



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1955 OF 2025 (A)

BETWEEN:

THE STATE OF KARNATAKA
BY H.D. KOTE POLICE STATION
REP. BY THE STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU.

...APPELLANT

(BY SMT. N. ANITHA GIRISH, HCGP.)

AND:

KUMARA R.,
S/O RAMACHANDRA
AGED ABOUT 32 YEARS
R/A BEHIND RTO (HARANGI) OFFICE,
MOORURAMMA COLONY,
HUNSUR TOWN,
MYSURU DISTRICT-571105.

...RESPONDENT

(RESPONDENT SERVED AND UNREPRESENTED.)

THIS CRL.A IS FILED U/S 378(1) AND (3) CR.PC BY THE SPP AND CR.PC BY THE ADVOCATE FOR THE APPELLANT FOR STATE PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE IMPUGNED JUDGMENT AND ORDER OF ACQUITTAL DATED 10.09.2024 PASSED BY THE VIII ADDL. DISTRICT AND SESSIONS JUDGE, MYSURU SITTING AT HUNSUR IN SC NO.191/2018 ACQUITTING THE RESPONDENT ACCUSED FOR THE OFFENCES P/U/S 302 OF IPC AND ETC.



THIS APPEAL, COMING ON FOR ORDERS, 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 State has preferred this appeal, assailing the judgment of acquittal dated 10.09.2024, passed by the Court of VIII Addl. District and Sessions Judge, Mysuru, sitting at Hunsur in S.C No.191/2018, wherein the accused/respondent is acquitted of the offence punishable under Section 302 of Indian Penal Code.

2. There is a delay of 212 days in preferring the appeal. IA.No.I/2025 is filed to condone the delay.

3. We have heard the learned High Court Government Pleader for State and perused the materials on record, to consider the case on merits.

4. It is the case of the prosecution that on 13.03.2018, deceased-Kumar, accused-Kumar and CW1-Shivakumar prepared food for dinner. On that day,



they arranged a party and consumed liquor. After finishing the dinner, the accused and the deceased went to Bachegowdanahalli on a motorcycle, to purchase liquor, as the liquor they had consumed was insufficient. It is the further case of the prosecution that, the deceased picked up a quarrel with the accused and abused him in filthy language and therefore, the accused got annoyed and dropped a big stone on his head and face and committed his murder.

5. According to prosecution, the accused made phone calls to CW1-complainant (PW2) and confessed to him that he committed the murder, but the complainant did not believe his words. On 14.03.2018 at 7 am, he came to know that neither the accused nor the deceased had returned to the land. At 8 am, accused once again made a phone call to him. In the meanwhile, shepherds and other villagers noticed the dead body. The complainant then proceeded to the spot and thereafter, went to H.D.Kote police station and lodged the complaint.

6. The entire case rests on circumstantial evidence. The learned HCGP contended that the evidence of the



complainant examined as PW2 clearly shows that all the three had consumed liquor and then accused and the deceased went on a motorcycle. The accused made calls to the complainant and made extra judicial confession over phone and on the very next day the dead body was noticed and therefore, the prosecution has established the charges levelled against the accused. She has contended that the prosecution has placed the call details and even the evidence of the doctor-PW14 shows that the accused had sustained certain injuries, which he has not explained. She contended that the judgment of acquittal passed by the trial Court is not in accordance with law and the above incriminating circumstances against the accused are not properly appreciated by the trial Court.

7. In this case, it is not in dispute that the deceased died a homicidal death. PW16 is the doctor, who conducted the post-mortem on the dead body and issued post-mortem report as per Exhibit P41. Perusal of the same goes to show that the deceased sustained several injuries, including a ligature mark measuring 21 X 3 centimetres around the neck



below the thyroid cartilage. The doctor has opined that death is due to the combined effect of ligature strangulation and head injuries sustained.

8. The prosecution has relied on the evidence of the first informant/PW2 to establish that the accused had made calls to him and confessed about the murder committed by him. On entire perusal of the prosecution papers, we find that there are no other concrete material to connect the accused with the crime, except the Extra Judicial Confession made by him to PW2. The incident is alleged to have taken place on the intervening night of 13.03.2018 and 14.03.2018. Even though it is alleged that the accused made phone calls on the very night and made extra judicial confession to PW2, it is not the case of PW2, that he immediately informed the said fact to others. According to him, he went to the spot on the next day and after noticing the dead body he lodged a complaint in the morning. By the time he had gone to the spot, the shepherds and other villagers have already seen the dead body. The FIR reached the jurisdictional Court at 6.05 pm on 14.03.2018, though



the FIR is shown to have dispatched to the Court in the morning at 10.30 a.m on 14.03.2018 itself.

9. The prosecution has got marked the call details of the accused as per Ex.P66. However, the prosecution has failed to prove that accused had owned the mobile phone with sim and it was used by him. According to the prosecution the accused also sustained certain injuries as per Exhibit P38 and he was treated by the doctor-PW14 on 23.03.2018. A perusal of the history in Ex.P38 shows that the accused had sustained certain abrasions and as per the history the said injuries were caused by an assault about 15 days back, whereas, the incident has taken place on 13.03.2018. Therefore, the said injuries cannot be connected to the incident in question.

10. This appeal is against the judgement of acquittal passed by the trial Court. The Apex Court in the case of Sudershan Kumar Vs. State of Himachal Pradesh reported in (2014) 15 SCC 666, was pleased to hold that, it is the cardinal principle in criminal Jurisprudence that presumption of innocence of the accused is reinforced by an order of



acquittal. The Appellate Court, in such a case, would interfere only for very substantial and compelling reasons.

11. It is also well settled that even if two views are possible, the one which is favourable to the accused has to be accepted. On reappreciation of evidence, we notice that there is no illegality committed by the trial Court. There are no compelling or substantial reasons to interfere with the findings recorded by the trial Court. Accordingly, appeal is ***dismissed***.

IA.No.I/2025 is dismissed.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE

KBM
List No.: 1 Sl No.: 2