

Judgment pronounced in Open Court

(Vide my separate Judgment)

ORDER

Acting u/s 235(1) Cr.P.C., accused is hereby acquitted for the offence punishable under under section 307 of I.P.C.

Acting under section 235(2) of Cr.P.C. accused is hereby convicted for the offence punishable under Section 302 of I.P.C.

To hear regarding sentence by 03.07.2026

(NIRMALA. K.)

IV Addl. Dist. & Sessions Judge,
Doddaballapura

ORDER ON QUANTUM OF SENTENCE

1. Accused present. Heard the arguments of learned counsel for accused and the learned Public prosecutor for the State on quantum of sentence to be imposed on the convicted accused.
2. Learned counsel for the accused submit that, he is having wife who is pregnant and aged parents. He has shop which has to be looked after by him. The entire family is dependent on him. There are no other criminal antecedents against accused. At the

same time, there are no other cases registered against him. Since the case does not fall within the purview of rare of rarest cases, he prays for showing leniency to the accused.

3. Whereas learned Public Prosecutor submit that, Accused has killed Gangadhar @ Dasa in a brutal manner. If court take lenient view in such heinous offences, public will loose faith in legal system. Moreover the Accused is found guilty of committing heinous offences. Hence, prays for imposing maximum punishment without showing any leniency to the Accused. Learned Public prosecutor filed application u/sec.357A Cr.P.C and prays for awarding suitable compensation to the victim.
4. I have considered submissions of the learned counsel for the accused and the learned Public prosecutor in the light of provisions of penal law and ratio laid down by the Hon'ble Supreme Court and Hon'ble High court of Karnataka.
5. In penology law laid down in the case of **State of Madhya Pradesh v/s Najab Khan and others**, reported in **2013 Cri. LJ 3951 (SC)** it was held that:

“in operating the sentencing system law should adopt corrective machinery or deterrence based on factual matrix., The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration. Undue sympathy to impose inadequate sentence would do more harm to the justice system and undermine the public confidence in the efficacy of law. It is the duty of Court to award proper sentence

having regard to the nature of the offence and the manner in which it was executed or committed. The Courts must not only keep in view the rights of the victim of the crime but also the society at large while considering the imposition of appropriate punishment.”

6. The Hon'ble Apex court in the **State of Punjab v/s Bawa Singh reported in (2015) 3 SCC 441**, wherein it has been observed and held that undue sympathy not warranted. Rights of victim and Society at large must be kept in mind – prolonged trial is no ground to reduce sentence to meagre sentence. Sentence should be commensurate with gravity of offence. Reduction of sentence by showing undue sympathy is not sustained.
7. The Hon'ble Supreme Court of India in the case of **Shabanam v/s State of Uttarpradesh**, reported in **2015 (4) SCC 632** has enunciated the principles that are to be considered while imposing sentence as follows:

“cumulative effective of all the aggravating and mitigating circumstances in the fact of each case are to be considered and death sentence must be imposed only when life imprisonment appears to be of all together in adequate punishment. It is further held that, Court ought to be sufficiently cautiousness and adherent to the same so as to better administer criminal justice system and provide an effective and meaningful reasoning by court as contemplated u/sec.354 (3) of Cr.P.C, while imposing sentence.”
8. The Hon'ble Apex Courts held in various reported judgment that “while awarding sentence, the Court has to bear in mind the nature, the circumstances of the offences and the health ground of the victim, the social background of the accused, the

economic and mental condition, prospectus of rehabilitation, absence of mens rea instigation and influence, delay in disposal of the case, state of health of the accused, gravity of the offences whether he is habituated and whether the offence has been well planned and the socio economic legislation.”

9. It is seen that in Ex.P-26 Inquest report and Ex.P-27 P.M. report shows nearly 16 external injuries found on deceased which indicate severity in inflicting the injuries. This reflect the conduct and attitude of the accused and strengthens the case of prosecution regarding the motive of accused in committing the offence. In view of the nature of the crime, the conduct of the Accused and the manner in which he killed Gangadhar in an inhuman manner, this court is of the view that, the sentence hereafter to be imposed on the accused will be adequate and proper. However, the present case does not fall within the purview of rarest of rare case to award capital punishment.
10. In the opinion of this court, the sentence here below imposed on the accused will maintain the equilibrium between the offences committed and sentence to be imposed. Hence, it is clear that, it is not a fit case to show mercy. With the above observations, I proceed to pass the following:

ORDER

Accused is hereby sentenced to undergo Rigorous imprisonment for life and to pay fine of Rs.20,000/- for the offence punishable u/sec.302 IPC and in default to pay the fine amount, he shall undergo Simple imprisonment for a period of 4 months.

The substantive sentences shall run concurrently.

M.O.1 to 9 & 11 & 12 being worthless ordered to be destroyed after appeal period.

M.O.10 – Machete is ordered to be confiscated to State after appeal period.

After passing the above sentence, I am conscious of the mandate of section 357(A) of Criminal Procedure 1973 which has come into effect from 31.12.2009 by virtue of Act 2009. Moreover learned Public prosecutor has filed an application U/sec.357 (A) of Cr.P.C to award compensation to the L.Rs of deceased. The Government of Karnataka had formulated scheme in notification No.**HD1 PCB 2011 dated 22.02.2012** providing for compensation in event of loss of life and compensation in respect of different kinds of injuries. The said notification had seen amended by virtue of another notification No.**HD 1 PCB 2011, Bengaluru dated 19.09.2013.**

The Hon'ble High Court has given various directions/guidelines to trial courts which exercise the power conferred under Section 357 and 357(A) of Cr.P.C., keeping in view, the victim compensation scheme. In the decision reported in **ILR 2019 Kar. Page 4643 (between State of Karnataka by PSI, Moodabidri V/s Mr. Vishwanatha Devadiga and Another (DB))**, taking into consideration the concept of rehabilitation of victim as held by **Hon'ble Apex Court in the case of Suresh V/s State of Haryana - (2015) 2 SCC page 227**. Similarly, in **2020 KCCR page 1730 (between Karnataka State Legal Services Authority, Bengaluru V/s State of Karnataka by Adugodi police station, Bengaluru and another)**, wherein Hon'ble High Court held that the trial court shall recommend DLSA or SLSA to decide the quantum of compensation. As per sub-section (3) of Section 357-A, at this stage no materials are furnished regarding economic status of accused and has not furnished any document about accused having sufficient income so as to award compensation to the dependents of the deceased.

Hence, office is directed to send a copy of judgment to District Legal Service Authority, Bengaluru Rural District at the earliest to award compensation to dependents of the deceased under Section 357(A) of Cr.P.C.

Office is directed to furnish free copy of this judgment to the accused forthwith.

(NIRMALA .K.)

IV Addl. District & Sessions Judge
Doddaballapura