



CNR: KAHC010410432019

NC: 2026:KHC:46557-DB
CRL.A No. 1491 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.1491 OF 2019 (A)

BETWEEN:

STATE OF KARNATAKA
BY CHELUR POLICE
GUBBI TALUK
TUMAKURU DISTRICT
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001

...APPELLANT

(BY SRI SUHAS GOWDA M., H.C.G.P.)

AND:

MR. KRISHNAMURTHY
S/O. MUNIYAPPA
AGED ABOUT 49 YEARS
AGRICULTURIST
RESIDENT OF UPPINAHALLA
MADENAHALLI MAJARE
GUBBI TALUK
TUMAKURU DISTRICT-572 216

...RESPONDENT

(BY SRI C. NARASIMHA MURTHY, ADVOCATE)

Digitally signed
by
SHARADAVANI
B

Location: HIGH
COURT OF
KARNATAKA



**NC: 2026:KHC:46557-DB
CRL.A No. 1491 of 2019**

CNR: KAHC010410432019

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 APPEAL AGAINST THE JUDGMENT AND ORDER DATED 08.04.2019 PASSED BY THE LEARNED PRINCIPAL DISTRICT AND SESSIONS JUDGE, AT TUMAKURU IN S.C.NO.58/2018 ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 302 AND 182 OF IPC AND SET-ASIDE THE JUDGMENT AND ORDER DATED 08.04.2019 PASSED BY THE LEARNED PRINCIPAL DISTRICT AND SESSIONS JUDGE, AT TUMAKURU IN S.C.NO.58/2018 ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 302 AND 182 OF IPC AND ALSO CONVICT AND SENTENCE THE RESPONDENT/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 302 AND 182 OF IPC.

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE B.PRAMOD



CNR: KAHC010410432019

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

Heard Sri Suhas Gowda M. learned HCGP for the State and Sri C. Narasima Murthy, learned counsel for the respondent/accused.

2. This appeal is filed by the State against the judgment of acquittal dated 08.04.2019 passed by the Principal District and Sessions Judge, Tumakuru in S.C.No.58/2018 for the offences punishable under Sections 302 and 182 of Indian Penal Code and prayed this Court to set aside the judgment of acquittal and convict and sentence the accused.

3. The factual matrix of the case of the prosecution is that the accused Krishnamurthy was well acquainted with the deceased Adaveeshaia, who was residing in farmhouse bearing Survey No.25 of M. Uppinahalla of Jogihalli, Majare and got children and after the death of his first wife, he had contracted second marriage with the deceased Parvathamma. Both Adaveeshaia and Parvathamma were residing alone in the said farmhouse. It is further case of the prosecution that since



**NC: 2026:KHC:46557-DB
CRL.A No. 1491 of 2019**

CNR: KAHC010410432019

Adaveeshaia was quite aged and was being assisted by the accused in each and every transaction done by the deceased Adaveeshaia. It is further case of the prosecution that the accused has availed Rs.50,000/- as loan from Adaveeshaia and also sought additional loan and when the said request was not entertained by Adaveeshaia, the accused hatched a plan to cause death of Adaveeshaia and Parvathamma. That on 09.02.2017 in the night hours, he entered the house of Adaveeshaia and after having ascertained the financial transactions, assaulted them with chopper and caused the death of Adaveeshaia and his wife Parvathamma. It is also the case of prosecution that, after committing the murder, in order to screen the evidence, on the next day, he himself filed the complaint and misled the Investigating Agency, as if, he do not know anything and subsequently on the basis of hair found in the hand of the deceased Parvathamma, the Investigating Agency on suspicion apprehended the accused and his hair sample was sent to DNA and on the basis of the report, came to the conclusion that accused only had committed the alleged offences and filed the charge sheet against the accused.



CNR: KAHC010410432019

**NC: 2026:KHC:46557-DB
CRL.A No. 1491 of 2019**

4. The accused was secured before the Trial Court and he did not plead guilty and claimed to be tried.

5. The prosecution mainly relies upon the evidence of PW1 to PW12 and also the documentary evidence of Exhibit P1 to Exhibit P16B and so also MO.1 to 14. The Trial Court, having considered both oral and documentary evidence placed on record comes to the conclusion that there is no chain link, in order to prove the guilt of the accused, since the case rests upon circumstantial evidence and acquitted the accused for the above offences. The Trial Court also taken into consideration that the prosecution only relies upon the recovery of the hair from the finger of the deceased Parvathamma and found that the same is also not properly established, as both the mahazar witnesses have turned hostile. Further, though the Investigating Officer-PW10 claimed that he has taken the photographs at the time of seizing the hairs, but the said photographs are not placed before the Court along with the charge sheet and the prosecution has withheld the material piece of evidence. It is also observed that Investigating Officers who claims that they seized MO8 and MO9 i.e. hairs taken from



CNR: KAHC010410432019

the spot, but PW12 who examined them has specifically deposed that sample taken from the spot were sent for DNA proof profiling and MO8 and MO9 were pertaining to sample of accused taken in the open Court. Even DNA profiling itself is not established in not examining, the person who conducted DNA profiling. It is also observed by the Trial Court that what prevented the IO's to send the seized hairs to the private lab when the DNA could be done in Bangalore itself and the same is not done and hence given the benefit of doubt in favour of the accused and acquitted the accused.

6. Being aggrieved by the acquittal order, the present appeal is filed by the State.

7. The learned HCGP for the State, in his argument would vehemently contend that the prosecution has mainly relied on PW1 to PW12. PW2 is the grandson of the deceased Adaveeshaia. He deposed that, he reached the spot only after being informed about the death of the deceased, and he has corroborated the evidence of her aunt as regards the relationship and deceased living in the farmhouse. PW3 is a



CNR: KAHC010410432019

barber, running a shop at Hoovinakatte, situated about 3 kilometres from the village of Uppinahalla. The PW1 Siddagangamma is the daughter-in-law of the deceased Adaveeshaia. The witness deposed that the deceased Adaveeshaia was an ex-serviceman and was a carpenter by avocation, but had not been able to work going to his old age.

8. The learned HCGP would vehemently contend that the Trial Court has committed an error in coming to the conclusion that very procedure adopted by the IO is doubtful in sending the same to the private lab. He would further contend that the Trial Court committed an error in coming to the conclusion that the DNA profile report is also not established by examining the author of the person who conducted the test and PW12 is not the authorized person to speak about the same. The very approach is erroneous.

9. Per contra, learned counsel appearing for the respondent/accused would vehemently contend that the Trial Court took note of discrepancies particularly in the evidence of PW10 and PW11 regarding seizure of hair at the spot from the



CNR: KAHC010410432019

hands of the deceased Parvathamma. The learned counsel brought to notice of this Court that PW11, says in his evidence that only found a single hair from the hands of Parvathamma. The Trial Court having taken note of all these facts and has rightly acquitted the accused.

10. Having heard the learned HCGP for the State as well as the learned counsel appearing for the respondent and also on re-appreciation of material available on record, the points that would arise for the consideration of this Court are:

i) " Whether the Trial Court has committed an error in acquitting the accused and also it is a case of murder of two persons and whether it requires interference of this Court?

ii) What order?"

11. Having perused the material available on record, there is no any other chain of circumstances in the case on hand, except mainly prosecution relying upon the DNA profiling. The Court has to first consider the evidence of PW12- Vani Sachdev, who is working as Deputy Director, Truth Labs, New Delhi. She has deposed regarding conducting DNA profiling



**NC: 2026:KHC:46557-DB
CRL.A No. 1491 of 2019**

CNR: KAHC010410432019

on MO8 and MO9 hairs found at the spot. In her evidence, she deposed that MO8 and MO9 are Item Nos.3 and 4, which were collected as sample from the hair of the accused in the Court. But very interestingly the Investigating Officers PW10 and 11 depose that MO8 and MO9 were collected from the spot. This is a material lacuna and as per her evidence, Articles 1 and 2 which were collected from the spot completely exhausted. But PW10 and PW.11 depose that MO8 and MO9 are samples collected from the spot and from the hand of the deceased. But they did not whisper anything about sample collected in the Court pertaining to the accused. The Trial Court also took note of the evidence of PW12, who has not conducted DNA profiling and also material certification is lacking and very interestingly such certification can be found at Exhibit P15, which is the FSL report. The relevant portion of DNA analysis report is at Exhibit P16(a). But it is interesting to note here that there is no certification of Exhibit 16(a) regarding seals found on the articles were intact and tallied with sample seal and description found on the articles correspond to that of those present in the invoice and the same is discussed in paragraph No.26. The



CNR: KAHC010410432019

portion of the cross-examination of PW12 also taken note that the witness admitted that during the course of DNA profiling, as the hair is likely to be exhausted, it is recommended to take photographs of the hair submitted for DNA profiling. But PW12 did not explain why photographs are not taken when there is a possibility of exhausting the hair and also she asserts that she has conducted DNA profiling and she is the specific assertion made by her.

12. The Trial Court taken note of in the cross-examination that she admitted that she is working in Truth Lab, Delhi and Truth Lab is in Gurgaon, is an independent organization and Truth Labs which has only collaboration with the said organization of Forensic Science Laboratories, Gurgaon. She categorically admitted that Articles 1 to 4 were sent from Delhi to Gurgaon Lab, wherein the scientific officers in Gurgaon have conducted DNA profiling. PW.12, in her cross-examination in paragraph No.26, she fairly admits that she is not working in Gurgaon. Therefore, it is very clear from her own admission that Scientific Officers of Forensic Science Laboratories, Gurgaon have conducted the DNA profiling. This



CNR: KAHC010410432019

is again consolidated by Exhibit P16(a), wherein it is specifically asserted that samples were subjected to DNA profiling conducted at our collaborating laboratory, Forensic Science Laboratory's Gurgaon by the Scientists of Truth Labs. PW12 never asserted that she had been to Gurgaon for conducting the test and taking note of this also comes to the conclusion that DNA profiling does not have any much importance and it cannot be the base for the prosecution to prove the guilt of the accused. The Trial Court has taken note of in paragraph No.26 with regard to the DNA profiling and also having considered the schedule and record in detail in paragraph No.27 in the evidence of prosecution about the Investigating Officer, speaks about M.O.8 and M.O.9 are here taken from the spot i.e. with the hands of the deceased Parvathamma and also at the spot, hairs were collected. But DNA profiling pertaining to MO8 and MO9 were obtained through sample of accused taken in the open Court. The Trial Court considering the material available on record in paragraph No.28 also comes to the conclusion that evidence of PW10 and who are the IO who conducted the investigation what they are prevented from sending the same



**NC: 2026:KHC:46557-DB
CRL.A No. 1491 of 2019**

CNR: KAHC010410432019

to the private lab has not been explained. There was a dispute between the deceased and his legal heirs regarding the agreement of sale pertaining to land and the same is admitted by the IO who conducted the investigation and categorically admits that there was a sale agreement transaction. But only connecting this accused is concerned that he used to collect the money from the deceased and also he demanded additional money and the same was refused.

13. In order to connect the accused with regard to this aspect is concerned there is no any material before the Court. The Trial Court, in detail taken note of the evidence available on record particularly in paragraph No.30 both in respect of DNA test report and also the evidence available on record is the discrepancy of evidence of PW10 and PW11, which contradicts with the evidence of PW12 and so also MO8 and MO9 and PW10 and PW11 claim that they are the samples taken from the spot, but PW12 deposes that it was taken in the open Court and the report is also that though says that it belongs to a same person. But in order to connect the accused, there are no any material before the Court.



CNR: KAHC010410432019

14. It is also important to note that when the murder was taken place, that too in the late hours of the night by using the chopper, no such recovery was made at the instance of the accused. Even accused's clothes were also not seized and when the case is based upon the circumstantial evidence, there must be a chain link and the same has to be established. Except the DNA profiling before the Court, claim is also not proper and the same also cannot be only one circumstances of the DNA profiling is sufficient to convict the accused.

15. In the absence of any chain link and establishment of either motive or for any recovery at the instance of the accused, question of convicting the accused that he committed the murder, no material before the Court. When such a reasoned order is given by the Sessions Court, and there was no any chain link to establish the case against the accused person, we do not find any ground to interfere with the findings of the Trial Court and the same not comes within the principles of the judgment of the Apex Court in the case of **MALLPPA AND OTHERS V. STATE OF KARNATAKA** reported in **(2024) 3 SCC 544** wherein held that while



CNR: KAHC010410432019

NC: 2026:KHC:46557-DB
CRL.A No. 1491 of 2019

reversing the judgment of acquittal into conviction, there must be cogent and convincing evidence and only if perversity is found, the Court can reverse the same. Hence, we answer the point No.1 in the Negative.

Regarding Point No.(ii):

16. In view of the discussions made above, we pass the following.

ORDER

The appeal is **dismissed**.

Sd/-
(H.P.SANDESH)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE