HC-KAR

NC: 2026:KHC:61660
CRL.A No. 925 of 2015

CNR: KAHC010370702015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO.925 OF 2015 (C)

BETWEEN:

1. BHAGYARAJ S N @
PAPANNA @ ADITYA,
S/O LATE NARASIMHA MURTHY,
AGED ABOUT 30 YEARS,
R/A NO.889,
KUSHALNAGAR EXTENSION,
SAKLESHPURA,
HASSAN DISTRICT-573134.

...APPELLANT

(BY SRI. B LETHIF ,ADVOCATE)

AND:

1. THE STATE BY DEVARAJA POLICE STATION
MYSURU, MYSURU DISTRICT,
REPT. OF GOVERNMENT ADVOCATE,
PROSECUTOR,
HIGH COURT COMPLEX BUILDING,
BANGALORE-560001.

...RESPONDENT

(BY SRI. K. NAGESHWARAPPA, HCGP.)

Digitally signed by
LAKSHMINARAYAN N
Location: High Court
of Karnataka

CRL.A. FILED U/S 374(2) CR.P.C BY THE ADV. FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE ORDER DATED:28.7.2015, PASSED BY THE III ADDL. SESSIONS JUDGE, MYSURU, IN S.C.NO.203/2012- CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCES P/U/S 307 OF IPC.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

Appellant has preferred this appeal against the judgment of conviction and order on sentence dated 28.07.2015 passed in SC No.203 of 2012 by the III Addl. Sessions Judge at Mysuru (for short, the "trial Court").

2. Facts leading to this appeal are that, the Sub-Inspector of Police (Law and Order), Devaraja Police Station, Mysuru filed Charge-sheet against the accused for the offence punishable under Section 307 of Indian Penal Code. It is alleged by the prosecution that on 17.01.2012 at 7.00 pm, near the gate of Ayurvedic Ladies College Hostel situate at KRS Road, Mysuru, accused stabbed CW1-Dhanyashree with a plastic cutter on her neck 2 to 3 times and also stabbed on her hands and attempted to kill her. Thereby, the accused committed the alleged offence.

3. The accused was arrested on 23.01.2012 and produced before the Magistrate and he was remanded to judicial custody. After filing chargesheet, case came to be registered in CC No.763 of 2012. The case was committed to the Sessions Court where it was registered as SC No.203 of 2012. The trial Court has convicted the accused. Thereafter, the appellant has preferred this appeal. This Court, as per order dated 04.09.2015, released the accused on bail by suspending the sentence. Accordingly, the accused/appellant was in judicial custody for a period of 3 years, 7 months and 11 days.

4. Upon hearing on charges, the trial Court framed charges against the accused for the offence punishable under Section 306 of Indian Penal Code. Same was read over and explained to the accused. Accused pleaded not guilty and claimed to be tried. To prove the guilt of the accused, the prosecution has examined 25 witnesses as PWs1 to 25, marked 30 documents as Exhibits P1 to P30 and 11 material objects as MOs1 to 11. On closure of

prosecution side evidence, statement of accused under Section 313 of CrPC was recorded. Accused has totally denied the evidence of prosecution witnesses appearing against him. He did not choose to lead any evidence on his behalf, however, 16 documents as Exhibits D1 to D16. Having heard the arguments on both sides, the trial has Court convicted the accused for the alleged offence and passed sentence to undergo rigorous imprisonment for a period of five years and to pay fine of Rs.10,000/-. In default of payment of fine, to undergo simple imprisonment for a period of five months. Being aggrieved by this judgement of conviction and order on sentence, the appellant has preferred this appeal.

5. Sri B. Lethif, learned Counsel appearing on behalf of the appellant, has fairly submitted that though the appellant has taken several grounds for setting aside the judgment of conviction and sentence, the appellant would restrict his arguments only to reducing the sentence to a period of 3 years, 7 months and 11 days, instead of the

period of five years, passed by the trial Court. Further, he would submit that the incident took place in the year 2012. The accused was serving in Indian Army and after the incident, he has lost his job. His father is no more and the appellant has to look after his aged mother and he is the only earning person in the family. The victim is already married and settled in her in-law's house. The victim is the close relative of the accused. On all these grounds, it is sought to reduce the sentence.

6. To substantiate his argument, he has relied on the judgments of Hon'ble Supreme Court in the case of PRAMOD KUMAR MISHRA v. STATE OF UTTAR PRADESH reported in (2023)9 SCC 810 and in the case of SANJAY GOEL v. STATE OF DELHI rendered in Criminal Appeal No.2170 of 2014 arising out of SLP (Crl.) No.3179 of 2013 decided on 08.10.2014.

7. As against this, Sri K. Nageshwarappa, learned High Court Government Pleader appearing for the

respondent-State, would submit that the trial Court has imposed sentence of only five years imprisonment and the same cannot be interfered with in this appeal. Accordingly, he sought for dismissal of the appeal.

8. Having heard the arguments on both sides and on perusal of material on record, the following points would arise for my consideration:

1. Whether the trial court is justified in convicting the accused for the offence punishable under Section, 307 of Indian Penal Code?

2. Whether the appellant has made out grounds to reduce the sentence from 5 years passed by the trial Court to 3 years, 7 months, and 11 days, which is already undergone by him?

3. What order?

9. My answer to the above points are:

Points 1 and 2: in the affirmative;

Point No.3: as per final order.

Regarding Point No.1:

10. I have examined the materials placed before this Court. To prove the guilt of the accused, the prosecution has, in all, examined 25 witnesses as PWs1 to 25, marked 30 documents as Exhibits P1 to P30 and 11 material objects as MOs1 to11. On careful examination of the entire evidence and record in length, the trial Court has rightly held that accused has committed the offence punishable under Section 307 of Indian Penal Code. On reconsideration and re-examination of the entire evidence on record, I do not find any legal or factual error committed by the trial Court in this regard. The prosecution has placed cogent, convincing and corroborative evidence before the Court to prove the guilt of the accused for the offence punishable under Section 307 of Indian Penal Code. Accordingly, I answer Point No.1 in the affirmative.

Regarding Point No.2:

11. With regard to modification of sentence passed by the trial Court is concerned, the trial Court has sentenced the accused to undergo imprisonment for a period of five years and to pay fine of Rs.10,000/- and in default of payment of fine, the accused shall undergo simple imprisonment for a period of five months for the offence under Section 307 of Indian Penal Code. The trial Court has also given set-off under Section 428 of CrPC. The trial court has observed that the accused is having aged mother and he is the only person to take care of his mother and that the accused is the only earning member. Further, the accused is a defence personnel. The accused is in custody for more than three years. The incident in question is of the year 2012. The appellant has undergone imprisonment for a period of 3 years, 7 months and 11 days. It is submitted that the victim is already married and is happily living in her husband's house. There are no prior criminal antecedents and even after the judgement,

no criminal incidents have been reported against the appellant. It is submitted that the appellant has already deposited the fine amount of Rs.10,000/-. Considering the mitigating factors and also keeping in mind the decisions of the Hon'ble Supreme Court stated supra, it is just and proper to reduce the sentence awarded to the appellant to the period of imprisonment already undergone by the accused/appellant, i.e. to 3 years, 7 months and 11 days. Accordingly, I answer Point No.2 in the affirmative.

Regarding Point No.3:

12. For the aforestated reasons and discussion, I proceed to pass the following:

O R D E R

i. Appeal is allowed in part;

ii. Judgment of conviction dated 28.07.2015 passed in SC No.203 of 2012 by the III Additional Session Judge at Mysuru, is confirmed.

iii. Order on sentence dated 28.07.2015 passed in SC No.203 of 2012 by the III Additional Session Judge at Mysuru, is modified as under:

a. The sentenced awarded to the appellant/accused by the trial Court shall stand reduced to the period of imprisonment already undergone by the accused, i.e. to 3 years, 7 months and 11 days.

b. Out of the fine amount deposited by the appellant, a sum of Rs.5,000/- shall be paid to PW3-Dhanyashree the complainant/injured as compensation as per the order of the trial Court;

c. The bail bond of the accused shall stand cancelled.

Registry is directed to send the copy of this judgement along with trial Court records to the concerned Court.

Sd/-
(G BASAVARAJA)
JUDGE

LNN
List No.: 1 Sl No.: 54