



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1557 OF 2018 (C)

BETWEEN:

VISHWANATH
S/O VENKATESHAPPA
AGED 31 YEARS,
R/AT DODDABOMPALLI VILLAGE
KAMASAMUDRAM HOBLI
BANGARPET TALUK - 563 129.

...APPELLANT

(BY SRI. HASMATH PASHA, SENIOR COUNSEL
A/W SRI. NAGARAJA REDDY, ADV.
(V/O DTD: 02.02.26 APPOINTED AS AMICUS CURIAE.))

AND:

THE STATE OF KARNATAKA
BY KAMASAMUDRAM POLICE STATION
BANGARPET TALUK, KOLAR DISTRICT
BY: STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE - 01.

...RESPONDENT

(BY SRI. VIJAY KUMAR MAJAGE, SPP-II.)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C PRAYING TO
SET ASIDE THE JUDGMENT OF CONVICTION AND ORDER OF
SENTENCE DATED 23.03.2018 PASSED BY THE III ADDITIONAL
DISTRICT AND SESSIONS JUDGE, KOLAR (SITTING AT K.G.F.)
IN S.C.NO.72/2016 - CONVICTING THE APPELLANT/ACCUSED
FOR THE OFFENCE P/U/S 302 OF IPC.



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 G BASAVARAJA

ORAL JUDGMENT

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

The Judgment and Order dated 23.3.2018 passed by the Court of the Additional District & Sessions Judge, Kolar (sitting at KGF) in SC No.72/2016, convicting and sentencing the accused for the offence punishable under Section 302 of IPC, is assailed in this appeal.

2. The accused has been sentenced to undergo imprisonment for life and to pay a fine of Rs.10,000/-, in default to pay fine amount, to further undergo imprisonment for a period of six months.

3. Brief facts of the case:

Deceased Lakshmi is the wife of the accused. Their marriage took place about nine years prior to 24.11.2015. The couple were residing at Doddabompalli in the house of



the parents of the accused, for about seven years. Thereafter, the accused took his wife to Bengaluru and started to reside in a rented house situated at Avalahalli. The accused used to assault the deceased very often, as such the parents of the deceased used to visit the house of the accused at Avalahalli and pacify the deceased and advise the accused to stop ill-treating Laxmi. Despite such advice, the accused was assaulting her. On 22.11.2015, the accused and the deceased came to Doddabompalli, to the house of the parents of accused. On 24.11.2015 at midnight, accused picked up quarrel with the deceased suspecting her chastity and assaulted on her head with an blowpipe (MO1), due to which she died on the spot.

4. Before the trial Court, to establish its case, the prosecution got examined PW.1 to PW18 and got marked Ex.P1 to P16 and two material objects, MO.1 and MO.2. The defence got marked Ex.D1, portion of the statement of PW6. According to the defence taken by the accused, the roof of the house broke and a piece of wood fell on the



deceased due to which she sustained head injuries and succumbed to the said injury.

5. The learned Sessions Judge, appreciating the oral and documentary evidence on record, convicted the accused for the offence punishable under Section 302 of IPC, holding that there is no defense evidence placed to prove probability of the said fact and in the spot mahazar-Ex.P6, it is not shown that the roof of the Kitchen of the house fell down. The learned Sessions Judge, further observed, nothing was stated by the accused in the statement recorded under Section 313 of Cr.P.C. The learned Sessions Judge also held that it is not the defence of the accused that he was not present in the house when his wife sustained injuries and died, and the presence of his minor son i.e. PW7 by name Guruprasad in the said house, is also not in dispute. Appreciating the evidence of PW7, the learned Sessions Judge held that, according to his evidence, his father assaulted on the head of his mother with a blowpipe and as such deceased sustained



injuries to her head and fell down and died. The learned Sessions Judge has also found corroboration to the evidence of PW7 with that of medical evidence and held that evidence of PW7 is credible and trustworthy and there are no reasons to disbelieve his evidence.

6. The learned Senior Counsel appearing for the appellant would vehemently contend that PW7 is a child witness and his evidence is not conclusive to hold that accused has committed the offence, without any substantial corroboration. He contended that the trial Court was not justified in convicting the accused relying on the sole testimony of PW7. Drawing the attention of the Court to his evidence, the learned Senior Counsel contended that the said witness has admitted that he saw the dead body of his mother in the morning, which implies that he is not an eye-witness to the incident and the prosecution ought to have led any other evidence, corroborating his evidence in material particulars. He further contended that the weapon-MO1, was found at the



spot and not seized at the instance of the accused and therefore, except the uncorroborated testimony of PW7, there is no other piece of evidence which incriminates the accused. He therefore sought to allow the appeal and set aside the impugned judgement of conviction and sentence passed by the trial Court.

7. Per contra, the learned SPP-II appearing for the State, would contend that, PW7 is the son of the accused and the deceased and his presence in the house is natural. Immediately on enquiry by PW8, father of the deceased, he has revealed the incident that his father has assaulted his mother with a blowpipe on her head. He contended that there is nothing elicited in the cross-examination of PW7 to disbelieve his evidence or to show that he is a tutored witness. He contended that the accused and deceased were residing in the same house and their son i.e. PW7, was also residing along with them and the incident having taken place during night hours, the accused has failed to offer any explanation about the



incident and therefore, an adverse inference has to be drawn against him. He contended that the trial Court has appreciated the entire oral and documentary evidence adduced by the prosecution and has rightly convicted the accused for the offence punishable under Section 302 of IPC. Accordingly, he sought to dismiss the appeal.

8. FIR is registered on the basis of the complaint lodged by Smt. Padmamma-PW6, mother of the deceased. Initially, case was registered against accused Nos.1 to 7 for the offences punishable under Sections 498A, 302 r/w Section 149 IPC and Section 3 and 4 of the Dowry Prohibition Act. In the complaint, PW6 alleged that at the time of marriage dowry was demanded and accepted by the accused and on the date of incident, all the accused, named in the FIR, were present in the house and the appellant/accused has assaulted the deceased on her head with Udukolave (blow pipe). However, while filing charge sheet, accused Nos. 2 to 6 named in the FIR were



dropped. Charge sheet was filed only against the appellant for the offence punishable under Section 302 IPC.

9. It is the case of the prosecution that on 24.11.2015 at about 12.00 at midnight, in the house where the accused and his deceased wife were residing, along with their son (PW7), situated at Doddambampally Village, Bangarpet Taluk, accused picked up quarrel with his wife- Lakshmi suspecting her chastity and assaulted her with the Udukolave (blow pipe) on her head and other parts of the body and due to the impact, she died on the spot.

10. Among the witnesses examined by the prosecution, PWs.1 to 4 and 9 to 12 have turned hostile. PW5 is the brother, PW6 and PW8 are the parents of the deceased, PW7 is the son of the deceased, PW13 is the Assistant Engineer, who prepared the sketch-Ex.P8, PW14 is the PDO, who issued the copy of the house extract-Ex.P9, PW15 is the doctor who conducted the autopsy and issued post mortem report-Ex.P10 opining



that the injuries found on the body of the deceased may be caused from the weapon i.e., iron pipe namely Udukolave-MO.1. PW16 is the PSI, who registered the FIR-Ex.P12, PW17 is the Head Constable, who apprehended the accused, PW18 is the Investigating Officer, who conducted the investigation and filed charge sheet.

11. As per post mortem report-Ex.P10. The following injuries are noticed on the dead body:

- 1) Bluish, black bruises over the left thigh, lateral middle 1/3.
- 2) Bruises over b/L knee joint with ? hematoma.
- 3) Bruises over the right hand palmar surface with (not legible) fracture of right hand carpel (not legible) metacarpal bones.
- 4) Incised wound over the right fronto parietal region 2½ inch x 5 cm, blood clots present.
- 5) Abrasion over centre of chin.



12. As per final opinion, cause of death is due to shock and hemorrhage secondary to intra cranial bleeding as a result of injuries sustained to vital organs i.e. brain.

13. According to prosecution, when the incident took place, the accused was present in the house. Accused has also not disputed that he was not in the house at the time of incident. As per complaint averments, during midnight on 24.11.2015, the accused assaulted the deceased with MO.1-Udukolave (blow pipe) on her head and committed her murder. The presence of his son, examined as PW7 in the house is also not disputed by the accused. The presence of PW7 in the house is very natural and therefore, his evidence assumes importance as he is a material witness in the case.

14. PW6 and PW8, the parents of deceased have deposed in their evidence that on reaching the house, they enquired with PW7 i.e., their grandson, about the occurrence and PW7 informed them that his father has assaulted his mother.



15. It is contended by the learned Senior counsel that according to PW6, he enquired with PW7 on the next day of the incident and therefore, the said evidence cannot be considered as corroboration to the evidence of PW7. However, PW6 and PW8 enquiring with PW7 about the occurrence is believable, since PW7 is their grandson and he was very much present in the house. His presence has not been disputed by the defence.

16. It is the contention of the learned Senior Counsel that PW7 is a child witness and his evidence is not conclusive to establish that he has seen his father assaulting on the head of his mother, since in the cross-examination he has stated that he saw the dead body of his mother in the morning. The said contention cannot be accepted. PW7 has deposed that in the night he saw his father assaulting his mother, on her head with a Udukolave (blow pipe) in the kitchen. Due to the assault, his mother sustained head injuries and collapsed to the ground. In the cross-examination, though he has stated



that he saw the dead body of his mother in the morning, he has stated that he has seen the accused assaulting his mother. His evidence clearly shows that he has seen the accused assaulting the deceased with Udukolave (blow pipe), but he saw the dead body of his mother only in the morning. Though it is elicited in the evidence of PW7 that due to rain, the wooden piece from the tiled roof of the house had broken, the evidence of PW7 clearly indicate that the deceased has not sustained any injuries for the said reason, but she sustained injury due to the assault by the accused. Even Ex.P6, spot mahazar also do not indicate that the wooden piece from the tiled roof of the house had broken. Therefore, the defence taken by the accused has not been probalised.

17. The incident took place on 24.11.2015. The accused was found missing from the house and he was apprehended on 15.01.2016. No explanation is offered by the accused for his absence, when his wife had sustained serious injuries and shifted to the hospital. Further, the



evidence of PW7 is corroborated with the PM report, marked as Ex.P10 wherein, injury No.4 is the incised wound over the right fronto parietal region measuring 2½ inches x 5 cm. As per the final opinion, cause of death is due to shock and hemorrhage secondary to intra cranial bleeding as a result of injuries sustained to vital organs i.e. brain.

18. The trial Court has held that the assault made to the head of the deceased with Udukolave /insufflator has caused fracture of the bone in the head and due to this reason there was blood clot in the brain which resulted in the death of the deceased. Further held that, from the nature of injury caused by assaulting with the insufflator to the head of the deceased, it can be said that the accused had intention to commit the murder of deceased. Hence, the trial Court held that the act of accused person in causing death of deceased Smt. Lakshmi is nothing but culpable homicide amounting to murder.



19. According to prosecution, the accused used to quarrel with the deceased and even on the date of incident, during midnight, he picked up quarrel and assaulted her with Udukolave (blow pipe)-MO.1 on her head. The dead body was found in the kitchen with head injuries etc. The Udukolave (blow pipe)-MO.1 was lying at the spot and it was seized at the time of conducting the spot mahazar-Ex.P6. PW9 and PW10 are the owner and neighbour of the rented house where the accused and deceased were residing in Bengaluru. They were examined by the prosecution to establish that the accused was repeatedly quarrelling and assaulting his wife. Both the said witnesses have turned hostile and not supported the case of the prosecution. They have stated that the relationship between the accused and his wife was cordial. A perusal of the evidence of PW7 does not indicate as to under what circumstance, the accused assaulted the deceased with MO.1. According to the prosecution, the accused suspected the chastity of his wife and picked up a



quarrel with her and assaulted on her head with MO.1. However, the witnesses have not spoken about the accused suspecting the fidelity of his wife. Even accepting the case of the prosecution that the accused used to quarrel with his wife and even on the fateful night, he picked up a quarrel and assaulted her on the head with MO.1, it cannot be held that he gave the blow on the head with MO.1, with an intention to commit murder or that he had pre-meditated the murder.

20. Admittedly, there is only one injury caused to the head i.e., an incised wound over the right fronto of parietal region measuring 2½ inches x 5 c.m. PW7 has not deposed anything about other injuries noticed on the dead body during the post-mortem examination. From the material on record it can be gathered that a sudden quarrel took place and the accused without premeditation and in the heat of passion, upon a sudden quarrel, has given one blow on the head of the deceased with MO1, which was in the kitchen. The material on record would



also reveal that the accused has not taken undue advantage or acted in a cruel or unusual manner. The act committed by the accused would therefore, fall under Exception 4 of Section 300 of IPC, i.e., culpable homicide not amounting to murder. Further, the accused has committed the said act, with the knowledge that the injury caused by him is likely to cause death however, without any intention to cause death. Therefore, the offence committed by the accused will attract the ingredients under Section 304 Part-II of IPC.

21. It is submitted that the accused was in custody from 15.01.2016 till 15.07.2022, the date on which this Court suspended the sentence imposed against him. Hence, he has undergone sentence of about 6 years and 6 months. It is submitted that he is now taking care of his son and he is the sole earning member of the family.

22. Having regard to the overall facts and circumstances of the case, we are of the view that, the sentence of imprisonment already undergone by the



accused can be held to be sufficient. Accordingly, we pass the following:

ORDER

- i. Appeal is **allowed**.
- ii. The Judgment and Order dated 23.03.2018 passed by the Court of III Additional District and Sessions Judge, Kolar (Sitting at K.G.F) in S.C No.72/2016, convicting and sentencing the accused for the offence punishable under Section 302 of IPC is hereby **set aside**.
- iii. The appellant/accused is convicted for the offence punishable under Section 304-II of Indian Penal Code and is sentenced for the period of imprisonment already undergone by him.
- iv. He shall pay fine of Rs.10,000/- (Rupees ten thousand only). In default to pay the



fine amount, he shall undergo imprisonment for a period of six months.

- v. If the fine amount is already deposited, the same shall be forfeited to the State.
- vi. The bail bond of the accused shall stand cancelled.

23. Sri. Nagaraja Reddy, learned Amicus Curiae is entitled to a honorarium, for a sum of Rs.10,000/- (Rupees ten thousand only), payable by the High Court Legal Services Committee.

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

**Sd/-
(G BASAVARAJA)
JUDGE**