



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO. 2202 OF 2024 (A)

BETWEEN:

SRI. VIJIKUMAR P.
S/O PAPEGOWDA,
AGED ABOUT 34 YEARS,
R/O DEVARAPALLI VILLAGE AND POST,
BALIGANAPALLI PANCHAYATHI,
HOSUR TALUK, KRISHNAGIRI,
TAMILNADU-635 001.

...APPELLANT

(BY SRI. NANJUNDA GOWDA M.R., ADVOCATE (P/H))

AND:

1. SRI. CHANDRAPPA
S/O MUNITHAYAPPA,
AGED ABOUT 40 YEARS,
2. SRI. NANDEESH
S/O THIMMARAYAPPA,
AGED ABOUT 40 YEARS,
3. SRI. SRIDHAR @ APPI
S/O LATE THIMMAPPA,
AGED ABOUT 31 YEARS,

ALL ARE R/O DEVARAPALLI VILLAGE,
BALIGANAPALLI PANCHAYATHI,



HOSUR TALUK, KRISHNAGIRI,
TAMILNADU-635 001.

4. THE STATE OF KARNATAKA
BY MALUR PS, KOLAR,
REP BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDINGS,
BENGALURU 560001

...RESPONDENTS

(BY SMT. RASHMI JADHAV, ADDL. SPP FOR R4 (P/H);
R1 TO R3 ARE SERVED AND UNREPRESENTED)

THIS CRL.A IS FILED U/S 372 OF CR.P.C., PRAYING TO:
(A) CALL FOR L.C.R IN S.C.NO.135/2022 ON THE FILE OF THE
PRINCIPAL DISTRICT AND SESSIONS JUDGE AT KOLAR;
(B) SET ASIDE THE JUDGMENT AND ORDER OF ACQUITTAL
DATED 05.09.2024 PASSED IN S.C.NO.135/2022 ON THE FILE
OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE AT KOLAR
AND CONVICT THE RESPONDENTS, FOR THE OFFENCES
PUNISHABLE UNDER SECTIONS 302 R/W 34 OF IPC.

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)

This is a victim's appeal filed under Section 372 of
Cr.P.C., challenging the judgment of acquittal passed by
the Court of Principal District and Sessions Judge at Kolar
dated 05.09.2024 in S.C.No.135/2022.



2. Accused Nos.1 to 3 were tried for the offence punishable under Section 302 r/w 34 of IPC on charges that on 13.08.2022 at about 04.30 p.m., accused No.1 who had animosity against deceased Sounder Raj, along with accused Nos.2 and 3 committed his murder near Jain Net Extension, sampangere border of Lakkur Hobli, Malur Taluk, by assaulting him with a machete-MO3.

3. The motive alleged is that there was ill will between accused No. 1 and deceased Sounder Raj with regard to a temple dispute and on 08.04.2022 during the Kodandaramaswamy festival in Devarapalli, both accused No.1 and the deceased had quarreled and in the said quarrel, accused No.1 had threatened Sounder Raj that he will commit his murder.

4. Heard and perused the material on record.

5. After hearing the learned counsel from both sides, the points that arise for our consideration in this appeal are:



- i. Whether the prosecution has proved beyond reasonable doubt that on 13.08.2022 at 04.30 p.m., accused Nos.1 and 2 have committed murder of deceased Sounder Raj, thereby committed an offence punishable under Section 302 r/w 34 of IPC?
- ii. Whether the judgment of acquittal under appeal warrants any interference at the hands of this Court?

6. Before proceeding further in analysing the evidence that is in the matter, it is to be borne in mind that this is an appeal against the judgment of acquittal. Therefore, the accused have primarily double benefit. Firstly, the presumption under law is that unless the guilt is proved, the accused have to be treated as an innocent persons to be alleged the crime. Secondly, the accused have already been enjoying the benefit of judgment of acquittal passed under the impugned judgment. As such, wherein the same element, the evidence placed by the prosecution in the matter is required to be analyzed.



(a) The Hon'ble Apex Court, in its judgment in the case of ***Chandrappa and others -vs- State of Karnataka***, reported in ***(2007) 4 Supreme Court Cases 415***, while laying down the general principles regarding powers of the Appellate Court while dealing in an appeal against an order of acquittal, was pleased to observe at paragraph 42(4) and paragraph 42(5) as below:

"42(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent Court of law. Secondly, the accused having secured acquittal, the presumption of innocence is further reinforced, reaffirmed and strengthened by the trial Court.

42(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate Court should not disturb the finding of acquittal recorded by the trial Court."



(b) In the case of ***Sudershan Kumar -vs- State of Himachal Pradesh*** reported in ***(2014) 15 Supreme Court Cases 666***, while referring to ***Chandrappa's case (supra)***, the Hon'ble Apex Court at Paragraph 31 of its judgment 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.

(c) In the case of ***Jafarudheen and others -vs- State of Kerala*** reported in ***(2022) 8 Supreme Court Cases 440***, at Paragraph 25 of its judgment, the Hon'ble Apex Court was pleased to observe as below:

"25. While dealing with an appeal against acquittal by invoking Section 378 Cr.P.C, the appellate Court has to consider whether the trial Court's view can be termed as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate Court has to be relatively slow



in reversing the order of the trial Court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters."

7. The above principle laid down in previous case was reaffirmed by the Hon'ble Apex Court, in the case of ***Ravi Sharma -vs- State (Government of NCT of Delhi) and another reported in (2022) 8 Supreme Court Cases 536*** and also in the case of ***Roopwanti -vs- State of Haryana and others reported in AIR 2023 Supreme Court 1199.***

8. The law was set into motion by the brother of the deceased namely Vijay Kumar, examined as PW1. He has spoken about the quarrel which took place on 08.04.2022 between his brother and accused No.1. On 13.08.2022 at about 05.40 p.m., he received a phone call from CW4 (PW9) his aunt's son stating that his brother



has been murdered. However, the testimony of PW9 goes to show that on 13.08.2022 he came to know about the murder of Sounder Raj by some unknown persons.

9. As per the post mortem examination conducted by PW5 and the post mortem report-Exp18, cause of death is due to excessive loss of blood as a result of injury sustained to neck. The final opinion is marked as Exp19.

10. The prosecution has placed its reliance on the testimony of the so-called eyewitnesses, namely PWs.2 and 3, the motive and recovery of weapon from accused No.1. In this case PWs.2 and 3 have completely turned hostile and not supported the case of prosecution. There is nothing elicited in the cross-examination of PWs.2 and 3 to show that they have seen the accused persons committing the murder.

11. PWs.1 and 9 have given evidence with regard to seizure of the machete-MO.3 at the instance of accused No.1.



12. The quarrel between accused No.1 and deceased is said to have taken place in respect of a temple, on 08.04.2022. The incident has taken place on 13.08.2022. According to the prosecution, accused No.1 along with accused Nos.2 and 3 have committed the murder, by assaulting the deceased with a machete-MO.3. However, the eye witnesses examined by the prosecution have not supported the case of prosecution. The recovery of MO.3 at the instance of accused No.1 itself is not sufficient to hold that the prosecution has proved the guilt of the accused beyond all reasonable doubt. The learned Sessions Judge while assigning reasons has stated that though, according to PW1 there was a verbal fight between the accused No.1 and deceased on 08.04.2022, the details of the same are not disclosed and to prove the enmity between accused No.1 and the deceased the statements of other witnesses of Devarapalli are not recorded. We do find that except the testimony of PW1, there is no other material placed to show that there was a



fight between accused No.1 and the deceased on 13.08.2022 during Kodandaramaswamy Temple festival held at Devarapalli.

13. The contention of the learned counsel for the appellant is that the enmity between accused No.1 and deceased has been proved from the evidence of PW1 and the recovery of weapon is also established. Therefore, the prosecution has established its case against the accused persons. However, the evidence on record is not sufficient to prove that the prosecution has established the guilt of accused Nos.1 to 3 beyond reasonable doubt.

14. This appeal is preferred against the judgment of acquittal passed by the trial Court. The learned Sessions Judge having appreciated the oral and documentary evidence has held that the prosecution has failed to prove the guilt against accused Nos.1 to 3. In view of the acquittal, accused have double benefit and the presumption of innocence is reinforced by the acquittal



judgment passed by the trial Court. There are no compelling reasons to upset the findings recorded by the trial Court. Accordingly, the appeal is ***dismissed.***

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

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

HB
List No.: 1 Sl No.: 3