HC-KAR
NC: 2026:KHC:64516-DB
CRL.A No. 763 of 2020
CNR: KAHC010216792020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO. 763 OF 2020 (C)

BETWEEN:

RAJA
S/O LATE DODDAMADASHETTY,
AGED ABOUT 48 YEARS,
R/AT NO.27/2, 6TH CROSS,
PARIVARABEEDI,
KUMBARAKOPPALU,
MYSURU.

...APPELLANT

(BY SRI. NITIN A.M., ADVOCATE)

AND:

Digitally signed by LAKSHMI T
Location: High Court of Karnataka

STATE OF KARNATAKA
BY VIJAYANAGAR PS, MYSURU,
REP. BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT COMPLEX,
BANGALORE-560 001.

...RESPONDENT

(BY SRI. VIJAYKUMAR MAJAGE, SPP-II ALONG WITH
SRI. SUDHINDRA B.S., HCGP)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C., PRAYING TO: (A) CALL FOR THE RECORDS IN S.C.NO.184/2018 ON THE FILE OF THE LEARNED III ADDITIONAL DISTRICT AND SESSIONS JUDGE, MYSURU; (B) SET ASIDE THE JUDGMENT AND ORDER

OF CONVICTION IN S.C.NO.184/2018 DATED 27.02.2020 PASSED BY THE LEARNED III ADDITIONAL DISTRICT AND SESSIONS JUDGE, MYSURU, FOR THE ALLEGED OFFENCE PUNISHABLE UNDER SECTION 302 OF IPC. CONSEQUENTLY THE APPELLANT MAY BE ACQUITTED FROM THE CHARGES AND SET HIM AT LIBERTY.

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 B.PRAMOD

ORAL JUDGMENT

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

The accused has preferred this appeal, being aggrieved by the Judgment and Order dated 27.02.2020 passed by the Court of the III Additional District and Sessions Judge at Mysuru in SC No.184/2018, whereby he was convicted for the offence punishable under Section 302 of IPC and sentenced to undergo RI for life and to pay a fine of Rs.20,000/- and in default of payment of fine, to undergo SI for a period of 6 months.

2. Heard the learned counsel Sri.Nitin A.M., appearing for the appellant, learned SPP-II Sri Vijay

Kumar Majage for the respondent/State and perused the evidence and material on record.

3. The prosecution has alleged that on 23.02.2018 at about 07:30 p.m., in front of an under construction house bearing No.11, 1st Main, Vijayanagara Railway Layout, Mysuru, the accused picked up a quarrel with his paternal uncle Madashetty @ Puttamadu, regarding a property dispute concerning a site bearing No.25 situated at 6th Cross, 'E' Block, Kumbarakoppalu, measuring 30 x 40 feet and pushed the deceased and picked up a cement brick lying at the spot and dropped it on his head and thereby committed his murder.

4. The law was set in motion by Mahesh, son of the deceased and based on his complaint marked as Ex.P5, case was registered against the accused. Upon completion of the investigation, charge sheet was filed.

5. The accused pleaded not guilty to the charge levelled against him for the offence punishable under

Section 302 IPC. To establish its case, the prosecution got examined 11 witnesses and got marked 29 documents and 12 material objects. The accused denied all the incriminating evidence appearing against him, while he was examined under Section 313 Cr.P.C. However, no defence evidence was led.

6. Learned trial Court held that the prosecution has established the guilt of the accused, relying on three circumstances. Firstly, the trial Court relying on the evidence of PW1 and PW5, held that the deceased Puttamadashetty owned a site bearing No.25 which was allotted in his name. There was a dispute with respect to the said site between the accused and deceased. The accused had raised quarrel frequently with the deceased, as a result of which the deceased had lodged a complaint before Metagalli Police Station as per Ex.P1. He had given a statement as per Ex.P2 that he would not trouble the deceased and therefore, the said complaint was closed.

Hence, the trial Court held that the motive for the accused to commit the murder of Puttamadashetty was clearly established.

7. Secondly, the trial Court relied on the seizure mahazar, Ex.P15 under which, the blood stained clothes of the accused were allegedly seized. It was held that the said recovery of blood stained clothes were proved.

8. Thirdly, the trial Court held that the Scientific Officer, PW11 who examined the articles forwarded by the Investigating Officer, after examining those articles has submitted a report as per Ex.P29 and in the said report the articles sent for examination were stained with 'A' group blood. Articles Nos.1 to 3, 5 to 10 are the articles pertaining to the accused and Article No.11 is the blood sample of the deceased and therefore, the blood stains found on those articles were matching with each other and they were 'A' group blood.

9. The trial Court has held that the evidence adduced by the prosecution was convincing, cogent and satisfactory and therefore, it has successfully proved the guilt of the accused beyond reasonable doubt.

10. The complainant, son of the deceased, is examined as PW1. He has deposed that his deceased father had only one property i.e., the house where they reside bearing No.25, 6th Cross, 'E' block, Kumbara Koppalu Mysuru. Earlier the khata of the said property stood in his father's name. The said property was allotted to his father by the Government and it measures 30 x 40 feet. On the said site, a sheet house was constructed. Earlier, property measuring 15 x 40 feet was given to the accused. They were residing in another house belonging to their uncle, situated at about 1 km away from the said property No.25. He has stated that the accused contracted huge loans since he had several vices and therefore, he told his father regarding an intention to sell half portion of

the property, given to him. But his father objected and his father sold his rights in property No.29 and gave money to the accused and thereafter, they shifted to the aforesaid house No.25. He has stated that since 15 years they were residing in house No.25. Further, in 2016-17 his father transferred the khata of house No.25 to his name and coming to know about the same, the accused quarreled with his father and he would frequently quarrel with his father saying that the said property belongs to him.

11. PW1 has further deposed that about 6 months prior to the incident, his father had lodged a complaint at Metagalli Police Station, as per Ex.P1, and on an undertaking given by the accused as per Ex.P2, that he will not trouble his father, the said case was closed. The report was marked as Ex.P3 and the NCR No.496/2017 was marked as Ex.P4.

12. PW5 the wife of the deceased has also deposed about the dispute existing between the accused and her

husband regarding Site No.25. She has stated that her husband wanted to change the khata of both the houses into her name and her son's name and coming to know about the same, the accused used to quarrel with her husband saying that he wants his portion of the house back, but, her husband refused and therefore, on several occasions the accused had threatened to kill her husband and assaulted him. Hence, he had lodged a complaint.

13. PW6 a retired corporator has deposed that once the accused had met him and stated that Puttamadashetty owned a municipal site in Kumbara Koppalu, Mysuru.

14. From the above evidence on record, it can be gathered that there was a site measuring 30 x 40 feet situated at No.25, 6th Cross 'E' Block, Kumbara Koppalu, Mysuru, in respect of which, the accused had picked up a quarrel with the deceased on the ground that he too had a share in the said property. Ex.P1 is the complaint lodged by the deceased at Metagalli Police Station seeking police

protection, alleging that on 22.08.2017 at about 06:00 p.m., the accused had abused him in filthy language and also threatened him with dire consequences. Ex.P2 is the statement of the accused where he had undertaken not to trouble the deceased. Ex.P4 is the NCR registered by the police and Ex.P3 is the closure report, which shows that the accused was called to the police station and the parties were advised to resolve their dispute before the Court.

15. Admittedly, the incident mentioned in Ex.P1 took place on 22.08.2017. Neither PW1 nor PW5 have alleged that subsequent to the said incident, the accused had either quarrelled with the deceased or threatened him or his family members. The incident in question took place on 23.02.2018, which is after 6 months, wherein it is alleged that the accused committed the murder of Puttamadashetty by hitting him with a cement brick on his head.

16. The homicidal injuries sustained by the deceased is not seriously disputed. The prosecution has got marked Ex.P20, the post mortem report wherein the following injuries are noticed on the death body:

1. Crush injury, 25X22 cm and cavity deep, on the skull, extending over bilateral fronto-temporo-parietal area of the scalp, through the vertex. Underlying skull bone was fragmented into multiple pieces. Edges of the crush injury were irregular, contused and hair bulbs were crushed. Brain matter was seen protruding out and bone fragments were seen deep driven inside the skull cavity and brain matter.

2. Avulsed laceration, 6X2 cm and bone deep, on the left parietal area of the scalp. Underlying bone was fragmented into multiple pieces. Edges were irregular, contused and hair bulbs were crushed.

3. Avulsed laceration, 4X2 cm and bone deep, on the left temporal area of the

scalp. Edges were irregular, contused and hair bulbs were crushed.

4. Grazed abrasion, 7X7 cm, on the back of left half of neck, extending to the back of left ear.

5. Multiple abraded contusions, over an area of 12X12 cm, on the right half of forehead, right temple and cheek. Associated with underlying fracture of right frontal bone and right maxilla.

17. It was opined by the doctor who conducted the autopsy that the death was owed to cranio-intra-cranial lesions, following fresh injury to head. We find from the judgment of the trial Court at para 12 that the postmortem report at Ex.P20 and the opinion, Ex.P21 (a) were marked through consent.

18. As per prosecution, PW2 was an eyewitness to the incident. However, he refused to depose that he had seen the incident and therefore, he was treated hostile by the prosecution. PW2 has only deposed that on that day at

07:30 p.m., when he was watching TV, he heard the sound of a quarrel outside and after 2 minutes again he heard a loud sound and therefore, he came outside his house and stood in the portico of the first floor of the house. He saw a person had fallen in front of the site where a construction was going on. He came down and went towards the spot where the body was lying. He has stated that he did not see anyone at that time when he went near the body. He noticed that the head was crushed and number of persons had gathered at the spot.

19. According to PW2, he had not seen any one committing the murder. The evidence of PW2 is not helpful to the prosecution, as he has categorically stated that he has not seen anyone at the scene of crime, committing the offence.

20. In view of the hostility of PW2, the case of the prosecution rests on circumstantial evidence. The only evidence which is available to connect the accused with

the crime is the motive and the alleged recovery of blood stained clothes and the FSL Report.

21. When a case is based on circumstantial evidence, it is the cardinal principle that such evidence must satisfy the following tests:

> *(1) the circumstances from which an inference of guilt is to be drawn must be cogently and firmly established,*
>
> *(2) those circumstance should be of a definite tendency unerringly pointing towards the guilt of the accused,*
>
> *(3) the circumstances, taken cumulatively, should form a chain so completely that there is no escape from the conclusion than within all human probability the crime was committed by the accused and none else; and*
>
> *(4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused, but should be in consistent with his innocence.*

22. Admittedly, there was a dispute between the deceased and the accused with regard to site in question. It has come in the evidence that initially half portion of the

site was given to the accused, and later the deceased gave money to the accused and moved to the house which was constructed in the said disputed site. PW1 has deposed that the deceased was intending to change the khata in his name. The enmity does not rule out the possibility of false implication. As discussed supra, the previous incident had taken place about 6 months prior to the incident in question. The accused had undertaken that he would not trouble the deceased any more and on his undertaking, the police had closed the NCR registered against him. PW1 or PW5 have not alleged that subsequent to the said incident, the accused had either threatened or intimidated them or the deceased, in any manner. Admittedly, there are no witnesses who have seen the accused near the scene of offence. From the nature of evidence placed on record by the prosecution, the possibility of the appellant being falsely implicated on account of the dispute regarding the site cannot be ruled out.

23. The prosecution is strongly relying on the seizure of bloodstained clothes, MO8 and MO9 at the instance of the accused. The Investigating Officer, PW8 has deposed that after the arrest of the accused, his voluntary statement was recorded as per Ex.P25. At his instance, a black colour pant and full sleeve shirt were seized under a mahazar. The prosecution has got examined PW3 and PW4, the panch witnesses to the said mahazar, Ex.P15.

24. Firstly, the evidence of PW8, the Investigating Officer, who arrested the accused and seized MO8 and MO9, does not indicate that he secured the panchas prior to the statement of the accused was recorded and the voluntary statement was recorded in their presence. As per the evidence of PW3, when he went to the police station, he saw the accused wearing a dark colour shirt, and the black colour pant which appeared to be bloodstained. However, PW4 has not deposed about the blood stains on the clothes of the accused, seized under

Ex.P15. Both the said witnesses have admitted that they are related to PW1 and the deceased.

25. The FSL Report is marked as Ex.P29. The clothes MO8 and MO9 were seized on 24.02.2018. As per the FSL Report, Ex.P29, those articles were sent for examination on 09.04.2018. There is no satisfactory explanation as to why there was delay in sending the material objects for examination, to the FSL. It is contended by the learned counsel for the appellant that the prosecution has not ascertained the blood group of the accused and only on the basis of the FSL Report, the guilt of the accused cannot be established.

26. We have re-appreciated the entire evidence and material on record. We are of the considered view that the motive alleged by the prosecution has failed to impress us. The motive being a double edged weapon, there is a possibility of false implication of the accused. The complaint was lodged against an unknown person and it is

only on suspicion, PW1 later alleged that the accused might have committed the offence. The sole eyewitness, examined by the prosecution has not supported its case. The only evidence which remains is the recovery of MO8 and MO9 and the FSL Report, which by itself cannot lead to a finding of guilt without other circumstances which provide a complete chain leading to the hypothesis of guilt being the only one possible, excluding any hypothesis of innocence. At the cost of repetition, there are no witnesses who have seen the accused anywhere near the scene of offence. The Investigating Officer has not deposed that he had recorded the voluntary statement of the accused in the presence of panchas. There is unexplained delay in sending the seized articles, particularly MO8 and MO9 for FSL examination. Hence, the accused is entitled to the benefit of doubt. Accordingly, we pass the following:

ORDER

i. The appeal is **allowed**.

ii. The judgment and order dated 27.02.2020 passed by the Court of the III Additional District and Sessions Judge at Mysore, in SC No.184 of 2018, convicting and sentencing the appellant/accused for the offence punishable under Section 302 of IPC, is set aside.

iii. The accused is acquitted of the offence punishable under Section 302 of IPC and he is set at liberty, if his custody is not required in any other case.

iv. The Registry shall communicate this order to the Trial Court and the concerned jail authority.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

HB,MKM
List No.: 1 Sl No.: 4