



CNR: KAHC010302742018

NC: 2026:KHC:39106-DB
CRL.A No. 2043 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 2043 OF 2018 (A)

BETWEEN:

STATE OF KARNATAKA BY
AREHALLI POLICE STATION
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING, BENGALURU-1.

...APPELLANT

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

AND:

GANESHA
S/O SAGANAIAH
AGED ABOUT 31 YEARS,
R/AT RAMANAGARA, AREHALLI TOWN,
AREHALLI HOBLI, BELUR TALUK-573115.

...RESPONDENT

(V/O DATED: 07.07.2021 SRI. N. S. SAMPANGI RAMAIAH,
AMICUS CURIAE FOR RESPONDENT.))

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 JUDGEMENT AND ORDER OF
ACQUITTAL DATED 17.07.2018 PASSED BY THE V ADDITIONAL
DISTRICT AND SESSIONS JUDGE, HASSAN IN
S.C.NO.185/2015, ACQUITTING THE RESPONDENT/ACCUSED
FOR THE OFFENCE P/U/S 302,504 AND 341 OF IPC.



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. The State has preferred this appeal, being aggrieved by the judgment of acquittal dated 17.07.2018 passed by the Court of the Vth Additional District and Sessions Judge, Hassan in Sessions Case No.185/2015, whereby the learned Sessions Judge has acquitted the respondent/accused of the offences punishable under Section 504, 341 and 302 of Indian Penal Code.

2. We have heard Sri Rahul Rai.K, learned HCGP for the appellant/State, Sri N. S. Sampangi Ramaiah, learned Amicus Curiae for the respondent/accused and perused the evidence and material on record.

3. It is the case of the prosecution that about three months prior, the accused had quarrelled with the deceased Eraiah, in connection with collection of water from the *Nalli* (Tap) and since then, the accused was



nurturing ill-will against the deceased and he was abusing him in filthy language. On 14.06.2015 at about 09.30 am when the deceased was taking the cattle, the accused wrongfully restrained him and assaulted with a machete on his head, right hand and near left ear and committed his murder.

4. Charges were framed against the accused for the offences punishable under Section 504, 341 and 302 of IPC. The accused pleaded not guilty to the said charges and claimed to be tried.

5. In order to establish its case, the prosecution, in all, examined PWs1 to 13, got marked Exs.P1 to P14 and MOs 1 to 11.

6. The trial Court, vide impugned judgment, acquitted the accused, holding that the prosecution has failed to prove the charges levelled against him and he is entitled to benefit of doubt and further holding that even if two views are possible, the one which is favourable to the accused has to be accepted.



NC: 2026:KHC:39106-DB
CRL.A No. 2043 of 2018

CNR: KAHC010302742018

7. The incident took place on 14.06.2015 at about 09.00 am at Ramanagara, Arehalli Town, Belur, Hassan. According to the prosecution PW2, PW3 and PW6 are the eye-witnesses to the incident. The complaint is lodged by PW1, son of the deceased. A perusal of Ex.P1-complaint would reveal that the complainant was in Hassan and he was informed about the incident by his sister-Divya, examined as PW2. As per Ex.P1, on 14.06.2015 at about 09.30 am, when the deceased, Eraiah was proceeding on the road by taking the cattle, the accused restrained the deceased and abused him. Hearing the commotion, Kariyaiah s/o Chikkaiah and Chandrasekhar s/o Sangaiah went to the spot. At that time the accused assaulted Eraiah with the chopper he was holding, near his left ear, head and right hand due to which, Eraiah collapsed and succumbed to the injuries at the spot. The complainant's sister Divya informed about the incident to the complainant, who was in Hassan. It is alleged that due to



CNR: KAHC010302742018

previous enmity, the accused had committed the murder of Eraiah.

8. The prosecution is mainly relying on the evidence of PW1 to PW3 and PW6, wherein PW2, PW3 and PW6 are the eye-witnesses to the incident. Before proceeding to appreciate the evidence of the said witnesses, it is pertinent to mention that the police station is situated about half a kilometre from the place of incident, however, till PW1 arrived to the spot from Hassan, no complaint was lodged by the so called eye-witnesses. It is only after PW1 returned to the village, he went to the police station at about 01.00 p.m. and lodged the complaint. The FIR is received by the learned Magistrate at about 05.35 p.m.

9. PW1 has deposed that when the incident took place, he was in Hassan and his sister narrated him about the incident through telephone, she stated that the accused had killed their father by assaulting him with a chopper. In the cross-examination, he has stated that his



CNR: KAHC010302742018

NC: 2026:KHC:39106-DB
CRL.A No. 2043 of 2018

sister informed him about the incident at about 09.30 a.m. and when he reached the place of incident, it was about 11.30-12.00 pm. It is also relevant to notice that in the cross-examination, he has stated that when he reached the spot, the concerned police had already arrived and had taken the photographs at the place of incident. This is contrary to the evidence of the PSI-PW12, who registered the case. PW12 has stated that on 14.06.2015 at about 01.00 p.m., when he was the SHO, the complainant visited the police station with the written information and he registered the FIR and dispatched the same to the Court. Thereafter, on the same day he visited the place of incident and conducted the inquest mahazar, etc.

10. From the evidence of PW12 it is seen that till PW1 lodged the complaint/Ex.P1, the police had not visited the spot, whereas, the testimony of PW1 goes to show that the police had already arrived to the spot before a complaint was lodged. This has relevancy, because PW6, in his cross-examination has stated that he gave the



CNR: KAHC010302742018

NC: 2026:KHC:39106-DB
CRL.A No. 2043 of 2018

statement to the concerned police on the date of incident and it was about 11.30 am and he had telephonically informed about the incident to the police at about 09.45-10.00 am.

11. From the above evidence, it is clear that even before the complaint was lodged by PW1 and the case was registered, the police had arrived at the spot and recorded the statements of the witnesses. The said statement which is recorded prior to registration of the case has been suppressed by the prosecution.

12. In her testimony, PW2 has stated that the accused was quarrelling with her father in a raised voice. She noticed the accused assaulting her father with a chopper and her father had sustained bleeding injuries. When she went near the place of incident, the accused ran away. She has further stated that the incident was witnessed by her uncle-Kariyaiah and Chandrashekara i.e., PW3 and PW6.



CNR: KAHC010302742018

13. A perusal of Exhibit P1, does not indicate that PW2-Divya is an eye-witness to the incident. In Ex.P1, it is only stated that the incident was informed by Divya-PW2 to the complainant-PW1. As per Ex.P1, when the accused was quarrelling with the deceased, hearing the commotion, Kariyaiah and Chandrashekara went to the spot. It is not at all stated in Ex.P1 that even PW2 had witnessed the incident. Further, according to PW2, when she went near the place of incident, accused ran away from the spot. Whereas the testimony of PW3-Kariyaiah, is that PW2-Divya had requested him to go in search of her father since, he had not returned and when he had gone near the spot, he saw the dead body of Eraiah lying in the agricultural bund. He has stated that he had seen the accused standing near the dead body.

14. Firstly, according to PW2 she saw the accused committing the murder and when she went near the spot, the accused ran away. However, according to PW3, PW2-Divya had requested them to go in search of her



CNR: KAHC010302742018

NC: 2026:KHC:39106-DB
CRL.A No. 2043 of 2018

father, since he had not returned. When he went to the spot, Eraiah was already lying on the agricultural bund. Hence, both PW2 and PW3 could not have witnessed the incident and they cannot be treated as eye-witnesses.

15. According to PW6, initially accused was cutting the fence with a machete and deceased Eraiah was taking cattle on the said road. At that point of time, PW3-Kariyaiah screamed that the accused has assaulted Eraiah. He went near the place of incident and noticed the blood stains near the place of incident and Eraiah had sustained bleeding injuries on his neck, near his ears and on his hands. They attempted to take him to the hospital, but he had died.

16. The evidence of PW6 is contrary to the evidence of PW3. PW3 has not stated that he saw the accused cutting the fence, nor that he screamed on seeing the assault on Eariah, and hearing his screaming, PW6 came to the spot. PW3 has not at all mentioned about the



CNR: KAHC010302742018

presence of PW6 either at the time of incident or subsequent to the incident.

17. On careful appreciation of the evidence of PW2, PW3 and PW6, we are of the considered opinion that none of the said witnesses could have witnessed the incident. It is also relevant to mention that after the case was registered, inquest was conducted as per Ex.P7. During the inquest proceedings, the statements of Kariyaiah and one Dharma were recorded. Kariyaiah has been examined as PW3. Dharma (CW14) has not been examined by the prosecution. During inquest proceedings, Kariyaiah has stated that after coming to know about the incident, he went to the spot and saw the dead body with bleeding injuries. The said statement of PW3 recorded during inquest proceedings clearly goes to show that he was not an eye-witness to the incident, but he came to the spot after knowing about the incident.

18. Insofar as the recovery of the blood-stained clothes (MO10 and 11) and the blood-stained chopper



CNR: KAHC010302742018

NC: 2026:KHC:39106-DB
CRL.A No. 2043 of 2018

(MO9) are concerned, the prosecution has examined PW5 and PW8-panch witnesses. According to the prosecution after the arrest of the accused, blood-stained clothes and the chopper were recovered at his instance under Exs.P4 and P5 respectively.

19. PW5 has stated that the clothes of the accused i.e., black pant and red shirt had blood-stains and it was seized under Ex.P4. In the cross-examination, he has stated that the concerned police had come in their official jeep and requested to accompany them to the police station and later to the place of mahazar. They were taken to the police station, but he did not know who had brought the said clothes. He came to know that it was brought by the accused himself and kept inside the police station. He has further stated that the clothes belonged to deceased were kept on the chair in the police station, which was near the accused. His evidence therefore, goes to show that the clothes which were seized under Ex.P4 were



CNR: KAHC010302742018

already in the police station and it was not seized in his presence.

20. According to the prosecution, the blood-stained clothes of the accused were seized under Ex.P4 and the chopper was seized under Ex.P5. However, PW8 has deposed that the blood-stained clothes were seized under Ex.P5 and the blood-stained chopper was recovered from the pile of firewood, under Ex.P4. There is discrepancy in the evidence of PW5 and PW8, with regard to seizure of blood-stained clothes and blood-stained chopper at the instance of the accused, under Exs.P4 and P5.

21. This is an appeal preferred against the judgment of acquittal. The trial Court having appreciated the oral and documentary evidence has held that the prosecution has failed to prove the charges against the accused beyond reasonable doubt. In view of the judgment of acquittal, the presumption of innocence in favour of the accused is reinforced. It is well settled that even if two views are possible, the view which is



CNR: KAHC010302742018

favourable to the accused has to be accepted. Having re-appreciated the entire evidence and material on record, we are of the considered view that the prosecution has not established the guilt of the accused beyond reasonable doubt. The appeal therefore fails. Accordingly, the following:

ORDER

Appeal is ***dismissed***.

Sri. N.S. Sampangi Ramaiah, learned Amicus Curiae, shall be entitled to an honorarium of Rs.10,000/-, payable by the High Court Legal Services Committee.

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

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