HC-KAR
NC: 2026:KHC:64051-DB
CRL.A No. 1053 of 2019
CNR: KAHC010159072019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO. 1053 OF 2019 (C-)

BETWEEN:

ANTHONY LAWRENCE @ LAWRENCE.
S/O. SANDHYA RAJ,
AGED ABOUT 26 YEARS
R/AT NO. 46, 13TH MAIN,
MARIYAPPANAPALYA,
K.P. AGRAHARA, BENGALURU,
PIN – 560023.

...APPELLANT

(BY SRI. RANGASWAMY M.T.,ADVOCATE(absent)

AND:

Digitally signed by SHARADAVANI B
Location: HIGH COURT OF KARNATAKA

STATE OF KARNATAKA
BY K.P. AGRAHARA POLICE STATION,
REP BY PUBLIC PROSECUTOR,
HIGH COURT COMPLEX,
HIGH COURT,
BANGALORE 560001

...RESPONDENT

(BY SRI. VIJAYKUMAR MAJAGE, SPP-II A/W;
SRI. SUDHINDRA B.S., HCGP)

THIS CRL.A IS FILED U/S.374 (2) CR.P.C PRAYING TO SET ASIDE THE ORDER OF CONVICTION DATED 07.03.2019 AND SENTENCE DATED 12.03.2019, PASSED BY THE L

ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU IN SPL.C.C.NO.289/2015, CONVICTING THE APPELLANT/ ACCUSED FOR THE OFFENCE P/U/S 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

ORAL JUDGMENT

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

The judgment of conviction dated 07.03.2019 and the order on sentence dated 12.03.2019 passed by the Court of the 50th Additional City Civil and Sessions Judge, Bengaluru, in S.C. No. 289/2015 are assailed in this appeal.

2. Vide, the impugned judgment and order, the trial Court has convicted the accused for the offence punishable under Section 302 IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.50,000/- and in

default of payment of fine, to further undergo simple imprisonment for a period of 2 years.

3. We have heard Sri. Vijayakumar Majage, learned SPP-II along with Sri B S Sudhindra, appearing for the respondent – State and examined the material on reocrd.

4. The brief facts of the prosecution case are that, the deceased Deepa, aged about 9 years was residing with her parents at House No.88, 3rd Floor, 13th Main Road, K.P.Agrahara, Bengaluru. She was doing cleaning work in the temple and also some petty household works in the neighbouring houses. She was also looking after the child of the accused and assisting his wife in petty works. As she was advised by her mother not to go to the house of the accused for work, she had stopped working in his house. On 17.02.2015 at about 3.30-4.00 p.m., when Deepa was alone, the accused went to her house and questioned her as to why she was not coming to his house

to do the work. When she refused to work in his house, he poured kerosene on her from a can and set fire to her with an intention to commit murder. As a result, she received severe burn injuries and ran out of the house screaming for help, fell down on the terrace and died.

5. Appreciating the oral and documentary evidence on record, the trial Court held that the evidence of PWs.1 to 16, documentary evidence as per Exhibits P1 to P26, MOs.1 and 2 and Exhibits D1 to D3, placed on record in respect of alleged offences were sufficient to prove that the deceased, aged about 9 years was residing at House No.88, 3rd Floor, 13th Main Road, K.P. Ararahara, Bengaluru, along with their parents. She was doing cleaning work in the temple and some petty works in the neighbouring houses and she was looking after the child of the accused and assisting his wife by doing petty works. But recently, stopped from going to the house of the accused, because her mother, the complainant had advised her not to go to his house. Hence, on 17.02.2015

between 3.30 and 4.00 p.m., when she was alone in her house, the accused went to her house asking as to why she was not coming to his house to do the work and when she refused to work in his house, intentionally poured kerosene which was kept in the house and set fire to her.

6. The trial Court held that 'the oral and documentary evidence placed on record by the prosecution was sufficient to prove the alleged offence against the accused beyond all reasonable doubt. The defence of the accused was not established by him through the cross-examination of PWs.1 to 4 and PWs. 6 to 16. He has also not taken any defence while recording his statement under Section 313 Cr.P.C.' Further, held that 'the facts and circumstances of the case including material on record probabilizes the case of the prosecution rather than the defence of the accused.'

7. The fact that Deepa, the victim in this case died due to burn injuries is not in dispute. The witnesses

namely, PWs.2 to 4, 6 to 10, have all spoken about the deceased sustaining burn injuries and succumbing to the said injuries at the spot.

8. The post mortem examination was conducted by PW.12-Dr.Pradeep Kumar. He has deposed that, on 18.02.2015 between 11.00 and 11.45 a.m., he conducted the autopsy over the dead body and noticed second and third degree burn injuries all over the body. As per the PM report, the deceased had sustained "*second and third degree burns over whole face, including lips, front and back of both upper limbs, including palms, front and back of chest, front and back of abdomen, including external genitalia, front and back of both lower limbs, in patches and pairing soles. Most of the burnt injuries show redness at places"*. PW.12 has opined that "*the death was due to shock, as a result of burn injuries sustained"*.

9. The moot question is, "*whether the prosecution has established that the accused committed the murder by pouring kerosene and setting the deceased on fire*?"

10. Admittedly, there are no eyewitnesses to the incident of accused pouring kerosene and setting fire to the deceased. The prosecution is relying on the evidence of PWs.1 to 10 to establish the presence of the accused at the spot and his abscondence thereafter. As per the case of the prosecution, the accused went to the house of the deceased, carrying a white colour plastic can containing kerosene and poured kerosene and set fire to her.

11. The learned SPP-II vehemently contended that PWs.2 and 5 have seen the accused going to the house of the deceased holding a plastic can containing kerosene. Hence, it is established that he had an intention to commit her murder. He further contended that the evidence of PWs.2 to 7, 9 and 10 establish the presence of the accused at the scene of occurrence. He therefore

contended that in the absence of any satisfactory explanation from the accused, an adverse inference has to be taken that crime was committed by him. He contended that the accused had the exclusive knowledge about the incident, whereas he has failed to offer any explanation while he was examined under Section 313 Cr.P.C. Further, his abscondence strengthen the prosecution case and establish the charge levelled against him beyond reasonable doubt.

12. As already discussed, there are no eyewitnesses to the incident. The prosecution is relying on the evidence of PWs.2 and 5, according to whom the accused went to the house of the deceased holding a plastic can. It is relevant to mention that in the charge sheet, it is not alleged that when the accused went to the house of the deceased, he had carried a white colour plastic can with him. The charge is also not framed to that effect. At the time of conducting Spot Mahazar, a kerosene can and a stove, MOs.1 and 2, were seized from the spot. The

complainant, victim's mother has nowhere deposed in her evidence that the said MO.1, kerosene can did not belong to her. Further, she has not at all whispered in her evidence that she was informed by PW.2 or PW.5 that they had seen the accused entering her house holding a plastic can. Though the incident took place on 17.02.2015, PW.2 has not given any statement to the police that she had seen the accused entering the house of the deceased holding a plastic can. Even in her statement recorded by the police on 22.02.2017, she has not stated that she had seen the accused going to the house of the deceased carrying a plastic can in his hand.

13. Insofar as PW.5 is concerned, the trial Court has eschewed her evidence, as the prosecution had failed to secure her presence for the purpose of cross examination by the defence.

14. In her chief-examination, the complainant PW.1 has stated that on 17.02.2015 i.e., on the date of incident,

at about 4.00 p.m., the accused had gone to her house, as her daughter had requested him to repair the TV. Since the accused went to their house when her daughter was alone, an auto driver by name Shiva and one Manju (PW.7) had slapped him. She has stated that within half an hour, the accused poured kerosence and set fire to her daughter. Shiva has not been cited as a witness. Manju is examined as PW.7. He has deposed that he saw the accused going towards the house of the deceased. Hence, he sent some boys to ascertain as to why he had gone to the house of the deceased. He has stated that the said boys came and informed him that the accused was knocking the door of the house. Thereafter, he questioned the accused as to why he had gone to the house of the deceased, when she was alone, for which the accused replied that he was called to repair the TV. Thereafter the accused returned. After some time, he heard the sound of screaming and saw the deceased with burn injuries and the accused present near the deceased.

15. PW.7 has not stated that he saw the accused going to the house with a plastic can in his hand. However, he has corroborated the evidence of PW.s 2 to 4, 6 to 10 regarding his presence at the spot immediately after the deceased sustained burn injuries. All these witnesses have stated that they heard the deceased crying for help and went to the spot, where they saw the accused.

16. The defence of the accused was one of total denial. A suggestion was made to PW.2 that when the deceased sustained burn injuries, no one went to her rescue, but, it was the accused who tried to douse the fire by covering the deceased with a gunny bag. PW.2 has admitted the said suggestion. Further, PW.3 in her cross-examination has admitted that she had seen the accused trying to douse the fire by covering the deceased with a gunny bag. In fact, in the chief-examination itself, PW.2 has stated that the accused had brought a gunny bag and put it on the deceased, as she had sustained burn injuries and he brought water from the drum and poured on the

deceased. PW.3 has deposed that the accused was trying to douse the fire with the gunny bag. Even PWs.4 and 10 have deposed that the accused was trying to douse the fire with the help of a gunny bag. Hence, the evidence of these witnesses is consistent not only regarding the presence of the accused at the spot but also consistent with regard to the accused trying to put-off the fire by covering the body of the victim with a gunny bag and also by pouring water.

17. It is no doubt true that the accused has not offered any explanation while he was examined under Section 313 Cr.P.C., as to how the deceased caught fire. However, the initial burden is on the prosecution to establish the charges levelled against him that he poured kerosene from a plastic can on the body of the deceased and set her on fire.

18. The defence of the accused is that when the deceased caught fire, no one came to her rescue and

therefore, he went and tried to extinguish the fire. The witnesses have stated that they have seen the accused trying to douse the fire by covering the deceased with a gunny bag and by pouring water. Hence, the defense version is supported by the prosecution witnesses, to some extent.

19. The incident took place on 17.02.2015 at about 3.30 p.m. On the basis of the information furnished by the father of the victim, by name Elumalai, initially a UDR-FIR No. 10/2015 was registered under Section 174 Cr.P.C, at about 6.30 p.m. The said UDR is marked as Ex.P15. The statement of Elumalai is marked as Ex.P14, wherein he has stated that one Santhosh Kumar informed regarding the incident and therefore, he immediately went to the house and saw his daughter with burn injuries. He found that the kerosene pump stove and the utensils were scattered inside the house. He has stated that when his daughter was trying to lit the kerosene stove, accidentally, she sustained burn injuries. Hence, the earliest version

regarding the incident is that the deceased accidentally sustained burn injuries while cooking, using a kerosene stove. Ex.P14 was given by the father of the Victim, on the basis of the information furnished to him by one Santhosh Kumar. The said person is not examined by the prosecution. The victim's father i.e. Elumalai was also not examined before the Court. After 2 days of the incident, i.e. on 19.02.2015, the victim's mother lodged a complaint alleging that the accused poured kerosene and set fire to her daughter. The inquest was conducted on 18.02.2015 between 9.30-11.00 am. None of the witnesses who were examined during the inquest proceedings have raised any doubt or alleged anything against the accused. None of them have stated that they had seen the accused going to the house of the deceased holding a plastic can or that they saw the accused at the spot. The accused was arrested on 20.02.2015, i.e., on the following day of the registration of the case. The complaint was lodged against the accused by the mother of the victim, PW.1 on

suspicion. The motive for the accused to commit the murder is also not established as witnesses examined by the prosecution have not deposed regarding the motive.

20. For the foregoing reasons, we are of the view that the prosecution has failed to establish the charge levelled against the accused beyond reasonable doubt. The accused is entitled to the benefit of doubt. The judgment and order of conviction and sentence passed by the trial Court is therefore not sustainable in law and the same is liable to be set aside.

21. Hence, the following:

ORDER

i. The appeal is ***allowed***.

ii. The judgment of conviction dated 07.03.2019 and order on sentence dated 12.03.2019 passed by the Court of the 50th Additional City Civil and Sessions Judge, Bengaluru, sentencing the accused/appellant

for the offence punishable under Section 302 IPC is **set aside**.

iii. The accused/appellant is acquitted of the offence punishable under Section 302 of IPC.

iv. He shall be released from the prison, if not required in any other case.

v. IA No.2/2019 does not survive for consideration and the same is disposed of.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

Bsv
List No.: 1 Sl No.: 9