HC-KAR

NC: 2026:KHC:61380
CRL.A No. 899 of 2015

CNR: KAHC010378922015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 899 OF 2015 (C)

BETWEEN:

1. SRI MUNIRAJA
   SON OF SRI. ALLALAPPA,
   AGED ABOUT 26 YEARS,
   RESIDENT OF:
   NEAR YELLAMMA TEMPLE,
   DODDATHOGURU VILLAGE,
   BENGALURU-560100.

2. SRI MANJUNATHA
   SON OF SRI. VENKATESH,
   AGED ABOUT 25 YEARS,
   RESIDENT OF:
   NEAR YELLAMMA TEMPLE,
   DODDATHOGURU VILLAGE,
   BENGALURU-560100.

...APPELLANTS

Digitally signed by LAKSHMINARAYAN N
Location: High Court of Karnataka

(BY SRI. RAJANNA B.C.,ADVOCATE)

AND:

1. STATE OF KARNATAKA BY
   ELECTRONIC CITY POLICE.

...RESPONDENT

(BY SRI. K. NAGESHWARAPPA, HCGP.)

CRL.A. FILED U/S.374(2) CR.P.C BY THE ADV. FOR THE APPELLANTS/ACCUSED NO.1 AND 2 PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE JUDGMENT DATED 13.7.2015 PASSED BY THE PRL. S.J., BENGALURU RURAL DISTRICT, BENGALURU IN S.C.NO.24/2014

- CONVICTING THE APPELLANTS/ACCUSED FOR THE OFFENCE P/U/S 307 R/W 34 OF IPC. THE APPELLANTS/ACCUSED ARE SENTENCED TO UNDERGO R.I. FOR 5 YEARS AND PAY FINE OF RS.5,000/- EACH, IN DEFAULT TO PAY FINE, THEY SHALL UNDERGO R.I. FOR 1 YEAR FOR THE OFFENCE P/U/S 307 R/W 34 OF IPC.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

1. Appellants have preferred this appeal against the judgment of conviction and order on sentence dated 13.07.2015 passed in SC.24/2014 by the Principal Sessions Judge, Bengaluru Rural District, Bengaluru (for short, 'the trial Court').

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

3. Brief facts leading to this appeal are that, the Electronic City Police submitted charge sheet against the accused for the offence under Section 307 read with 34 of IPC. It is alleged by the prosecution that on 12.08.2013

around 6:45 pm in front of M.M. English Medium School in Doddathoguru village, within the limits of Electronic City Police Station, with a common intention of causing death of CW2-Murali and with a knowledge that by their act, they would be causing his death and under circumstances in which if by their act, CW2 had died, they would have been guilty of murder. Accused No.2 held him firmly and then accused No.1 stabbed CW2 with a knife. Thus, the accused have committed the offence punishable under Section 307 read with 34 of IPC.

4. Accused appeared before the Sessions Court and enlarged on bail. Charges were framed by the trial Court. Same were read over and explained to the accused. Having understood the same, accused pleaded not guilty and claimed to be tried.

5. To prove the guilt of the accused, prosecution has examined 11 witnesses as PWs.1 to 11; 14 documents were marked as Exs.P1 to P14; and 2 material objects

were marked as MOs.1 and 2. On closure of prosecution side evidence, statement under Section 313 of Cr.P.C. was recorded. Accused have totally denied the evidence of prosecution witnesses. However, they did not choose to lead any defence evidence on their behalf.

6. Having heard the arguments on both sides, the trial Court has convicted accused Nos.1 and 2 for the offence under Section 307 read with 34 of IPC and passed sentence to undergo rigorous imprisonment for a period of 5 years and pay fine of Rs.5,000/-. Being aggrieved by the said judgment, appellants/accused have preferred this appeal.

7. Learned counsel for appellants Sri Rajanna B.C, would submit that the learned Sessions Judge has gravely erred in convicting the appellants for the alleged offence under Section 307 read with 34 of IPC. There is no material evidence against the appellants. PW1-complainant and PW2-victim were contested in the

examination-in-chief but in the cross examination they turned hostile. PW3 and PW4 are spot mahazar witnesses; PW5 and PW6 are seizure mahazar witnesses have also not supported the case of the prosecution. Though the material witnesses have not supported the case of the prosecution, the trial Court has convicted the accused which is not sustainable under law and sought for allowing the appeal.

8. As against this, the learned HCGP Sri Nageshwarappa K, would submit that the trial Court has properly appreciated the evidence on record in accordance with law and facts and sought for dismissal of the appeal.

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

(1) Whether the appellants have made out grounds to interfere with the impugned judgment of conviction and order on sentence?

(2) What order?

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

Point No.1 in the Affirmative;
Point No.2 as per final order.

Reasons regarding Point No.1

11. I have examined the materials placed before this Court. This case arises out of the complaint filed by PW1-Manjunatha as per Ex.P1 in which it is stated as under:

"ವಿಷಯ: ನನ್ನ ಸೋದರ ಸಂಬಂಧಿ ಮುರಳಿಯನ್ನು ಕೊಲೆ ಮಾಡಲು ಪ್ರಯತ್ನಿಸಿರುವ ಬಗ್ಗೆ.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಈ ಮೂಲಕ ತಮಗೆ ತಿಳಿಯಪಡಿಸುವುದೇನೆಂದರೆ ನಾನು ಈ ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ವಾಸವಾಗಿದ್ದು ಕೋನಪ್ಪನ ಅಗ್ರಹಾರದಲ್ಲಿರುವ SLV ಕಂಪನಿಯಲ್ಲಿ ಕೆಲಸ ಮಾಡಿಕೊಂಡಿರುತ್ತೇನೆ. ನನ್ನ ಸಹೋದರ ಸಂಬಂಧಿಯಾದ ಮುರಳಿ s/o ಪಿಳ್ಳಪ್ಪ 25 ವರ್ಷ ಈತನು ದೊಡ್ಡ ತೋಗುರಿನಲ್ಲಿಯೆ ವಾಸ ಮಾಡಿಕೊಂಡಿದ್ದು ಟ್ಯಾಕ್ಸಿ ಚಾಲನೆ ಮಾಡಿಕೊಂಡಿದ್ದನು.

ನಮ್ಮ ಸೋದರ ಸಂಬಂಧಿಯಾದ ಮುರಳಿಗೂ ಹಾಗೂ ನಮ್ಮ ಗ್ರಾಮದ ವಾಸಿಯಾದ ಹಲ್ಲಾಳಪ್ಪನ ಮಗ ಮುನಿರಾಜು ಮತ್ತು ವೆಂಕಟೇಶನ ಮಗ ಮಂಜುನಾಥನ ನಡುವೆ ಏಪ್ರಿಲ್ 2013ರಲ್ಲಿ ಊರ ಹಬ್ಬದ ಸಮಯದಲ್ಲಿ ಪಲ್ಲಕ್ಕಿ ಮುಂದೆ ಡ್ಯಾನ್ಸ್ ಮಾಡುವ ವಿಚಾರದಲ್ಲಿ

ಸಣ್ಣಪುಟ್ಟ ಗಲಾಟೆಯಾಗಿದ್ದು ಅಂದಿನಿಂದಲೂ ಒಬ್ಬರಿಗೊಬ್ಬರು ಮಾತನಾಡದೆ ದ್ವೇಷ ಸಾಧಿಸಿಕೊಂಡಿದ್ದರು. ಈ ವಿಷಯವಾಗಿ ಮುನಿರಾಜು ಹಾಗೂ ಮಂಜುನಾಥ ಆಗಾಗ ಮುರಳಿಯನ್ನು ದಾರಿಯಲ್ಲಿ ಕಂಡಾಗಲೆಲ್ಲ ನನ್ನ ಮೇಲೆ ಜಗಳ ತೆಗೆಯುತ್ತೀಯಾ ನಿನ್ನನ್ನು ಸಾಯಿಸದೆ ಬಿಡುವುದಿಲ್ಲ ನಿನಗೆ ಒಂದು ಗತಿ ಕಾಣಿಸುತ್ತೇನೆಂದು ಬೆದರಿಕೆ ಹಾಕುತ್ತಿದ್ದರು. ಇದೇ ವಿಚಾರವಾಗಿ ಸುಮಾರು 02 ತಿಂಗಳ ಹಿಂದೆ ನಾನು ಮತ್ತು ಮುರಳಿ ಪ್ರಗತಿ ನಗರದ ಮುಖ್ಯರಸ್ತೆಯಲ್ಲಿ ಬರುತ್ತಿರುವಾಗ ಮುನಿರಾಜ ಹಾಗೂ ಮಂಜುನಾಥ ನಮ್ಮ ಜೊತೆ ಜಗಳ ತೆಗೆದು ಮುರಳಿಯನ್ನು ಸಾಯಿಸದೆ ಬಿಡುವುದಿಲ್ಲ ಎಂದು ಬೆದರಿಕೆ ಹಾಕಿ ಕಳುಹಿಸಿದ್ದರು.

ಪದೇ ಪದೇ ಈ ರೀತಿಯಾಗಿ ಸಾಯಿಸುವ ಬಗ್ಗೆ ಬೆದರಿಕೆ ಹಾಕುವ ವಿಚಾರವನ್ನು ಗ್ರಾಮಸ್ಥರ ಬಳಿ ತಿಳಿಸಿದಾಗ ಗ್ರಾಮಸ್ಥರು ಮುರಳಿ ಮುನಿರಾಜ ಹಾಗೂ ಮಂಜುನಾಥನನ್ನು ಕರೆಯಿಸಿ ಬುದ್ದಿ ಹೇಳಿ ಅನ್ಯೋನ್ಯವಾಗಿರುವಂತೆ ತಿಳಿ ಹೇಳಿದ್ದರು. ಹೀಗಿದ್ದರೂ ಸಹ ದಿನಾಂಕ 12.08.13 ರಂದು ಸಮಯ 06-45 ಗಂಟೆಯಲ್ಲಿ ನಾನು ಮತ್ತು ಮುರಳಿ ದೊಡ್ಡ ತೋಗೂರಿನ ಎಂ. ಎಂ. ಸ್ಕೂಲ್ ಮುಂದೆ ಹೋಗುತ್ತಿರುವಾಗ ಅದೇ ಸಮಯದಲ್ಲಿ ಅಲ್ಲಿಗೆ ಬಂದ ಮುನಿರಾಜು ಮತ್ತು ಮಂಜುನಾಥ ರವರು ಮುರಳಿಯನ್ನು ಕುರಿತು ನನ್ನ ಮೇಲೆ ಜಗಳ ತೆಗೆದದ್ದು ಅಲ್ಲದೆ ಊರಿನವರಿಂದ ನಮಗೆ ಬುದ್ಧಿ ಹೇಳಿಸಿ ಅವಮಾನ ಮಾಡಿಸುತ್ತೀಯಾ ನೀನು ಜೀವ ಸಹಿತ ಇದ್ದರೆ ತಾನೆ ಇದನ್ನಲ್ಲಾ ಮಾಡುವುದು ನಿನ್ನನ್ನು ಈ ದಿನ ಸಾಯಿಸಿ ಬಿಡುತ್ತೇವೆ ಎಂದು ಹೇಳಿ ಆತನಿಗೆ ಹೊಡೆಯುತ್ತಿದ್ದರು ಅಷ್ಟರಲ್ಲಿ ನಾನು ಅವರನ್ನು ಕುರಿತು ಏಕೆ ರೀತಿ ರಸ್ತೆಯಲ್ಲಿ ಗಲಾಟೆ ಮಾಡುತ್ತಿದ್ದೀರಾ ಎಂದು ಹೇಳುತ್ತಿದ್ದಂತೆ ಮಂಜುನಾಥ ನನ್ನನ್ನು ಕೆಳಕ್ಕೆ ತಳ್ಳಿದ್ದು ಆ ಸಮಯದಲ್ಲಿ ಮಂಜುನಾಥ ಮುರಳಿಯನ್ನು ಬಲವಾಗಿ ಹಿಡಿದುಕೊಂಡಿದ್ದು ಮುನಿರಾಜು ಇವತ್ತಿಗೆ ನಿನ್ನ ಕಥೆ ಮುಗಿಯಿತು ಎಂದು ಹೇಳಿ ತನ್ನ ಬಳಿ ಇದ್ದ ಚಾಕುವಿನಿಂದ ಎಡಭಾಗದ ಪಕ್ಕೆಲುಬು ಭಾಗದಲ್ಲಿ ಚುಚ್ಚಿ ನಂತರ ಕುತ್ತಿಗೆಯ ಎಡಭಾಗದಲ್ಲಿ ಸಹ ಹಲವಾದ ಗಾಯವನ್ನುಂಟು ಮಾಡಿದರು ಅಷ್ಟರಲ್ಲಿ ನಾನು ಜೋರಾಗಿ ಕೂಗಿಕೊಂಡಾಗ ಮುನಿರಾಜು ಮತ್ತು ಮಂಜುನಾಥ ಅಲ್ಲಿಂದ ಓಡಿಹೋದರು. ಗಾಬರಿಗೊಂಡ ನಾನು ಕೂಡಲೇ ಮುರಳಿಯನ್ನು ಇಂಡಿಕಾ ವಾಹನದಲ್ಲಿ ಗೋವಿಂದಶೆಟ್ಟಿ ಪಾಳ್ಯದ ಅಪೋಲೊ ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಿ ನಂತರ ಅಲ್ಲಿನ ವೈದ್ಯರ ಸಲಹೆಯ ಮೇರೆಗೆ ನಾರಾಯಣ ಹೃದಯಾಲಯಕ್ಕೆ ಆಂಬುಲೆನ್ಸ್‌ನಲ್ಲಿ ಕರೆದುಕೊಂಡು ಚಿಕಿತ್ಸೆಗಾಗಿ

ಸೇರಿಸಿದೆ. ನಾನು ಒಬ್ಬನೆ ಇದ್ದುದರಿಂದ ಗಾಬರಿಗೊಂಡು ತಡವಾಗಿ ಮುರಳಿಯ ಮಾವ ರಾಜಪ್ಪ ಹಾಗೂ ಇತರರಿಗೆ ವಿಚಾರ ತಿಳಿಸಿ ಅವರೆಲ್ಲರೂ ಆಸ್ಪತ್ರೆಗೆ ಬಂದ ನಂತರ ತಡವಾಗಿ ಬಂದು ಠಾಣೆಯಲ್ಲಿ ದೂರು ನೀಡುತ್ತಿದ್ದು, ಮುರಳಿಯನ್ನು ಕೊಲೆ ಮಾಡುವ ಉದ್ದೇಶದಿಂದ ಚಾಕುವಿನಿಂದ ಮಾರಣಾಂತಿಕ ಹಲ್ಲೆ ಮಾಡಿದ ಮುನಿರಾಜು ಹಾಗೂ ಮಂಜುನಾಥನ ಮೇಲೆ ಕಾನೂನು ರೀತಿಯ ಕ್ರಮ ಜರುಗಿಸಬೇಕೆಂದು ಕೇಳಿಕೊಳ್ಳುತ್ತೇನೆ."

12. On the basis of the complaint, on 13.08.2013 at 01:00 am, the concerned Police have registered the case in Crime No.301/2013 against the accused for the offence under Section 307 read with 34 of IPC and submitted FIR to the Court on the same day that is on 13.08.2013 at 8:00 pm. Manjunatha who is examined as PW1, though has supported the case of the prosecution in the examination-in-chief, during the course of his cross-examination, has clearly admitted that he do not know the contents of Ex.P1 and is not the scribe of Ex.P1. Further he has clearly admitted that on 12.08.2013, there was a festival in their village and somebody have consumed alcohol and there were stones near the temple. After consuming alcohol, somebody fell down and sustained

injuries. Further, he has not stated the name of the accused before the police. After cross-examination of this witness, the trial Court has permitted the prosecution to treat him as hostile witness and Public Prosecutor was cross examined. Even in the cross examination, the prosecution has failed to elicit any favourable answers from him.

13. PW2-Murali, the injured has deposed in his evidence that accused No.2 held him then accused No.1 stabbed him with knife on his abdomen and neck and later he got shifted to Appollo hospital. During his cross-examination, he has clearly admitted that, on the date of incident, there was a festival in their village, as it was dark night, people had consumed alcohol and they fell on stones and sustained injuries. Further, he has clearly admitted that he fell on the ground and sustained injuries. Further, he has clearly admitted that accused No.1 and other Reddy Community people have filed a civil suit

regarding the land. Further, he has not stated names of the accused before Police. Only at the instance of police, he has deposed in his evidence in examination-in-chief that accused No.1 had stabbed him. This witness also treated as hostile witness by the prosecution with permission of the Court. Then also, the prosecution has not elicited any favourable answers from him.

14. PW3-Jagdisha, is the attesting witness, he has deposed as to the mahazar conducted by the police as per Ex.P2 and seizure of MO.2. But he has deposed that he has put his signature on Ex.P2 in the police station, but ignored its contents.

15. PW4-Nagaraju said to be attester to Ex.P3-mahazar has also supported the case of the prosecution in examination-in-chief, however, he has completely turned hostile in his cross-examination.

16. PW5-Gajendra said to be attester to Ex.P2 has not supported to the case of the prosecution.

17. PW6-Jameer said to be attester to Ex.P3 has not supported to the case of the prosecution.

18. PW7-Dr.Nagendra has deposed as to the examination of the injured-PW2 on 12.08.2013 and found the injuries as per Ex.P8-Wound Certificate.

19. PW8-Nagaraj, PW9-Annappa and PW10-Venkatesh, said to be eye-witnesses, have not supported the case of the prosecution.

20. PW11-S. Babu, Sub Inspector has deposed as to the investigation conducted by him.

21. On careful examination of the entire evidence on record, it is crystal clear that the material witness PW2-the injured has not supported the case of the prosecution. PW1-the Complainant has also not supported the case of

the prosecution. Apart from this, PW7-Dr.Nagendra has clearly admitted that the injured is admitted to the hospital with history of assault by some unknown persons. He has not whispered anything against these accused. The wound certificate at Ex.P8 does not reveal the name of the accused. If really the accused have committed these alleged offences, PW2 would have revealed the names of accused before PW7-Medical Officer. But he has not done so.

22. Viewed from any angle, absolutely there is no cogent, convincing evidence before the Court to substantiate the case of the prosecution. However, without proper appreciation of the evidence on record, the trial Court has convicted the accused which is not sustainable under law. Accordingly, I answer point No.1 in the affirmative.

Regarding Point No.2

23. For the aforestated reasons and discussions, I proceed to pass the following:

O R D E R

(i) Appeal is **allowed**;

(ii) The judgment of conviction and order on sentence dated 13.07.2015 passed in SC.24/2014 by the Principal Sessions Judge, Bengaluru Rural District, Bengaluru, is hereby **set aside**;

(iii) Appellants/accused 1 and 2 are acquitted of the offence under Section 307 read with 34 of IPC;

(iv) The trial Court is directed to refund the fine amount if any, deposited by the appellants;

Registry is directed to send copy of this judgment along with Trial Court Records to the concerned Court.

Sd/-
(G BASAVARAJA)
JUDGE

DHA
List No.: 1 Sl No.: 48