due deliberation, a case was registered and next day, the FIR was sent to the Court.

14. Having taken note of all these factual aspects, when the medical evidence and the evidence of P.W.1 and P.W.2 which the prosecution relies upon are contradictory to each other, it is difficult to hold that death of deceased Ammayamma is a homicide and the said reasoning given by the Trial Court is also based on material on material available record. There is no chain link with regard to nature of injuries sustained by P.W.1 and P.W.2, who claim that they are the eye witnesses and the medical evidence not support their oral evidence and all these materials were taken note of by the Trial Court while extending the benefit of doubt in favour of the accused. When such being the case, having re-appreciated both oral and documentary evidence, we are of the opinion that not a case to acquit and sentence the accused from reversing the judgment of acquittal into conviction.

15. In view of the judgment of the Apex Court in **MALLAPPA AND OTHERS v. STATE OF KARNATAKA**



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reported in **(2024) 3 SCC 544** has held that unless perversity is found and the evidence has not been considered which leads to miscarriage of justice, question of interfering with judgment of acquittal and converting the same for conviction does not arise.

Point No.(ii)

16. In view of the discussion made above, we pass the following:

ORDER

The appeal is dismissed.

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

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

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List No.: 1 Sl No.: 15