HC-KAR

NC: 2026:KHC:62561
CRL.A No. 732 of 2016

CNR: KAHC010275472016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 732 OF 2016 (C)

BETWEEN:

SRI.GANGADHARAPPA
S/O VENKATA RAVANAPPA
51 YEARS,
R/AT POOLLAVARI PALLI,
BAGEPALLI TALUK,
CHICKBALLAPURA DIST,
KARNATAKA.

...APPELLANT

(BY SRI. BALAJI R .,ADVOCATE)

AND:

Digitally signed by SUMA B N
Location: HIGH COURT OF KARNATAKA

STATE OF KARNATAKA
REPRESENTED BY
BAGAEPALLI TOWN POLICE STATION,
BAGAEPALLI,
CHICKBALLAPURA DIST
KARNATAKA.

...RESPONDENT

(BY SRI. K. NAGESHWARAPPA., HCGP(PH))

THIS CRL.A. IS FILED U/S.374(2) CR.P.C PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 17.02.2016 PASSED BY THE PRL. DIST. AND S.J., CHIKKABALLAPURA IN S.C.NO.136/2013 - CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 304(II) OF IPC AND ETC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

The appellant has preferred this appeal against the judgment of conviction and order on sentence dated 17.02.2016 passed in S.C.No.136/2013 on the file of Prl. District and Sessions Judge, Chikkaballapura (for short "the trial Court").

2. For the sake of convenience, the parties herein are referred to as per their status before the trial Court.

3. Brief facts leading to this appeal are that, Circle Inspector of Police submitted a charge sheet against the accused for the offences under Section 302 IPC. It is alleged by the prosecution that on 14.07.2013 at 07:30 p.m., when the elder brother of CW1 went to the shop of one Ramappa-PW2 for purchasing beedi, at that time accused was also sitting there. The brother of the complainant-PW1, had spread the news in the village and had insulted the accused and that the son of the accused had quarreled a week back and the brother

of PW1 by informing the others, had insulted the accused and thus the accused picked up quarrel with him and took the weighing scale and hit the same on the cheek and head of the brother of PW1 and further, kicked him on the chest and pushed him, thereby he was hit by the stone slab. As a result, brother of the PW.1 sustained grievous injuries.

4. The injured was taken near the house of the accused wherein he was being treated by PW1 and others. Later on about 08:30 p.m., the injured succumbed to the injury. Thus the accused has committed the alleged offence.

5. After filing the charge sheet, the case was registered in CC No.339/2013, on the file of Civil Judge and JMFC, Bagepalli. Thereafter, case was committed to the Court of Sessions and registered in S.C.No.136/2013. The accused was enlarged on bail. On hearing the arguments, trial Court has framed the charges for the alleged offences, same were read over and explained to the accused. Having understood the same, accused pleaded not guilty and claimed to be tried.

6. To prove the guilt of the accused, prosecution examined 11 witnesses PWs.1 to 11. 16 documents were marked as Exs.P1 to P16. One material object has been marked as MO.1. On closure of prosecution side evidence, statement under Section 313 of Cr.P.C. was recorded. Accused has totally denied the evidence of prosecution witnesses. However, he did not choose to lead any defence evidence on his behalf.

7. Having heard the arguments on both sides, trial Court has acquitted accused for the offence under Sections 302 IPC. However, convicted the accused for the offence under Section 304(II) of IPC and passed the sentence of rigorous imprisonment for a period of 5 years, rigorous imprisonment and Rs.5,000/- fine. Being aggrieved by this judgment of conviction and order on sentence passed by the trial Court, appellant has preferred this appeal.

8. The learned counsel for the appellant would submit that the trial Judge has failed to consider the evidence of the prosecution witnesses, as all the material witnesses have turned hostile. That the evidence of PW1 is very clear and said witness is the brother of the deceased and he had nothing to do

with the accused. That there was no enmity between the accused and the deceased-Srinivas, as per the evidence of PW1 and a fight between the deceased and accused cannot be of any relevancy, as the same was a stray incident. Though there is no evidence against the accused, the trial Court has not convicted the accused, which is not sustainable under law. On all these grounds, he sought for allowing this appeal.

9. As against this, learned HCGP would submit that the trial Court has properly appreciated the evidence on record in accordance with law and passed the impugned judgment and there are no grounds for interference. Hence, sought for dismissal of this appeal.

10. Having heard the arguments on both sides and perusal of the materials placed before this Court, the following points would arise for my consideration:

i. Whether the appellant/accused has made out grounds to interfere with the impugned judgment of conviction and order on sentence passed by the trial Court?

ii. What order?

11. My answer to the above points are as under:

Point No.1 - Affirmative

Point No.2 - As per final order

Regarding Point No.1:-

12. I have examined the materials placed before this Court. The Investigating Officer has submitted the charge sheet against the accused for the offence under Sections 302 IPC. This case arise out of the complaint filed by P.S. Srinivas, as per Ex.P1, in which it is stated as under:

> *"ದಿನಾಂಕ:14-07-2013 ಕ್ಕೆ ಒಂದು ವಾರದ ಹಿಂದೆ ಚಿಕ್ಕಬಳ್ಳಾಪುರ ಜಿಲ್ಲೆ, ಬಾಗೇಪಲ್ಲಿ ತಾಲ್ಲೂಕು, ಬಾಗೇಪಲ್ಲಿ ಪೊಲೀಸ್ **ಠಾಣಾ** ಸರಹದ್ದು ಪೂಲವಾರಿಪಲ್ಲಿ ಗ್ರಾಮದಲ್ಲಿ ಆರೋಪಿ ಗಂಗಾಧರಪ್ಪ ಬಿನ್ ವೆಂಕಟರವಣಪ್ಪ ರವರು ತನ್ನ ಮಗನಾದ ಸಾಕ್ಷಿ-05 ರವರೊಂದಿಗೆ ಸಂಸಾರದ ವಿಚಾರದಲ್ಲಿ ಜಗಳವಾಡಿಕೊಂಡು ಇಬ್ಬರೂ ಮನೆಯಲ್ಲಿ ಹೊಡೆದಾಡಿಕೊಳ್ಳುತ್ತಿರುವಾಗ ಪೂಲವಾರಿಪಲ್ಲಿ ಗ್ರಾಮದ ಶ್ರೀನಿವಾಸ ಬಿನ್ ಲೇಟ್ ಚಿನ್ನಾಯಪ್ಪ @ ಬಾರ್ ಚಿನ್ನಾಯಪ್ಪ ರವರು ಮಧ್ಯಪ್ರವೇಶಿಸಿ ಜಗಳ ಬಿಡಿಸಿ ಸಮಾಧಾನಪಡಿಸಿ ನಂತರ ಗ್ರಾಮದವರ ಬಳಿ ಗಲಾಟೆ ವಿಚಾರದಲ್ಲಿ "ಮಗನಿಂದ ಏಟು ತಿಂದಿದ್ದಾನೆ" ಎಂದು ಗಂಗಾಧರಪ್ಪ ರವರಿಗೆ ಅವಮಾನವಾಗುವ ರೀತಿಯಲ್ಲಿ ಗ್ರಾಮದಲ್ಲಿ ಹೇಳಿಕೊಳ್ಳುತ್ತಿದ್ದ ವಿಚಾರ ಗಂಗಾಧರಪ್ಪ ರವರಿಗೆ ಗೊತ್ತಾಗಿ ವೈಷಮ್ಯ ಬೆಳೆಸಿಕೊಂಡಿದ್ದನು.*
>
> *ಹೀಗಿರುವಾಗ ದಿನಾಂಕ:14-07-2013 ರಂದು ಸಂಜೆ 7.30 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಪೂಲವಾರಿಪಲ್ಲಿ ಗ್ರಾಮದ ಸಾಕ್ಷಿ-02 ರವರ ಬಾಬತ್ತು ಹೌಸ್ ಲೀಸ್ಟ್ ನಂಬರ್ 59 ಚಿಲ್ಲರೆ ಅಂಗಡಿಯಲ್ಲಿ ಈ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿಯ ಅಂಕಣ-12 ರಲ್ಲಿ ಕಂಡ ಆರೋಪಿಯು ಶ್ರೀನಿವಾಸ ಬಿನ್ ಲೇಟ್ ಚಿನ್ನಾಯಪ್ಪ @ ಬಾರ್ ಚಿನ್ನಾಯಪ್ಪ, 40*

ವರ್ಷ, ಬಲಜಿಗರು, ಜಿರಾಯ್ತಿ ಕೆಲಸ, ಪೂಲವಾರಿಪಲ್ಲಿ ಗ್ರಾಮ, ಬಾಗೇಪಲ್ಲಿ ತಾಲ್ಲೂಕು ರವರನ್ನು ಕುರಿತು "ಯಾಕೇ ನೀನು ಊರಿನಲ್ಲೆಲ್ಲಾ ನಾನು & ನನ್ನ ಮಗ ನರಸಿಂಹಮೂರ್ತಿ ಗಲಾಟೆ ಮಾಡಿಕೊಂಡ ವಿಚಾರವನ್ನು ನನಗೆ ಅವಮಾನವಾಗುವಂತೆ ಹೇಳಿಕೊಳ್ಳುತ್ತಿದ್ದೀಯಾ ಎಂತ ಕೇಳಿದ್ದು, ಅದಕ್ಕೆ ಶ್ರೀನಿವಾಸ ರವರು "ನಾನು ಬಿಡಿಸದೇ ಇದ್ದಿದ್ದರೆ ನಿನ್ನ ಮಗ ನಿನ್ನನ್ನು ಸಾಯಿಸಿಬಿಡುತ್ತಿದ್ದ ಹೇಳಿಕೊಂಡರೆ ಏನಾಗುತ್ತೇ ಹೋಗು" ಎಂತ ಹೇಳಿದ್ದಕ್ಕೆ ಇಬ್ಬರ ನಡುವೆ ಮಾತಿಗೆ ಮಾತು ಬೆಳೆದು ಆರೋಪಿಯು ಶ್ರೀನಿವಾಸರವರನ್ನು ಸಾಯಿಸುವ ಉದ್ದೇಶದಿಂದ ಉದ್ದೇಶಪೂರ್ವಕವಾಗಿ ಸಾಕ್ಷಿ-02 ಬಾಬತ್ತು ಅಂಗಡಿಯಲ್ಲಿದ್ದ ಕಬ್ಬಿಣದ ತಕ್ಕಡಿಯಿಂದ ಶ್ರೀನಿವಾಸ ರವರ ಕೆನ್ನೆಗೆ ಹೊಡೆದು, ಕಾಲಿನಿಂದ ಎದೆಯ ಮೇಲೆ ಒದ್ದಾಗ ಶ್ರೀನಿವಾಸ ರವರ ಹಿಂಭಾಗದ ತಲೆಯು ಅಂಗಡಿಯ ಬಾಗಿಲಿನ ಅರಗಿಗೆ ಬಿದ್ದಿದ್ದು, ಅಷ್ಟರಲ್ಲಿ ಸಾಕ್ಷಿ-02, 03, 04 ರವರುಗಳು ಮಧ್ಯಪ್ರವೇಶಿಸಿ ಜಗಳವನ್ನು ಬಿಡಿಸಿದ್ದು, ಗಾಯಗೊಂಡಿದ್ದ ಶ್ರೀನಿವಾಸ ರವರನ್ನು ಸಾಕ್ಷಿ-01 ರವರ ಮನೆಯ ಬಳಿ ಹೊರಗಡೆ ಕುಳ್ಳರಿಸಿ ಉಪಚರಿಸುತ್ತಿದ್ದಾಗ ರಾತ್ರಿ ಸುಮಾರು 8.30 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಮೇಲ್ಕಂಡ ಗಲಾಟೆಯಲ್ಲಿ ಆದ ಗಾಯಗಳ ದೆಸೆಯಿಂದ ಶ್ರೀನಿವಾಸ ಬಿನ್ ಲೇಟ್ ಚಿನ್ನಾಯಪ್ಪ @ ಬಾರ್ ಚಿನ್ನಾಯಪ್ಪ ರವರು ಮೃತಪಟ್ಟಿರುವುದಾಗಿ ಈ ಕೇಸಿನ ತನಿಖೆಯಿಂದ ದೃಡಪಟ್ಟಿರುತ್ತದೆ. ಆದುದರಿಂದ ಮೇಲ್ಕಂಡ ಕಲಂ ರೀತ್ಯಾ ಆರೋಪಿಯ ವಿರುದ್ಧ ಈ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿ."

13. On the basis of this complaint, the Sub-Inspector of Police, Bagepalli registered a case in Crime.No.147/2013, under Section 302 IPC and submitted the FIR to the Court as per Ex.P12 and after investigation Investigating Officer has submitted the charge sheet against the accused. Investigating Officer has cited 23 witnesses. Out of them, prosecution has examined only 11 witnesses.

14. PW1-P.N. Adinarayanappa, who is the elder brother of deceased Srinivasa, has not supported the case of the prosecution. He has denied the contents of Ex.P1 and also denied the contents of Ex.P2. This witness is treated as hostile witness with the permission of the Court and has been cross-examined by the prosecution. During his cross-examination also, he has categorically denied the contents of Ex.P1.

15. PW2-Ramappa and PW3-Laxmipathy, said to be the eyewitness to this alleged incident have not supported to the case of the prosecution. Both witnesses are treated as hostile witnesses with the permission of the Court and cross-examined by the prosecution. Even in their cross-examination, they have categorically denied the statements said to have been recorded by the Investigating Officer under Section 161 of Cr.P.C, which are marked as Exs.P6 and P7.

16. PW4-P.S.Srinivasa, attester to the Mahazar-Ex.P7 has not supported the case of prosecution. PW5-Narasimha Murthy, a hear-say witness has also not supported the case of the prosecution. PW6-Narayanaswamy has not supported the case of the prosecution.

17. PW7-Shankarappa, Assistant Engineer, PWD has deposed as to the sketch prepared by him as per the requisition filed by Circle Inspector of Police, Bagepalli. He has deposed that he visited the spot and prepared sketch as per Ex.P11.

18. PW8-Ujjinappa, Inspector of Police, PW9-Shivakumar, Circle Inspector of Police, and PW.10-B.L.Srinivasamurthy, Circle Inspector of Police, have deposed as to their respective investigation.

19. PW11- Dr.Sreedhar, has deposed as to the examination of the dead body and also issuance of PM report as per Ex.P14 and has also given opinion as per Ex.P16.

20. On careful examination of the entire evidence on record, the material witnesses PW1 to PW3 have not supported the case of the prosecution. However, the trial Court has convicted the accused, which is not sustainable under law.

21. It is a settled principle of law that the entire burden lies upon the prosecution to prove the guilt of the accused. Although, all the material witnesses have not supported the case of the prosecution, without assigning proper reasons, the

trial Court has convicted the accused. Accordingly, the appellant has made out grounds to interfere with the impugned judgment of conviction and order on sentence. Hence, I answer point no.1 in the affirmative.

Regarding Point No.2:-

22. For the aforesaid reasons and discussions, I proceed to pass the following:

ORDER

(i) The appeal is ***allowed***;

(ii) The impugned judgment of conviction and order on sentence passed by the Principal District and Sessions Judge, Chikkaballapura, in S.C.No.136/2013 dated 17.02.2016 is hereby set aside;

(iii) The appellant/accused is acquitted of the offence under Section 304(II) of IPC;

(iv) The bail bonds of the accused/appellant shall stand cancelled;

(v) The trial Court is directed to refund the fine amount, if any, deposited by the appellant.

Registry is directed to send the copy of this judgment along with TCR to the trial Court.

SD/-
(G BASAVARAJA)
JUDGE

RL
List No.: 1 Sl No.: 9