

KABR400002502019



IN THE COURT OF IV ADDITIONAL DISTRICT & SESSIONS JUDGE
SITTING AT DODDABALLAPURA, BENGALURU RURAL DISTRICT

Dated 02nd Day of July 2026

: PRESENT:

SMT. NIRMALA .K, B.A. M.L.,

IV Additional District and Sessions Judge,
Doddaballapura, Bengaluru Rural District.

S.C. No. 10015 / 2019

COMPLAINANT

**: Doddaballapura Town
Police Station**

**(Reptd. By learned Public
Prosecutor)**

V/s

ACCUSED

: Anand .S @ Kabab Ananda
S/o. Sathish
Aged about 22 years
R/at. Devarajanagara, Kongadiyappa
College Road, Doddaballapura Town
Bengaluru Rural District

(Accused Reptd. By Sri. T.G.V., Advocate)

Date of Offence	07.01.2019
Report of Offence	08.01.2019
Arrest of the accused	10.01.2019
Date of release on bail	11.03.2020
Commencement of trial	26.11.2020
Closing of trial	04.10.2023
Name of the complainant	Sri. Manjunath
Offences complained of	Section 302 and 307 of I.P.C.
Opinion of the Judge	As per the final order

J U D G M E N T

This case is received upon committal of the case in C.C.No.436/2019 on the file of Additional Civil Judge & J.M.F.C., Doddaballapura, Bengaluru Rural District in pursuance of the Charge Sheet filed by Police Circle Inspector, Doddaballapura Circle for the trial of Accused for the offences punishable under Section 302 and 307 of I.P.C.

2. Case of the prosecution in brief is as follows;

It is the case of prosecution that, accused and CW-1 are friends. Previously Crime No.357/2017 was filed against accused and later rowdy sheet was opened against accused. Father of accused had opened Kabab shop at Kallupete and doing business. Deceased Gangadhar was asking accused to

give him money. On 07.01.2019 around 09.15 p.m. deceased thought of assaulting accused and he took chilli powder and machete in his jarkin and came along with CW-2 to Preethi Wines circle near medical shop around 09.45 p.m. At that time, accused came along with CW-20 and CW-21 in two wheeler. Deceased seeing them asked CW-2 to go and call accused. Later, deceased took accused near Koracharahatti Road, Karenahalli Village 9th Cross and both of them started quarreling with each other. The deceased Gangadara took chilli powder and machete and went to assault accused. But, he in turn escaped and took the same machete and assaulted the deceased Gangadhar. CW-2 who was seeing the incident came to the spot and assaulted CW-2 also and went away. Around 10.00 - 10.15 p.m. CW-2 came and informed about the incident to CW-1 and he came in an autorickshaw to the spot, took the deceased and CW-2 and admitted them to Doddaballapura Government Hospital and while taking treatment Gangadhar @ Dasa died around 11.15 p.m. Hence, the accused is charge sheeted for the above said offences.

3. The C.P.I. of Doddaballapura Circle found that, there were sufficient materials available against the accused and hence, after completion of investigation submitted the charge-sheet before learned Magistrate against the accused for the offences punishable under Section 302 and 307 of I.P.C. After

taking cognizance, Criminal Case was registered in C.C.No.436/2019. Accused arrested and remanded to judicial custody. Since offence u/sec.302 I.P.C. is exclusively triable by the court of Sessions, learned Magistrate acting U/sec.209 Cr.P.C, committed the case to this court for disposal in accordance with law. Accordingly, S.C.No.10015/2019 was registered and accused was produced from J.C. Charge sheet copy was furnished to the accused. Later accused obtained bail. Since there were sufficient materials available against the accused, charges were framed and read over and explained to the accused in the language known to him. He pleaded not guilty and claimed to be trial.

4. The prosecution to bring home the guilt of the accused cited in all 36 charge-sheet witnesses, wherein, CW-1 – Manjunath is the complainant is examined as PW-1. The injured witness CW-2 is examined as PW-10. Mahazar witness CW-3 is examined as PW-2. Other mahazar witness CW-11, CW-14, CW-15 and CW-17 are examined as P.W-3, P.W-5, P.W-4 and P.W-6. CW-19 is examined as P.W-7. CW-20 is examined as P.W-8. Police officer who has registered the rowdy sheet against accused CW-31 is examined as P.W-11. Doctor who has issued death intimation CW-32 is examined as P.W-12. Doctor who has conducted Post-mortem CW-33 is examined as P.W-9. Investigating Officers CW-35 and CW-36 are examined

as P.W-14 and P.W-15. The prosecution has got marked Ex.P-1 to Ex.P-45. Material objects M.O-1 to M.O-12 are marked. Prosecution side evidence was closed.

5. After closing of evidence of prosecution witnesses, this Court has recorded the statement of accused under Section 313 of Cr.P.C, in which he has denied all the incriminating materials forthcoming against him in the prosecution evidence and has not chosen to adduce any defence evidence. This court did not act under section 232 of Cr.P.C.

6. **Arguments** were heard from both sides.

7. The **points** that arise for my consideration are as follows;-

1. Whether the prosecution proves beyond all reasonable doubt that accused and CW-1 are friends. Previously Crime No.357/2017 was filed against accused and later rowdy sheet was opened against accused. Father of accused had opened Kabab shop at Kallupete and doing business. Deceased Gangadhar was asking accused to give him money. On 07.01.2019 around 09.15 p.m. deceased thought of assaulting accused and he took chilli powder and machete in his jarkin and came along with CW-2 to Preethi Wines circle near medical shop around 09.45 p.m. At that time, accused came along with CW-20 and CW-21 in two wheeler. Deceased seeing them asked CW-2 to go and call accused. Later, deceased took accused near Koracharahatti Road, Karenahalli Village 9th Cross and both of them started quarreling with each

other. The deceased Gangadara took chilli powder and machete and went to assault accused. But, he in turn escaped and took the same machete and assaulted the deceased Gangadhar and killed him and committed the murder of deceased Gangadhar and thereby committed an offence punishable u/sec.302 of IPC?

2. Whether the prosecution further proves beyond all reasonable doubt that, on the above said date, time and place when CW-2 came to rescue accused no.1 from assaulting deceased Gangadhar, accused no.1 also assaulted CW-2 with machete over his head and left hand and voluntarily caused hurt to CW-2 did an act, accused would have been guilty of murder and thereby committed the offence punishable under section 307 of IPC?

3. To what order?

8. My **findings** to the above said points are as follows;

Point No.1 : In the **Negative**,

Point No.2 : In the **Affirmative**,

Point No.3 : As per final order,
for the following;

R E A S O N S

9. **Point No.1 and 2:-** Since these points are interlinked with one another, they are taken up together for consideration, for avoiding repetition of discussion on the facts of the case and also regarding point of law.

10. The prosecution in order to bring home the guilt of the accused got examined **complainant CW-1 Manjunath as PW-1**, who state in his evidence that deceased Gangadhar is his younger brother. On 07.01.2019, in the night hours, Gangadhar was murdered. On that day, around 10.00 p.m., CW-2, Pavan Kumar came in two wheeler to his house and informed that Gangadhar and CW-2 were talking near Korachara Hatti Preethi Wine Store. At that time accused Anand alias Kabab and his friends Loki and Swamy came in duo bike, quarreled with deceased, poured chilli powder and assaulted Gangadhar with machete to his head, face, hands and shoulders. CW-2 was also injured in the incident. Immediately he took autorickshaw and came to Doddaballapura Government Hospital. Though treatment was given, doctors informed that Gangadhar was dead. The next day he went to the station and lodged complaint before the police as per Exhibit P-1. After lodging the complaint, police came to the spot along with CW-3 and CW-4 and he has shown the place of incident to the police and they have drawn mahazar as per Exhibit P-2. He has identified photographs as per Exhibit P-3 and P-4. Further material objects as per M.O-1 to M.O-6 were marked. Further, he state that during 2017 one Sunil had quarreled with his uncle's children and in that incident it is alleged that his brother Gangadhar had assaulted with knife. He was arrested and sent to judicial custody. After he was released from jail, he was doing Bislery Can distribution business. Initially his younger brother Gangadhar

and CW-2 were friends and keeping some previous grudge, accused has murdered his younger brother. CW-2 informed that there was some previous galata between accused and Gangadhar regarding money matter.

11. On perusal of Exhibit P-1 complaint, he state that on 07.11.2019 around 10.20 p.m. he and his parents were at home. Pavan and Benki came near his house and informed that Pavan and Gangadhar were talking near Preethi Wine Circle around 09.45 p.m. At that time accused, Kabab, Loki and Swami picked up quarrel with them and poured chilli powder to the eyes of Gangadhar and accused picked machete assaulted on Gangadhar's face, neck and eyes. When he went to rescue him, the accused assaulted him with machette and ran away from the place. Immediately after getting the news, he along with Pavan came to the spot and took Gangadhar to hospital in an auto. After 10 minutes, doctor informed that Gangadhar was dead. Therefore, he state that keeping some previous grudge, Anand, Kabab, Loki and Swami quarreled with Gangadhar and Killed him with machete and murdered him. So, complaint was registered on 08.01.2019 around 12.00 p.m.

12. On perusal of the above examination-in-chief of PW-1 and complaint averments, it is seen that complainant is elder brother of deceased Gangadhar. He is not an eye witness to the incident. He gets information through the friend of

deceased CW-2. Soon after getting the information, he comes to the spot and saw that deceased was brutally assaulted with machete and Chilli powder was poured on his face. Immediately, Gangadhar was taken to hospital and doctor declared him dead. Since he died late night within a span of 2 to 3 hours, next day on 08.01.2019 around 12.00 a.m. in the early morning complaint was given by complainant as per Exhibit P-1. Therefore, PW-1 has given evidence in consonance with the complaint averments.

13. In his cross examination done by Learned counsel for accused, he admitted that Exhibit P-1 is not in his handwriting. Since his younger brother was murdered, he was under shock and shivering. As per his say, CW-19 gave written the complaint. He state that there was some previous grudge between accused and his brother Gangadhar. There was some money transaction between them. Further, he has stated that he had got information about the incident from CW-2. Both CW-2 and his brother had drinking habit. He state that he does not know that Gangadhar had taken machete in the jerkin while he was going out. Just because he state that he does not know what is written in further statement given before the police, that itself will not take away his entire evidence because he clearly stated in his evidence about accused assaulting his brother Gangadhar. Therefore, on perusal of the entire evidence, I am of the opinion that nothing material was elicited from his evidence in order to

discredit his version. So, complainant has given evidence which clearly supports the case of prosecution.

14. Further, prosecution examined injured **CW-2 Pavankumar alias Pavan alias Benki as PW-10** who stated in his evidence that, on 07.01.2019 around 09.30 p.m. asked him to deliver water can to the house of CW-1 near Devaraja Nagara Hotel, where one old lady gave ₹ 50/- to him and he gave money to mother of CW-1 and took ₹ 20/- back from her. From there he went to Devaraju Arasu Layout Preethi Wines in order to consume liquor. When he was standing near Preethi wines circle, at that time the deceased Gangadhar alias Dasa came there. Both of them consumed liquor. They saw accused Anand, his brother Loki and another friend Swami. All three of them came near Preethi Wine's circle. Gangadhar asked him to call them. He asked them to come near Preethi Wine's circle and speak to deceased. Later on he took them in a galli and while he was watching, they started quarreling with each other. The accused was holding machete in his hands. When he tried to interfere, accused assaulted to his head and his left hand. He fell down and after 10 minutes he saw that Accused were going back and Gangadhar alias Dasa was lying on the floor and he had sustained stab injuries to his stomach, neck and eyes. Immediately he went and informed to CW-1 and his mother. They came in auto and took Gangadhar to Doddaballapura Government Hospital. He was admitted in the hospital on 09.01.2019 around 04.30 p.m.

again police came to the hospital and took his statement and his clothes as per M.O-11 and M.O-12. They drawn mahazar as per Exhibit P-23. Exhibit P23. Further he state that on 11.01.2019 he has given a statement U/s.164 of Cr.P.C. as per Ex.P-30 before Magistrate.

15. On perusal of his examination in chief, it is seen that he is working as a Bisleri water delivery boy under CW-1 at the time of incident during the year 2018-2019. He know accused Anand and his friends and also deceased. On the date of incident he had delivered Bisleri can and amount was returned to the mother of CW-1. He came near Preethi Wines in order to consume liquor and at that time he was along with deceased Gangadhar. He has clearly stated about accused coming to the place and galata had taken place between accused and deceased. He is an eye witness to the incident. Soon after the incident he rushed to the house of CW-1 and informed him about the incident. This shows that, he is the last scene witness along with the deceased and accused. He has witnessed the incident and when he went to rescue Gangadhar, he was also injured.

16. It is tried to elicit in his cross-examination that he and deceased had drinking habit and on the day of incident both of them were drunk and he has not witnessed the incident and he has denied the suggestion. P.W-10 state in his cross-examination that he has come from Anti-Addiction center to

give evidence. During 2019, he had a habit of drinking. On 07.01.2019, he had consumed alcohol for four times. But, no suggestion is put to him that since he was drunk he could not see the incident properly. But, on the other hand he admit in his cross-examination that:

“ ಆ ದಿನ ಆನಂದನು ಯಾವ ರೀತಿ ಬಟ್ಟೆ ಧರಿಸಿದ್ದನು ಎಂದು ಈಗ ನನಗೆ ಹೇಳಲು ಬರುವುದಿಲ್ಲ. ನನ್ನನ್ನು ನಿಲ್ಲಿಸಿ ನನ್ನಿಂದ 50 ಮೀಟರ್ ದೂರದಲ್ಲಿ ಆನಂದ ಮತ್ತು ದಾಸ ಹೋಗಿರುತ್ತಾರೆ. ಅವರಿಬ್ಬರೂ ನನಗೆ ಕಾಣಿಸುತ್ತಿರಲಿಲ್ಲ.

14. ಕಿರುಚಾಡುತ್ತಿರುವುದು ಕೇಳಿಸುತ್ತಿತ್ತು ಆದರೆ ಯಾವ ವಿಷಯಕ್ಕೆಂದು ಗೊತ್ತಿರುವುದಿಲ್ಲ. ನಾನು ನೋಡಿದಾಗ ಆರೋಪಿಯ ಕೈಯಲ್ಲಿ ಮಚ್ಚು ಇತ್ತು. ”

“ ನಾನು ಹತ್ತಿರ ಹೋದಾಗ ಆರೋಪಿಯು ನನಗೂ ಸಹ ಮಚ್ಚಿ ನಿಂದ ಹೊಡೆದಿದ್ದರಿಂದ ಪ್ರಜ್ಞೆ ಹೋಗಿದ್ದು, 10-15 ನಿಮಿಷದ ನಂತರ ಪುನಃ ಪ್ರಜ್ಞೆ ಬಂದಿರುತ್ತದೆ. ದಾಸನನ್ನು ಹೊಡೆದಿರುತ್ತಾರೆಂದು ಹೇಳಿ ನಾನು ಮಂಜುನಾಥ ಅವರನ್ನು ಕರೆದುಕೊಂಡು ಬಂದಿರುತ್ತೇನೆ. ಆರೋಪಿ ಅಲ್ಲಿರಲಿಲ್ಲ ಮತ್ತು ನನಗೆ ಹೊಡೆದಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ. ಕುಡಿದ ಮತ್ತಿನಲ್ಲಿದ್ದುದರಿಂದ ನನಗೆ ಯಾರು ಹೊಡೆದಿರುತ್ತಾರೆಂದು ನನಗೆ ಗೊತ್ತಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ. ”

The above cross-examination clearly indicate that though he did not know for what reason both of them were quarreling, but he saw accused holding machete in his hands. When he went near them, deceased had fallen down with injuries all over the body. He clearly state that, accused had assaulted him also. Therefore, his cross-examination indicate that he has clearly witnessed the incident. He being an injured witness usually give supportive evidence and nothing is elicited to show as to why the injured witness is deposing

falsehood. Therefore, considering his total evidence, I am of the clear opinion that he has completely supported the case of prosecution.

17. In order to prove the place of incident, prosecution examined mahazar witness **CW-3 Balakrishna as PW-2**. PW-2 who state in his examination in chief that, during 2019 in the month of January, police drawn mahazar as per Exhibit P-2 near Kongadiappa College Preethi Wines Circle in the presence of Panchas - CW-3 and CW-4. Further, he state that police had seized M.O-1 and M.O-2 and taken photographs as per Exhibit P-3 and P-4. Mahazar was drawn between 09.00 to 10.00 a.m.. It is elicited in his cross-examination that he had not got any notice from the police to come for the mahazar. He is known to CW-1 and he called him to the mahazar. So, learned counsel for accused submit that he was he was called to the mahazar by CW-1 who is his friend and therefore, his evidence cannot be given much importance. But the said argument cannot be accepted for the simple reason that just because witness is a friend or related witnesses, that itself is not a ground to discredit his entire consistent evidence. Therefore, his entire cross-examination indicate that nothing material was elicited in order to discredit his version. So, the place of incident is proved by prosecution by examining this witness who has given supportive evidence.

18. Further prosecution examined another mahazar witness **CW-11 Manjunath K.P. as PW-3** who is the mahazar witness for Exhibit P-19 under which, police had seized the deceased's clothes. PW-3 state in his evidence that on 08.01.2019 police called him to the mahazar and seized M.O-3 to M.O-7 and took his signature on Exhibit P-19 .Mahazar was done between 05.00 to 06.00 p.m. This witness is also friend of CW-1 and he too admit in his cross-examination that police had not issued any notice to him to come for mahazar. But, since CW-1 is his friend he called him and he was witness for it. Other than this, nothing was elicited to disbelieve him. Therefore, on careful perusal of his entire evidence, just because he is friend of CW-1, nothing is made out from his evidence to show that, he is falsely implicating the accused. Hence PW-3 has completely supported the case of prosecution.

19. Further prosecution examined **CW-15 M. Mahesh – mahazar witness for Exhibit P-23 as P.W-4** under which injured blood stained clothes were seized by the police. PW-4 state in his evidence that on 10.01.2019 in the afternoon, Police called him to the station. He along with CW-16 and accused were there and he took police to D-Cross in front of Arkavathi Lake and produced his sweater, Night pant and machette where police seized the same and drawn mahazar as per Exhibit P-20 and the seized articles as per M.O-8 to M.O-10. He has identified the photos as per Exhibit P-21 and

Exhibit P-22. As per prosecution case, accused assaulted deceased with machete and at that time, accused clothes were blood stained. After his arrest he took police to Arkavathi Railway Bridge in front of lake. He produced his blood stained clothes and also machete which was used in the commission of the offence. This indicate that weapon which was used in the commission of the offence was seized at the instance of the accused. So, as per Section 27 of Evidence Act, recovery is proved by the prosecution. Even in his cross-examination other than eliciting that he is the friend of CW-1 and that police had not given him any notice to come for the mahazar, nothing is elicited in order to discredit his version. Therefore, this material witness has completely supported the case of prosecution. His evidence acquires importance as it links accused with the offence.

20. Further prosecution examined **CW-14 – Manjunatha as PW-5** who is the mahazar witness for Ex.P-23, under which clothes of CW-2 was seized. He state in his evidence that on 09.01.2019 police called him to Doddaballapura Government Hospital “ ಗೆಲತಿ ವಿಭಾಗ ” shown the clothes of CW-2 and drawn mahazar as per Exhibit P-23 and seized M.O-11 and M.O-12. He state in his cross-examination that:

“ ಪೋಲೀಸು ಠಾಣೆಯಲ್ಲಿ ನಾನು ಮೂರು ಸಹಿ ಮಾಡಿರುತ್ತೇನೆ. ಪಂಚನಾಮೆಗೆ ಮಾತ್ರ ಒಂದು ನಾನು ಸಹಿ ಮಾಡಿರುತ್ತೇನೆ. ಉಳಿದ ಸಹಿಗಳನ್ನು ಬೇರೆ ಯಾವ ದಾಖಲೆಗೆ ಮಾಡಿರುತ್ತೇನೆಂದು ನೆನಪು ಇರುವುದಿಲ್ಲ, ”

“ ಪೋಲೀಸು ತಾಣೆಯಲ್ಲಿ ಪಂಚನಾಮೆ ಬರೆದು ಅಲ್ಲಿಯೇ
ಅಮಾನತ್ತುಮಾಡಿಕೊಂಡು ನನ್ನ ಸಹಿ ಪಡೆದುಕೊಂಡಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿಯಲ್ಲ.
ನಾನು ಆ ದಿನ ಆಸ್ಪತ್ರೆಗೆಹೋಗಿರುವುದಿಲ್ಲ, ನನ್ನ ಸಮಕ್ಷಮ ಯಾವುದೇ
ಬಟ್ಟೆಗಳನ್ನು ಅಮಾನತ್ತುಪಡಿಸಿಕೊಂಡಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ. ”

The above cross-examination clearly indicate that police have taken his three signatures on a document in the police station. But, for mahazar he has put only one signature. So, he has denied that he has put signature to the mahazar in the station. This indicate that mahazar was conducted in Government Hospital – Gelathi Division and his signature was obtained at that place and not in the station. Therefore, this witness has also completely supported the case of prosecution.

21. Further prosecution examined **CW-17 Venkatesh Babu as PW-6**. Who state in his evidence that on 07.01.2019 Monday around 08.00- 08.30 p.m. deceased, accused and some 6 to 7 people were standing near 10th cross Karenahalli Kongadiappa College Road. On that day he was going to his shop via that road. He saw galata between those persons. When he went there, he saw injured who had sustained bleeding injuries. His brother and family persons came in an auto and took him to Doddaballapura Government Hospital. Later on he came to know that he was dead. Keeping some previous grudge, those persons had assaulted him. Though he stated in his cross-examination that he cannot say what kind of clothes were worn by accused persons, but he has denied the suggestion that he has not seen the incident. This

indicate that he has seen galata taking place between accused and the deceased. Soon after he went near them, he saw Gangadhar fully injured. This indicate that it is only accused persons who had caused him injuries. Since he has witnessed the incident, he has denied the suggestion made by the learned counsel for accused. Hence, this witness has completely supported the case of prosecution.

22. Further prosecution examined another witness **CW-18 Ananda D.R. as PW-7** and **CW-20 – Pavan Kumar as P.W-8** who have completely turned hostile in their evidence and did not support the case of prosecution.

23. Further prosecution examined **CW-31 – Venkatesh P.S.I Doddaballapura Town Police Station as P.W-11** who state in his evidence that Crime No.200/2016 was registered in Doddaballapura Town Station against accused and rowdy sheet was opened on him and report was submitted to C.P.I. as per Ex.P-31 and Ex.P-32. This witness was not cross examined by learned counsel for accused, which indicate that accused was a rowdy-sheeter is not disputed by the counsel for accused. So, accused is having bad criminal antecedents is not disputed which shows the conduct / character of accused.

24. Further prosecution examined **CW-32, Dr. Chowdaiah as PW-12** who has given police intimation as per Exhibit P-33

and wound certificate of CW-2 as per Exhibit P-34 and has given evidence in consonance with these documents. He state in his cross-examination that while examining CW-2, he did not notice that he was drunk. He has denied the suggestion that “ ಸದರಿ ಪವನನನ್ನು ಪರೀಕ್ಷಿಸುವ ಸಮಯದಲ್ಲಿ ಮದ್ಯಪಾನ ಮಾಡಿದ್ದನು ಎಂದರೆ ಸರಿಯಲ್ಲ. ” He further state that he was in conscious state of mind and he was able to speak. Just because he state that if a person falls on any hard substance then those injuries would occur, this itself does not go to support the case of defence, because it is for the accused to place materials to show that the CW-2 had sustained injuries elsewhere and not in the incident. On perusal of Exhibit P-34 wound certificate, it clearly mentions the name of accused, who had assaulted with the weapon. So, he was brought to the hospital on the history of assault. Therefore, suggestions made by Learned counsel for accused does not acquire much importance. On perusal of the entire evidence of PW-12 he has clearly supported the case of prosecution.

25. Further prosecution examined **CW-33 Dr. V. Abdul Rehman Shareef as PW-9**. Who state in his evidence about conducting Post-mortem on the deceased and issuance of P.M. report as per Exhibit P-28 and 29. Similarly, FSL Expert CW-37 Dr. Radha is examined as P.W-13, who state in her evidence about FSL Report as per Ex.P-35. Though she state that blood stains were detected on Sl.No.12 Machete and it is human blood belonging to ‘AB’ group, but, to link the said

blood group to the deceased no materials are forthcoming. However, nothing adverse was elicited from their evidence in order to discredit their version.

26. Lastly, prosecution examined Investigating Officers **CW-35 Basana Gowda as PW-14 and CW-36 G. Siddaraju as PW-15**, who stated in their evidence about the investigation conducted by them in the instant case. It is tried to elicit from PW-15 that when the statement of CW-2 was recorded, he had mentioned about Dr. Arun Kumar, who is not shown as a charge sheet witness. There was two days delay in recording the statement U/s.164 Cr.P.C. The mobile of CW-2 and the deceased is not seized. After seizure of the matchete, it was not identified from CW-2. When spot mahazar was conducted, teeth of injured was not seized from the spot. In the inquest report, it is mentioned about some scratch injuries on the body of deceased and he has not enquired about this with the doctor. The owner of Exhibit P-43 Jayaprakash is not shown as witness. Further he state that he do not know that deceased and CW-2 had drunk 4 times on 07.01.2019. So, based upon these answers, Learned counsel for accused submit that there is a defective investigation and the benefit of doubt has to go to the accused. But, the result of the above cross-examination of PW-15 is only minor contradictions which can be ignored especially when there is evidence of eye witness and recovery of material object

machete is proved as per Section 27 of Evidence Act, the above lacuna in the Investigation does not matter much.

27. Thus, from the above discussion, it is clear that accused, deceased and CW-2 are known to each other. There was sufficient motive for accused to commit the said offence with an intention to kill. Moreover accused was a rowdy sheeter. So, the bad criminal antecedent also adds to the conduct of accused. CW-2 is an eyewitness who speak about the incident and the injuries sustained by him. The other circumstantial witness PW-6 has also given supportive evidence. PW-1 complainant who is the brother of deceased has given evidence in accordance with complaint averments. Just because PW-1 and PW-10 are related witnesses, that itself is not a ground to brush aside their consistent evidence.

28. At this juncture, it is necessary to quote the following decisions:

- 1) **Crimes 2007(4) 198 (S.C.) - Gurdev Raj V/s. State of Punjab** – Close relatives would be most reluctant to spare the real assailant and would falsely implicate an innocent person.
- 2) **Crimes 2007 (4) 271 (S.C.) - Gali Venkataiah V/s. State of Andhra Pradesh** – Relationship is not a factor to affect credibility of a witness.
- 3) **Crimes 2010(3) 113 (S.C.) - Chunnilal V/s. State of U.P.** - The evidence of a witness cannot be ignored or thrown

out solely because it comes from the mouth of a person who is closely related to the victim.

29. The evidence of these witnesses are further strengthened by the expert evidence, wherein doctors clearly speak about the injury occurred in the course of assault. When doctor evidence fully supports the ocular evidence of witnesses, it is an added strength to the prosecution case.

30. This aspect is held in the decision reported in **2004 (3) Kar.L.J. 161 (DB) – State by Tarikere PS V/s. Manikya**, wherein it is held that **When the evidence of injured witness P.W-1 corroborates medical evidence, it is one of the strong circumstances in favour of prosecution.**

31. Similarly, learned Public Prosecutor relied upon the decision reported in **2008 (1) Crimes 216 (SC) – Vijayashankar shinde and others V/s. State of Maharashtra**, wherein it is held that **the evidence of an injured witness lends more credence, because normally he would not falsely implicate a person thereby protecting the actual assailant.**

32. Furthermore recovery of material objects at the instance of accused is proved by the prosecution. So, when Section 27 of Evidence Act is proved, then it is a strong circumstance to convict the accused. Section 25 of Evidence Act mandates that no confession made to a police officer shall be proved as

against a person accused of an offence. Similarly Section 26 of the Evidence Act provides that confession by the accused person while in custody of police cannot be proved against him. However, to the aforesaid rule of Section 25 to 26 of the Evidence Act, there is an exception carved out by Section 27 of the Evidence Act providing that when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved. Section 27 is a proviso to Section 25 and 26. Such statements are generally termed as disclosure statements leading to the discovery of facts which are presumably in the exclusive knowledge of the maker. Section 27 appears to be based on the view that if a fact is actually discovered in consequence of information given, some guarantee is afforded thereby that the information was true and accordingly it can be safely allowed to be given in evidence.

33. In **Earabhadrapappa alias Krishnappa v/s State of Karnataka, [1983] 2 SCR 552**, it was held that for the applicability of Section 27 of the Evidence Act two conditions are pre-requisite, viz., (i) information must be such as has caused discovery of the fact, and (ii) the information must 'relate distinctly' to the fact discovered. Under Section 27 only so much of the information as

distinctly relates to the fact really thereby discovered, is admissible. While deciding the applicability of Section 27 of the Evidence Act, the Court has also to keep in mind the nature of presumption under Illustration (a) to (s) of Section 114 of the Evidence Act. The Court can, therefore, presume the existence of a fact which it thinks likely to have happened, regard being had to common course of natural events, human conduct and public and private business, in their relations to the facts of the particular case. In that case one of the circumstance relied upon by the prosecution against the accused was that on being arrested after a year of the incident, the accused made a statement before the police leading to the recovery of some of the gold ornaments of the deceased and her six silk sarees, from different places which were identified by the witness as belonging to the deceased. In that context the court observed

“There is no controversy that the statement made by the appellant Ex.P35 is admissible under S.27 of the Evidence Act. Under S.27 only so much of the information as distinctly relates to the facts really thereby discovered is admissible. The word ‘fact means some concrete or material fact to which the information directly relates.”

34. Learned Public Prosecutor has relied upon the decision reported in **2015 (2) Criminal Page 1 SC – Raja @ Rajinder V/s. State of Hariyana**, wherein it is held that **If information**

given by accused in custody is assured by recovery, it may be accepted. If human blood is found on recovered cloths and weapons and accused gave no explanation then it may positively strengthen the prosecution.

Therefore, considering the facts & circumstances of the case, provisions of Sec.27 and relying upon the observation made by Hon'ble Apex court, I am of the opinion that, in pursuance of the statement given by the accused, the material objects / Machete which are used in the commission of the offence are discovered and both seizure mahazar witnesses have given supportive evidence. Therefore, these materials are sufficient enough to hold that, accused has committed the said offence. Place of incident, seizure of bloodstained clothes of accused and the deceased are proved since all the relevant mahazar witnesses have given supportive evidence. This indicate that almost all the material witnesses have supported the case of prosecution. Though a small lacuna is made out in the evidence of Investigating Officer, it does not go to the very root of prosecution case in order to extend the benefit of doubt to the accused. As per the prosecution case, accused has stabbed Gangadhar @ Dasa around 10.00 to 10.15 p.m. with machete and thrown chilly powder at him and caused him grievous injuries. CW-1 took Gangadhar @ Dasa and CW-2 to the hospital where Gangadhar @ Dasa died around 11.15 p.m. It is not the case of prosecution that Gangadhar was taking treatment as inpatient for some days and later on died. But, he died on the same day within the gap of one

hour, which indicate that accused with an intention to kill deceased knowing fully well that his act of stabbing would cause the death of deceased, he had inflicted injuries. Since the injuries has culminated into the death of deceased convicting accused for Section 307 of I.P.C. does not arise at all. However, with regard to causing injuries to CW-2 is concerned, no where the injured witness state that accused had an intention to kill him. There is possibility that in the sudden fight CW-2 came in middle and as a result of which, he had sustained injuries. So, there was no intention for the accused to kill CW-2. Just because would certificate reveals grievous injury, only on this basis, accused cannot be convicted for offence punishable under section 307 of I.P.C. in the absence of any mensrea. Therefore, ingredients of Section 307 are not attracted in the instant case and accused is liable to acquit for the above said offence.

35. Learned counsel for the accused relied upon the decisions reported in **1) 2016 (5) KCCR SN 195 (SC)** **2) 2016 (5) KCCR SN 166 (SC)** **3) 2017 Cr.R. 162 (Kant).** **4) 2022 (5) KCCR SN 181 (SC)** **5) 2020 (5) KCCR SN 79 (DB)** **6) 2022 (5) KCCR SN 22 SC)** **7) 2021 (1) KCCR SN 15 (DB)** **8) 2016(1) KCCR 906 (DB)**, wherein in those decisions identity of accused was not established. There was no motive for the murder. Prosecution had failed to prove the guilt of accused. But, in the instant case, the facts which were involved in the referred cases is totally absent. Hence, the

facts and circumstances of those cases is completely different to the present case and hence, it does not come to the aid of accused.

36. It is noticed that deceased had taken money from accused again when deceased kept on asking money, accused has refused. Therefore, there was quarrel between both of them which shows that there was sufficient motive for accused to kill deceased. Therefore, the submission of learned counsel for accused that there is no motive for the offence cannot be accepted. 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.

37. Therefore, from the materials available on record, I am of the clear opinion that prosecution has proved beyond all reasonable doubt that accused has committed the murder of deceased Gangadhar @ Dasa. **Accordingly, answered Point no.1 in the 'Negative' and Point no.2 in the 'Affirmative'.**

38. Point No.3 :- In view of my finding recorded on point No.1 and 2, I proceed to pass the following;

ORDER

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

(Dictated to the Stenographer, transcribed and computerized by her, corrected and then pronounced by me in open Court on this the **02nd Day of July 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. Dist. & Sessions Judge,
Doddaballapura

: A N N E X U R E :

LIST OF WITNESSES EXAMINED BY PROSECUTION:

PW-1	:	Manjunatha
PW-2	:	Balakrishna
PW-3	:	Manjunath K.P.
PW-4	:	M. Mahesh
PW-5	:	Manjunatha
PW-6	:	Venkatesh Babu
PW-7	:	Ananda D.R.
PW-8	:	Pavan Kumar
PW-9	:	Dr. V. Abdul Rahaman Shareef
PW-10	:	Pavan Kumar
PW-11	:	K. Venkatesh
PW-12	:	Dr. S.R. Chowdaiah
PW-13	:	Dr. Radha .S.
PW-14	:	Basavana Gowda Kallegowda Patil
PW-15	:	G. Siddaraju

LIST OF WITNESSES EXAMINED FOR DEFENCE:

- Nil -

LIST OF DOCUMENTS EXHIBITED FOR PROSECUTION:

Ex.P-1	:	Complaint
Ex.P-1-a	:	Signature of PW-1
Ex.P-1-b	:	Signature of PW-14
Ex.P-2	:	Spot mahazar
Ex.P-2-a	:	Signature of PW-1
Ex.P-2-b	:	Signature of PW-2
Ex.P-2-c	:	Signature of PW-15
Ex.P-3-18	:	Photographs of deceased
Ex.P-19	:	Mahazar
Ex.P-19-a	:	Signature of P.W-3
Ex.P-19-b	:	Signature of P.W-15
Ex.P-20	:	Seizure Mahazar
Ex.P-20-a	:	Signature of P.W-4
Ex.P-20-b	:	Signature of P.W-15
Ex.P-21-22	:	Photographs
Ex.P-23	:	Seizure Mahazar
Ex.P-23-a	:	Signature of P.W-5
Ex.P-23-b	:	Signature of P.W-10
Ex.P-23-c	:	Signature of P.W-15
Ex.P-24	:	Statement of P.W-7
Ex.P-25	:	Statement of P.W-8
Ex.P-26	:	Inquest Report
Ex.P-26-a	:	Signature of P.W-15
Ex.P-27	:	Post Mortem report
Ex.P-27-a	:	Signature of P.W-9
Ex.P-27-b	:	Signature of P.W-15
Ex.P-28	:	Requisition letter to Doctor
Ex.P-28-a	:	Signature of P.W-9
Ex.P-28-b	:	Signature of P.W-15
Ex.P-29	:	Doctor opinion
Ex.P-29-a	:	Signature of P.W-9
Ex.P-29-b	:	Signature of P.W-15
Ex.P-30	:	Section 164 Cr.P.C. Statement
Ex.P-30-a	:	Signature of CW-2
Ex.P-31	:	Extract of Rowdy Sheeter register
Ex.P-32	:	F.I.R.
Ex.P-33	:	Police intimation
Ex.P-33-a	:	Signature of P.W-12
Ex.P-34	:	Wound certificate

Ex.P-34-a	:	Signature of P.W-12
Ex.P-34-b	:	Signature of P.W-15
Ex.P-35	:	F.S.L. Report
Ex.P-35-a	:	Signature of P.W-13
Ex.P-35-b	:	Signature of Asst. Director of FSL
Ex.P-35-c	:	Signature of Deputy Director of FSL
Ex.P-36	:	FSL Sample seal
Ex.P-37	:	F.I.R.
Ex.P-37-a	:	Signature of P.W-14
Ex.P-38	:	Report
Ex.P-39	:	Extract of accused voluntary statement
Ex.P-40	:	BESCOM Letter
Ex.P-40-a	:	Signature of P.W-15
Ex.P-41	:	FSL Acknowledgment
Ex.P-41-a	:	Signature of P.W-15
Ex.P-42	:	Letter of Nagarasabe, Doddaballapura
Ex.P-42-a	:	Signature of P.W-15
Ex.P-43	:	Form No.III – E-Khatha
Ex.P-44	:	P.W.D. Letter
Ex.P-44-a	:	Signature of P.W-15
Ex.P-45	:	Sketch

LIST OF DOCUMENTS EXHIBITED FOR DEFENCE:

- Nil -

LIST OF MATERIAL OBJECTS MARKED FOR PROSECUTION:

M.O-1	:	Blood stained soil crush stones
M.O-2	:	Sample soil
M.O-3	:	Blood stained jerkin
M.O-4	:	Blood stained half sleeve T-Shirt
M.O-5	:	One under wear
M.O-6	:	Blood stained night pant
M.O-7	:	Chilli powder
M.O-8	:	Sweater

M.O-9 : Pant
M.O-10 : Machete
M.O-11 : Blue colour pant
M.O-12 : Shirt

(NIRMALA.K.)

IV Addl. Dist. & Sessions Judge,
Doddaballapura