



CNR: KAHC010344142019

NC: 2026:KHC:43783-DB
CRL.A No. 406 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 406 OF 2019 (C)

BETWEEN:

1. MYLARAPPA @ MYLARI
S/O KUMARAPPA,
AGED ABOUT 31 YEARS,
R/A NEAR ANJANEYASWAMY TEMPLE,
NEAR KODLUKONE BUS-STAND,
KUDLU VILLAGE, BENGALURU,
PERMANENT R/A
BRAHAMA VIDHYANAGARA,
MADURE POST, HOSADURGA TALUK,
CHITRADURGA DISTRICT-577 527.
2. NAGARAJU
S/O DASAPPA,
AGED ABOUT 22 YEARS,
R/A C/O OPPOSITE:
BABUREDDY CITY BEKARI,
KUDLU MAIN ROAD, BENGALURU,
PERMANENT R/A
SRIRANGAPURA, BAGURU POST,
HOSADURGA TALUK,
CHITRADURA DIST: 577 527.
3. KUMARAPPA
S/O LATE RAMAPPA, MAJOR,
R/A BRAHAMA VIDHYANAGARA,
MADURE POST,

Digitally
signed by
LAKSHMI T
Location:
High Court
of Karnataka



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HOSADURGA TALUK,
CHITRADURGA DISTRICT-577 527.

...APPELLANTS

(BY SRI. GOPALAKRISHNAMURTHY C., ADVOCATE
FOR A-1 & A-2 (PH);
V/O.DTD.17.08.2026, APPELLANT NO.3 IS ABATED)

AND:

1. STATE BY
HOSADURGA POLICE STATION
R/B ITS SPP,
HIGH COURT OF KARNATAKA,
BENGALURU-560 001.
2. SIDDARAJU R.
S/O RANGAIAH,
AGED ABOUT 40 YEARS,
R/A HOSAMALANGI,
AMBEDKAR STREET,
KOLLEGALA TALUK,
CHAMARAJANAGARA DISTRICT-577 440

...RESPONDENTS

(BY SRI. RAHUL RAI K., HCGP FOR R-1 (PH);
R-2 SERVED AND UNREPRESENTED)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO
CALL FOR THE RECORDS OF THE COURT BELOW AND PERUSE
THE SAME AND SET ASIDE JUDGMENT AND ORDER OF
CONVICTION AND SENTENCE DATED 22.02.2019 PASSED IN
SPL.C.(SC/ST)NO.44/2017 ON THE FILE OF THE SPECIAL II
ADDITIONAL DISTRICT AND SESSIONS JUDGE, AND SPECIAL
JUDGE, AT CHITRADURGA, AND CONSEQUENTLY ALLOW THE
APPEAL AND ACQUIT THE APPELLANTS FROM THE ALLEGED
CHARGE.

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



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CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

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

This appeal is directed against the judgment and order dated 22.02.2019 passed by the Special II Additional District and Sessions Judge, Chitradurga in Spl.C.(SC/ST) No.44/2017.

2. Vide impugned judgment and order, the learned trial Court has convicted accused Nos.1 to 3 for the offences punishable under Sections 201, 302 r/w 34 of IPC and Section 3(2)(v) of the SC/ST (POA) Act, 1989.

3. Heard the learned counsel for the appellant and learned High Court Government Pleader for the State. Perused the evidence and material on record.

4. The learned counsel for the appellant has submitted that appellant No.3/accused No.3 has died



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during the pendency of the appeal. As per the copy of the death certificate, he died on 22.10.2023.

5. Brief facts of the prosecution case:- deceased Jayalakshmi is the wife of accused No.1-Mylari @ Mylarappa. Their marriage was registered in the office of the Sub-Registrar, Kollegal in the year 2009. Accused No.1 was suspecting her fidelity and he was quarrelling with her as she belonged to Scheduled caste. Accused No.2 is the friend of accused No.1 and accused No.3 is the father of accused No.1. In order to commit the murder of Jayalakshmi, on 14.05.2016 at about 06.30 p.m., accused Nos.1 and 2 took her in a Tata AC vehicle, in the guise of going to Bengaluru. They took her to a reserve forest area in Devaragudda, wherein they strangled her with her saree and committed her murder. Accused No.1 returned to the house and informed the matter to his father-Kumarappa/accused No.3 and once again went along with accused No.3 to the spot and put the dead body in a gunny bag and carried it in a cycle to a secluded place



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inside the forest, removed the gold ornaments of the deceased and burnt the dead body. They pledged the ornaments with CW9-Smt.Hanumakka, for a sum of Rs.3,500/- and after two days once again went to the spot and collected the skeletal remains and burnt the bones to cause disappearance of the evidence.

6. The entire case of the prosecution rests on circumstantial evidence. The prosecution has mainly relied on the motive for the accused to commit the murder, accused No.1 quarrelling with the deceased suspecting her fidelity, the recovery of MOs.1 to 11 at the instance of the accused and the homicidal death.

7. It is the specific case of the prosecution that accused No.1 committed the murder of his wife along with accused No.2, suspecting her fidelity and also on the ground that she belonged to scheduled caste. The prosecution has got examined PW3 to PW5, independent witnesses and PW7-brother of the deceased, in order to



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establish the motive. PW2 is the owner of the house where accused No.1 and deceased were living and PW3 & PW4 are the neighbours. However, the said witnesses have turned hostile to the case of prosecution. They have denied that there was any quarrel between the deceased and accused No.1, and accused No.1 suspecting the character of his wife.

8. As per the evidence of PW7, the marriage of Jayalakshmi with accused No.1 was a registered marriage. After the marriage, his sister and accused No.1 stayed for sometime in their village. Thereafter, they went to Brahma Vidya Nagara and for the first delivery his sister came to their house and then went back to Brahma Vidya Nagar. She got delivered the second child and for about 7 to 8 years, his sister lived happily with accused No.1. He has stated that thereafter, the husband and wife were quarrelling with each other and whenever his sister visited his house, she complained that the accused was quarrelling with her suspecting her fidelity.



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9. It is relevant to mention that, according to prosecution, Jayalakshmi was found missing from 15.05.2016. Admittedly, accused No.1 himself lodged a missing complaint on 20.05.2016, as per Ex.P9. The said missing complaint was registered in Crime No.182/2016 by PW6-PSI. Ex.P10 is the FIR. A perusal of Ex.P9 goes to show that on 16.05.2016, accused No.1 had taken his children to Hosadurga and after leaving them there, he returned on the next day i.e., on 17.05.2016 at about 04.00 p.m., and noticed his wife was not present in the house. He enquired with the neighbours, but she was not traceable and hence, lodged the missing complaint.

10. From the material record, we have noticed that after the missing complaint was lodged, the police have not made any efforts to trace the deceased. It is only after a complaint was lodged by PW7-brother of Mahalakshmi, as per Ex.P11, suspecting accused Nos.1 to 3, a case was registered against them on 02.10.2016, for the offence punishable under Section 302 r/w 34 IPC. As per Ex.P11,



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PW7-brother of the deceased expressed suspicion regarding the involvement of accused Nos.1 to 3 in the commission of the murder of his sister Jayalakshmi. According to him, the villagers informed him about seeing his sister along with accused No.1 and 2 in the second week of May at Brahma Vidya Nagar in Hosadurga.

11. The prosecution is silent about the persons who have seen accused Nos.1 and 2 along with the deceased at Brahma Vidya Nagar in Hosadurga. PW7 has not disclosed the source of information. There is no cogent material placed on record by the prosecution to establish that the deceased was last seen in the company of the accused persons.

12. It is vehemently contented by the learned counsel for the appellant that in this case the prosecution has failed to establish that the burnt bones allegedly seized were that of Jayalakshmi. He contended that the DNA report is not conclusive to hold that the bones were



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of the deceased and as per the DNA report, the items sent were not sufficient for DNA profile examination.

13. The learned High Court Government Pleader has contented that after the arrest of the accused, they have confessed to the crime committed by them and led the police and panchas to the reserve forest area and showed the place, where they committed the murder and also burnt the dead body. He contented that at the instance of the accused persons, the burnt bone pieces, ash, saree pieces, bangle pieces, toe rings and thali were recovered. Therefore, contented that the recovery of those articles is a strong circumstance against the accused, coupled with the DNA report-Ex.P23, which shows that the burnt bone pieces are of human origin and of female sex.

14. According to the prosecution, after the arrest of the accused, they confessed to the crime and led the police and panchas to the spot where they committed the murder and burnt the dead body. Further, accused No.1



led the police and panchas to the house of CW9-Hanumakka with whom he had pledged the gold ornaments and recovered those ornaments.

15. Among the two panch witnesses to the recovery mahazar, the prosecution has examined PW1-Raghavendra M. He has deposed that the police showed the accused in the police station and the accused led them towards Hosadurga-Holalkere Road and showed a Nilgiri tree and confessed to have committed the murder. They seized a cloth piece, saree thread, bangle pieces etc., and half burnt bone pieces under a mahazar-Ex.P1 from the spot. Further, the accused led them to the house where they allegedly pledged the toe rings, leg chain and a small thaali and recovered those articles under a mahazar-Ex.P2.

16. The prosecution has not got marked the voluntary statement of the accused which led to the discovery of articles. When the relevant portion of the



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voluntary statement leading to discovery was not marked, then the discovery of the articles on the basis of the said voluntary statement should fail.

17. We have perused the DNA report and the FSL report marked as Ex.P22. According to prosecution, the DNA was extracted from the source of the samples sent in Item Nos.1 and 2 i.e., the burnt bone pieces with ash and the bone pieces. As per DNA profile result, the burnt bones with ash and burnt bone pieces sent in Item Nos.1 and 2 are of human origin and of female sex. However, as per DNA report, the amplicons from Item Nos.1 and 2 were not sufficient for DNA profile examination.

18. PW.9 is the scientific officer who collected the burnt bone pieces and gave to the Investigation Officer for the purpose of DNA Examination. The prosecution has not collected the DNA samples from the relatives of the deceased to compare it with the bone pieces allegedly recovered at the instance of the accused. In cases where



identity of the deceased is in dispute and only burnt bone pieces are found, DNA comparison is crucial for identification. The mere report stating that the burnt bone pieces are of human origin and of female sex itself is therefore, not sufficient to hold that they belong to the deceased in this case. Further, there is no material placed on record to show that the recovered items such as bangle pieces, thali, toe ring and leg chain belonged to the deceased, as none of the witnesses, including PW7-brother of the deceased have identified those articles.

19. PW.1 has deposed that in his presence the bangle pieces, red and black colour thread were seized under a mahazar Ex.P1. However, it is noticed by the trial Court while recording the deposition of PW1, that when the four sealed covers were opened, there were no such articles present.

20. The Apex Court in ***Sujit Biswas Vs. State of Assam 2013(12) SCC 406*** and ***Raja alias Rajinder Vs.***



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State of Haryana 2015(11) SCC 43 has propounded that while scrutinising the circumstantial evidence, a Court has to evaluate it to ensure the chain of events is established clearly and completely to rule out any reasonable likelihood of innocence of the accused. The underlying principle is whether the chain is complete or not, indeed it would depend on the facts of each case emanating from the evidence and there cannot be a straight jacket formula which can be laid down for the purpose. But the circumstances adduced when considered collectively, it must lead only to the conclusion that there cannot be a person other than the accused who alone is the perpetrator of the crime alleged and the circumstances must establish the conclusive nature consistent only with the hypothesis of the guilt of the accused.

21. On an analysis of the overall fact situation in the instant case, the chain of circumstantial evidence relied upon by the prosecution to prove the charge is visibly incomplete and incoherent to permit conviction on



the basis thereof without any trace of doubt. The prosecution has failed to elevate its case from the realm of "may be true" to the plane of "must be true" as is indispensably required in law for conviction on a criminal charge. It is trite to state that in a criminal trial, suspicion, howsoever grave, cannot substitute proof.

22. Having re-appreciated the entire evidence and material on record, we are of the considered view that the circumstances put forth by the prosecution are not proved beyond reasonable doubt to hold that the charges levelled against the accused are established. The reasons assigned by the trial Court are therefore, not sustainable in law. Hence, we proceed to pass the following:

ORDER

Appeal is ***Allowed.***

The judgment and order dated 22.02.2019 passed by the Court of Special II Additional District and Sessions Judge, Chitradurga in Spl.C.(SC/ST) No.44/2017,



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convicting and sentencing accused Nos.1 and 2 for the offences punishable under Section 201, 302 r/w 34 of IPC and Section 3(2)(v) of the SC/ST (POA) Act, 1989 is set aside. The accused are acquitted of the said charges.

Appeal of accused No.3 is dismissed as abated.

Sentence of fine imposed against accused No.3 is set aside.

The fine amount if deposited, the same shall be refunded.

Rest of the order passed by the trial Court is not disturbed.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE