HC-KAR
NC: 2026:KHC:61231-DB
CRL.A No. 1964 of 2019
CNR: KAHC010511712019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO. 1964 OF 2019 (C-)

BETWEEN:

ALLA BAKASH
S/O ZAHEERUDDIN,
AGED ABOUT 42 YEARS,
R/AT KYALANURU VILLAGE,
VEMAGAL HOBLI,
KOLAR TALUK - 563102

...APPELLANT

(BY SRI. VENKATESH P. DALWAI, ADVOCATE)

AND:

STATE OF KARNATAKA
BY VEMAGAL POLICE STATION,
REP BY PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE - 560001

...RESPONDENT

(BY SRI. K VIJAYKUMAR MAJAGE, SPP-II A/W;
SMT. SOWMYA R., HCGP)

THIS CRL.A IS FILED U/S 374(2) CR.PC PLEASED SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION DATED 25.06.2019 AND SENTENCE DATED 26.06.2019 PASSED BY

Digitally signed by SHARADAVANI B
Location: HIGH COURT OF KARNATAKA

THE I ADDITIONAL SESSIONS JUDGE, KOLAR IN S.C.NO.138/2018, CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 302 AND 201 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 and order of conviction and sentence passed in SC.No.138/2018 by the Court of the I Additional Sessions Judge at Kolar.

2. Vide the impugned judgment and order dated 25.06.2019, the trial Court convicted the accused for the offences punishable under Sections 302 and 201 of IPC.

2.1. For the offence punishable under Section 302 of IPC, the accused was sentenced to undergo imprisonment for life and to pay a fine of Rs.25,000/-, in default, to

further undergo rigorous imprisonment for a period of one year.

2.2. For the offence punishable under Section 201 of IPC, the accused was sentenced to undergo rigorous imprisonment for a period of seven years and to pay fine of Rs.5,000/-, in default, to undergo simple imprisonment for one year.

3. In brief, the case of the prosecution is that, on 19.04.2018 at about 11.30 p.m., the accused committed the murder of his wife, Mrs.Shanuma in the rented house situated at Kyalanuru village, by slitting her throat with a knife. After committing the murder, he locked the door of the house with intent to screen himself from legal punishment and thereby committed the offences punishable under Sections 302 and 201 of IPC.

4. The law was set into motion by Ameerjan, brother of the deceased. The complaint is marked as Ex.P1. As per the complaint averments, the deceased Shanuma had

married the accused about 23 years prior to the incident. The accused was quarrelling with her and in this regard, he was advised by the complainant and panchayaths were also held. In-spite of that, the accused continued quarrelling with the deceased. Hence, about a year prior, the brothers of the deceased had brought the couple to Kyalanuru village and provided them a rented house belonging to one Sanaulla Khan and advised both of them to live cordially. Even thereafter, the accused was quarreling with the deceased. About ten days prior to the date of incident, when both of them had visited the house of the complainant, he advised them to lead a cordial life. On 23.04.2018 at about 3.00 p.m, the accused came to the house of complainant's sister, Gulzar (PW.4) and told her that about 5 to 6 days prior, he had committed the murder of his wife Shanuma and thereafter, locked the door of the house. PW.4, informed the complainant and others about the same and on the next day i.e. on 24.04.2018 at about 6.30 a.m., they went to the house of

the accused and found the door of the house was locked. The complainant's brother removed the tiles and noticed foul smell emanating from the house. Thereafter, they broke open the lock, went inside the house and found the dead body of Shanuma in a decomposed state.

5. On the complaint of Ameerjan (PW.1), brother of the deceased, a case was registered against the accused for the offences punishable under Sections 302 and 201 of IPC. The spot mahazar-Ex.P2 and inquest mahazar-Ex.P9 were conducted. The dead body was subjected to postmortem examination.

6. The accused was arrested on 25.04.2018. His voluntary statement-Ex.P22 was recorded and at his instance, bloodstained knife and clothes were seized. On completion of the investigation, charge sheet was filed.

7. As per the P.M. Report and the evidence of the Doctor, the cause of death could not be opined as the body was in an advanced state of decomposition.

However, PW.15-Doctor who conducted the autopsy, has stated that the time since death could be between four days to one week prior to examination. He opined that, since the skin and soft tissues over the head, face and neck were missing exposing to underlying bones, the opinion regarding the knife could not be furnished. However, stated that death may be caused if a person is assaulted by the type of knife (MO.5) examined by him. The P.M report is marked as Ex.P14 and the opinion regarding the weapon is marked as Ex.P16.

8. The entire case of the prosecution rests on circumstantial evidence. The trial Court has taken into consideration the conduct of the accused, his abscondence and the evidence regarding the accused and the deceased residing together and held that the same has been proved by cogent evidence. The explanation offered by the accused while he was examined under Section 313 Cr.PC was also taken note of wherein, the accused had stated that the deceased was suffering from breathing problem

and as such her brothers had taken her to Kyalanuru village for treatment and later she had not returned for about two years. The trial Court held that there is absolutely no corroboration with the suggestion and the said statement of the accused. Based on the oral and documentary evidence on record, including the recovery evidence and the conduct of the accused, the trial Court held that it can safely be inferred that the accused alone, who has committed the murder of his wife Shanuma by slitting her throat with a knife.

9. Assailing the impugned judgment, the learned counsel for the appellant vehemently contended that the prosecution has failed to establish the fact that the deceased died a homicidal death. The Doctor who conducted the postmortem examination has clearly opined that the body was in an advanced state of decomposition and therefore, he could not opine the cause of death. Hence, he contended that when the prosecution fails to establish the cause of death, the accused is entitled to the

benefit of doubt. He further contended that the prosecution has mainly relied on the extra-judicial confession made by the accused. However, extra-judicial confession is a weak piece of evidence and in the present case, said evidence cannot be believed, in view of the unnatural conduct of the witnesses. PW.2 to PW.5, in-spite of the alleged extra-judicial confession made before them by the accused, have not gone to the house of the deceased immediately, which goes to show that they have created a story that the accused had confessed before PW.4, sister of the deceased. He further contended that the arrest of the accused itself is doubtful, since in the seized articles, the date is mentioned as '24.04.2018' as admitted by PW.18, whereas the accused was arrested on 26.04.2018.

10. The learned counsel for the appellant further contended that the accused took a specific defense that after the deceased was brought to Kyalanuru village, she

was staying alone in the house, whereas the accused was residing at Sidlaghatta and in view of the said consistent defense taken by the accused even while his statement was recorded under Section 313 Cr.PC, it cannot be held that the circumstances relied upon by the prosecution are of a conclusive nature, showing that in all human probability, the act must have been done by the accused.

11. Per contra, the learned SPP-II has contended that the wife of the accused was found dead inside the house and the material on record clearly establishes that the accused and the deceased were living together. Apart from PW.2 to PW.5, the relatives of the deceased, the evidence of the independent witnesses namely, PW6 to PW.8 and PW.14 also establishes that the accused and the deceased were living together in the house, where the deceased was found dead.

12. The learned SPP-II further contended that, PW.5 had seen the accused quarrelling with the deceased and at

that time, the accused was armed with a knife. Further PW14 had seen blood stains on the shirt of the accused, when he went to call him for work. He further contended that after the arrest of the accused, bloodstained knife and clothes were seized and the cumulative effect of the entire evidence clearly establishes the charges levelled against the accused. He therefore, sought to dismiss the appeal by confirming the judgment of conviction and order of sentence passed by the trial Court.

13. PW1 is the brother of the deceased. He is the first informant. As per the complaint, the accused and the deceased were married for 23 years and they were living in Sidlaghatta. The accused was quarrelling with the deceased, hence, PW1 and other relatives of the deceased had advised the accused and even conducted panchayaths. In-spite of that, the accused continued quarreling and ill-treating the deceased. Hence, they were brought to Kyalanuru Village and provided a rented house. The complaint averments further reveal that on

23.04.2018 at about 03:00 p.m., the accused went to the house of PW.4, the sister of the deceased and informed her that about 4 to 5 days back, he had committed the murder of his wife Shanuma. In turn, PW.4 informed the same to her mother (PW.3). Thereafter, they informed the matter to the complainant, after he returned to the house in the night. They decided that they would go to the house of the accused on the next day morning. On the following day at about 06:30 a.m., they went to the house of the accused and found that the door of the house was locked. The complainant and his brother removed the tiles and noticed foul smell emanating from the house. Thereafter, they broke open the lock and went inside the house, wherein they saw the dead body of Shanuma.

14. From the oral and documentary evidence placed on record by the prosecution, it is quite clear that the prosecution is relying on the following circumstances to establish the guilt of the accused:

i. Homicidal death;

ii. Motive;

iii. The accused and the deceased were living together and the last seen theory;

iv. Recovery of the dead body from inside the house, and

v. Conduct of the accused.

15. PW.1 to PW.4 have deposed about the accused quarreling with the deceased and subjecting her to physical and mental harassment. They have stated that panchayaths were held and the accused was advised and in-spite of that, he used to quarrel with the deceased. Their evidence further discloses that initially the accused and the deceased were living in Sidlaghatta and about a year prior to the incident, they were provided a rented house in Kyalanuru village and both of them were staying together in the said house.

16. It is contended by the learned counsel for the appellant that the accused was residing in Sidlaghatta and

only the deceased came to Kyalanuru and she was residing alone. PW.1 to PW.4 have denied the said suggestion. It is pertinent to see that the prosecution has got examined the owner of the house as PW7. His evidence clearly goes to show that since 8 months prior to the date of incident, the accused and the deceased were residing as tenants in his house. He has deposed that the accused was quarrelling with the deceased and that he had even warned the accused that if he did not stop quarreling with the deceased, he would vacate them.

17. The evidence of PW5, a neighbour, goes to show that he saw the accused quarreling with the deceased on 19.04.2018 at about 11:00 p.m. His house is situated opposite to the house of the accused. He has stated that when he went near the house of the accused, he saw the accused assaulting the deceased with hands and kicking her and at that time he was holding a knife and threatening the deceased that he would kill her. PW5 advised the accused and then returned to his house. He

has stated that after about 3, 4 days, there was some foul smell emanating from the house of the accused.

18. The evidence of PW.14 is also very relevant. He is a resident of Kyalanuru Village, and the accused was working under him. He has deposed that the accused was irregular and was not coming to the work properly. On 19.04.2018, the accused had worked, but on 20.04.2018 he had not come for work. Hence, he had gone to the house of the accused to call him for work. At that time, he noticed the shirt, MO.6 worn by the accused was bloodstained. He has identified the said shirt, MO6.

19. The Doctor-PW.15, who conducted the autopsy could not opine as to the cause of death. He has stated that the cause of death could not be opined as the body was in an advanced state of decomposition. However, he has stated that the time since death could have been from four days to one week. The postmortem was conducted on 24.04.2018 between 02:45 p.m. to 03:45 p.m. The

accused was seen quarrelling with the deceased, by PW5 on 19.04.2018 at about 11:00 p.m.. At that time, PW5 had noticed him holding a knife. On the next day, PW14 noticed the accused wearing a blood-stained shirt. The time of death mentioned in the postmortem report and the evidence of the Doctor, PW15 would corroborate the evidence of the above witnesses.

20. The defense taken by the accused that he was not staying in Kyalanuru village, cannot be accepted in view of the consistent evidence of PW.1 to PW.7 and PW14. The evidence of the said witnesses clearly establishes that the accused and the deceased were residing in the same house, where the deceased was found dead. The fact that the house was locked and the accused was absconding further strengthen the prosecution case. After the arrest of the accused, a bloodstained knife and bloodstained clothes were seized. The Investigating Officer has stated that the accused was arrested on 25.04.2018 at about 11:00 p.m., the seizure mahazar/Ex.P13 was

conducted on 26.04.2018. PW18, in the cross-examination has stated that by mistake, he mentioned the date on the sealed cover of the seized articles as "24.04.2018". That discrepancy by itself will not dent the case of the prosecution.

21. It is contended by the learned counsel for the appellant that the seized articles, the bloodstained shirt (MO6) and bloodstained knife (MO5) were not sent for FSL and therefore, the recovery is ineffective and the said circumstance will not incriminate the accused. The fact that the bloodstained shirt was seized at the instance of the accused and PW14 noticing the accused wearing a bloodstained shirt is a very relevant circumstance. The accused has failed to explain as to how his shirt was bloodstained. Hence, merely because the seized articles were not sent to FSL, is not a ground to disbelieve the recovery evidence. Insofar as the bloodstained knife is concerned, the doctor has not given any opinion regarding

the cause of death and therefore, the seizure of knife is not relevant.

22. The learned counsel for the appellant has relied on a decision of the Hon'ble Apex Court in the case of **Nikhil Chandra Mondal** V/s. **State of West Bengal** reported in **2023 (6) SCC 605**, to contend that 'the circumstances from which the conclusion of guilt is to be drawn should be fully established and the circumstances concerned "must or should" and not "may be" established'. Further that the extra-judicial confession is a weak piece of evidence and if it is surrounded by suspicious circumstances, its credibility becomes doubtful and it loses its importance.

Paragraph Nos.11, 16 and 17 of the above judgment are extracted hereunder:

> "*11. It can thus be seen that this Court has held that the circumstances from which the conclusion of guilt is to be drawn should be fully established. It has been held that the circumstances concerned "must or should" and not "may be" established. It has been held that there is not only a grammatical but a legal*

distinction between "may be proved" and "must be or should be proved." It has been held that the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty. It has been held that the circumstances should be of a conclusive nature and tendency and they should exclude every possible hypothesis except the one sought to be proved, and that there must be a chain of evidence so complete so as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

16. It is a settled principle of law that extra-judicial confession is a weak piece of evidence. It has been held that where an extra-judicial confession is surrounded by suspicious circumstances, its credibility becomes doubtful and it loses its importance. It has further been held that it is well-settled that it is a rule of caution where the court would generally look for an independent reliable corroboration before placing any reliance upon such extra-judicial confession. It has been held that there is no doubt that conviction can be based on extrajudicial confession, but in the very nature of things, it is a weak piece of evidence.

*17. Reliance in this respect could be placed on the judgment of this Court in Sahadevan v. State of T.N. 4 This Court, in the said case, after referring to various earlier judgments on the point, observed thus"***.** *(SCC pp. 412-13, para 16)*

"16. Upon a proper analysis of the abovereferred judgments of this Court, it will be appropriate to state the principles which would make an extra-judicial confession an admissible piece of evidence capable of forming the basis of conviction of an

accused. These precepts would guide the judicial mind while dealing with the veracity of cases where the prosecution heavily relies upon an extra-judicial confession alleged to have been made by the accused:

(i) The extra-judicial confession is a weak evidence by itself. It has to be examined by the court with greater care and caution.

(ii) It should be made voluntarily and should be truthful.

(iii) It should inspire confidence.

(iv) An extra-judicial confession attains greater credibility and evidentiary value if it is supported by a chain of cogent circumstances and is further corroborated by other prosecution evidence.

(v) For an extra-judicial confession to be the basis of conviction, it should not suffer from any material discrepancies and inherent improbabilities.

(vi) Such statement essentially has to be proved like any other fact and in accordance with law."

23. The learned counsel has also relied on para 7 of the decision of the Hon'ble Apex Court in the case of **Moorthy V/s State of Tamil Nadu** reported in **AIR 2023 SC 3960**. The said para is extracted hereunder:

"7. We have perused the evidence of PW-1 Ganesan who was posted as the Village Administrative Officer at the time of the commission of the offence. He was

> *not permanently posted in Village Seekkarajapuram as he stated that at the time of recording of evidence, he was transferred as Village Administrative Officer to Ranipet. PW-1 admitted in the cross-examination that he did not know the appellant before he came to him and allegedly made the extra-judicial confession. The incident is of 29th May 2006 but the alleged extra-judicial confession was made on 10th August 2006. It is impossible to understand why would the appellant meet the Village Administrative Officer, who was a total stranger to him, more than two months after the incident for making a confession. PW-I and the appellant were not known to each other till 10th of August 2006. Normally an accused will confide only with a person in whom he has implicit faith. He would not go to a stranger to make a confession of guilt. The fact that the alleged confession was made by him more than two months after the incident makes it more suspicious".*

24. The Hon'ble Apex Court, in catena of decisions has held that the extra-judicial confession is a weak piece of evidence and its credibility becomes doubtful, if it is surrounded by suspicious circumstances. In **Nikhil Chandra Mondal** (supra), it is held that 'as a rule of caution, the Court would generally look for independent reliable corroboration before placing any reliance upon such extra-judicial confession'.

25. In **Moorthy v. State of Tamil Nadu** (supra), it is observed that 'normally an accused will confide only with a person in whom he has implicit faith and he would not go to a stranger to make a confession of guilt'. In the said case, the confession was made by the accused to a Village Administrative Officer, a total stranger, more than two months after the incident. Hence, the Hon'ble Apex Court held that the extra-judicial confession was suspicious.

26. In the case on hand, the accused made the confession before the sister of the deceased. What is more relevant is that, it is only after the accused revealed the crime committed by him that the witnesses found the dead body inside the house. Hence, the dead body was discovered after the accused revealing to PW.4, sister of the deceased, that he had committed the murder. Apart from the extra-judicial confession, there are abundant, independent, reliable corroboration which would clearly establish the charge levelled against the accused.

27. Upon re-appreciation of the entire evidence and material on record, we are of the firm view that the facts so established are consistent only with the hypothesis of the guilt of the accused and not explainable on any other hypothesis. The circumstances relied upon by the prosecution are of a conclusive nature and consistent with the guilt of the accused and shows that in all human probability the act has been done by the accused. Hence, the judgment and order of conviction and sentence passed by the trial Court warrants no interference. Accordingly, we proceed to pass the following:

ORDER

The appeal is **dismissed**.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

MKM
List No.: 1 Sl No.: 7