HC-KAR
NC: 2026:KHC:59693-DB
CRL.A No. 1149 of 2019
CNR: KAHC010282832019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO. 1149 OF 2019 (C)

BETWEEN:

GANESH NAIK
AGED ABOUT 47 YEARS
S/O. BAJJA NAIK
OCC: COOLIE
R/O. BOMMENAHALLI TANDA VILLAGE
DAVANAGERE TALUK
AND DISTRICT-577 514

...APPELLANT

(BY SRI VEERESHA E., ADVOCATE)

Digitally signed by SHARADAVANI B
Location: HIGH COURT OF KARNATAKA

AND:

THE STATE BY KARNATAKA
BY MAYAKONDA POLICE STATION
MAYAKONDA
DAVANAGERE DISTRICT-577 34
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001

...RESPONDENT

(BY SMT. SOWMYA R., H.C.G.P.)

CNR: KAHC010282832019

THIS CRL.A. IS FILED U/S.374(2) CR.P.C BY THE ADVOCATE FOR THE APPELLANT PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION DATED 24.05.2019 AND ORDER OF SENTENCE DATED 25.05.2019 PASSED BY THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, DAVANAGERE IN S.C.NO.91/2017 - CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION 302 OF IPC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 07.10.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE B.PRAMOD

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE B.PRAMOD)

The present criminal appeal is preferred by the appellant/accused challenging the judgment of conviction and order of sentence dated 25.05.2019 passed by the learned Principal District and Sessions Judge, Davanagere, in S.C. No.91/2017, whereby the appellant/accused was convicted for the offence punishable under Section 302 of the Indian Penal Code, 1860 (for short, 'IPC') and

sentenced to undergo imprisonment for life and to pay a fine of Rs.30,000/- (Rupees Thirty Thousand only).

2. Heard Sri. Veeresha E, learned counsel appearing for the appellant and Smt. Sowmya R, learned HCGP appearing for the respondent-State. Perused the entire material available on record.

3. It is the case of the prosecution that on 27.02.2017 at about 9.00 a.m., in a vacant place situated in front of the house of PW.8 at Bommenahalli Village, the accused picked up a quarrel with his mother Shantibai (hereinafter referred to as 'the deceased') over her refusal to affix her signature to the documents. When the deceased refused to accede to his demand, the accused allegedly pulled her saree and assaulted her on the head with an iron rod. The deceased, who was undergoing treatment at C.G. Hospital, Davanagere, succumbed to the injuries on 01.03.2017 at about 7.36 p.m. Thus, the accused committed the murder of the deceased.

4. The first informant, PW.8 gave a complaint on 27.02.2017 that his parents were working as coolies. In his grandfather's name Bacha Naik, they had 3/4th acre of land. Accused wanted it to be changed to his name to clear a loan and to sell the same, wanted signature of his mother and there was galata by the accused and the deceased. The accused wanted the land to himself and was forcing the deceased to sign the document. Further, it is stated that on 27.02.2017 he got a call around 10.30 a.m. from one Mr.Sathish Naik who had informed that on 27.02.2017 at about 9.00 a.m., when he was in front of the house of the deceased, the accused came with an iron rod and was quarrelling with the deceased. He saw that the accused was abusing the deceased with filthy language and the deceased requested her husband to call Sharada Bai, wife of the accused as the accused was drunk. When the deceased was going, the accused caught hold of her saree and pulled it and assaulted her with an iron rod, resulting in bleeding injuries. The deceased cried out of

pain and the accused informed that as the deceased did not sign the papers, he had threatened to kill the deceased. Thereafter, he and husband of the deceased took her to the Chigateri Hospital.

5. Based on the information furnished by PW.8, the police registered a criminal case and upon completion of the investigation, filed a charge sheet against the accused.

6. To prove the charge, the prosecution has examined 23 witnesses as PWs.1 to 23, marked documents as Exhibits P1 to P33 and the material objects as MOs.1 to 4. In the statement recorded under Section 313 of Cr.P.C., the accused denied all the incriminating evidence appeared against him. The trial Court after considering the evidence of PWs.8 and 10 who are the eyewitnesses and also the evidence of PW.11, and other documents, convicted the accused for the offence punishable under Section 302 of IPC. Being aggrieved by

the same, the accused is before this Court in the present criminal appeal.

7. Learned counsel for the appellant/accused argued that:

i. PWs.8 and 10 are interested witnesses and there are contradictions in their evidence.

ii. PW.11 who had informed PW.4 had turned hostile.

iii. There are contradictions of timing in the evidence of eyewitnesses.

iv. Motive is not proved and PW.12 did not support the case of the prosecution.

v. PW.8 in his evidence had deposed that there was no blood on the MO.1-iron rod and saree.

vi. The learned counsel has relied on judgments passed in ***Rajakhan vs. State of Chhattisgarh, 2025 INSC 167***, ***Govind vs. State of Haryana,*** *in* ***Crl.A.No.5641/2024*** *and* ***Gautam Satnami vs. State of Chhattisgarh*** *in* ***Crl.A.No.1782/2026***.

8. Per contra, learned HCGP contends that:

i. PWs.8 and 10-eyewitnesses, though they are relatives, their evidence cannot be brushed aside as they were present at the time of assault.

ii. PW.13-doctor who conducted the postmortem, corroborates the evidence of PWs.8 and 10.

iii. PW.14-doctor of CG Medical Hospital, has given evidence in support of prosecution.

iv. Further, PW20-doctor who had treated the deceased has also given evidence supporting the prosecution. PW15, Doctor of SS Hospital, has given evidence supporting the case of prosecution and has stated that the deceased had expired on 01.03.2017.

v. PW.7-panch witness to Ex.P8-photograph though turned hostile supports seizure of MO.1-iron rod.

vi. The prosecution has proved the case beyond doubt and the order of conviction passed by the trial court is just and proper.

9. Having considered the contentions of the appellant and the respondent, the following point arises for consideration of this Court:

> *"Whether the impugned judgment of conviction and order of sentence passed by the learned Trial Court suffer from any illegality or infirmity warranting interference by this Court?"*

10. The prosecution has examined PW.1, who is an inquest Pancha to Ex. P1.PW.1, Manjunaik, the son of CW5, has stated that it had been 8 months since Shantabai had died and that; he had seen the body with an injury on the left side of the head.

11. PW.4 is the complainant-son of the deceased, the first informant, who has stated that accused and deceased are brother and sister and there was dispute in respect of land. When he had gone for work on 27.02.2017, he got a call around 10.30 am from one Satish Naik-PW.11 stating that the accused had assaulted the deceased with an iron rod and she was taken to the

CG Hospital, Davanagere and asked to come over. He has also mentioned that due to the land dispute the accused scolded the deceased by using filthy language and he had stated that he would commit her murder.

12. PW.5-uncle of the accused denied statement made before the police. PW.6-Pancha of seizure mahazar denied notice and seizure of MO.1, and has turned hostile. PW.7- pancha to Ex. P8-photograph, has stated that he is in a rented house situated near the house of the accused and he is his uncle. He states that Ravi Naik, deceased and PW.8 were there. Though he has turned hostile, in the cross- examination, he has admitted that the accused was carrying MO.1-iron rod.

13. PW.8-eyewitness states that the accused and his wife were brother and sister and there was dispute with regard to the land as the accused wanted to sell the land and his wife had objected to it. The accused had come to their house and was carrying the iron rod and

asked his wife to sign the papers and abused the deceased in filthy language and pulled her saree. When he had requested to call the wife of the accused and when she was on the way, accused followed her and assaulted on her head with M.O 1 and thereafter, she was taken to the hospital for treatment. It was PW.11 who had called the ambulance. In the course of cross-examination, the defense has elicited that the houses of the deceased and the accused were situated at different places. Further, they have also elicited that due to the assault, blood had fallen on the saree.

14. PW.10 is the wife of PW.4, who is the eyewitness. She has stated that on the date of incident, her father-in-law and deceased were in the house and the accused came to the house of the deceased holding an iron rod threatening the deceased that because she is not signing the paper, he is unable to sell the property and the deceased had informed the accused to call the person who

is purchasing the property. During that time, the accused had abused the deceased in filthy language and forced the deceased to sign the papers. At that time, her father-in-law had said to the deceased to get the wife of the accused and when she was proceeding, the accused assaulted the accused with iron rod and the deceased fell on the ground and thereafter, the deceased was taken to the hospital for treatment.

15. PW.11 informed PW.4 about the incident and in the cross-examination, he has turned hostile and it is elicited that the lawyer who is representing the accused is his uncle.

16. PW.12 is the agreement holder of the land and he admits that Ex.P13 was executed by the accused, his wife and children but the deceased had not signed the agreement. However, he denies the execution of Ex. P15. The said witness has turned hostile,and it is elicited that

on 20.04.2015, accused had executed the agreement in his favor.

17. PW.13 is the doctor who conducted the postmortem. The following external injuries were found on the body of the deceased:

> *"A surgically sutured wound measuring 05CMx0.5 CM skull deep (known after removal of sutures) with intact suture material (Catgus) is present over the left parietotermporal part of the scalp, which is obliquely placed."*

The doctor has given the opinion that the deceased died due to *"COMA" consequent upon head injury sustained.* In his evidence he has stated that he did not notice blood stain on the MO1.

18. PW.14 is the doctor who gave first aid and referred the deceased to a higher hospital. In Ex.P21, there is a mention of history of assault by the accused.

19. PW.15 is the doctor/professor, at S S Hospital, Davanagere, who has stated that on 01.03.2017,

deceased was admitted to the hospital with history of assault, and that the patient was unconscious. *The deceased sustained head injury due to which she suffered brain hemorrhage and was discharged against medical advice*.

20. PW.20 is the doctor working in C T Central Hospital, Davanagere. He has deposed that *the deceased* took first aid treatment in CG Hospital, Davanagere and the said C G Hospital referred the deceased to their hospital for further treatment. The deceased had undergone CT scan, and it is noticed that *the deceased sustained left posterior frontal and temporal bone region parachymalhaematoma, Sub archanold hemorrhage with pneumocephalus and mild cerebral oedema.* The deceased was treated and neuro surgeon's opinion was taken.

21. PW.17 is the Police Constable who apprehended the accused. PW.18 is another Police Constable who submitted FIR to the Magistrate and submitted one more

requisition to add offence under Section 302 of IPC. PW.19 is the Head Constable who collected MOs.1 and 2 and submitted them to FSL.

22. PW.21 is the ASI, who registered the FIR. PW.22 is the police officer who had investigated the matter initially and sent a note to add Section 302 of IPC. PW.23 is the CPI who filed the investigation.

23. The prosecution case rests primarily on the direct evidence of eyewitnesses, PWs.8 and 10, which is corroborated by the medical evidence on record. Both PWs.8 and 10 have categorically deposed that the accused came to the house of the deceased armed with an iron rod and assaulted the deceased. Their ocular testimony finds corroboration in the medical evidence of PW.13, the doctor, who has opined that the death was due to "coma consequent upon head injury sustained". Thus, the ocular evidence is consistent with the medical evidence on record

and clearly establishes the **homicidal nature** of the death.

24. Further, the prosecution has established that there was a dispute between the accused and the deceased in respect of the land and that the accused and his family members, except the deceased, had executed Ex.P15 in favor of PW.12. A perusal of page No.5 of Ex.P13, the Agreement Deed, clearly discloses that the said document bears the signatures of PW.12, the accused and his family members, except the deceased. The fact that the deceased had not signed the said agreement and that there was a quarrel between the accused and the deceased in this regard clearly establishes the **motive** for the commission of the offence.

25. On careful appreciation of the evidence of eyewitnesses PWs.8 and 10, it is clearly established that the accused came to the house of the deceased armed with an iron rod marked as M.O.1. The fact that the

accused had come armed with a deadly weapon, coupled with the dispute arising out of the deceased's refusal to sign the document, clearly establishes his premeditated intention to assault the deceased. The minor discrepancies in the testimony of PWs.8 and 10 are neither material nor sufficient to discredit their otherwise consistent and trustworthy evidence. Such discrepancies do not go to the root of the prosecution case and cannot be a ground to discard their ocular testimony. Further, Ex.P19, the post-mortem report, establishes that the injuries sustained by the deceased were consistent with the assault by an iron rod such as M.O.1 and were sufficient to cause death. The ocular testimony of PWs.8 and 10 thus finds material corroboration in the medical evidence on record. We are therefore of the considered opinion that the prosecution has established the involvement of the accused in the commission of the offence and that the minor discrepancies pointed out by the defence do not create any reasonable doubt regarding the prosecution case.

26. The contention of the appellant that PWs.8 and 10 are interested witnesses is untenable. Mere relationship of PWs.8 and 10 with the deceased is not a sufficient ground to discard their evidence. It is beneficial to refer to the Apex Court judgment in the case of ***Dalip Singh and Others vs. State of Punjab AIR 1953 SC 364***, where the Hon'ble Supreme Court held that **- "*The testimony of an eyewitness cannot be thrown out or labeled as inherently untrustworthy simply because they are related to the deceased or injured party*."**

27. In the present case, the occurrence having taken place near the house of the deceased, the presence of PWs.8 and 10, who are the husband and daughter-in-law of the deceased respectively, at the scene of occurrence was natural in the ordinary course of events. Merely because the said witnesses are related to the deceased, their testimony cannot be discarded on that ground alone, particularly when their presence at the

scene of occurrence is natural and their evidence is otherwise credible and trustworthy.

28. Further, in the present case, the evidence of the eyewitnesses is cogent and reliable, and no material discrepancies are forthcoming. Minor discrepancies, if any, do not affect the credibility of their testimony.

29. In view of the foregoing discussion, the contention of the accused regarding the partisan nature of the witnesses is, by itself, not a sufficient ground to discard their testimony, particularly when the evidence of the eyewitnesses finds corroboration from the other evidence adduced by the prosecution.

30. The evidence on record finds corroboration from the other material evidence placed on record, particularly the medical evidence. Further, the testimony of PW.12 is relevant insofar as he admits the execution of Ex.P13 and acknowledges that the said document does not bear the signature of the deceased. These aspects of his testimony

are required to be considered in conjunction with the other evidence on record while assessing the evidentiary value of Ex. P13.

31. The contention of the learned counsel for the appellant/accused that there were no blood stains on the MO.1 does not hold water as it is not a sharp weapon and by use of the MO.1- iron rod, the deceased has sustained injury to the head, which is a vital part, due to which she was under coma and has succumbed to the same.

32. Learned counsel for the appellant has placed reliance on the judgments of the Hon'ble Supreme Court in ***Rajakhan v. State of Chhattisgarh*, 2025 INSC 167**; ***Govind v. State of Haryana*, Criminal Appeal No.5641/2024**; and ***Gautam Satnami v. State of Chhattisgarh*, Criminal Appeal No.1782/2026**, in support of the proposition that recovery of incriminating articles, by itself, cannot form the sole basis for conviction

in the absence of other reliable and corroborative evidence.

33. In the present case, the voluntary statement of the accused was recorded as per Ex. P27 and the said accused has stated that he has thrown the M.O.1, which was the iron rod, in the back portion of his house. M.O.1 was produced by the accused and the Panchanama was also conducted as per Ex. P27. As stated supra, though the M.O. 1 which is the iron rod has been recovered, there is also the ocular testimony of PWs 8 and 10 which finds corroboration from the other evidence available on record.

34. The evidence of PWs.8 and 10, when appreciated in conjunction with the other corroborative material on record, establishes the guilt of the accused beyond reasonable doubt. The conviction, therefore, cannot be assailed merely on the ground of alleged infirmities in the recovery. The said principle has also been reiterated by the Hon'ble Supreme Court in ***Rakesh and***

Another v. State of Uttar Pradesh and Another, reported in **(2021) 7 SCC 188**, wherein it was held that recovery of the weapon used in the commission of an offence is not a *sine qua non* for conviction when credible and trustworthy eyewitness evidence is available. In the present case, the conviction is not founded solely on the recovery of the weapon but is principally based on the reliable ocular testimony of PWs.8 and 10, which finds corroboration in the other evidence on record. Consequently, the judgments relied upon by the appellant, which deal with the insufficiency of recovery as the sole basis for conviction, are distinguishable on facts and do not advance the case of the appellant.

35. In view of the aforesaid discussion and upon reappreciation of the evidence and perusal of the material on record, we are of the considered opinion that the impugned judgment and sentence of the learned Trial Court do not suffer from any infirmity warranting

interference by this Court. Hence, we proceed to pass the following:

ORDER

The appeal is ***dismissed***.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

Bsv/Mkm