



CNR: KAHC010446012019

NC: 2026:KHC:52810-DB
CRL.A No. 182 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.182 OF 2020 (C)

BETWEEN:

SHIVALINGEGOWDA @ SHIVANNA
S/O. DYAVALINGAIAH
AGED ABOUT 45 YEARS
RESIDING AT
C/O. VENKATESHAPPA'S HOUSE
NEAR HMR SCHOOL
JNANAJYOTHI NAGAR
BENGALURU

NATIVE OF: BANNIKUPPE GRAMA
RAMANAGARA TALUK AND DISTRICT-562 159

...APPELLANT

(BY SRI MOHAN KUMAR D., ADVOCATE AND
MR. MELANIE SEBASTIAN, ADVOCATE)

AND:

STATE OF KARNATAKA
JNANABHARATHI POLICE STATION
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001

...RESPONDENT

(BY SRI VIJAYKUMAR MAJAGE, S.P.P.-II A/W
SRI RANGASWAMY R., H.C.G.P.)

Digitally signed
by
SHARADAVANI
B
Location: HIGH
COURT OF
KARNATAKA



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THIS CRL.A. IS FILED U/S 374(2) OF CR.P.C. BY THE ADVOCATE FOR THE APPELLANT PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION AND SENTENCE DATED 25.04.2019 PASSED BY THE PRINCIPAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU IN S.C.NO.807/2011- CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION 302 OF IPC. THE APPELLANT/ACCUSED IS SENTENCED TO UNDERGO IMPRISONMENT FOR LIFE AND TO PAY FINE OF RS.25,000/- AND IN DEFAULT OF PAYMENT OF FINE HE SHALL UNDERGO FURTHER IMPRISONMENT FOR 6 MONTHS FOR THE OFFENCE PUNISHABLE UNDER SECTION 302 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 B.PRAMOD



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ORAL JUDGMENT

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

The instant appeal is preferred by the accused challenging the judgment and order of conviction and sentence passed against him by the trial Court, for the offence punishable under Section 302 of IPC.

2. We have heard the learned counsel for the appellant, learned SPP-II for the State and perused the evidence and material on record.

3. The accused was charged for committing the murder of one Sukanya @ Indira on 01.02.2011 at about 7.00 pm, by slitting her neck with a knife.

4. It is the case of the prosecution that the accused was a driver and used to go to Kanyakumari, situated in Tamilnadu. Prior to 02.02.2011, he became acquainted with the deceased and developed friendship with her. He brought her to Bengaluru, with a promise of giving a new life to her and both of them stayed in a



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rented house situated at Ullalu main road, Jnanajyothi Nagar Bengaluru, belonging to one Puttamarappa. The accused intended to take away the gold jewellery worn by the deceased, but she had refused to part with the jewellery. Hence, he took her to the railway layout by the side of Bhavani Nagar road, Bengaluru and committed her murder by cutting her neck with a knife and took away the gold chain and four gold bangles.

5. The case of the prosecution rests on circumstantial evidence. The circumstances relied upon by the prosecutions are:

- (i) Previous acquaintance of the accused with the deceased,
- (ii) Their stay in Bengaluru in the rented house belonging to Puttamarappa,
- (iii) The recovery of a gold chain and four bangles from the accused,



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- (iv) The purchase of knife by the accused from the shop of PW.21,
- (v) Seizure of bloodstained clothes of the accused,
- (vi) Recovery of the bag containing the clothes of the deceased, and
- (vii) The homicidal death.

6. The trial Court, on appreciation of the oral and documentary evidence on record, came to the conclusion that the prosecution has proved each of the circumstances by preponderance of probability and the chain of circumstance is so complete and it will show that in all human probability the act must have been done by the accused.

7. The homicidal death of Sukanya @ Indira is not seriously disputed. The dead body was found with cut injuries on 02.02.2011 at about 11.15 am, near the railway layout, Bhavani Nagar. On noticing the dead body,



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PW.1-N.Purushotham informed the matter to the police. On the basis of the said information, the FIR was registered at Jnanabharathi P.S., Bengaluru, against unknown person. In the meanwhile, the husband of the deceased, PW.4-Stalin lodged a missing complaint at Tamaraikulam Police Station, regarding missing of his wife. On receiving the information regarding the discovery of an unknown dead body of a female, within the limits of Jnanabharathi police Station, he came to Bengaluru and identified the dead body as that of his wife. Post Mortem was conducted on 06.02.2011 by PW.15, who has found the following injuries.

- "1. Deep incised injury was present horizontally across lower portion of front of neck measuring 15cms x 4cms x neck tissue deep exposing cut structures of neck. Margins were irregular. Underlying strap muscles, vessels and nerves of front of neck were completely severed irregularly. Trachea was completely cut just below the thyroid cartilage. Anterior surface of C5 and C6 vertebra showed multiple cuts in periosteum.*
- 2. There was laceration of left ear pinna measuring 1cm x 0.5cm with pinna completely cut.*



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3. An abrasion was present over front of left knee measuring 5cms x 2cms.

Abrasions were bright red in colour.

Fractured bone ends showed blood extravasation."

PW.15 has opined that the death was due to shock and hemorrhage as a result of injury to the neck. P.M report is marked as Ex.P15.

8. PW.4, the husband of the deceased, PW.17 and 22, relatives of PW.4 have deposed regarding the deceased leaving the house on 28.01.2011, informing that she was going to the house of her elder sister at Marthandam. PW.4 has stated that he had prepared one gold neck chain, four gold bangles, one gold chain with dollar and a mangalya for his wife and she was wearing the above mentioned gold articles. As she did not return till 30.01.2011, he lodged a missing complaint at Tamaraikulam police station. As per PW.4, on 02.02.2011, the Jnanabharathi police informed him about the recovery of a female dead body and also finding his phone number.



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On receiving the said information, PW.4 went to the police station and then went to Victoria Hospital wherein, he identified the dead body of his wife, in the mortuary.

9. It is the contention of the learned SPP-II that, PWs.4, 19 and 22 have all spoken about the previous acquaintance of the deceased with the accused. He contended that prior to the incident, accused used to visit the tea shop of the deceased and they were seen talking with each other and therefore it is probalised that the deceased had accompanied the accused to Bengaluru. The said contention cannot be accepted. Even though PWs.4, 19 and 22 have deposed about the previous acquaintance of the accused and the deceased, their evidence do not indicate that the deceased was seen leaving the house with the accused or she was seen with the accused after she left the house.

10. The prosecution has relied on the evidence of PW.10, the owner of the house where the accused and the



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deceased were allegedly staying in Bengaluru, after the deceased left her house. We have perused the evidence of PW.10. He has deposed that he has constructed 5-6 houses at Ullal cross, Jnanajyothi Nagar and all the houses were let out on rent. The accused had occupied one of the houses in the vathara, with his wife and children since two years. The monthly rent was fixed at Rs.1,700/- with advance amount of Rs.10,000/-. He has stated that he had seen the wife of the accused and the accused coming to the house with his wife and two children, but he pleaded his ignorance as to what happened thereafter. When he was confronted with the photos at Exs.P2 to P5 i.e. photos of the deceased, he has stated that woman in those photos was not the wife of the accused. In the cross-examination conducted by the Public Prosecutor, PW.10 has denied that the accused had come to his house on 28.01.2011 at 6.30 am with a woman i.e. the deceased, shown in the photographs. Hence, the prosecution has failed to establish that the



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deceased was in the company of the accused, after she left her house.

11. Insofar as the recovery of gold ornaments, bag containing clothes of the deceased and clothes of the accused are concerned, it is the case of the prosecution that after the arrest of the accused, on 04.02.2011, he led the police to the house in the vathara situated at Ullalu cross and produced those articles and they were recovered under Mahazars-Ex.P11 and Ex.P17, in the presence of panch witnesses.

12. PW.4, in his evidence has stated that on 02.02.2011, he was informed by the Jnanabharathi Police about the recovery of the dead body of a female and immediately he went to the police station and went to Victoria Hospital, wherein, he identified the dead body. Thereafter, he again returned to the police station. He has stated that the accused was present in the police station and the police had seized the sarees and the jewelleries



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and told him that the accused had committed the murder of his wife.

13. If the above evidence of PW.4 is appreciated, then on 02.02.2011 itself, the accused was in the police station and the police had recovered the sarees and jewels of the deceased. However, according to the prosecution, the accused was arrested on 04.02.2011. PW.7, the Police Constable has stated that on 04.02.2011, he was deputed to apprehend the accused and the accused was seen near the house of Venkateshappa and on the basis of the photo, they apprehended him and produced before the Police Inspector at 10.15 pm.

14. It is also pertinent to see that in the cross-examination, PW.7 has stated that he had seen the accused earlier, as he had come to the police station to lodge a complaint regarding missing of his wife. The prosecution has not clarified as to when the accused had



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visited the police station and what was the complaint lodged by him.

15. It is the case of the prosecution that after the arrest of the accused, the gold bangles (MO.4), gold chain (MO.5), belonging to the deceased were recovered at his instance, under Ex.P11, in the presence of panch witnesses and the said gold ornaments are identified by PWs.4, 19 and 22.

16. The gold ornaments, MOs.4 and 5 were shown to have recovered on 05.02.2011 from the house of the accused, situated at Ullalu cross, Jnanajyothinagar. As per prosecution, the said house belongs to Puttamarappa, who had let it out to the accused. Firstly, as per PW4, on 02.02.2011 itself the accused was shown to him in the police station, wherein the gold ornaments were produced and he identified those gold ornaments. If that is so, then the recovery of MOs.4 and 5 on 05.02.2011 appears to be doubtful. PWs.2 and 12 are the panch witnesses to Ex.P11.



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PW.2 has deposed in the chief examination that the accused took them to his house on the first floor, where he had kept certain jewellery. He produced them before the Police Inspector and also produced the blood stained clothes. He identified his signature in Ex.P11 and the photographs/MOs.4 and 5. In the cross-examination conducted by the defence, he has stated that he is not aware as to from whose custody the jewelleries were seized. He admitted that the articles were not packed and labels were not affixed in his presence.

17. PW.12, another panch witness has not supported the case of prosecution. In the chief examination, though he identified his signature on Ex.P11, pleaded his ignorance about the seizure of gold ornaments from the house of the accused.

18. In his cross-examination by the public prosecutor, PW.12 has denied that the accused led the police and panchayadars to the kitchen in his house,



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produced a box kept on the sajja, and from the said box accused produced gold necklace and 4 gold bangles. It is pertinent to note that PW2 has nowhere stated in his chief examination that the gold jewellery was kept in a box on the sajja inside the kitchen and the said box containing gold necklace and 4 gold bangles was produced by the accused. Admittedly, PW10 is the owner of the house where the accused was residing, from where gold ornaments – Mos.4 and 5 were seized. However, he has not whispered anything about seizure of gold ornaments at the instance of the accused.

19. Similarly, under Ex.P11 the blood stained clothes of the accused viz., a towel, nicker and a Banyan (MOs.17 to 19) were seized. PWs.2 and 12 are the panch witnesses, but as already noted, PW2 has admitted in the cross-examination that in his presence the articles were not packed and labels not affixed. PW12 has not supported the case of prosecution. In the cross-examination, PW12 has denied the suggestion of the prosecutor that from the



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house, accused produced a blood stained towel, blood stained underwear and a blood stained banyan. As per Ex.P11-mahazar, the recovery was conducted between 10.45 a.m., to 11.45 a.m., on 05.02.2011, whereas the evidence of PW12 indicates that the recovery was conducted at about 2.00 p.m., on 05.02.2011. The prosecutor has not clarified the time of recovery.

20. It is the case of prosecution that under Ex.P17, a bag containing clothes of the deceased (MOs.9 to 12) were seized at the instance of the accused. The prosecution has got examined PWs.16 and 17, the panch witnesses to Ex.P17. PW16 has turned hostile. He has not supported the case of the prosecution. If the evidence of PW.17 is perused, in his deposition he has stated that the police had brought the accused to his shop premises and the police took him and the accused to the room near the shop where there was one bag containing 12 or 13 sarees, 6 jackets and bras etc. Though he has stated that the accused showed the bag, however, as per his evidence, it



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was the police who took him and the accused to the room situated near his shop. Interestingly, the recovery of the gold ornaments and the blood stained clothes of the accused was affected on 05.02.2011. If the cross-examination of PW17 is seen, even the bag containing clothes of the deceased were seized from the same house, i.e., the house belonging to Sri Venkateshappa – PW10. However, on 05.02.2011, when the gold ornaments and the blood stained clothes of the accused were allegedly seized, the police have not seized the bag containing the clothes of the deceased. The said recovery mahazar was conducted on 06.02.2011. Hence, the recovery of the gold ornaments, blood stained clothes of the accused, and the clothes of the deceased, at the instance of the accused appears to be doubtful.

21. The learned SPP-II contended that the clothes of the accused were subjected to FSL examination and they were found to be stained with B-group blood. However, when the recovery itself is shrouded with doubt, no



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reliance can be placed on the FSL report to hold that the articles were seized at the instance of he accused.

22. The learned SPP-II contended that to commit the crime, the accused had purchased a knife from the shop of PW21 and the said witness has supported the case of the prosecution. He contended that blood stained knife was recovered at the instance of the accused under Ex.P6.

23. PWs.3, 9 and 14 are the panch witnesses to the recovery of knife (MO.16). According to the prosecution, the said knife was purchased by the accused from the shop of PW21. In the cross-examination, PW21 has stated that he has not issued any bill to the accused for having sold the knife to him and he has not maintained any register in that regard. PW.3, panch witness to the recovery mahazar, has not supported the case of the prosecution. He has stated that the accused had not produced the knife, and the police have not recorded his statement. If the evidence of PW.9 is perused, the said



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witness has stated that the inspector took him to a vacant site along with the accused, stating that they will show a knife, and the accused produced the knife from a bush. In the cross-examination he has stated that the police informed him that the accused had committed murder and that he will produce the knife, and requested him to act as a pancha. Further, according to PW9, the knife was produced by the accused from the side of the road, whereas PW14 has stated that the accused produced a polythene cover and produced a knife which was lying in a gutter i.e., open drainage/mori. These contradictions in their evidence, renders the alleged recovery of the blood stained knife at the instance of the accused doubtful.

24. On re-appreciation of the entire evidence and material on record, we are of the considered view that this being a case resting on circumstantial evidence, the prosecution has failed to establish the complete chain of circumstances, beyond reasonable doubt. The accused is therefore, entitled to the benefit of doubt.



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25. Hence, we proceed to pass the following:

ORDER

i) Appeal is ***allowed.***

ii) The judgment and order dated 25.04.2019 passed by the Court of the Principal City Civil and Sessions Judge at Bengaluru in S.C.No.807/2011, convicting and sentencing the accused/appellant for the offence punishable under Section 302 of IPC is hereby set aside.

iii) The accused is acquitted and he shall be released forthwith, if not required in any other case.

The operative portion of the order shall be communicated to the prison authority, by the registry.

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

**Sd/-
(B.PRAMOD)
JUDGE**

MKM,HB/CT: VC