



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1431 OF 2018 (C)

C/W

CRIMINAL APPEAL NO. 748 OF 2018

CRIMINAL APPEAL NO. 964 OF 2018

IN CRL.A No. 1431/2018

BETWEEN:

SHIVAKUMAR @ KUMAR
S/O SRI. NARAYANASWAMY @ PAPANNA,
AGED ABOUT 24 YEARS,
R/OF ASALI ATHIKUNTE VILLAGE,
MULBAGAL TALUK.

...APPELLANT

(BY SRI. HASHMATH PASHA, SENIOR COUNSEL FOR
SRI. KARIAPPA N.A., ADVOCATE (PH))

AND:

1. STATE OF KARNATAKA BY
MULBAGAL POLICE,
KOLAR DISTRICT,
(REPRESENTED BY LEARNED
STATE PUBLIC PROSECUTOR)
2. GURUMURTHY
S/O LATE THIMMAIAH,



NC: 2026:KHC:29798-DB
CRL.A No. 1431 of 2018
C/W CRL.A No. 748 of 2018
CRL.A No. 964 of 2018

AGED ABOUT 44 YEARS,
R/AT MUTHYALAPET,
ASLIKUNTTE VILLAGE,
MULIBAGILU (T), KOLAR DISTRICT.

...RESPONDENTS

(BY SRI. RAHUL RAI K., HCGP FOR R1 (PH);
V/O.DTD.08.04.2026, NOTICE TO R2 IS
HELD SUFFICIENT AND SERVED)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO
CALL FOR THE RECORDS OF THE COURT BELOW, PERUSE THE
SAME AND SET ASIDE THE JUDGMENT AND ORDER OF
CONVICTIONS DATED 01.03.2018 AND SENTENCES DATED
02.03.2018 PASSED IN SPL.S.C.NO.05/2014 ON THE FILE OF
THE II ADDITIONAL SESSIONS JUDGE, KOLAR, FOR OFFENCES
U/S. 302 R/W. 34 OF INDIAN PENAL CODE AND U/S. 3(2)(v)
OF THE SCHEDULED CASTE AND SCHEDULED TRIBE
(PREVENTION OF ATROCITIES) ACT, 1989 AND
CONSEQUENTLY, ACQUIT THE APPELLANT FROM THE ALLEGED
CHARGES.

IN CRL.A NO. 748/2018

BETWEEN:

HARISHA
S/O KRISHNAPPA,
AGED ABOUT 33 YEARS,
RESIDENT OF BALLA VILLAGE,
MULBAGAL TALUK,
KOLAR DISTRICT,

...APPELLANT

(BY SRI. HASHMATH PASHA, SENIOR COUNSEL FOR
SRI. KARIAPPA N.A., ADVOCATE (PH) (VK NOT FILED))

AND:

1. STATE OF KARNATAKA BY
MULBAGAL POLICE,



KOLAR DISTRICT,
(REPRESENTED BY LEARNED
STATE PUBLIC PROSECUTOR)

2. GURUMURTHY
S/O LATE THIMMAIAH,
AGED ABOUT 44 YEARS,
R/AT MUTHIYALPET,
ASLIKUNTTE VILLAGE,
MULIBAGILU (T),
KOLAR (D).

...RESPONDENTS

(BY SRI. RAHUL RAI K., HCGP FOR R1 (PH);
RESPONDENT-2 SERVED & UNREPRESENTED)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO
CALL FOR THE RECORDS OF THE COURT BELOW, PERUSE THE
SAME AND SET ASIDE THE JUDGMENT AND ORDER OF
CONVICTIONS DATED 01.03.2018 AND SENTENCES DATED
02.03.2018 PASSED IN SPL.S.C.NO.05/2014 ON THE FILE OF
THE II ADDITIONAL SESSIONS JUDGE, KOLAR, FOR OFFENCE
U/S. 302 READ WITH SECTION 34 OF INDIAN PENAL CODE
AND UNDER SECTION 3(2)(v) OF THE SCHEDULED CASTE AND
SCHEDULED TRIBE (PREVENTION OF ATROCITIES) ACT, 1989
AND CONSEQUENTLY, ACQUIT THE APPELLANT FROM THE
ALLEGED CHARGES.

IN CRL.A NO. 964/2018

BETWEEN:

NARAYANASWAMY @ PAPANNA
S/O SRI. VENKATAPPA,
AGED ABOUT 50 YEARS,
R/OF ASALI ATHIKUNTE VILLAGE,
MULBAGAL TALUK.

...APPELLANT

(BY SRI. HASHMATH PASHA, SENIOR COUNSEL FOR
SRI. KARIAPPA N.A., ADVOCATE (PH))



NC: 2026:KHC:29798-DB
CRL.A No. 1431 of 2018
C/W CRL.A No. 748 of 2018
CRL.A No. 964 of 2018

AND:

1. STATE OF KARNATAKA BY
MULBAGAL POLICE,
KOLAR DISTRICT.
(REPRESENTED BY LEARNED
STATE PUBLIC PROSECUTOR)
2. GURUMURTHY
S/O LATE THIMMAIAH,
AGED ABOUT 44 YEARS,
R/AT MUTHIYALAPET,
ASLIKUNTTE VILLAGE,
MULIBAGILU (T),
KOLAR (D).

...RESPONDENTS

(BY SRI. RAHUL RAI K., HCGP FOR R1 (PH);
RESPONDENT-2 SERVED & UNREPRESENTED)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO CALL FOR THE RECORDS OF THE COURT BELOW, PERUSE THE SAME AND SET ASIDE THE JUDGMENT AND ORDER OF CONVICTIONS DATED 01.03.2018 AND SENTENCES DATED 02.03.2018 PASSED IN SPL.S.C.NO.05/2014 ON THE FILE OF THE II ADDITIONAL DISTRICT & SESSIONS JUDGE, KOLAR, FOR OFFENCES U/S. 114 OF INDIAN PENAL CODE AND U/S. 3(2)(v) OF THE SCHEDULED CASTE AND SCHEDULED TRIBE (PREVENTION OF ATROCITIES) ACT, 1989 AND CONSEQUENTLY, ACQUIT THE APPELLANT FROM THE ALLEGED CHARGES.

THESE APPEALS, 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



NC: 2026:KHC:29798-DB
CRL.A No. 1431 of 2018
C/W CRL.A No. 748 of 2018
CRL.A No. 964 of 2018

ORAL JUDGMENT

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

The judgment and order of conviction and sentence passed by the Court of II Additional Sessions Judge at Kolar in Spl.S.C.No.5/2014, convicting accused Nos.1 and 2 for the offence punishable under Section 302 r/w 34 of IPC and Section 3(2)(v) of SC/ST (POA) Act and accused No.3 for the offence punishable under Section 114 of IPC and Section 3(2)(v) of SC/ST (POA) Act is under challenge in these appeals.

2. Criminal Appeal No.1431/2018 is preferred by accused No.1, Crl.A No.748/2018 is preferred by accused No.2 and Crl.A No.964/2018 is preferred by accused No.3.

3. The brief facts of the prosecution case:- Accused Nos.1, 3 and deceased Radha Krishna were not on cordial terms, as accused No.3 had borrowed a sum of Rs.5,000/- from the deceased and deceased was demanding to repay the amount. Further, accused No.1 was teasing the girls in the village and in this regard the



NC: 2026:KHC:29798-DB
CRL.A No. 1431 of 2018
C/W CRL.A No. 748 of 2018
CRL.A No. 964 of 2018

deceased had questioned and advised him. Further, the deceased had agreed to settle the sale of some property in which the accused were interested. The deceased was also spreading news in the village that accused No.3 had committed rape of a girl. In this background, accused hatched a plan to commit his murder. On 24.04.2014 at 8.00 p.m., accused No.1 called the deceased expressing his willingness to settle the dispute. He purchased drinks and thereafter, accused Nos.1, 2 and the deceased went to Badamakan Dargah on a motorcycle. The accused made the deceased to consume liquor and then by dropping a size stone on his head and face, committed his murder and thereafter, in order to destroy the evidence, burnt the nylon shirt.

4. Before the trial Court, to establish the case of the prosecution, PW1 to 29 are examined and Exs.P1 to P32 and MO1 to 17 are marked. The defence of the accused was total denial. However, the accused did not choose to lead any defence evidence on their behalf.



5. The trial Court based on the evidence adduced by the prosecution, came to the conclusion that the materials available on record goes to show that accused Nos.1 and 2 have committed the murder and accused No.3 has abetted the crime, but there are no materials to show screening of the offence or humiliation made by the accused, by touching the caste of the deceased. The trial Court held that the prosecution has proved beyond reasonable doubt that accused Nos.1 and 2 have committed the murder of Radhakrishna at the instigation of accused No.3 and to that extent, guilt on the part of the said accused is proved beyond reasonable doubt.

6. Heard the learned Senior counsel Sri Hasmath Pasha for appellants, Sri. Rahul Rai, High Court Government Pleader for the State and perused the evidence and material on record including the impugned judgment passed by the trial Court.



7. The case of the prosecution rests on the following circumstantial evidence:

- i) Homicidal death of Radhakrishna;
- ii) Motive;
- iii) The deceased seen in the company of the accused on the previous night of the incident;
- iv) recovery of half-burnt nylon shirt.

8. The incident took place on 24.04.2014 at about 10.00 pm near KGF by-pass Mulbagal, Kolar. According to prosecution, at the instigation of accused No.3, accused Nos.1 and 2 took the deceased to the land and made him to consume liquor and then picked up quarrel with him and dropped a big size-stone on his head and face and committed the murder.

9. The complaint-Ex.P1 is lodged by the brother of the deceased examined as PW1. In Ex.P1, he has stated that on 24.04.2014 at about 10.00 pm, his brother was murdered, while he was returning to the village from



Mulabagal after completing his work. A perusal of Ex.P1 goes to show that PW1 was informed by one Krishna Reddy-PW6 over phone about the incident, when he was in Kolar. Immediately, he returned to the village and went to Mulabagal Government Hospital. He suspected that accused No.1-Shivakumar and his father accused No.3-Papanna and others have committed the murder, since earlier there used to be quarrel between them. He has stated that accused No.1 was teasing the girls in the village and that was questioned by his brother, hence, accused No.1-Shivakumar and accused No.3 Papanna and others have committed the murder of his brother.

10. In Ex.P1, accused Nos.1 and 3 are named on suspicion. On the basis of Ex.P1, FIR was registered against the said two accused and others on 25.04.2014 at about 6.30 am by PW24-M.Shankarappa, PSI of Mulabagilu Police Station. Later, he transferred the investigation to PW27-K.Ashok Kumar, Dy.SP, Kolar Sub-Division.



11. PW27 has deposed that after taking over the investigation, he visited the spot on 25.04.2014 and prepared the spot mahazar and seized a big size stone, whiskey bottles, two gold flake cigarette packets, one pair of chappal, one mobile phone, and collected blood stained mud and sample mud. Spot mahazar is marked as Ex.P2. He has also spoken about conducting the inquest mahazar at Mulabagilu Government Hospital and recording the statements of the witnesses, during inquest proceedings. The dead body was then subjected to post-mortem. On 24.06.2014, the investigation was taken over by PW28-Siddeshwar, Dy.SP, Mulabagilu Sub-division, who on completion of investigation, filed the charge-sheet.

12. The post mortem examination was conducted by PW25 at Government Hospital Mulabagilu. He has opined that the death was due to injury to the vital organ-brain. As per post mortem report, there was an antero-posterior compression of the skull and face with total



exposure of the skull cavity and total destruction of the brain both cerebral hemisphere (wound size 18x17x8cm).

13. The defence has not seriously disputed that the death was homicidal. From inquest proceedings and medical evidence, prosecution has established that the death of Radhakrishna was homicidal in nature.

14. It is the case of the prosecution that the accused No.3 had borrowed a sum of Rs.5,000/- from the deceased and the deceased was demanding to repay the said amount. Further, accused No.1 was teasing the girls in the village and in this regard the deceased had advised him. Further, the deceased had mediated to sell the land belonging to the uncle of accused No.3, in spite of accused requesting to register the said land in the name of accused No.3. Hence, the accused were nurturing ill-will against the deceased.

15. As already stated, Ex.P1-complaint was lodged by PW1, none other than the brother of the deceased,



suspecting that accused No.1 and 3 along with others, might have committed the murder of his brother-Radhakrishna. The only motive stated in Ex.P1 is that accused No.1 was teasing the girls in the village and this was questioned by the deceased and therefore, accused No.1 and his father i.e., accused No.3 and others were nurturing ill-will against his brother. Though the names of accused Nos.1 and 3 were specifically stated in Exhibit P1, PW1 has not mentioned in Ex.P1 about the money transaction or the land dispute between the accused and the deceased.

16. In his deposition, PW1 has not at all whispered about accused No.1 teasing the girls in the village and even the money transactions between accused No.3 and the deceased. On the other hand he has stated that he lodged the complaint suspecting the accused, in view of the dispute regarding the sale of property. PW2-mother of the deceased and PW3-wife of the deceased, have not at all stated about any property dispute between the accused



and the deceased. In the cross-examination, PW2 has stated that the deceased had given a sum of Rs.5,000/- to the accused, but she has no information about the same. PW3, wife of the deceased has also stated that accused No.3 had borrowed money from her husband and there was a quarrel. The said witnesses have not stated anything about the property dispute or the deceased questioning or advising accused No.1 for teasing the girls and ill-will between them for the said reason.

17. Even though the prosecution has alleged that accused No.3 had borrowed Rs.5,000/- from the deceased, contrary to the same, PW4 in his chief examination has stated that the deceased had borrowed Rs.5,000/- from accused No.3 and there was a quarrel, as the said amount was not paid. Further, in the panchayat it was agreed that the amount will be returned. In the cross-examination, he has again stated that about 2-3 months prior, the deceased had borrowed Rs.5,000/- from accused No.3. Another independent witness examined as PW5, though



stated that there was a panchayat with regard to the land transaction, he has stated that it was accused No.3 who had teased a girl in the village and therefore, a complaint was lodged against the said accused and a panchayath was also convened.

18. The prosecution has placed no materials to show that cases were registered either against accused No.1 or accused No.3. The persons participated in the panchayat are also not examined. There are several discrepancies in the evidence of the witnesses with regard to motive aspect, as noted supra and therefore, it cannot be held that the prosecution has established the motive for the accused to commit the offence.

19. The prosecution has projected PW4 and PW5-independent witnesses, as well as PW7 and PW9-Police Constables as the persons who saw the deceased in the company of accused Nos.1 and 2 on the night of 24.04.2014 at about 9.45 p.m. According to prosecution, the dead body was noticed by PW6-Krishnareddy at about



NC: 2026:KHC:29798-DB
CRL.A No. 1431 of 2018
C/W CRL.A No. 748 of 2018
CRL.A No. 964 of 2018

10.00 p.m., on 24.04.2014. Further, as per Ex.P1, the said Krishnareddy informed PW1-Gurumurthy over phone about the same.

20. Krishnareddy, examined as PW6 has not supported the case of prosecution. He was treated hostile by the prosecution. In the cross-examination, he has denied having seen the dead body at about 10.00 p.m. on 24.04.2014 near a bypass road.

21. According to PW4, he along with his friend Mahesh (PW5) while returning on a two wheeler at about 9.45 p.m. on 24.04.2014, they heard some commotion near the bypass road and therefore, they went to the said place, wherein accused Nos.1, 2 and the deceased were present and they were talking loudly. When he enquired with the deceased, he replied to him that he will come in 10 minutes. After about ½ an hour to 45 minutes, he learnt that Radhakrishna was murdered and therefore, all of them went to the said place and saw the dead body.



22. Similarly, PW5 has also stated about seeing the deceased along with accused Nos.1 and 2 talking loudly and later coming to know about the incident at about 11.00 p.m.

23. In the cross-examination, PW4 has stated that the police have recorded his statement at the spot on 24.04.2014 at about 11.00 p.m. He has further stated that thereafter, the police have not called him and not recorded any statement.

24. PW27-Investigating Officer has stated that the statements of PW4 and PW5 are recorded on 24.4.2014. It is not at all stated by the Investigating Officer about the said witnesses informing him about seeing deceased along with accused Nos.1 and 2 prior to the incident. Further, in the cross examination of PW5, he has stated that the police have not recorded his statement and for the first time before the Court he is deposing about the incident.



25. PW7 and PW9 are the Police Constables. According to them, they received some information on 24.04.2014 at about 9.00 p.m. that some galata is going on at KGF road and therefore, they went to the said spot. They have deposed that accused Nos.1, 2 and the deceased were present at Badamakhn ground and they advised them not to remain at the place during night hours and then returned to the police station.

26. FIR was registered on 25.04.2014 at about 6.30 a.m. FIR was forwarded to the Magistrate at about 1.30 p.m. Both PW7 and PW9 are police constables working at Mulabagilu Police Station, where the FIR was registered. If the said witnesses had seen the deceased in the company of accused Nos.1 and 2 on the night of 24.04.2014, their conduct in not informing the same at the time of registration of the FIR or before it reached the Magistrate, raises a serious doubt. Further, according to PW4 and PW5 they came to know about the murder on the night of 24.04.2014 at about 10.00 p.m., and they went to



the spot and saw the dead body. However, in the FIR which was registered on the next day, the names of PW4 and PW5 who saw the deceased in the company of accused Nos.1 and 2 are not mentioned. Hence, the evidence of PW4, PW5, PW7 and PW9 that they have seen the deceased in the company of accused Nos.1 and 2 on the night of 24.04.2014 appears to be doubtful. The evidence of the said witnesses does not inspire the confidence of the Court.

27. Further, according to prosecution, after PW1 received the information from PW6 about the incident, he lodged a complaint suspecting the role of accused Nos.1 and 3 and others on the next day i.e. on 25.04.2014 at about 06.30 a.m. In the cross-examination, PW4 has stated that on the very night i.e. on 24.04.2014 at about 11.00 p.m., his statement was recorded by the police. If that is so, the said statement recorded prior to the complaint lodged by PW1, should have been taken as the first information report. From the cross-examination of



PW4, it is seen that at that time already 22-30 persons had gathered at the spot and even 10-15 police personnel were present.

28. During spot mahazar-Ex.P2, MO.1 and other articles were seized from the spot including a mobile phone belonging to the deceased. The only recovery at the instance of accused, according to the prosecution is the burnt nylon shirt and eucalyptus leaves-MO.13. The panch witness to Ex.P3 is PW21. According to prosecution, after committing the murder, accused No.1 burnt his nylon shirt and the same was seized at his instance and a motorcycle was seized under Ex.P4. However, there is no evidence to show that the said nylon shirt belong to accused No.1. None of the witnesses have stated that accused No.1 was wearing a nylon shirt when they saw the deceased and the accused together. The witnesses have also not stated that they have seen the motorcycle at the spot. Hence the seizure of MO.13-nylon shirt and MO.14-motorcycle will not incriminate the accused.



Further, there is not even an iota of evidence to show that accused No.3 had abetted accused Nos.1 and 2 to commit the offence. Hence, the prosecution has failed to prove its case against the accused for offences under Section 302, 201, 114 r/w 34 of IPC, beyond reasonable doubt.

29. The prosecution has got marked the caste certificates of the deceased and the accused as Exs.P21 and 22 to show that the deceased is a member of Scheduled Caste and the accused are not. However, we have held that the prosecution has failed to prove the charges levelled against the accused under Section 302, 114 r/w Section 34 of IPC. Hence, in the absence of any evidence to convict the accused for the above offences, their conviction under Section 3(2)(v) of SC/ST (POA) Act, cannot be sustained.

30. Having re-appreciated the entire evidence and material on record, we are of the considered view that the prosecution has failed to establish all the links in the chain of circumstances so as to form a complete chain. The



reasons assigned by the trial Court for convicting the accused are not in accordance with law. The Judgment and Order of conviction and sentence is therefore, not sustainable in law and it is liable to be set-aside.

31. For the foregoing reasons, we pass the following:

ORDER

- i. Appeals are **allowed**.
- ii. The Judgment and Order dated 1.3.2018 and Order on Sentence dated 2.3.2018 passed by the II Additional District and Sessions Judge, in Spl.C.No.5/2014 convicting the appellants /accused Nos.1 to 2 for the offences punishable under Section 302 r/w 34 of IPC and under Section 3(2)(v) of SC/ST(POA) Act and accused No.3 for the offence punishable under Section 114 of IPC and under Section 3(2)(v) of SC/ST(POA) Act are **set aside**.



NC: 2026:KHC:29798-DB
CRL.A No. 1431 of 2018
C/W CRL.A No. 748 of 2018
CRL.A No. 964 of 2018

- iii. Accused Nos.1 to 3 are **acquitted**. Their bail bonds stand cancelled.
- iv. The fine amount, if any deposited by the accused shall be refunded to them.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE

HB,KBM,TL
List No.: 1 Sl No.: 14