



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 651 OF 2026 (C)

BETWEEN:

SRI. GOPYA NAIK
S/O SRI. KENYA NAIK,
AGED ABOUT 45 YEARS,
NOW 59 YEARS,
KYATHAGANAKERE THANDA,
PAVAGADA TALUK,
TUMKUR DISTRICT-561 202.

...APPELLANT

(BY SMT. GEETHA MISRA, ADVOCATE (PH))

AND:

STATE BY THIRUMANI POLICE
REPRESENTED BY THE SPP,
HIGH COURT OF KARNATAKA,
BANGALORE-560 001.

...RESPONDENT

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

THIS CRL.A. IS FILED U/S.374(2) (FILED U/S.415(2) BNSS) CR.P.C., PRAYING TO: (A) CALL FOR THE TRIAL COURT RECORDS; (B) SET ASIDE THE ORDER OF CONVICTION DATED 28.04.2016 IN S.C.NO.300/2012 FOR OFFENCES PUNISHABLE U/S 302 IPC PASSED BY IV ADDL. DISTRICT AND SESSIONS JUDGE, AT MADHUGIRI AND ACQUIT THE APPELLANT.



THIS APPEAL, COMING ON FOR 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)

The Judgment and Order dated 28.4.2016 passed by the Court of the IV Additional District and Sessions Judge, Madugiri in SC No.300/2012 convicting the accused for the offence punishable under Section 302 of IPC and sentencing him to undergo life imprisonment and to pay a fine of Rs.10,000/-, with default sentence for non-payment of fine, is under challenge in this appeal preferred by the accused.

2. We have heard Smt.Geetha Mishra appearing for the appellant, Sri Rahul Rai, learned HCGP for the State and perused the material on record.

3. The appellant/accused was sent for trial for committing the murder of his wife Sunandabai



on 04.07.2012 at 10.00 p.m., by assaulting her with an axe. The motive alleged is that about 5 to 6 months prior to the incident, accused had seen his wife Sunandabai in a compromising position with his brother Ramesh Nayaka and therefore, he was suspecting her fidelity and waiting for an opportunity. Hence, on 04.07.2012, at about 10.00 p.m., when his wife was alone in the kitchen, he took an axe and assaulted her with force on the right side of her neck and left ear and committed her murder.

4. As per post mortem report, the cause of death is on account of haemorrhagic shock sustained due to injury to blood vessels in the neck. Time of death is 36 to 48 hours prior to post mortem examination. The following injuries were noticed on the dead body as per the PM report:

- 1) Lacerated and cut wound over right nape of neck in lateral aspect measuring 5x1cm with 2cm depth margins are bruised and swollen.



- 2) Lacerated and cut wound over the thyroid cartilage measuring 4x1cm with 2cm depth.
- 3) Lacerated wound over the submental region measuring 4x1cm with 1cm depth.
- 4) Lacerated wound over the submandibular region of left ear measuring 3x1cm with 1cm depth.

5. Law was set into motion by Chandranayaka (PW1) brother of the deceased. Ex.P1 is the complaint, as per which, he received a phone call from Harishnayaka (PW10) son of the deceased, who informed him that his uncle Rameshnayaka had called him and told about the murder of his mother committed by his father-Gopyanayaka by assaulting her with an axe. On receiving the said information from Harishnayaka, the first informant, along with his mother Sakribai came to the house of the deceased and saw the dead body of Sunandabai, lying in a pool of blood and a blood stained axe near the dead body.



6. In this case, according to prosecution, Harishnayaka, son of the deceased informed the first informant that his mother was murdered by his father, as told to him by his uncle Rameshnayaka. The first informant-Chandranayaka is examined as PW1 and Harishnayaka is examined as PW10. However, Rameshnayaka, who, according to PW10-Harishnayaka, informed him about accused committing the murder of his mother Sunandabai, has not been examined. He is not even cited as a charge sheet witness.

7. The first informant examined as PW1 has deposed that earlier there was a quarrel between his sister and his brother-in-law i.e. the deceased and the accused. Thereafter, they came to their village. For about 15 days his sister stayed in the village and then returned to her village. After about a week, the accused committed the murder of his sister by assaulting her with an axe.

8. PW1 is not an eyewitness to the incident. The incident was reported to him by PW10-Harishnayaka. He



is also not an eyewitness. According to PW10, his uncle Rameshnayaka informed him that the accused has committed murder. Hence, Rameshnayaka is a material witness in this case. Non-examination of Rameshnayaka is therefore, fatal to the prosecution.

9. PWs.8 and 10-sons of the deceased, PW9-mother of the deceased, PW14-brother, PW15-uncle and PWs.12, 13 and 17-relatives of the deceased have all turned hostile. Further, they have denied having given statements before the police regarding the incident. Their evidence in no way help the case of prosecution in proving the charges levelled against the accused.

10. The weapon of crime i.e., blood stained axe-MO.1 was seized from the spot under Ex.P2. No incriminating articles, such as bloodstained clothes etc., were seized at the instance of the accused to match the blood stains found on the clothes of the deceased or the weapon. As per the FSL report-Ex.P27, the seized articles such as weapon and the clothes of the deceased were



stained with human blood of 'B' origin. However, that alone is not sufficient to hold that accused is the one who inflicted the blows on the deceased with MO.1 and committed her murder.

11. None of the witnesses examined by the prosecution have stated that on the date of incident, the accused and the deceased were seen together in the house where the incident took place. Moreover, as per prosecution, the incident took place on 04.07.2012 at about 10.00 p.m. The post mortem examination was conducted on 05.07.2012 at about between 5.00 p.m. to 7.00 p.m. In the post mortem report, the time of death is mentioned as 36 to 48 hours prior to post mortem examination, which does not corroborate the version of prosecution that the incident took place at 10.00 p.m. on 04.07.2012.

12. The trial Court has observed, while passing the judgment of conviction that it was for the accused to explain in his statement as to how his wife was found



murdered in the house, that too in kitchen where only family members have access and the only person who could have been there was accused. The said finding of the trial Court to convict the accused was not proper, as there is no other evidence whatsoever, which would connect the accused with the crime. Since, the prosecution case is based on circumstantial evidence, it is its primary duty to establish its case by connecting all the links in the chain of circumstances. Suspicion however grave, will not take the place of legal proof. The mere fact that the accused did not explain the incident while he was examined under Section 313 of Cr.P.C., cannot by itself, lead to an inference of guilt. That alone cannot be a ground to hold him guilty of the offence. The trial Court was therefore, not justified in recording a conviction, based on insufficient evidence adduced by the prosecution. Consequently, the judgment of conviction passed by the trial Court cannot be sustained. The impugned judgment, therefore, calls for



interference at the hands of this Court. Accordingly, the following:

ORDER

- i) The appeal is ***allowed***.
- ii) The judgment and order dated 28.04.2016 passed by the Court of IV Addl. District and Sessions Judge, Madhugiri in SC No.300/2012 convicting and sentencing the appellant/accused for the offence punishable under Sections 302 of Indian Penal Code is hereby ***set aside***.
- iii) The appellant/accused is acquitted of the offence punishable under Section 302 of Indian Penal Code.
- iv) The appellant/accused shall be set at liberty, if he is not required in any other case.



The operative portion of the order shall be notified to the concerned Jail.

IA.No.2/2026 does not survive for consideration, hence, disposed of.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE

TL/KBM
List No.: 1 Sl No.: 31