HC-KAR
NC: 2026:KHC:61407-DB
CRL.A No. 1614 of 2025
CNR: KAHC010522182025

IN THE HIGH COURT OF KARNATAKAAT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO. 1614 OF 2025 (C)

BETWEEN:

1. MR CHIKKEGOWDA
@ CHIKKAIAH
S/O LATE KENCHAPPA,
AGED 43 YEARS,
R/AT PICCHANAKERE VILLAGE,
HAROHALLI HOBLI,
KANAKAPURA TALUK,
RAMANAGARA DISTRICT 562112

2. MR KUMARA P V
S/O VENKATAGIRIYAPPA
AGED 33 YEARS,
R/AT PICCHANAKERE VILLAGE,
HAROHALLI HOBLI,
KANAKAPURA TALUK,
RAMANAGARA DISTRICT 562112

...APPELLANTS

(BY SRI. UMESH P.B., ADVOCATE FOR;
SRI. K.V. PRAKASHA,ADVOCATE)

Digitally signed by SHARADAVANI B
Location: HIGH COURT OF KARNATAKA

AND:

STATE OF KARNATAKA
KANAKAPURA TOWN POLICE STATION,
KANAKAPURA CIRCLE 562117

REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU 560001

…RESPONDENT

(BY SRI.VIJAYKUMAR MAJAGE, SPP-II A/W;
SRI. SUDHINDRA B.S., HCGP)

THIS CRL.A. IS FILED U/S 374(2) CR.PC (415(2) OF BNSS), PRAYING TO SET ASIDE THE JUDGEMENT DATED 12.12.2024 IN S.C.NO.5003/2020 BY THE COURT OF THE HONBLE II ADDL. DISTRICT AND SESSIONS JUDGE, RAMANAGARA, SIT AT KANAKAPURA, CONVICTING THE APPELLANT / ACCUSED NO.1 AND 2 FOR THE OFFENCE U/S 302 R/W SEC. 34 OF IPC.

THIS CRIMINAL APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 28.10.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE 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)

This criminal appeal is preferred by accused Nos.1 and 2 challenging the judgment of conviction and order of sentence dated 12.7.2024 passed by The Learned II

Additional District and Sessions Judge, Ramanagara, in S.C. No. 5003/2020, whereby accused Nos.1 and 2 have been convicted for the offence punishable under Section 302 of the Indian Penal Code (for short, 'IPC') and sentenced accordingly.

2. Heard Sri Umesh P.B., learned counsel for the appellants and Sri Vijaykumar Majage, learned SPP-II for the State

3. The case of the prosecution, in brief, is that the deceased was allegedly behaving indecently with accused No.3, who is the wife of accused No.1. Accused No.1 had warned the deceased not to visit his house or speak to his wife. Despite such warning, the deceased allegedly used to move around on a motorcycle armed with a long, threatening to kill accused No.1. It is further the case of the prosecution that accused Nos.1 to 3, with the common intention of causing the death of the deceased, committed the alleged offences on 05.11.2018 at about 6.00 p.m. at

Pichanakere Village. It is alleged that accused No.1 assaulted the deceased with a long on his face, head, nose, mouth and left hand, while accused No.2 assaulted the deceased with a club on his head. As a result of the injuries sustained in the said assault, the deceased succumbed to the injuries.

4. According to the prosecution, accused Nos.1 and 2 inflicted the injuries with the intention of causing the death of the deceased, knowing that the injuries inflicted were sufficient in the ordinary course of nature to cause death. It is further alleged that accused No.3 instigated accused Nos.1 and 2 to commit the murder of the deceased by stating that, if the deceased was allowed to remain alive, he would kill accused No.1 and continue to harass his family. It is also alleged that accused No.3 stated that the deceased had brought disrepute to the family of accused No.1.

5. Based on the complaint lodged before the jurisdictional police, a case was registered against the accused. Upon completion of the investigation, the Investigating Officer filed the charge sheet against accused Nos.1 to 3. The learned Sessions Judge framed charges against the accused, who pleaded not guilty and claimed to be tried. In order to establish its case, the prosecution examined 20 witnesses as PWs.1 to 20, got marked 45 documents as Exs.P1 to P45 and produced 15 material objects as MOs.1 to 15. After completion of the prosecution evidence, the statements of the accused were recorded under Section 313 of the Code of Criminal Procedure, wherein they denied the incriminating circumstances appearing against them in the prosecution evidence. The accused did not choose to adduce any defence evidence. Upon consideration of the oral and documentary evidence on record, the learned Sessions Judge found accused Nos.1 and 2 guilty of the offence punishable under Section 302 IPC and accordingly passed

the impugned judgment of conviction and order of sentence. However, accused No.3 was acquitted of the charges levelled against her. The acquittal of accused No.3 has not been challenged by the State and has attained finality. Aggrieved by the judgment of conviction and order of sentence, accused Nos.1 and 2 have preferred the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANTS:

6. Learned counsel appearing for the appellants contended that the learned Sessions Judge has failed to appreciate the oral and documentary evidence in its proper perspective. It was submitted that the deceased himself was the aggressor and had come to the house of accused No.2 on a motorcycle, armed with a long, and abused the mother of accused No.2. It was further contended that the incident occurred on account of the aggressive conduct of the deceased and that accused

Nos.1 and 2 assaulted the deceased in the circumstances arising therefrom.

6.1 Learned counsel also contended that the evidence of the prosecution witnesses suffers from material contradictions and omissions and that the prosecution has failed to establish the guilt of accused Nos.1 and 2 beyond reasonable doubt. Accordingly, learned counsel sought to allow the appeal and set aside the impugned judgment of conviction and order of sentence.

SUBMISSIONS OF LEARNED ADDITIONAL STATE PUBLIC PROSECUTOR-II:

7. Per contra, learned Additional State Public Prosecutor supported the impugned judgment and submitted that the prosecution has established the guilt of accused Nos.1 and 2 beyond reasonable doubt through the direct evidence of eyewitnesses PWs.2, 3 and 20. It was submitted that the testimony of the eyewitnesses is duly corroborated by the medical evidence, seizure of material

objects and other evidence available on record. It was further contended that the defence version that the deceased himself was the aggressor is not supported by the evidence of the prosecution witnesses. Learned Additional State Public Prosecutor therefore sought dismissal of the appeal.

POINT FOR CONSIDERATION:

8. Having heard the learned counsel appearing for the parties and upon careful examination of the material on record, the following point arises for consideration:

> **"***Whether the appellants/accused Nos.1 and 2 have made out any grounds warranting interference with the impugned judgment of conviction and order of sentence passed by the learned Sessions Judge for the offence punishable under Section 302 IPC?"*

9. PW.1, Rajesh, the brother of the deceased, has deposed that on 05.11.2018, at about 6:00 p.m., while his brother was returning home after completing his work in the agricultural land, accused Nos.1 and 2, along with Pushpalatha and Jayamma, stopped him and picked up a

quarrel with him in front of the house of accused No.2. He has stated that he was approaching the place of occurrence from another direction and, upon hearing the commotion, proceeded towards the spot. At that time, he witnessed accused No.1 assaulting the deceased with a chopper on his face, head, mouth, eyes and chest, while accused No.2 assaulted the deceased on his head with a club. He has further deposed that when he reached the spot, accused No.1 had already assaulted the deceased and had stepped back; however, he returned and assaulted the deceased again. He also witnessed accused No.2 assaulting the deceased on his face with a club. He has stated that PW.20 and PW.2 were present during the assault, along with his mother, Yashoda, who was returning home with her cattle. After the incident, accused Nos.1 and 2 left the scene of occurrence on a motorcycle.

9.1 PW.1 has further deposed that accused No.1 and the deceased had disputes relating to the commission

involved in the sale of cattle. He has also stated that accused No.1 was working as a lorry driver for PW.2, who was engaged in the sale of sand, and that the said lorry had to pass through the land belonging to the deceased, which the deceased was not permitting. He has further stated that approximately three months prior to the incident, accused No.1 had quarrelled with the deceased.

10. PW.2, Sathisha, has deposed that on 05.11.2018, at about 6:00 p.m. to 6:30 p.m., while he was returning home from work, he noticed a quarrel taking place in front of the house of accused No.2. At that time, the deceased was sitting on his motorcycle. He has further deposed that accused Nos.1 and 2 assaulted the deceased with an iron chopper and a club on his head, neck, face, ears, nose and chest. He has stated that PW.1, PW.3, PW.4 and PW.10 were also present at the spot. After the incident, accused Nos.1 and 2 took the iron

chopper and the club with them and left the scene of occurrence.

11. PW.3, Shivalingaiah, has deposed that on 05.11.2018, at about 6:00 p.m. to 6:30 p.m., while he was returning home after completing his agricultural work in the fields, he was passing in front of the house of accused No.2. At that time, accused Nos.1 and 2 were quarrelling with the deceased. By the time he reached the spot, the deceased had already been assaulted and had fallen to the ground. When he attempted to approach the deceased, accused No.1 assaulted the deceased on his mouth and head with an iron chopper, followed by accused No.2 assaulting the deceased on his head with a club. He has further stated that PW.1, PW.4 and PW.10 were present at the spot at that time. After the assault, accused Nos.1 and 2 took the iron chopper and the club, boarded their motorcycle and left the scene of occurrence. He has also deposed that accused No.1 and the deceased had

previously quarrelled on two to three occasions in connection with disputes relating to the sale of cows, brokerage and a motorcycle.

12. PW.6, Suresh, has deposed that accused No.1 and the deceased were initially on good terms. However, owing to disputes relating to the sale of cows and a motorcycle, their relationship became strained, resulting in quarrels between them. He has further stated that on the date of the incident, he was at his house watching television. He came to know about the murder through his mother, who informed him that the deceased had been murdered by accused Nos.1 and 2. Upon proceeding to the scene of occurrence, he noticed the body of the deceased lying on the ground. He has also stated that the father of accused No.2, who is physically challenged, was sitting in the portico of the house of accused No.2.

13. PW.9, Puttaiah, has deposed that he accompanied the police as a witness to the seizure

mahazar drawn in respect of M.O.9 to M.O.11, namely, the iron chopper, club and dhoti. He has stated that the said material objects were lying near a fence at Picchanakere Lake, situated near Rangayana Ragas Estate. According to him, accused Nos.1 and 2 led the police to the said place and showed them the objects allegedly used in the assault. The said seizure mahazar has been marked as Ex.P.5.

14. PW.14, Dr. Sumanth K.J., has stated that upon examination of the dead body, he noticed multiple deep lacerated wounds over the right frontal and temporal regions of the scalp, along with a fresh crush injury over the lower part of the face. He also noticed a fracture of the anterior aspect of the mandibular bone, with deep lacerated wounds measuring approximately 5 x 4 x 5 cm and 3 x 4 x 4 cm over the left anterior chest, about 3 cm from the mid-clavicular line, as well as over the left clavicular line. Upon examination of the cranium and spinal

canal, he noticed a depressed fracture of the right frontal temporal bone. The membranes were found intact and pale. He also noticed extradural haemorrhage on the right side and subdural haemorrhage in the frontoparietal region. The brain and spinal cord were found intact and pale. He further noticed dislocation and fracture of the lower jaw and a depressed fracture of the right frontotemporal region of the skull. He has further admitted that in the post-mortem report, marked as Ex.P.9, he has not specifically mentioned that the injuries sustained by the deceased could have been caused by the iron chopper and the club, which were marked as M.O.9 and M.O.10, respectively.

15. PW.17, Dr. Radha, Assistant Director, Regional Forensic Science Laboratory, has stated that she received 13 material objects from the Kanakapura District Police Station for examination. Upon examination of the said material objects, she noticed the presence of bloodstains

on M.Os.1, 2 and 4 to 13. She has further stated that the blood group detected on the said material objects was 'O' blood group.

16. PW.20, eyewitness-Ramalingegowda, hasdeposed that on 05.11.2018, between 6:00 p.m. and 6:30 p.m., while he was proceeding towards his house on his motorcycle after finishing his work, he passed by the house of PW.5 and heard a quarrel taking place. He has stated that he first went to his house, parked his motorcycle and then returned to the spot. Upon returning, he saw accused Nos.1 and 2 assaulting the deceased, who was lying on the ground. According to him, accused No.1 was inflicting blows on the neck and face of the deceased with an iron chopper, while accused No.2 was assaulting him with a club, as he felt uneasy on seeing the incident he left the place.

17. At the outset, it is relevant to note that the prosecution has placed reliance upon the evidence of

PW.1. However, PW.1 is not an eyewitness to the occurrence. He was the first informant and based on his complaint law was set in motion. Therefore, the evidence of PW.1 cannot be treated as direct evidence regarding the actual assault committed upon the deceased or the individual participation of accused Nos.1 and 2 in the commission of the offence. The evidentiary value of PW.1's testimony is necessarily confined to those facts which are within his personal knowledge and are otherwise legally admissible. Thus, the conviction of accused Nos.1 and 2 cannot be founded upon the testimony of PW.1 insofar as the actual occurrence is concerned. The prosecution case regarding the assault upon the deceased is required to be examined principally on the basis of the direct evidence of eyewitnesses PWs.2, 3 and 20, along with the medical and other corroborative evidence available on record.

APPRECIATION OF EYEWITNESS EVIDENCE:

18. We have given consideration to the submissions made by the learned counsel appearing for the parties and

have carefully re-appreciated the entire oral and documentary evidence available on record. The prosecution case principally rests upon the direct evidence of eyewitnesses PWs.2, 3 and 20. On careful scrutiny of their evidence, we find that these witnesses have spoken about the occurrence and the involvement of accused Nos.1 and 2 in the commission of the alleged offence. According to the prosecution, accused No.1 assaulted the deceased with a long on his face, head, nose, mouth and left hand, while accused No.2 assaulted the deceased with a club on his head. The evidence of PWs.2, 3 and 20 is required to be appreciated with reference to the specific overt acts attributed to accused Nos.1 and 2.

19. Upon such appreciation, we find that their testimony regarding the material particulars of the assault is consistent and trustworthy. Nothing material has been elicited in their cross-examination to discredit their testimony regarding the participation of accused Nos.1 and

2 in the assault upon the deceased. Merely because certain minor discrepancies or omissions are found in their evidence, the same cannot be a ground to discard their otherwise credible and trustworthy testimony. It is well settled that minor discrepancies or omissions which do not affect the substratum of the prosecution case are not fatal to the prosecution.

20. It is the case of the prosecution that the deceased was behaving indecently with accused No.3, who is the wife of accused No.1. It is further alleged that accused No.1 had warned the deceased not to visit his house or speak to his wife. Despite such warning, the deceased allegedly continued to move around on a motorcycle armed with a long and threatened to kill accused No.1. These circumstances have been relied upon by the prosecution as furnishing the motive for the commission of the offence.

21. It is well settled that where the prosecution case rests upon reliable direct evidence of eyewitnesses, failure to establish motive is not necessarily fatal to the prosecution case. In the present case, the prosecution has relied upon the direct evidence of PWs.2, 3 and 20 regarding the assault committed by accused Nos.1 and 2. Therefore, the question of motive assumes a corroborative significance and the prosecution case is required to be determined principally on the strength and credibility of the direct evidence available on record.

MEDICAL EVIDENCE:

22. Insofar as the homicidal death of the deceased is concerned, the prosecution has examined PW.14, the doctor who conducted the post-mortem examination on the dead body of the deceased and issued the post-mortem report marked as Ex.P9. PW.14, in his evidence, has stated that the death of the deceased was due to cardiorespiratory arrest secondary to haemorrhagic shock

consequent upon multiple grievous injuries sustained by the deceased.

23. The evidence of PW.14, coupled with the post-mortem report at Ex.P9, establishes that the deceased had sustained multiple grievous injuries which resulted in his death. The nature of the injuries and the cause of death, as spoken to by PW.14, lend corroboration to the prosecution case regarding the assault committed upon the deceased. It is pertinent to note that the prosecution has examined PWs.2, 3 and 20 as eyewitnesses to the occurrence. Their evidence regarding the assault committed by accused Nos.1 and 2 finds corroboration from the medical evidence of PW.14 and the injuries noted in Ex.P9. Thus, the ocular evidence is supported by the medical evidence on material particulars. On careful consideration of the evidence of PW.14 and the post-mortem report at Ex.P9, in conjunction with the testimony of eyewitnesses PWs.2, 3 and 20, we are of the considered

opinion that the prosecution has established that the death of the deceased was homicidal in nature.

24. The prosecution has also examined PW.17, the Forensic Science Laboratory expert, who examined the articles forwarded for forensic examination and issued the FSL report. PW.17, in her evidence, has stated that upon examination of the articles received by her, she detected blood belonging to group 'O' on the relevant articles. The prosecution has also relied upon the seizure of MOs.9 and 12 under Ex.P5 mahazar.

25. The evidence of PW.17 and the FSL report are required to be appreciated along with the seizure evidence and the testimony of eyewitnesses PWs.2, 3 and 20. To the extent that the prosecution has established the connection between the bloodstained articles, the deceased and the occurrence, the forensic evidence lends further corroboration to the prosecution case. It is significant to note that the conviction of accused Nos.1

and 2 does not rest solely upon the recovery of material objects or the FSL report. The prosecution has adduced direct evidence through eyewitnesses PWs.2, 3 and 20, which is further supported by the medical evidence of PW.14 and the forensic evidence of PW.17.

26. Learned counsel appearing for the appellants vehemently contended that the deceased himself was the aggressor and that he had come to the house of accused No.2 on a motorcycle, armed with a long, and abused the mother of accused No.2. However, on careful scrutiny of the evidence of eyewitnesses PWs.2, 3 and 20, we find that none of these witnesses has supported the defence version that the deceased was the aggressor or that he had initiated the assault upon accused Nos.1 and 2.

27. The defence has not been able to elicit any material admission in the cross-examination of these witnesses to substantiate its contention that the deceased had come to the house of accused No.2 with an intention

to assault the accused or his family members. In the absence of any supporting material on record, the contention urged by learned counsel for the appellants that the deceased himself was the aggressor cannot be accepted.

28. Even assuming, for the sake of argument, that the deceased had come to the house of accused No.2 armed with a long and had abused his mother, the same, by itself, would not justify the subsequent assault committed by accused Nos.1 and 2. It is significant to note that, even according to the defence version, during the assault made by accused No.2, the chopper carried by the deceased had fallen to the ground. Once the deceased was disarmed, and in the absence of any other circumstance indicating a continuing threat, there was no longer any reasonable apprehension of imminent danger from the said weapon to accused Nos.1 and 2. Therefore, the subsequent assault upon the deceased cannot be justified.

29. It is well settled that the right of private defence is essentially a defensive right and cannot be invoked as a pretext for inflicting injuries upon a person after the apprehension of danger has ceased. The right extends only so long as the reasonable apprehension of danger continues. In the present case, even if the defence version is accepted to the extent that the deceased was initially armed with a chopper, the fact that the weapon had fallen to the ground during the occurrence, coupled with the absence of material indicating any continuing threat, negatives the plea that the subsequent assault was necessary for the protection of accused Nos.1 and 2. Therefore, the plea of private defence urged on behalf of the appellants is devoid of merit and is liable to be rejected.

30. Upon careful re-appreciation of the evidence of eyewitnesses PWs.2, 3 and 20, coupled with the medical and other corroborative evidence available on record, we

find that the prosecution has established the involvement of accused Nos.1 and 2 in the commission of the offence. The prosecution case is that accused No.1 assaulted the deceased with a iron chopper on his face, head, nose, mouth and left hand, while accused No.2 assaulted the deceased with a club on his head. The evidence of eyewitnesses PWs.2, 3 and 20 regarding the assault committed by accused Nos.1 and 2 finds corroboration from the medical evidence of PW.14 and the post-mortem report at Ex.P9.

31. The nature of the weapons used, the vital parts of the body targeted and the multiple grievous injuries sustained by the deceased clearly establish the intention of accused Nos.1 and 2 to cause such bodily injuries as were sufficient in the ordinary course of nature to cause death. The medical evidence further establishes that the deceased succumbed to cardiorespiratory arrest secondary to haemorrhagic shock consequent upon multiple grievous

injuries. The evidence of PW.17, the FSL expert, regarding the detection of blood belonging to group 'O' on the articles subjected to forensic examination, together with the seizure of MOs.9 and 12 under Ex.P5, lends further corroboration to the prosecution case to the extent that the connection of those articles with the occurrence is established. Having regard to the nature of the assault, the weapons used, the vital parts of the body targeted and the medical evidence establishing the cause of death, we are of the considered opinion that the prosecution has established the guilt of accused Nos.1 and 2 for the offence punishable under Section 302 IPC beyond reasonable doubt.

32. On careful re-appreciation of the entire oral and documentary evidence available on record, we are of the considered opinion that the prosecution has established the guilt of accused Nos.1 and 2 beyond reasonable doubt. Though the prosecution has relied upon the evidence of

PW.1, he is not an eyewitness to the occurrence. However, the prosecution has examined PWs.2, 3 and 20, who are eyewitnesses to the incident and whose testimony regarding the material particulars of the assault is consistent and trustworthy. Their evidence finds corroboration from the medical evidence of PW.14, the post-mortem report at Ex.P9 and the forensic evidence of PW.17. The seizure of material objects under Ex.P5 also constitutes corroborative evidence, subject to their established connection with the occurrence.

33. The contention urged by learned counsel for the appellants that the deceased himself was the aggressor is not substantiated by the evidence on record. Even otherwise, the circumstances relied upon by the defence do not establish that accused Nos.1 and 2 were justified in continuing the assault upon the deceased in exercise of the right of private defence. On re-appreciation of the entire oral and documentary evidence, we are of the

considered opinion that the learned Sessions Judge has rightly appreciated the evidence and recorded the judgment of conviction against accused Nos.1 and 2 for the offence punishable under Section 302 IPC. We do not find any illegality, perversity or material infirmity in the findings recorded by the learned Sessions Judge warranting interference by this Court in exercise of its appellate jurisdiction. Accordingly, the point raised for consideration is answered in the ***Negative***.

ORDER

The Criminal Appeal preferred by accused Nos.1 and 2 is hereby **dismissed.**

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

Bsv/MKM