



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO. 1948 OF 2025 (A)

BETWEEN:

THE STATE OF KARNATAKA
BY NYAMATHI POLICE STATION,
DAVANAGERE,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560 001.

...APPELLANT

(BY SMT. RASHMI PATEL, HCGP (P/H))

AND:

1. HANDI ANAND YANE DANDI ANAND
S/O HANDI HANUMANTHAPPA,
AGED ABOUT 22 YEARS,
OCCUPATION: AGRICULTURE,
R/AT ODEYAR HUTTUR VILLAGE,
NYAMATHI TALUK,
DAVANAGERE DISTRICT-577 002.
2. KAVITHA H.
W/O HARISH B.H.,
AGED ABOUT 28 YEARS,



R/AT ODEYAR HUTTUR VILLAGE,
NYAMATHI TALUK,
DAVANAGERE DISTRICT-577 002.

(V/O DATED 13.1.2026, APPEAL AGAINST
RESPONDENT-2 IS ABATED AS DEAD)

...RESPONDENTS

(BY SRI. SUNIL M.U., ADVOCATE FOR
SRI. S.G. RAJENDRA REDDY, ADVOCATE FOR R1 (P/H);
V/O DATED 13.01.2026, APPEAL AGAINST R2 IS ABATED)

THIS CRL.A. IS FILED U/S.378(1) (3) CR.P.C., PRAYING
TO: (A) GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT
AND ORDER OF ACQUITTAL DATED 04.02.2025 PASSED IN
S.C.NO.51/2021 ON THE COURT OF LEARNED I ADDITIONAL
DISTRICT AND SESSIONS JUDGE, DAVANAGERE, THEREBY
ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCES
PUNISHABLE UNDER SECTION 302 AND 201 R/W 34 OF IPC;
(B) SET ASIDE THE JUDGMENT AND ORDER OF ACQUITTAL
DATED 04.02.2025 PASSED IN S.C.NO.51/2021 ON THE COURT
OF LEARNED I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
DAVANAGERE, THEREBY ACQUITTING THE RESPONDENT/
ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTION
302 AND 201 R/W 34 OF IPC; BY ALLOWING THIS CRIMINAL
APPEAL; AND (C) CONVICT AND SENTENCE THE RESPONDENTS
- ACCUSED FOR THE AFORESAID OFFENCES IN ACCORDANCE
WITH LAW.

THIS APPEAL, COMING ON FOR ADMISSION, 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 has preferred this appeal against the judgment of acquittal dated 04.02.2025, passed in SC No.51/2021 on the file of the Court of I Additional District and Sessions Judge, Davanagere.

2. Heard and perused the material on the record.

3. It is the case of prosecution that on 08.11.2020 at about 01.00 a.m., accused No.1 came to the house of accused No.2, with whom he had an illicit relationship and started knocking the door. Accused No.2 opened the door and when accused No.1 was inside, the deceased, mother-in-law of accused No.2 saw both of them together. Thinking that she will come to know their illicit relationship, accused No.1 dragged the deceased towards the cot and committed her murder by throttling.

4. The charges were framed against accused Nos.1 and 2 for the offence punishable under Section 302



r/w 34 of IPC. The entire case of prosecution rests on circumstantial evidence. The prosecution mainly relied on the homicidal death, illicit relationship between accused Nos.1 and 2, testimony of PWs13 and 14, who saw accused No.1 knocking the door of the deceased and also the said accused coming out of the house in the wee hours of 08.11.2020.

5. The learned Sessions Judge on appreciation of the oral and documentary evidence on record and by assigning reasons came to the conclusion that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt.

6. Assailing the impugned judgment, the learned High Court Government Pleader contended that the prosecution has established by marking Exp33-Post Mortem Report and the testimony of the doctor-PW19 that the deceased died a homicidal death. PWs13 and PW14 have clearly stated that they have seen the accused in the wee hours of 08.11.2020, knocking the door of the house



of the deceased and also coming out of the house, which is a strong circumstance against the accused, she contended that the evidence of prosecution witnesses has not been properly appreciated by the learned trial Judge and therefore, sought to allow the appeal.

7. The learned counsel for respondent Nos.1 and 2 contended that the learned Sessions has acquitted the accused after appreciating the entire evidence and material on record and there are no grounds to reverse the judgment of acquittal. Accordingly, sought to dismiss the appeal.

8. The incident is alleged to have taken place on 08.11.2020 at about 1.00 a.m. The first informant is the son of the deceased, examined as PW1. It is relevant to mention that initially there was no complaint lodged by any of the family members of the deceased, stating that it is a case of homicide death. On the other hand, PW1 and other relatives of the deceased buried the dead body, believing that deceased died on account of low BP and she



suffered a heart attack. Complaint was lodged on 23.11.2020, wherein PW1-husband of accused No.2 suspected the role of both accused Nos.1 and 2.

9. In Ex.P1, PW1 has stated that he got suspicious against his wife as the villagers were discussing about the acquaintance between accused Nos.1 and 2, thus PW1 when enquired with his wife/accused No.2, she confessed before him about her acquaintance with accused No.1 and accused No.2 committing the murder. On lodging of the complaint and registration of the case against accused Nos.1 and 2, at the requisition of the Investigation Officer, the dead body was exhumed in the presence of the Tahsildar/PW16. The dead body was then subjected to post mortem examination.

10. As per the Post Mortem Report-Exp33, the cause of death is due to asphyxia as a result of throttling. However, the prosecution has to establish beyond reasonable doubt that it is the accused who committed the murder by throttling the deceased.



11. Both accused Nos.1 and 2 were charged for the offence punishable under Section 302, 201 r/w 34 of IPC. During the pendency of the trial, accused No.2 died. Hence case against her was abated.

12. The prosecution is relying on the evidence of PW1, before whom his wife i.e., accused No.2, is alleged to have made extrajudicial confession. Except the said confession, alleged to have been made by accused No.2, there is no other evidence placed by the prosecution to show that there was an illicit relationship between accused Nos.1 and 2. Further, it is also not the case of prosecution that even accused No.1 has confesses to the crime prior to lodging of the complaint.

13. PW1 has deposed in his evidence that he saw certain marks over the neck on the dead body and he enquired with his brother and villagers about the said mark and they informed him that those marks could have been caused while the deceased was cutting the maize crops. Hence they did not suspect that it was a case of



homicidal death. The body was then buried as per their custom. Similarly PWs4 and 6, brothers of PW1 have stated that they did not suspect anything and thinking that deceased died due to low BP or heart attack, they buried the dead body.

14. The prosecution is mainly relying on the evidence of PWs13 and 14, who are said to have seen accused No.1 at about 01.00 a.m. on 08.11.2020, near the house of the deceased. It is the case of prosecution that at that time, accused No.1 came and started knocking the door of the house and when accused No.2 opened the door, he went inside and when deceased saw both accused Nos.1 and 2 together, thinking that their illicit relationship will be made public, accused No.1 throttled the deceased and committed her murder.

15. PW13 in his evidence has stated that at about 12.30 a.m. - 01.00 a.m., he saw accused No.1 knocking the door of the deceased and at that time, he had come out of the house to answer the call of nature. Thinking



that, accused might have come to the house of deceased for some work, he went back to sleep.

16. PW14 has stated that, on 08.11.2020 at about 1 a.m., when he was standing outside his house so as to water the land, he saw accused rushing out of the house of deceased in panic and when he enquired him, he told him that he is going towards his land.

17. PW13 in his cross-examination admitted that there are several other houses situated near the house of the deceased, but when accused No.1 was knocking the door, none of the other house members came out of the house. PW14 in his cross-examination has stated that on that night he was alone outside the house and he has not informed anyone about accused No.1 going out of the house of the deceased on that night.

18. It is relevant to mention that the incident took place on 08.11.2020 at about 01.00 a.m. in the night. The complaint is lodged on 23.11.2020, i.e., after a period of



15 days. Even though PW1 suspected accused No.1 and accused No.2, in the complaint he has not mentioned about PW13 and PW14 informing him about them seeing accused No.1 near the house of the deceased or knocking the door. Even PW13 and PW14 have not stated either before PW1 or other villagers about the presence of accused No.1 near the house of the deceased on the night of incident.

19. According to PW13 and PW14, their houses are situated in front of the house of deceased. The prosecution has not placed any documents to show that their houses are situated in front of the house of the deceased. PW14 in his cross-examination has admitted that he has not furnished any documents to the police to show that his house is situated in front of the house of deceased. We have also perused sketch-Ex.P3, as per which the houses of D. Hanumanthappa and A.K. Parameshwarappa (PW12) are situated near the house of deceased Rathnamma. In the said sketch the houses of



PW13 - Chandrappa and PW14 - Patel are not shown. If the houses of PW13 and PW14 are situated in front of the house of deceased Rathnamma, certainly, while preparing the sketch the same would have been shown. Parameshwarappa is examined as PW12. He has stated that the house of the deceased is situated behind his house. He has not supported the case of prosecution. Further, it is not the case of prosecution that he is also a witness who saw accused No.1 knocking the door of the deceased on the night of 08.11.2020. Hence, the testimony of PW13 and PW14 is doubtful and does not inspire the confidence of the Court, hence cannot made basis for conviction. There are no other materials placed on records to connect the accused with the crime in question.

20. Insofar as the evidence of Tahasildar – PW16 regarding the exhumation of the dead body is concerned, in her evidence she has categorically admitted that, before exhuming the body, she did not secure any permission



from the Assistant Commissioner as required under the mandatory rules.”

21. The Investigating Officer – PW20, M. G. Chandru, admitted that before exhuming the dead body he did not secure any permission from the Assistant Commissioner, and such permission is required under law. Further, no mahazar was conducted while exhuming the body. He also admitted that in Ex.P35 no opinion is possible, as the submitted tissue shows extensive disintegration and in the FSL report – Ex.P37, the sample sent in Item No.1 was disintegrated and hence its origin and grouping could not be determined. As per the evidence of the Medical Officer, i.e., PW19 Dr. Patil V. J., he stated that he conducted the post-mortem examination after exhumation of the body and, while conducting the post-mortem examination, he could not ascertain the injuries. As per the RFSL report, the blood was disintegrated and the blood group was not identified. In the post-mortem examination, regarding the injuries



mentioned in the post-mortem report, he has not stated whether the injuries sustained by deceased Rathnamma were post-mortem or ante-mortem. Looking at it from any angle, the prosecution has failed to prove its case and the chain of circumstances has not been completed.

22. This is an appeal preferred against the judgment of acquittal. By virtue of the judgment of acquittal, the innocence of the accused gets reinforced. There are no compelling reasons made out by the prosecution so as to reverse the said judgment. The appeal therefore fails and accordingly ***dismissed***.

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

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