HC-KAR
NC: 2026:KHC:60091-DB
CRL.A No. 185 of 2020
CNR: KAHC010456172019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO. 185 OF 2020 (C)

BETWEEN:

PUJAR CHANDARAPPA
S/O DHYAMAPPA
AGED ABOUT 38 YEARS,
LABOURER,
R/O HULLIKINTE VILLAGE,
DAVANAGERE TALUK AND
DISTRICT – 577001.

...APPELLANT

(BY SRI. A. HANUMANTHAPPA, ADVOCATE)

AND:

THE STATE OF KARNATAKA
REPRESENTED THROUGH
CIRCLE POLICE INSPECTOR
RURAL CIRCLE,
DAVANAGERE – 577001.

...RESPONDENT

(BY SMT. SOWMYA R., HCGP)

Digitally signed by SHARADAVANI B
Location: HIGH COURT OF KARNATAKA

THIS CRL.A IS FILED U/S 374(2) OF CR.P.C. TO SET ASIDE THE JUDGMENT OF CONVICTION AND ORDER OF SENTENCE DATED 20.09.2019 PASSED BY THE PRINCIPAL

DISTRICT AND SESSIONS JUDGE, DAVANAGERE IN S.C.NO.35/2017 - CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 302 AND 504 OF IPC.

THIS APPEAL, COMING ON FOR 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)

This appeal is preferred by the accused against the judgment of conviction and sentence dated 20.09.2019 passed by the Principal District and Sessions Judge, Davangere in S.C.No.35 of 2017 (hereinafter referred to as the 'Trial Court').

2. By the impugned judgment, the trial Court has sentenced the accused to undergo life imprisonment for the offence punishable under Section 302 of Indian Penal Code (for short, 'IPC') and to pay

fine of Rs.25,000/- and in default of payment of fine, to undergo SI for a period of one year. Further, he has been sentenced to undergo SI for a period of three months for the offence punishable under Section 504 of IPC.

3. Heard Sri A. Hanumanthappa, learned counsel for the appellant, Smt. Sowmya R., learned High Court Government Pleader for respondent-State and perused the evidence and material on record.

4. It is the case of the prosecution that, on 01.01.2016 at about 8.00 p.m, in front of Dyamalamba Temple road, situated at Bhovi Hatti in Hulikatte village, when the deceased Gurappa @ Gurumurthy and other villagers were discussing about selling of liquor during Chowdamma Devi Fair, the accused picked up a quarrel with the deceased, intentionally insulted him and with an intention to

commit his murder, assaulted him by means of hands and kicked him on his chest, face and also assaulted with the stone on his back and neck. As a result of the said assault, Gurappa died, while undergoing treatment at Wenlock Hospital, Mangalore on 15.01.2016 at about 3.00 a.m.

5. The statement of Gurappa was recorded on 05.01.2016 by PW.20 at SSI Hospital, Davangere, as per Ex.P24. Based on the said statement/complaint, a case was registered against the accused in Crime No.3/2016 of Davangere Rural Police Station, for the offences punishable under Section 506, 504, 324 and 323 of IPC. After the death of Gurappa, Section 302 of IPC was incorporated. Upon completion of investigation, the charge sheet was filed against the accused for the offences punishable under Section 504 and 302 of IPC.

6. The accused denied the charges levelled against him for the aforementioned offences. In order to establish the said charges, the prosecution in all got examined PW.1 to PW.22 and got marked Exs.P1 to P26 and MO.1.

7. The accused denied all the incriminating evidence appearing against him while he was examined under Section 313 of Cr.PC. During the cross-examination of the witnesses, a defense was taken that the deceased was addicted to alcohol and he sustained injuries due to a fall in the drainage after consuming alcohol and succumbed to those injuries. However, no defense evidence was led.

8. It is contended by the learned counsel for the appellant that all the witnesses who have supported the case of the prosecution are closely related to the deceased and they are interested witnesses. None of

the independent witnesses have supported the prosecution case. Hence, the evidence of the interested witnesses namely, PW.4 to PW.7 cannot be believed. He contended that there is an inordinate delay in lodging the complaint, the medical documents pertaining to the deceased regarding the treatment given at CG Hospital, Davangere, NIMHANS, Bengaluru and Wenlock Hospital, Mangalore are not produced. He contended that the deceased was a drunkard and the possibility of he sustaining injuries due to a fall after consumption of alcohol is not ruled out. He therefore, contended that the trial Court committed a grave error in convicting the accused for the offences charged against him.

9. Per contra, the learned HCGP has contended that the reason for lodging the complaint belatedly has been explained in Ex.P24. PW.4 to PW.7 are the

eyewitnesses to the incident and merely because they are related to the deceased, by itself is not a ground to disbelieve their evidence. Further, contended that, the deceased took treatment at various hospitals and ultimately succumbed to the injuries sustained by him during the incident and the PM report clearly reveals that the deceased died on account of the injuries sustained by him in the incident and therefore, the trial Court has rightly convicted the accused for the offences charged against him.

10. The incident took place on 01.01.2016 at about 8.00 p.m, in front of Dyamalamba Temple road, situated at Bhovi Hatti in Hulikatte village. It is the case of the prosecution that the deceased Gurappa @ Gurumurthy and other villagers were discussing about selling of liquor during Chowdamma Devi fair and at that time, the accused picked up a quarrel with the

deceased, abused him in filthy language, assaulted him with hands, kicked him and further assaulted him with the stone and also threatened him not to lodge any complaint. As per Ex.P24, the statement of the deceased, on 03.01.2016 he took treatment at one Anaji Hospital. The villagers advised him not to lodge any complaint. Later, he developed pain, hence, on 04.01.2016, he took treatment at CG Hospital, Davangere and for higher treatment, he was admitted at SSI Hospital, Davangere.

11. PW.20, Head Constable, Davangere Rural Police Station, on receiving the information on 05.01.2016, visited SSI Hospital, recorded the statement of the injured, marked as Ex.P24 and registered the case against the accused. The material on record reveals that on 08.01.2016, the injured got discharged from SSI Hospital, Davangere and later

shifted to NIMHANS, Bengaluru and from there shifted to Wenlock Hospital, Mangalore where he died on 15.01.2016 at about 3.00 a.m.

12. The prosecution has got examined PW.17-Dr.Vishwambara Shetti V., of one Krishna Clinic in Anaji, who gave first aid treatment to the injured. He has issued a Certificate, marked as Ex.P21. Further, PW.16-Dr.Ramesh S. Kotyan has been examined, who treated the injured at S.S. Hospital, Davangere.

13. PW.17 has deposed that on 16.01.2016 (03.01.2016), the injured came to the Hospital along with a boy with the history of assault stating that he was assaulted on his back, chest and neck. He gave first aid and referred him to Davangere Hospital. We have perused Ex.P21, Certificate issued by PW.17, which reveals that the injured came to the Hospital in a critical condition and he was given pain killers and

referred to Davangere Hospital for further treatment. In the cross-examination, PW.17 has stated that he issued Ex.P21-Certificate to the Police about a month later.

14. PW.16 has deposed that on 04.01.2016 at about 10.40 p.m., the injured was admitted in the hospital with the history of assault. On enquiry, the injured informed him that on 01.01.2016, one person assaulted him. He has stated that the injured was discharged from the hospital on 08.01.2016 at 03:45 p.m. Further stated that the injured (CW1) was conscious on 04.01.2016 and 05.01.2016 and he was in a fit condition to give the statement to the police on 05.01.2016 and he issued a Certificate-'Ex.P20'.

15. In the cross-examination, PW16 has stated that the movement position of the injured was not intact in respect of upper and lower limbs. They

provided necessary treatment to him. The injured had suffered no other injuries except that he was not able to move with the help of limbs. He has further stated that the injured got discharged from the hospital against the medical advise.

16. We have perused Ex.P20, which reveals that the injured (deceased) was admitted in the hospital on 04.01.2016 at 10:45 p.m. He was initially treated at CG Hospital, Davangere and came with the history of assault at 08:00 p.m. on 01.01.2016. He was not able to move his upper limb and lower limb. He was conscious, oriented on 04.01.2016 and also conscious on 05.01.2016 as per treating doctor. He was brought by his son Manjunath (PW6). He was discharged against medical advise on 08.01.2016 at 03:45 p.m.

17. In Ex.P24 itself, we find as to why there was delay in lodging the complaint. It is stated that the

villagers had advised the injured not to lodge any complaint. As per Ex.P20 and the evidence of PW16, the injured was conscious, well oriented when he was admitted at SS Hospital, Davangere. He gave the history of assault. His statement as per Ex.P24 was recorded in the said hospital by PW20. He has named the accused as the one who assaulted him with hands and stone and also kicked him. The evidence of PW.4 to PW.7, the eyewitnesses to the incident also establishes that it was the accused who assaulted the deceased with hands and stone and also kicked him.

18. PW.4, PW.5 and PW.6 are the wife and children of the deceased and PW7 is the nephew of the deceased. The contention of the learned counsel for the appellant that PW.3 to PW.7 are closely related and therefore, their evidence is not believable, cannot be accepted. Merely because they are closely related

to the deceased is not a ground to disbelieve their evidence. They have withstood the cross-examination and denied the suggestion made to them that the deceased had consumed alcohol and he sustained injuries due to fall.

19. PW3, brother of the deceased has deposed regarding the daughter and the daughter-in-law of the deceased informing him about the assault made by the accused and immediately rushing to the spot. On enquiry, his brother told him that it was the accused who assaulted him and also complained about the pain in the chest and back. He has stated that after two days, he took his brother to Anaji Hospital and then took him to CG Hospital, Davangere and from there, to SS Hospital, Davangere and after 4 to 5 days, he was taken to NIMHANS, Bengaluru and from there to

Wenlock Hospital, Mangalore wherein, he died while undergoing treatment.

20. A perusal of the entire evidence and material on record goes to show that the accused had no previous animosity against the deceased. None of the witnesses have deposed that the accused had any enmity against the deceased. When the deceased and other villagers were discussing about selling liquor during the village fair, it appears that a quarrel took place between the accused and the deceased and in the said quarrel, accused assaulted the deceased initially with bare hands and kicked him. Thereafter, he assaulted him with stone which was lying on the ground, on his chest and back. The incident took place at about 08:00 p.m. on 01.01.2016. The injured Gurappa received first aid treatment at one Krishna Clinic on 03.01.2016. He was then referred to CG

Hospital, Davangere. On 05.01.2016, he got admitted at SSI Hospital, Davangere. As per Ex.P20 and the evidence of PW16, he got discharged from the said hospital on 08.01.2016, against medical advise. Thereafter, he took treatment at NIMHANS, Bangalore and Wenlock Hospital, Mangalore. The treatment given to the injured at CG Hospital, Davangere, NIMHANS, Bengaluru and Wenlock Hospital, Mangalore are not forthcoming. He died on 15.01.2016 at Wenlock Hospital, Mangalore, while undergoing treatment. As per the P.M. report-Ex.P15, the cause of death is due to fracture-dislocation of cervical vertebra due to blunt force trauma to the head and neck. PW.13, on examination of the stone, which was seized in this case under a mahazar-Ex.P3 has opined that the external injuries mentioned in PM report are unlikely to be caused by the said weapon, but the internal injuries resulting in fracture-dislocation of cervical

vertebra can be caused when the said examined weapon is used as a weapon of offence. He has stated that the possibility of death resulting from fracture-dislocation of the cervical vertebra, when the above examined weapon is used as weapon of offence cannot be ruled out. In the cross-examination, PW13 has stated that he has not seen fracture in the deceased's skull portion.

21. From the above material on record, we are of the considered view that the act committed by the accused would not fall under the definition of murder. On the other hand, in a quarrel, without any premeditation and intention to cause death, accused has assaulted the deceased with hands and with stone and also kicked him, having knowledge that such act would result in injuries which may result in death. Hence, the offence committed by the accused would

fall under the definition of culpable homicide not amounting to murder punishable under Section 304 Part II of IPC.

22. The appellant/accused was in custody during trial for a period of 1 month 3 days and after his conviction and till the sentence was suspended, he was in custody from 20.09.2019 till 20.07.2022. In all, he has undergone incarceration for a period of 2 years 11 months.

23. It is submitted that the accused is a married man, having his wife and children and he is eking out his livelihood by doing coolie work. He has no criminal antecedents.

24. The incident took place in the year 2016. Already ten years have been lapsed. No purpose would be served by sending the accused to prison at this stage. Instead, sufficient fine can be imposed,

which may be directed to be paid to the wife of the deceased as compensation. Hence, the following:

ORDER

i. The appeal is **allowed-in-part**.

ii. The judgment and order dated 20.09.2019 passed by the Court of the Principal District and Sessions Judge at Davangere, in Sessions Case No.35 of 2017, convicting and sentencing the appellant/accused for the offence punishable under Section 302 of IPC is hereby set aside.

iii. The appellant / accused is convicted for the offence punishable under Section 304 Part II of IPC.

iv. The conviction and sentence passed by the trial Court for the offence punishable under Section 504 of IPC is confirmed.

v. The accused is sentenced for the period of imprisonment already undergone by him.

vi. He shall pay fine of Rs.1,00,000/- (Rupees One Lakh only), which shall be deposited before the Trial Court, within a period of thirty days from the date of receipt of a copy of this order.

vii. In default of payment of fine, the accused shall undergo S.I. for a period of one year.

viii. If any amount has been deposited earlier towards fine, the same shall be deducted from the amount of Rs.1,00,000/-.

ix. On deposit/recovery, a sum of Rs.1,00,000/- shall be paid to PW.4-Mallamma, wife of the deceased, as compensation.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

MKM
List No.: 1 Sl No.: 9