



CNR: KAHC010199892021

NC: 2026:KHC:52377-DB
CRL.A No. 677 of 2021

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 22ND DAY OF SEPTEMBER, 2026
PRESENT**

**THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
AND**

**THE HON'BLE MR. JUSTICE B.PRAMOD
CRIMINAL APPEAL NO.677 OF 2021 (C)**

BETWEEN:

ARUL SARGUNAM @ ARUL @ KUINA
S/O. GOVINDARAJU
AGED ABOUT 22 YEARS
R/AT OPP. MARIYAMMA TEMPLE
'E' BLOCK, DODDANNA NAGAR
KAVAL BYRASANDRA
BENGALURU-560 032

...APPELLANT

(BY SRI VINAYAKA V. S., ADVOCATE)

AND:

STATE OF KARNATAKA
BY D. J. HALLI POLICE STATION
BENGALURU-560 084
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560 001

...RESPONDENT

(BY SRI VIJAYKUMAR MAJAGE, S.P.P.-II A/W
SRI RANGASWAMY R., H.C.G.P.)

Digitally signed
by
SHARADAVANI
B

Location: HIGH
COURT OF
KARNATAKA



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THIS CRL.A. IS FILED U/S.374(2) OF CR.PC BY THE ADVOCATE FOR THE APPELLANT PRAYING TO SET ASIDE THE ORDER OF CONVICTION AND SENTENCE DATED 10.03.2021 PASSED BY THE LVII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, MAYO HALL UNIT, BENGALURU (CCH-58) IN S.C.NO.321/2014, CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION 302 OF IPC.

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

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE B.PRAMOD

ORAL JUDGMENT

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

This appeal is preferred by accused No.1, who has been held guilty by the trial Court for the offence punishable under Section 302 of IPC in S.C.No.321/2014.

2. Charge sheet was filed against accused Nos.1 to 5 and others, showing accused No.5 as absconding, for the offences punishable under Sections 143, 157, 148, 307 read with 149 of IPC.



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3. Initially, charges were framed against accused Nos.1 to 4. During trial, accused No.2 was reported to be dead. Hence, case against him was abated. Accused Nos. 1, 3, 4 and 5 were tried by the Court of 57th Additional City Civil and Sessions Judge, Mayo Hall Unit, Bengaluru, in S.C.No.321/2014.

4. The prosecution got examined 30 witnesses and got marked 35 documents and 21 material objects. The learned Sessions Judge, on appreciation of evidence and material on record, held the accused No.1 guilty of the offence punishable under Section 302 IPC. He was, however, held not guilty for the offence punishable under Section 307 of IPC. The accused Nos.3 and 4 were acquitted of the charges leveled against them.

5. We have heard the learned counsel Sri.Vinayaka V S appearing for the appellant, Sri.Vijaykumar Majage, learned Special Public Prosecutor -



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II appearing for the State. Perused the evidence and material on record.

6. Briefly stated, the case of the prosecution is that on 08.07.2013 at about 08.30 p.m., all the accused formed an unlawful assembly near Muthumariyamma Temple, Srinivasanagara, Sakrimandi, Devara Jeevana Halli, Bengaluru, armed with knife and clubs and picked up quarrel with deceased Satish. Accused No.1 stabbed him on his abdomen and inflicted injuries to the complainant-PW.1 on his right lips etc., with an intention to commit murder. Accused Nos.2 to 5 caught hold of deceased, when accused No.1 stabbed him. Satish succumbed to the injuries on the way to the hospital.

7. Based on the complaint lodged by PW.1, a case was registered in Crime No.246/2013 of Devara Jeevana Halli, Bengaluru City, against accused Nos. 1 and others for the offences punishable under Sections 302, 307 read with Section 34 of IPC.



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8. The learned trial Court framed the following points for consideration:

"1. Whether the prosecution proves beyond all reasonable doubt that on 8.7.2013 at about 8.30 p.m. near Government Ration shop, Sakkare Mandi, within the jurisdiction of D.J.Halli Police Station, the accused persons along with deceased accused No.2 and absconding accused No.5, formed an unlawful assembly with an intention to cause rioting and thereby committed an offence punishable u/S.143 of IPC?

2. Whether the prosecution proves beyond all reasonable doubt that the accused persons along with deceased accused No.2 and absconding accused No.5, on the above said date, time and place with common object committed rioting with an intention to assault Satish and thereby committed an offence punishable u/S.147 r/w.149 of IPC?

3. Whether the prosecution proves beyond all reasonable doubt that the accused persons along with deceased accused No.2 and absconding accused No.5, on the above said date, time and place with common object, armed with deadly



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weapons and thereby committed an offence punishable u/S.148 r/w.149 of IPC?

4. Whether the prosecution proves beyond all reasonable doubt that the accused persons along with deceased accused No.2 and absconding accused No.5, on the above said date, time and place the accused No.1 attacked complainant on his face with knife with an intention to kill him and other accused held Satish and thereby committed an offence punishable u/S.307 r/w.149 of IPC?

5. Whether the prosecution proves beyond all reasonable doubt that the accused persons along with deceased accused No.2 and absconding accused No.5, on the above said date, time and place with common object caused rioting and when Satish objected, the accused No.1 had attacked with knife on the stomach of Satish resulted with Satish suffered bleeding injury and succumbed to the injury and thereby committed an offence punishable u/S.302 r/w.149 of IPC?

6. What order?"



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9. Points No.1 to 4 were answered in the negative, whereas point No.5 was answered in the affirmative, against accused No.1 and in the negative against accused Nos. 3 and 4.

10. While acquitting accused Nos.3 and 4, the trial Court came to the conclusion that the evidence does not reflect that all the accused were armed with deadly weapons, on the other hand, according to prosecution only accused No.1 was holding a knife and two other accused were holding the hands of the deceased, Satish. Further, noticing the discrepancy in the evidence of the prosecution witnesses, the said accused namely accused Nos. 3 and 4 were held not guilty of the charges leveled against them.

11. Insofar as acquittal of accused No.1 for the offence punishable under Section 307 of IPC, for making an attempt on the life of PW.1-complainant with a knife, the trial Court has noticed discrepancies in the evidence of PW.1 and the complaint at Ex.P1. As per complaint



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averments, the accused who stabbed the deceased with a knife also inflicted injuries to the complainant on his right chin etc., whereas, in the evidence, PW.1 has deposed that one Prabhu i.e., accused No.2 assaulted on his cheek with a knife and also assaulted with a club on his head. The learned Sessions Judge has also noticed that none of the witnesses have deposed about the assault made by the accused persons on PW.1. Hence, the trial Court held that the prosecution has failed to prove that accused No.1 assaulted PW.1 with an intention to commit the murder.

12. Assailing the conviction of the appellant/accused No.1 for the offence punishable under Section 302 of IPC, learned counsel Sri.Vinayaka V S, would vehemently contend that the accused is a stranger to the so called eyewitnesses and therefore, without conducting a Test Identification Parade, it cannot be said that it was accused No.1, who stabbed the deceased. He argued that the credibility of the



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complainant-PW.1 raises suspicion, as he has admitted that he came to know the name of the accused later. He contended that according to PW.1, he along with PWs.13 and 16 shifted the deceased to the hospital, whereas the evidence of PW.13 is contrary, wherein he has stated that on hearing regarding shifting of the deceased, he went to the hospital. He contended that, as per prosecution, accused No.1 stabbed the deceased and other accused were holding him tightly. However, the trial Court has acquitted other accused and also acquitted accused No.1. of the offence punishable under Section 307 of IPC. He contended that, without the aid of other accused, accused No.1 alone could not have stabbed the deceased and since the trial Court has disbelieved the evidence of PW.1 with regard to the injuries inflicted by accused No.1 on his face etc., his evidence that accused No.1 has stabbed the deceased also cannot be accepted. He further contended that there is discrepancy in the evidence regarding recovery of knife and clothes as the recovery was effected



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at the instance of all the accused and the FSL report does not indicate that the blood group of the deceased was ascertained. He therefore contended that, the prosecution has failed to establish the recovery evidence.

13. Per contra, learned SPP-II contended that the complaint was lodged without loss of time, the name of accused No.1 finds a place in the complaint and FIR, eyewitnesses PWs.1, 4, 5 and 14 have supported the case of the prosecution. He contended that all the witnesses have stated that accused No.1 has stabbed the deceased with knife on the abdomen and therefore, the minor discrepancies which appeared in the evidence of the prosecution witnesses will not discredit the evidence of the eyewitnesses. He contended that the trial Court having regard to the entire evidence and material on record, has rightly come to the conclusion that accused No.1 is guilty of the offence punishable under section 302 of IPC.



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14. This is a case based on direct evidence. The complainant-Rajan is an injured witness. PWs.4, 5 and 14 are other eye witnesses to the incident.

15. A perusal of the complaint averments goes to show that the complainant had met the deceased Satish near his house. After talking for a while, when he was proceeding to his house, a person came and stabbed Satish on his abdomen, eye brow and upper lip etc., and immediately Satish screamed and collapsed. The said accused also stabbed the complainant on his face etc. Thereafter, he ran away holding the knife. It is stated in Ex.P1 that, the complainant came to know the name of the accused who stabbed the deceased as one Arul Sargunam @ Arul @ Kuina brother of one Magiya i.e., accused No.1.

16. A perusal of the evidence of PW.1 goes to show that the deceased Satish was his friend and their houses were situated at a distance of 50 mtrs. from the place of incident and the house of the deceased was at a distance



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of 100 mtrs. from the house of PW.1. Both were born and brought up in the same area. In the cross-examination, PW.1 has stated that when he was at a distance of 5 feet, the deceased was stabbed and he along with Jayakumar (PW.16) and Senthil (PW.13) shifted the deceased in the autorickshaw to the hospital.

17. The presence of PW.1 at the spot, cannot be doubted. PW.1 also sustained injuries, which is evident from the wound certificate-Ex.P27. It is contended by the learned counsel for the appellant that the doctor who treated PW.1 has not been examined before the Court and therefore, it is not proved that PW.1 sustained injuries during the incident. The said contention cannot be accepted. The wound certificate-Ex.P27 marked through the I.O. clearly reveals that PW.1 was stabbed with a knife on 8.7.2013 around 8.30 p.m. The history furnished was that, he was assaulted by Arul Sargunam @ Kuina i.e., accused No.1. The trial court has acquitted accused No.1



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of the offence punishable under Section 307 of IPC as there are contradictions with regard to the person who assaulted him. However, the fact that PW.1 sustained injury in the incident, has been very much established not only by the evidence of PW1, but also from the wound certificate-Ex.P27 and the evidence of PW.4, PW.5 and PW.14.

18. Both PW.4 and PW.5 have deposed about the deceased sustaining stab injuries on his abdomen. The said witnesses have identified accused No.1 before the Court as the one who stabbed the deceased with a knife. PW.14, another eye witness has also stated that accused No.1 stabbed the deceased on his forehead and abdomen. The discrepancies pointed out by the learned counsel for the appellant do not go to the root of the prosecution case. PW.1 as well as PW.4, PW.5 and PW.14 have categorically stated that it is accused No.1, who stabbed the deceased with a knife. They have identified accused



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No.1 before the Court and therefore, merely because the test identification parade was not conducted, that itself is not a ground to disbelieve their evidence.

19. As per the post mortem report, the deceased had sustained the following external injuries:

1. *"Lacerated wound present over the outer (torn) lateral aspect of right eye-brow measuring 3 cm x 1.5 cm x bone depth (0.5 cm).*
2. *Lacerated wound present over the middle 1/3rd of the right upper lip measuring 2 cm x 1.5 cm x Muscle depth (0.3 cm).*
3. *Obliquely placed spindle shaped stab wound present over the left inguinal region measuring 2.5 cm x 2 cm x 4 cm depth. The upper outer end of the wound is pointed. The lower inner end of the wound is pointed. The margins of the wound are clean cut. The centre of the wound is situated 60 cms below the left acromion process and 15 cms from the left anterior superior iliac spine.*



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4. *Lacerated wound present over the back of left elbow measuring 4 cm x 1.5 cm x joint depth exposing the olecranon bone."*

20. PW.9, who issued the post mortem report has opined that the death was due to shock and hemorrhage consequent to homicidal injuries sustained.

21. Learned counsel for the appellant contended that as per the I.O., PW.9 was not the doctor who conducted the post mortem. However, the cause of death is not in dispute. Further, Ex.P6 clearly reveals that the autopsy was conducted by Dr.B.M.Nagaraju i.e., PW.9.

22. As per prosecution, a blood stained knife (MO.3) and clubs (MO.1 and MO.2) were recovered at the instance of the accused persons. Further, MOs.12 and 13- blood stained T-shirts and MO.14-blood stained pant, were also recovered. The knife and the clothes were stained with blood, which is confirmed by the FSL report. The clothes of the deceased and the clothes of accused No.1



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i.e., MO.13 and the knife, MO3 were stained with 'A' group blood.

23. It is contended by the learned counsel for the appellant that the eyewitness-PW.5 has not identified the knife-MO.3. However, PW.1 and PW.14 have identified the knife-MO.3. The learned Sessions Judge, while appreciating the evidence of PW.5, has observed that admittedly, the incident has occurred during night hours and therefore, it is highly impossible to observe the weapon with great detail as to its size, colour, length etc.

24. The trial Court has assigned cogent and valid reasons for convicting accused No.1 for the offence punishable under Section 302 of IPC, which is based on the evidence and material on record and particularly, the evidence of the eyewitnesses-PW.1, the injured and PWs.4, 5 and 14. The findings recorded in respect of acquittal of other accused has attained finality, as there is no appeal preferred by the State. The reasons assigned



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are in accordance with law and therefore, no interference
is called for. Hence, the following:

ORDER

Appeal is **dismissed**.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

BSV, TL
List No.: 1 Sl No.: 8