



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO. 623 OF 2018 (A)

BETWEEN:

STATE OF KARNATAKA
BY DEPUTY SUPERINTENDENT OF POLICE,
SOMWARPET SUB-DIVISION,
SOMWARPET POLICE STATION,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560 001.

...APPELLANT

(BY SMT. RASHMI JADHAV, ADDL. SPP (P/H))

AND:

1. SMT. LAKSHMI
W/O SANNAPPA @ THAMMANNI,
AGED ABOUT 43 YEARS,
COOLIE,
R/O SHANTHALLI VILLAGE & POST,
SOMWARPET TALUK-571 236.
2. SRI. UDRALLI P. PRASANNA
KUMAR @ PRASANNA
S/O U.S. PUTTASWAMY,
AGED 26 YEARS,
AGRICULTURIST,
R/O THALTHARE SHETTALLI VILLAGE,
SOMWARPET TALUK-571 236.



3. SMT. S.B. SHARADA
W/O RAMA,
AGED ABOUT 55 YEARS,
R/AT MANGALADEVI NAGARA,
MADIKERI.

...RESPONDENTS

(BY SRI. N.S. SAMPANGI RAMAIAH, ADVOCATE
FOR R1 AND R2;
(V/C/O DTD: 14.10.2025 APPOINTED AS
AMICUS CURIAE) (P/H) FOR R1;
SRI. SHIVARAJ N. ARAI, ADVOCATE FOR R3 (P/H))

THIS CRL.A. IS FILED U/S.378(1) AND (3) CR.P.C.,
PRAYING TO: (A) GRANT LEAVE TO APPEAL AGAINST THE
JUDGMENT AND ORDER OF ACQUITTAL DATED 07.10.2017
PASSED BY THE COURT OF THE PRL. SESSIONS & SPECIAL
JUDGE, KODAGU, MADIKERI SPL.C (ATROCITY) NO.28/2015,
ACQUITTING THE ACCUSED OF THE OFFENCES PUNISHABLE
UNDER SECTIONS 302, AND 201 R/W 34 OF IPC., 3(2)(V) OF
SC/ST (POA) ACT 1989; B) SET ASIDE THE JUDGMENT AND
ORDER OF ACQUITTAL DATED 07.10.2017 PASSED BY THE
COURT PRL. SESSIONS & SPECIAL JUDGE, KODAGU, MADIKERI
IN SPL.CASE.NO.28/2015, ACQUITTING THE ACCUSED OF THE
OFFENCES PUNISHABLE UNDER SECTIONS 302, AND 201 R/W
34 OF IPC U/SEC.3(2)(V) OF SC/ST (POA) ACT 1989; C)
CONVICT AND SENTENCE THE RESPONDENT-ACCUSED FOR
THE OFFENCES PUNISHABLE UNDER SECTIONS 302, AND 201
R/W 34 OF IPC AND U/SEC.3(2)(V) SC/ST (POA) ACT 1989.

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 VENKATESH NAIK T



ORAL JUDGMENT

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

The State is in appeal against the impugned judgment and order dated 07.10.2017 passed by the Court of the Principal Sessions and Special Judge, Kodagu at Madikeri in Spl.Case (Atrocity) No.28/2015, thereby acquitting accused Nos.1 and 2 of the offences punishable under Sections 302, 201 of Indian Penal Code, 1860 (for short, "IPC") and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 34 of IPC.

2. We have heard the learned Additional State Public Prosecutor appearing for appellant/State, Sri N.S.Sampangi Ramaiah, learned Amicus Curiae appearing for respondent Nos.1 and 2 and learned counsel for respondent No.3. Perused the evidence and material on record.



3. In brief, it is the case of prosecution that on 04.12.2008 at around 02.00 a.m., when accused Nos.1 and 2 were in the house of accused No.1 situated at Shanthalli Village, the deceased Sannappa @ Thammanni, husband of accused No.1 saw them together and objected to their illicit relationship. At that time, accused No.2 caught hold of the deceased and accused No.1 assaulted on his head with a mandakathi (MO.4) and committed his murder. Thereafter, they lifted the dead body from the house and kept it in the coffee estate and on 05.12.2008, shifted the dead body to the estate of Joyappa (PW20) situated at Thaltare Shettalli and buried the dead body in a pit with an intention to screen themselves from legal punishment and to cause disappearance of evidence. Further, deceased being a member of Scheduled Caste and accused No.2 being a member of other community having committed the offence under IPC against the deceased who belongs to Scheduled Caste, the said accused committed an offence punishable under Section



3(2)(v) of the SC/ST (POA) Act, 1989 r/w Section 34 of IPC.

4. Undisputedly, the present case rests entirely on circumstantial evidence. The Hon'ble Apex Court in the case of *Sharad Birdhichand Sarda v. State of Maharashtra*, reported in (1984) 4 SCC 116, has laid down the golden principles with regard to conviction in a case which rests entirely on circumstantial evidence. The Hon'ble Apex Court observed at para - 153 as under:

"153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned "must or should" and not "may be" established. There is not only a grammatical but a legal distinction between "may be proved" and "must be or should be proved" as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra [(1973) 2 SCC 793 : 1973 SCC (Cri) 1033 : 1973 CrL LJ 1783] where the observations were made:

"Certainly, it is a primary principle that the accused must be and not merely may be guilty



before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."

5. It is necessary for the prosecution to show that the circumstances from which the conclusion of the guilt is to be drawn should be fully established. There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probabilities, the act must have been done by the accused.



6. In the light of these guiding principles, we have to examine the present case. The prosecution has relied on the following circumstances.

- a. Homicidal death of the deceased.
- b. Illicit relation between accused No.1 and 2.
- c. Presence of accused No.2 in the house of deceased.
- d. Discovery of dead body.
- e. Recovery of Kathi, Crow bar and spade.

7. It is the specific case of the prosecution that accused No.1, wife of deceased Sannappa @ Thammanni had an illicit relationship with accused No.2. The deceased was objecting the same, as he had come to know about her conduct and the illicit relationship with accused No.2. On 04.12.2008, at around 02.00 a.m., when the deceased saw both accused Nos.1 and 2 together in the house, he objected and therefore, accused No.2 caught hold of the deceased, accused No.1 assaulted him on his head with MO4 and committed his murder. Thereafter, they shifted



the dead body in a gunny bag and kept it behind the house of the deceased in the coffee estate and later shifted to the land of one Joyappa-PW20 and dug a pit and buried the dead body in the said land.

8. Initially, a missing complaint came to be filed by the mother of deceased, Smt.S.B.Puttamma (PW1) on 09.12.2018, as per Ex.P1. On that basis, PW33-PSI of Somwarpet Police Station registered Crime No.179/2008.

9. On 04.01.2009, PW1 visited the Police Station and gave one more complaint - Ex.P2, wherein she alleged that on the night of 04.12.2008 at about 9.30 p.m., her son had come to her house for dinner and after having dinner, he went to his house situated opposite to her house. At about 2 a.m., she heard the screaming of her son and also Prasanna-accused No.2 shouting that he will kill him. Therefore, she came out of the house with the help of kerosene lamp. At that time, her grandchildren Santhosh Kumar and Sowmya Kumari were near the door and they informed her that nothing happened to their



father, but he ran towards the land holding a Kathi and again stated that he ran towards the road. Raising suspicion, she went behind the house, wherein she saw accused No.2 running away from the back door of the house. She then went to the house of one Harish and informed the matter, who told her to search for the deceased in the morning and she slept in his house. On the next day, when she searched for her son, he was not traced. She has further stated in Ex.P2 that on 05.12.2008 at about 05.00 p.m., accused No.2-Prasanna came near the house of her son and spoke to her daughter-in-law, i.e., accused No. 1 and her children. She therefore suspected that accused No.2, along with accused No.1 and her children might have committed the murder of her son Sannappa @ Thammanni.

10. On the basis of the said typed complaint-Ex.P2, PW33-PSI registered Crime No.3/2009 and dispatched the FIR-Ex.P25 to the Court. He then handed over the investigation to the CPI. The accused were arrested on



05.01.2009 from the house of one Raju. Their voluntary statements were recorded. The accused allegedly confessed to the crime and the dead body which was buried in the land of Joyappa, was exhumed by the Tahsildar-PW34. MO4 - Kathi was recovered at the instance of accused No.1. The incriminating article seized during the investigation was sent for FSL. On completion of investigation, charge sheet was filed.

11. The entire case is based on circumstantial evidence. To establish the charges levelled against the accused, the prosecution is mainly relying on the homicidal death, illicit relationship between accused Nos.1 and 2, the evidence of PW1, wherein she heard the cries of her son at about 2 a.m. on 04.12.2008 and also heard the voice of accused No.2 and saw the said accused running away from the spot, the discovery of dead body at the instance of accused Nos.1 and 2 and recovery of MO4-Kathi at the instance of accused No.1. Further, the prosecution also relies on the evidence showing accused Nos.1 and 2, along



with the children of deceased and accused No.1, living in the house of one Raju, from where both accused Nos.1 and 2 were arrested.

12. The prosecution has examined the Doctor-PW25, who conducted autopsy. The PM report is marked as Ex.P22. According to prosecution, the incident took place on 04.12.2008. The decomposed dead body was discovered on 05.01.2009. PW25 has opined that the bones belong to a human male individual, in the age group between 40 - 50 years with presence of fracture of the skull. The fracture of the skull might be due to sharp heavy cutting weapon and the cause of death is due to head injury sustained.

13. It is the contention of the learned *Amicus Curiae* that the dead body could not have been identified, since it was in a decomposed state and even the trial Court has come to the conclusion that the dead body was in a rotten condition and it was not in a condition to be identified by seeing the face and body. No DNA



examination was conducted and even the superimposition test of the skull with the photo of the deceased was also not conducted and therefore, it is difficult to believe that the dead body in this case is of the same person who is alleged to be killed.

14. The trial Court has come to the conclusion that the prosecution has failed to prove the identification of the dead body itself. However, it is the contention of the learned Additional SPP that PW1, none other than the mother of the deceased, as well as PW5, PW6, and PW10, sisters of the deceased, have identified the clothes on the dead body as that of Sannappa @ Thammanni and therefore, the dead body has been identified as Sannappa @ Thammanni.

15. In this case, as per PM report and the evidence of PW25, the dead body was of human male individual in the age group between 40 - 50 years. There was a fracture of the skull, which according to PW25, was caused with a sharp heavy cutting weapon and the cause of death



is due to head injury sustained, which shows that the prosecution has proved that it is a case of homicidal death.

16. The deceased was missing from 04.12.2008 and immediately a missing complaint was filed by PW1 - mother of the deceased. PW1 in her chief examination has stated that on the dead body, lined shirt and jeans pant were there and the dead body was in a gunny bag. She identified the dead body on the basis of the clothes and she identified one jeans pant - MO2, shirt - MO3.

17. PW5 has also deposed that the sisters and mother of the deceased have identified the dead body on the basis of clothes and she has identified the said clothes marked as MO2 and MO3. Similarly, PW6 has deposed that she was taken to the spot, i.e., estate of one Joyappa at Talthare Shettalli, wherein the police called them to identify the dead body and they identified the dead body on the basis of clothes, i.e., jeans pant, checks shirt, Nicker and belt. PW10 has stated that on the basis of clothes and face, they identified the dead body. The



identification of the dead body by the said witnesses was not at all disputed by the defence. Merely because there was no superimposition test or DNA test conducted, it cannot be said that the dead body discovered in the case was not that of deceased Sannappa @ Thammanni.

18. However, merely because the prosecution has established that the decomposed dead body discovered in this case is that of Sannappa @ Thammanni and he died a homicidal death, that itself does not lead to a conclusion that it was the accused who committed the murder. According to the prosecution, there was an illicit relationship between accused Nos.1 and 2, which was being objected by the deceased. It is the contention of the learned Addl. SPP that PW1, PW5, PW6 and PW10 have deposed about the illicit relationship and therefore, the said illicit relationship has been proved by the prosecution.

19. PW1 has deposed in her evidence that in the house of deceased Sannappa @ Thammanni, accused No.1



and their two children were residing. Accused No.2 was the native of Talthare Shettalli, which is at a distance of three kilometers. Accused No.1 was leading happy marital life with her husband (deceased) for six months. Thereafter, there was quarrel between them. The deceased was asking accused No.1 not to go for Coolie work, as her conduct was not good and she was having illicit relationship with accused No.2.

20. PW5 has stated that accused No.2 used to visit the house of deceased and there was quarrel between the deceased and accused No.1. PW6 has deposed that for three months after the marriage of accused No.1 and deceased, they were in good terms and thereafter, there were quarrels between them, now and then, since accused No.1 was not listening to the words of deceased. She was not returning from market in time and she was also not returning from the house of accused No.2 in time, when she went for work. PW10 has deposed that accused No.1 used to work in the estate of accused No.2 and deceased



was telling her not to go to the estate of accused No.2, in spite of that, accused No.1 used to go to the estate of accused No.2 by quarrelling with him.

21. It is the case of the prosecution that on the date of incident i.e., at about 02.00 a.m. on 04.12.2008, accused No.2 visited the house of the deceased and when he was talking to accused No.1, the deceased saw them together and objected to it and therefore, they committed the murder.

22. The visit of accused No.2 to the house of accused No.1 on the night of 04.12.2008 is not at all stated in the missing complaint - Ex.P1 given by PW1. In Ex.P1, it is only stated that on 04.12.2008 at about 09.30 p.m., deceased came to the house of PW1 and after having dinner and spending half an hour in her house, he went to his house. At about 2 a.m., she heard some cries in the house of her son and she came out of the house and called her son. At that time, her grandson Santhosh came out of the house and told her that his father ran away



towards the estate holding a Kathi and again told that his father ran away towards the road.

23. In Ex.P2, written complaint lodged by PW1 on 04.01.2009, she has stated that she heard the cries of her son and also the shouting of accused No.2 that he will not leave but he will finish him and then she saw accused No.2 running away from the back door of the house. If PW1 had really heard the voice of accused No.2 on 04.12.2008 itself, and also seen him running from the back door of the house, nothing prevented her from informing the police when she lodged the missing complaint on 09.12.2008. On the other hand, the missing complaint does not find these crucial aspects.

24. In her evidence, PW1 has stated that at about 02.00 a.m. in the midnight, she woke up hearing the screaming noise of her son "Avva ... kaapadavva... nanna kadibeda, avalannu karedukondur hogu, Santhosha nanna kadibeda... Soumya nanna kadibeda, Lakshmi nanna kadibeda". Then she went near the house of her son



taking a kerosene lamp and she saw Santhosh i.e. her grandson standing at the door and when she asked him, he told that his father ran towards the estate and once again told that he went towards the road. She further stated that Santosh did not allow her to go inside the house and then she went towards the backyard of the house in search of her son and at that time, accused No.2-Prasanna came out of the back door of the house holding a Kathi in his hand and it was blood-stained and she saw it in the light of kerosene lamp and then she went to the house of Harish and informed about the incident and on the instruction of Harish, she stayed in his house on that night.

25. PW1 has made material improvements in her evidence, amounting to material omissions. She has improved her version from stage to stage from Ex.P1, Ex.P2 and her deposition before the Court. The Investigation Officer-PW33 in his cross-examination has admitted to the suggestion made by the defence that CW1



(PW1) has not stated either in Ex.P1 missing complaint or in Ex.P2 complaint that she heard her son screaming as "*Nanna kadibeda.....Lakshmi nanna kadibeda*". It is relevant to mention that in Ex.P2, PW1 has stated that she went and informed one Harish about she hearing the screaming of her son as well as the voice of accused No.2 and then accused No.2 running away from the back door of the house. The said Harish, who is a crucial witness, has not been examined by the prosecution.

26. The evidence of PW1 that she heard the voice of accused No.2 from the house of her son and then she also saw accused No.2 running away from the backyard of the house holding a Kathi and the said Kathi was blood-stained etc., is difficult to believe as the said crucial aspect has not been stated in Ex.P1, earliest version, when she lodged the missing complaint, that too after 5 days from the date of missing of her son. Her evidence is that she saw the accused holding a Kathi and it was blood-stained, is also not stated in Ex.P2, the subsequent complaint



lodged by her on 04.01.2009. It is relevant to mention here itself that according to the prosecution the weapon, i.e., MO4-Mandakathi, was seized from the house of the deceased at the instance of accused No.1 and not seized at the instance of accused No.2.

27. Learned Addl. SPP contended that the dead body was discovered at the instance of accused Nos.1 and 2, and therefore it is a crucial evidence leading to the conclusion that it is the accused and accused alone, who have committed the murder and then buried the dead body in the land of one Joyappa-PW20.

28. According to the prosecution, the murder was committed in the house of the deceased and thereafter, the dead body was covered in a gunny bag and kept behind the house of accused No.1 and from there it was shifted to the land of one Joyappa, wherein it was buried after digging a pit.



29. Firstly, to show that the murder was committed in the house of accused No.1, there is no material placed by the prosecution. The investigation officer has not even conducted any mahazar inside the house of accused No.1, where the incident is alleged to have taken place. PW33-PSI, who received both Exs.P1 and P2 from PW1, is also silent on this aspect. He has only stated that after receiving Ex.P2 from PW1, who expressed doubt against the accused, he registered the case and since it was a case of murder, he handed over the investigation to the C.P.I. He has not whispered that either he or the C.P.I has conducted any mahazar in the house of deceased and accused No.1.

30. Secondly, except the voluntary statement of the accused, there is no material to show that after the murder was committed, the dead body was covered in a gunny bag and kept in the backyard of the house of the deceased. The only relevant material the prosecution



wants to rely upon is the discovery of dead body in the land of Joyappa.

31. It is the case of prosecution that after the voluntary statements of accused Nos.1 and 2 were recorded, they led the police and the Tahsildar as well as panchas to the land of Joyappa, where they discovered the decomposed dead body. PW2, PW3 and PW4 are the panch witnesses to Exs.P3, 4 and 5. Ex.P3 is the mahazar, wherein the accused are alleged to have led the police and panchas to the spot from where the body was discovered and Ex.P5 is the exhumation mahazar.

32. PW3 and PW4 have not supported the case of prosecution. In the cross-examination of PW2, he has stated that he is not aware as to who identified the dead body since there were so many people present before they went to the spot and it took them 30 - 45 minutes journey by jeep and after the jeep was parked, they went by walk for about half kilometer. He has stated that, at first they went to the spot where dead body was found and after he



went to the spot, the police called the Tahsildar to the spot and it was about 12 noon or 1.00 p.m. when Tahsildar reached the spot. Further, when the Tahsildar came, he had already put his signature on the mahazar and mahazar was also prepared.

33. PW20-Joyappa is an important witness, as the dead body was discovered in his land. However, his evidence completely destroys the case of prosecution that it was at the instance of accused Nos.1 and 2, the dead body was discovered. PW20, in his evidence has categorically stated that he came to know that in his barren cardamom estate, the dead body of Thammanni was traced and public intimated the police about the bad smell emanating from the dead body. In the cross-examination conducted by the defence, he has stated that the villagers did not inform him about the bad smell, but they directly informed about it to the police. The said witness was not treated hostile and cross-examined by the prosecution. If the evidence of PW20 is perused, it is



crystal clear that after the bad smell emanated from the dead body, the villagers informed the same to the police. Hence, even before the accused leading the police and panchas to the spot, the police already knew the place where the body was buried. Hence, it cannot be held that the dead body was discovered at the instance of accused Nos.1 and 2.

34. It is also relevant to mention that as per Ex.P3, it was accused No.2, who is alleged to have confessed about the burial of the dead body in the land of Joyappa and he led the police to the spot from where the dead body was exhumed. It is nowhere stated in Ex.P3 that even accused No.1 was also present or she too led the police or panchas to the spot, i.e., the land of Joyappa.

35. It is the case of prosecution that at the instance of accused No.1, the weapon of offence i.e., mandakathi - MO4 was seized from the house of accused No.1. Further, the nighty and torch were also seized.



36. PW2 and PW12 are panch witnesses to the mahazar-Ex.P4. PW12 has been treated hostile. He has not supported the case of prosecution. PW2, though stated that the police have seized one Kathi from the house of accused No.1, he stated that except the said Kathi, no other articles were seized. The seizure of Kathi itself is of no relevance as there were no blood-stains on the said weapon. The seized articles were sent for FSL examination. As per the serology report-Ex.P31, the blood-stains in MOs.1, 3 and 4 were disintegrated and their origin could not be determined and the blood group of the blood-stains in Items 2, 5 and 6 could not be determined, since the results of the tests were inconclusive.

37. The perusal of complaint Ex.P1 goes to show that the incident occurred on 04.12.2008 and the first missing complaint was lodged on 09.12.2008 vide Ex.P27, while second complaint was lodged on 04.01.2009. Till then, PW1 being mother of deceased did not reveal the



role played by accused persons before the police or before her children PWs.5, 6 and 10. Even, in her first complaint, she did not reveal the name of accused persons, on the contrary, she lodged the missing complaint stating that her son was missing. If PW1 had really seen the incident in the house of accused No.1, at first instance, she would have suspected them. Further, the prosecution has failed to prove that, the discovery of dead body was at the instance of accused and the recovery of articles is also not established. In that view of the matter, we find that the prosecution has utterly failed to prove the chain of incriminating circumstances, it has relied upon to prove the guilt of the accused.

38. We have re-appreciated the entire evidence and material on record. We find that the trial Court by a reasoned judgment, by assigning valid reasons, has acquitted the accused of the charged offences. This is an appeal preferred against the judgment of acquittal, the presumption of innocence of the accused is reinforced by



the acquittal judgment. The judgment does not suffer from any illegality or perversity and therefore, no interference is warranted. Accordingly, we proceed to pass the following:

ORDER

- i) Appeal is ***dismissed***.
- ii) Learned *Amicus Curiae* Sri Sampangi Ramaiah is entitled to honorarium of Rs.15,000/- (*Rupees fifteen thousand only*), payable by the High Court Legal Services Committee.

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

**Sd/-
(VENKATESH NAIK T)
JUDGE**