

Witness duly sworn on 06.04.2023

Cross examination: By Sri.KJG for A3, 7, 11, 13 and 14

135. It is true that in remand application dated 22.02.2010 the accused no.3 Anandgowda, accused no.7 Byredowda and accused no.11 Narayanappa are arraigned as accused no.16, 12, 11 in it respectively. It is true that accused no.13 Suresh and accused no.14 Chethan Kumar are not arraigned as accused in said remand application. The said remand application is marked at Ex.C.2. It is true that accused no.3, 7, 11, 13 and 14 are not figured as accused in FIR. It is true to suggest that in complaint there is no description of identifying features of accused no.3, 7, 11, 13 and 14. It is true to suggest that in the remand application dated 13.02.2010 I have not mentioned regarding recording of statement of eye witnesses, injured witnesses and revealing of identifying features of accused no.3, 7, 11, 13 and 14. It is true to suggest that in said remand application I have mentioned that statements of injured and eye witnesses is yet to be recorded. It is true to suggest that even in the remand application dated 15.02.2010 I have mentioned that statements of eye witnesses is yet to be recorded. It is true

that in the remand application dated 15.02.2010 I have not mentioned regarding identifying features of accused no.3, 7, 11, 13 and 14. The witness voluntaries that in the remand application dated 14.02.2010 I have mentioned ascertaining the identity of accused no.11, 2, 10, 7 and 12. It is true that in the remand application dated 15.02.2010 the accused no.7 and 11 are not shown as accused. Witness voluntaries that I was required to interrogate them and therefore they were not shown as accused on 15.02.2010. It is true that in remand application dated 14.02.2010 and 15.02.2010 there is no mention regarding accused no.3. It is true that in the remand application dated 17.02.2010 I have not mentioned regarding identifying features of A3, 13 and 14.

136. It is true that I have not drawn rough sketch of the scene of offence. When I was brought to the notice of the witness that in para no.77 of his deposition he had deposed about drawing of rough sketch the witness states that after going through the case diary I realized that rough sketch was not drawn. To the suggestion that at the time of drawing spot mahazar I was bound to draw rough sketch showing the place where eye witnesses stood and witnessed the incident and was required to take photographs the witness states that I

have not taken photographs and have not drawn rough sketch.

137. To the question that there was no impediment to draw the spot mahazar immediately after inquest the witness states that it was already dark by that time. To the question that in heinous cases spot mahazar, recording of statements of witnesses, seizure of material objects at the scene of offence are to be done without delay the witness states that they have done within reasonable time and it is depends upon attending circumstances like existence of light and other attending facts. To the question that it is not the requirement that those process should be done in natural light the witness states that light is required. There is supply of electricity power to house of PW.4. The witness voluntaries that its illumination was not sufficient. To the question that in the head light of jeep provided to you, you could have drawn mahazar the witness states that the focus of the head light would be in straight light, further on that night I was engaged in interrogating the two arrested accused.

138. As per my investigation the Hero honda motor cycle bearing no. KA-50-H-5374 belongs to CW.68 Gopal S/o.

Krishnappa. It is incorrect to suggest that in my investigation I came to know that none of the accused had been to the spot of offence at the time of incident in said vehicle.

139. The counsel for accused confronts the witness with the statements of CW.62 Suresh and CW.68 Gopal and puts the question that they have stated before you as per the statements recorded. The question is disallowed for the reason that they are the statements u/sec 161 of Cr.P.C. and they could be used only for contradicting the witness of whom the statements purports to be. In this case CW.62 and 68 are not examined and therefore question of confronting the statements to this witness does not arise.

140. I have recorded the statement of CW.62 on 16.04.2010 and the statement of CW.68 on 15.04.2010. As per my investigation the motor cycle bearing no. KA-50-H-5374 was given by CW.68 to CW.62. Question is put to witness again in the fashion that as per their statement the said vehicle is not at all used by any of the accused. The question is again rejected for the reason recorded in previous paragraph. It is incorrect to suggest that the fact of using said vehicle by accused is a fact concocted by me.

141. It is true that in column no.7 of the charge sheet I have not shown that the said motor cycle bearing No. KA-50-H-5374 as used in the incident. It is true that at page no.10 of the charge sheet I have noted that the said motor bike was found to be not used at the time of incident.

142. To the question that what is the kind of "ಕಾಡು ಗಿಡ" mentioned in Ex.P.13 the witness states that they were plants of medium height but I do not know specific name of said plants. I do not know the extent of land of Doddananjappa mentioned in Ex.P.13. Now I do not remember whether any crop was standing in land of said Doddananjappa at that time. I have not examined said Doddananjappa. His land was not fenced. I have not collected any documents to show that said land belongs to said Doddananjappa. On the information of my staff and local persons I came to know that said land belongs to said Doddananjappa. I have not recorded the statements of said informants. I had no impediment to call them as pancha witnesses, witness voluntaries that since pancha witnesses were already present I did not call them.

143. I did not notice any blood stains on M.O.5. I do not find any major difference between stick and club. It may be

true that clubs like M.O.5 would be used as support in the tomato plantation. It is incorrect to suggest that accused no.7 has not stated before me as per Ex.P.51, 51(a) and 51(b). It is incorrect to suggest that the said statement is concocted by me. It is incorrect to suggest that accused no.7 did not lead me to land of Doddananjappa and has not produced M.O.5 from any bush in the middle of the land of Doddananjappa. It is incorrect to suggest that Ex.P.13 is fabricated by me in the Police Station.

144. CW.65 Anikeshava is the owner of motor cycle bearing no. KA-43-H-1570 (Ex.P.19). CW.66 Nagaraj is the owner of motor cycle bearing no. KA-43-7474 (Ex.P.20). CW.71 Sridhar Murthy is the owner of motor cycle bearing no. KA-06-Q-4410 (Ex.P.22).

145. When accused no.7 led me to house of CW.65 Anikeshava the house of CW.65 was locked and none were present inside the house. Surrounding the house of CW.65 there are residential houses. Public had gathered when I had been to said place. It is true that adjoining residents are not called as witness to Ex.P.28 mahazar. It is incorrect to suggest that accused no.7 did not lead me to the house of

Anikeshava and did not point towards said three vehicles. It is incorrect to suggest that Ex.P.28 mahazar was prepared in the Police Station without visiting the said place.

146. When Ex.P.67 sketch was prepared no eye witnesses were present. The Police Constable who accompanied the Junior Engineer at the time of preparing Ex.P.67 had knowledge about the incident. It is true that in Ex.P.67 it is not shown where the material objects which I seized under spot mahazar were lying. The places where eye witnesses and injured were standing is not shown in Ex.P.67. It is true that in Ex.P.67 it is mentioned that assailants are Shanthakumar and 9 others. At the time of drawing Ex.P.5 spot mahazar said Police Constable Prabhakar had not accompanied me. It is incorrect to suggest that Ex.P.67 sketch is prepared by me in the Police Station. I had no impediment to instruct the Engineer to prepare the sketch with assistance of eye witnesses or injured witnesses.

147. I do not know the exact extent of Tindlu Kere (Tank) but it is a big tank. To the question that did you take the assistance of expert divers to search for the knife in the tank the witness states that in the tank the water was only at 4 to

5 feet height and therefore I did not deem it necessary to call for expert divers. My staff Prabhakar, Shivakumar they had searched in the tank water for knife along with accused no.3. It is true that my staff are not expert divers. I do not know whether accused no.3 does not know swimming. It is incorrect to suggest that accused no.3 has not stated before me as per Ex.P.79, 79(a) to 79(c). It is incorrect to suggest that those statements are concocted by me. It is incorrect to suggest that accused no.3 did not lead me and my staff to said place and Ex.P.18 mahazar was not drawn at the said place. It is incorrect to suggest that Ex.P.18 is concocted in Police Station.

(As morning session is over further examination is deferred to post lunch session)

(The statement of witness is recorded in the open court as stated by him and it contains true account of his statement and is read over to him and admitted by him to be correct)

R.O.I. & A.C.

(V. M. Anandashetti)

II Addl. District & Sessions Judge,
Bengaluru Rural District, Bengaluru.

Witness duly sworn in afternoon session

Further cross examination: By Sri.KJG for A3, 7, 11, 13 and 14

148. CW.70 Amaranarayana is the owner of motor cycle bearing No. KA-04-EH-3483. Ex.P.80 mahazar is drawn in the premises of Vishwanathapura PS. CW.108 has apprehended the accused no.3 and 14 while they were proceeding in said motor cycle near Dairy in Yelahanka. It is true that till production of said vehicle before me I had no information about that very vehicle being involved in the incident. It is incorrect to suggest that said vehicle was in the Police Station even before 10.04.2010. It is incorrect to suggest that the said vehicles which was in the Vishwanathapura Police Station is connected to accused no.3 and 14 and a mahazar is concocted by me. After enquiring the accused no.3 I got the identity of said motor vehicle ascertained through accused no.3 in the Police Station. It is incorrect to suggest that the motor vehicle which was already in the Police Station is got identified by accused no.3 for the purpose of the case.

149. It is incorrect to suggest that only on the basis of statements of co-accused I have implicated accused no.3, 7,

11, 13 and 14. It is true to suggest that if the assailants are strangers identification parade is to be conducted. I have not at all conducted test identification parade of any of the accused in this case.

150. It is true that in Ex.P.1 complaint the PW.1 has not stated as "3 ನೇ ಆರೋಪಿ ಆನಂದಗೌಡ ದೇವರಾಜನ ಬೀಜಕ್ಕೆ ಕಾಲಿನಿಂದ ಒದ್ದಿದ್ದರು". The witness voluntaries that the PW.1 has stated identifying features of said accused and in the statement dated 10.04.2010 he has stated about it. It is true that either in Ex.P.1 complaint or in any of his statements the PW.1 has not stated as "ವಾಪಸ್ಸು ಹೋಗುವಾಗ 3 ನೇ ಆರೋಪಿ ಆನಂದ್ ಗೌಡ ಬೈಕ್ ಹತ್ತಿ ಹೋಗಿದ್ದರು". It is true that either in Ex.P.1 complaint or in any of his statements the PW.1 has not stated as "7 ನೇ ಆರೋಪಿ ಬೈರೇಗೌಡ ಕತ್ತೆಮುನಿಯಪ್ಪನ ಮಗ ನಾರಾಯಣಸ್ವಾಮಿಗೆ ದೊಣ್ಣೆಯಿಂದ ಹಲ್ಲೆ ಮಾಡಿದರು". It is true that either in Ex.P.1 complaint or in any of his statements the PW.1 has not stated as "ನನ್ನ ತಮ್ಮ ಮಂಜುನಾಥ ಬೈಕನ್ನು ತಳ್ಳಿದಾಗ ಬೈಕ್ ಬಿದ್ದು ಹೋಗಿತ್ತು". (These confrontations are found at page 22/23 of evidence of PW.1).

151. To the question that PW.2 has not stated before you as "3 ನೇ ಆರೋಪಿ ಆನಂದಗೌಡ ಮೃತ ದೇವರಾಜನ ಗುಪ್ತಾಂಗಕ್ಕೆ ಒದ್ದಿದ್ದರು", the witness states that in the statement recorded on 10.04.2010

he has identified said accused as the person who kicked the deceased and in previous statement he has only stated identifying features of said accused. It is incorrect to suggest that PW.2 has not stated before me as "7 ನೇ ಆರೋಪಿ ಬೈರೇಗೌಡ ದೊಣ್ಣೆಯಿಂದ ನನ್ನ ಕೈ ಬೆರಳುಗಳಿಗೆ ಹಲ್ಲಿ ಮಾಡಿದ್ದರು". To the question that the PW.2 has not stated before you as "11, 13 ಮತ್ತು 14 ನೇ ಆರೋಪಿತರು ವಡ್ಡೆಜಾತಿಯವರನ್ನು ಹೊಡೆಯಿರಿ ಎಂದು ಪ್ರಚೋದನೆ ನೀಡುತ್ತಿದ್ದರು", the witness states that he has stated only about instigation but not about referring caste. (These confrontations are found at page 65 of evidence of PW.2).

152. To the question that PW.18 has not stated before you as "ಎರಡು ಕಾರ್ ಮತ್ತು ನಾಲ್ಕು ಮೋಟಾರ್ ಸೈಕಲ್ ಗಳಲ್ಲಿ 18 ಜನರು ಘಟನಾ ಸ್ಥಳಕ್ಕೆ ಬಂದರು", the witness states that vehicle car and number of motor cycle is not stated before me and with respect of number of persons he has stated before me as 10-15 persons. It is true that PW.18 has not stated before me as "ಬಂದವರಲ್ಲಿ ಒಬ್ಬ ಫ್ರಾಸಾ-4 ಇವರಿಗೆ ವಡ್ಡೆ ನನ್ನ ಮಗ ಎಂದು ಬೈದ". (These confrontations are found at para no.17 of evidence of PW.18).

153. It is true that PW.3 has not stated before me as "3 ನೇ ಆರೋಪಿ ಮೋಟಾರ್ ಸೈಕಲ್ ನಲ್ಲಿ ಓಡಿ ಹೋದನು". It is true that PW.3 has not stated before me as "3 ನೇ ಆರೋಪಿ ಹೋದ ವಾಹನದಲ್ಲಿ 2 ನೇ

ಆರೋಪಿ ಹಾಗೂ 8 ನೇ ಆರೋಪಿ ಸಹ ಹೋಗಿದ್ದರು". To the question that whether PW.3 has stated before you as "ನಾನು ಮೋಟಾರ್ ಬೈಕ್‌ನ್ನು ತಡೆದಾಗ ಬೈಕ್ ನಲ್ಲಿದ್ದವರಲ್ಲಿ 3 ನೇ ಆರೋಪಿ ಕೆಳಗೆ ಬಿದ್ದನು" the witness states that persons travelling in motor cycle is stated by PW.3 and on arrest of accused no.3 the PW.3 has identified him as one of the person who fell from the motor cycle. (These confrontations are found at page no.18 of evidence of PW.3).

154. It is incorrect to suggest that though in my investigation I came to know that accused no.3, 7, 11, 13 and 14 are innocent yet I have implicated them at the behest of PW.4. It is incorrect to suggest that none of the witnesses have given any statement before me.

Re-examination: Nil

(The statement of witness is recorded in the open court as stated by him and it contains true account of his statement and is read over to him and admitted by him to be correct)

R.O.I. & A.C.

(V. M. Anandashetti)

II Addl. District & Sessions Judge,
Bengaluru Rural District, Bengaluru.