

IN THE COURT OF II ADDL. DISTRICT AND SESSIONS
(SPECIAL) JUDGE MANGALURU, D.K.

Sessions Case: 88/2021

PW: 32 (CW: 39)

Witness present and Duly Sworn on: 04.05.2026

Deposition of	:	T.D. Nagaraj
Father/Husband Name	:	T.C. Dharmappa
Age	:	46 years
Occupation	:	PI, Kankanady Town P.S.
Resident Of	:	Mangaluru.

Examination in Chief by Public Prosecutor :-

1. From June 2018 to September 2021, I had worked as CPI, Bantwala Rural Circle.

2. On 02.02.2021, I received further investigation from PW.30. I verified investigation done upto date. On the same day, PW.30 apprehended Accused No.1-Elma Bareto at Area of Amtody village and produced before me at 5.00 p.m. along with report. I now see Report Ex.P54, it bears my signature. Signature of witness is marked as Ex.P54(b). I interrogated Accused No.1, she admitted commission of offence. I arrested her after following formalities of arrest and recorded her voluntary statement. In the voluntary statement, she revealed

she would show the place of committing murder of Benedict Carlo, a pillow which was used for committing murder, gold articles which were robbed and the place where she threw remained poison substance which was given by Sathish another accused if she was taken to. I secured PW.10 and CW.9 as panchaas by issuing notices. I explained case details to PW.10 and CW.9 and enquired accused no.1 in their presence. The Accused No.1 produced her Samsung mobile with SIM card number 8762118325. I prepared mahazar between 5.40 and 5.55 p.m. and seized mobile with SIM card. I now see Mahazar Ex.P20, it bears my signature. Signature of witness is marked as Ex.P20(c). I included mobile with SIM card into PF.No.3/2021. I can identify mobile with SIM card. Witness identifies Mobile, SIM card and SD card MO.1 to 3. The accused No.1 told she would take her to the spot. Accordingly, I, Panchaas, Accused No.1 and my staff left the police station in Government vehicle at 6.00 p.m. The accused No.1 took us via B.C. Road and Polali to Madukodi road and asked us to stop jeep by the side of road. She alighted from the vehicle and took us by walk around 800-900mtrs in a downwards slope to a house and told the said house belongs to Benedict Carlo deceased. She took us inside house to a bed room wherein Benedict Carlo used to sleep and showed cot and told she and Accused No.2 committed murder of Benedict Carlo by suffocation by using pillow and Bairas, further she took us another room and showed pillow and Bairas. I

prepared detail mahazar between 6.45 and 7.45 and seized pillow and Bairas, read over contents of mahazar to panchaas and took their signatures. I now see Mahazar Ex.P15, it bears my signature. Signature of witness is marked as Ex.P15(c). I can identify Pillow and Bairas. Witness identifies pillow and Bairas MO.16 and 17. While conducting mahazar photographs Ex.P18 were taken.

3. Further she told she would produce gold articles which were robbed from the house of deceased. I secured PW.8 and CW.17 as panchaas by issuing notice to them. She took us to Area, Amtody Village which is in a distance of 3-4kms from the house of deceased. She asked us to stop the vehicle, we all alighted, she took us around 500mtrs by walk and showed her house. She further took inside her house, then to a bed room and took out a plastic bag, from plastic bag she took out plastic box and showed a pair of hand bangle, gold chain, gold Yesu pendant, 7 gold rings, a paid of ear bangle (in all weighing approximately 61.070gms) and told the said gold articles were robbed from the house of deceased. The brother of Accused No.1 was also present in the house. I prepared mahazar between 8.20 and 9.00 p.m, packed and closed in transparent covers separately, read over contents of mahazar to panchaas, brother of Accused No.1 and Accused No.1 and took their signatures on the mahazar. I now see Mahazar Ex.P17, it bears my signature. Signature of witness is marked

as Ex.P17(d). While taking mahazar photographs Ex.P16 were taken. We returned to police station. I included seized articles into PF.No.4 and 5/2021. I can identify gold articles. Witness identifies gold articles in Ex.P9-Photographs (Gold articles have been released to PW.3 as could be seen from the order sheet). I recorded statements of CW.3, PW.5 and PW.6. I kept accused No.1 in police station with proper care.

4. On 03.02.2021, PW.30 produced accused Nos.2 and 3 along with motorcycle bearing Reg.No.KA-19-HF-0096 along with report of PW.30. I interrogated accused Nos.2 and 3, they admitted commission of offence, followed formalities of arrest and recorded their voluntary statement. In the voluntary statement, the Accused No.2-Charan revealed he would show and produce Karimani chain which was robbed from the house of deceased if he was taken to. The accused No.3-Sathish revealed he would produce remaining poison substance after giving major poison substance to Accused No.1 if he was taken to. The accused Nos.2 and 3 produced their mobile with SIM cards and motorcycles. I secured PW.10 and CW.11 as panchaas by issuing notices. I explained them case details and enquired the accused Nos.2 and 3 in their presence. The accused No.2 Charn produced motorcycle bearing Reg.No.KA-19-HF-0096 and Redmi Mobile with SIM card number 9591796055 and the accused No.3 produced Redmi mobile with two SIM card numbers 7026226367 and

7676066372. I prepared mahazar between 8.15 and 9.15 a.m, and seized motorcycle, mobile phones with SIM cards. I now see Mahazar Ex.P21, it bears my signature. Signature of witness is marked as Ex.P21(c). I included them into PF.No.6/2021. I can identify motorcycle, mobile and SIM cards. Witness identifies motorcycle in Ex.P14 photograph. Witness identifies Redmi mobile with SIM card MO.13. Witness identifies Redmi mobile with 2 SIM cards MO.4 to 6.

5. The accused No.3 took us to Anthara, Neharu Nagar. After alighting jeep, he took us around 300mtrs by walk and showed his house. By the side of house in a distance of 25feet adjacent to house took out a plastic cover in which another plastic cover containing remained poison substance (Deccan Agro Chemicals, Tumkur) and produced the same. On the cover it was mentioned Termiphos 10g Chlordyridhos insecticide. He also produced 1ltr., Bislery bottle containing poison substance. I prepared mahazar between 10.00 a.m and 11.00 a.m. and seized both articles in separate packets and read over contents of mahazar and took signature. I now see Mahazar Ex.P22, it bears my signature. Signature of witness is marked as Ex.P22(c). While conducting mahazar I took photographs Ex.P48. I can identify seized articles. Witness identifies MO.18. We returned to police station and I included seized articles into PF.No.7/2021.

6. The accused No.1 told she would show the place wherein she threw remaining poison substance remained after inflicting the deceased if she was taken to. I, panchaas, the accused No.1 and my staff left in vehicle. She took us on B.C. Road-Polali arch road to Nalkemaru and asked us to stop the vehicle by the side of road. We all alighted from the vehicle. She took by the side of road and showed one bottle in rain water drain by the side of road. She took the said bottle and produced before me. I prepared mahazar between 11.45 and 12.45 noon and seized said bottle, read over contents of mahazar and took signatures. I now see Mahazar Ex.P23, it bears my signature. Signature of witness is marked as Ex.P23(c). While conducting mahazar Ex.P50 photographs were taken. I can identify bottle. Witness identifies bottle MO.15. We returned to police station. I included seized articles into PF.No.8/2021.

7. The accused No.2 told he would show the Karimani chain if he was taken to. I, panchaas, accused No.2 and my staff left in the vehicle. He took us to Kedige, via Arbettu route, from there he took us further 2kms and asked us to stop vehicle nearby Mangaluru tile house and told the said house belongs to his wife. He took us inside the house, brought Karimani with gold chain with Yesu pendant (weighing approximately 37gms). I prepared mahazar between 2.30 and 3.30 p.m, and seized Karimani chain, read over contents of

mahazar and took signatures. I now see Mahazar Ex.P24, it bears my signature. Signature of witness is marked as Ex.P24(c). While conducting mahazar Ex.P49-Photographs were taken.

8. We returned to police station. I included seized chain into PF.No.9/2021. I can identify Karimani Gold chain. Witness identifies chain in Ex.P25-Photographs. I now see portion of voluntary statement of Accused No.1, it bears my signature and signature of Accused No.1. The same are marked as Ex.P56, 56(a) and (b). I now see portion of voluntary statement of Accused No.2, it bears my signature and signature of Accused No.2. The same are marked as Ex.P57, 57(a) and (b). I now see portion of voluntary statement of Accused No.3, it bears my signature and signature of Accused No.3. The same are marked as Ex.P58, 58(a) and (b).

9. I sent Accused Nos.1 to 3 for medical examination, after medical examination, I sent them to Jurisdictional Court along with remand application. I recorded further statement of PW.3, PW.4, CW.3, PW.5, CW.13, CW.14 and CW.15. I recorded statements of PW.7, PW.20 and PW.21.

10. On 13.02.2021, PW.30 produced PME report and viscera samples which were collected from medical Officer along with report. I included them into PF.No.11/2021.

11. On 17.02.2021, after taking permission from Higher Officers, I sent seized articles to RFSL, Mangaluru for examination through PW.22.

12. On 25.02.2021, I released motorcycle bearing Reg.No.KA-19-HF-0096 to PW.11 on the strength of Court order by preparing mahazar Ex.P26 and obtained receipt from PW.11. I now see Mahazar Ex.P26, it bears my signature. Signature of witness is marked as Ex.P26(b). While conducting mahazar Ex.P14 photographs were taken. I recorded statement of PW.11.

13. On 03.03.2021, I made a request to SP, D.K., to depute for extraction of mobile data of Accused Nos.1 to 3 from CEN lab.

14. On 04.03.2021, I, PW.12, PW.4 and my staff went to CEN lab, Mangaluru along with three mobiles of Accused Nos.1 to 3. I produced three mobiles before PW.16 for Data extraction. In our presence PW.16 extracted data from mobiles, transferred extracted data to pendrive and handed over pendrive to me. In the said data, there was a voice conversation between Accused Nos.1 and 3. The said procedure was done from 9.30 a.m, to 10.00 p.m. I prepared mahazar and seized pendrive. Pendrive was packed and sealed in cloth cover. I now see Mahazar Ex.P13, it bears my

signature. Signature of witness is marked as Ex.P13(c). I recorded statement of PW.16. I returned to police station and included pendrive into PF.No.13/2021. I can identify pendrive. Witness identifies pendrive Ex.P6.

15. On 14.03.2021, I recorded statements of CW.26 and PW.17.

16. On 22.03.2021, I made a request to Jurisdictional Court to take the voice sample of Accused Nos.1 and 3.

17. On 01.04.2021, the Jurisdictional Court accorded permission to take the voice sample of Accused Nos.1 and 3.

18. On 08.04.2021, I deputed PW.30 and staff to record the voice sample of Accused Nos.1 and 3 in Mangaluru Jail. PW.30 visited Mangaluru Jail, collected voice sample of Accused Nos.1 and 3 in SD card and produced SD card with mahazar. I included them into case file in PF.No.20/2021. I now see Mahazar Ex.P28, it bears my signature. Signature of witness is marked as Ex.P28(d). I now see SD card Ex.P7.

19. On 12.04.2021, I made a request to PDO concerned gram panchayath to furnish house details of deceased.

20. On 13.04.2021, PW.12 came to office and produced

photographs with CD which indicates the deceased during her lifetime used to wear Karimani gold chain with Yesu pendant. I prepared mahazar in the presence of CW.20 and CW.16 and seized photographs. I now see Mahazar Ex.P29, it bears my signature. Signature of witness is marked as Ex.P29(c). I now see photograph and CD Ex.P31 and 32. On the same day I recorded statement of PW.9.

21. On 14.04.2021, I sent three mobiles of Accused Nos.1 to 3, pendrive containing data and SD card containing voice sample of Accused Nos.1 and 3 to FSL, Bangalore for voice analysis through PW.18.

22. On 15.04.2021, I received house extract from PW.14.

23. On 18.04.2021, I received acknowledgment from PW.18 for having submitted articles to the FSL. On the same day, I received 65B certificate from PW.28 who took photographs at the respective mahazars. On the same day I also received 65B certificate from PW.12 for having produced photograph and CD.

24. Since investigation was completed excepting receiving reports from FSL and RFSL, CDR and CAF and 65B certificate from service providers and sufficient materials were available against Accused Nos.1 to 3, I submitted charge sheet

on 20.04.2021.

25. I can identify accused Nos.1 to 3. Witness identifies Accused Nos.1 to 3.

26. On 27.04.2021, I made a request to S.P. DK to obtain and furnish CAF and CDR of mobile number of Accused Nos.1 to 3.

27. On 28.04.2021, I made a request to TEM to furnish Original UDR file, on the same day I received original UDR file and included to file.

28. In view of my transfer in September 2021, I handed over further investigation to SHO.

Cross-examination by Sri. VRA Advocate for Accused Nos.1 and 2:-

29. As per Ex.P39-PME report the death was 2-8 hours before the body was kept in cold chamber. As per PME report body was kept in cold chamber at 9.00 p.m on 26.01.2021. As per UDR complaint the auto-rickshaw driver Jeevan Carlo had seen deceased Benedict Carlo at 9.00 a.m, in front of her house. It is false to suggest that though we came to know the death was after 9.00 a.m, on 26.01.2021, to hide the said fact we created statements of witnesses. In UDR complaint and

statements recorded during UDR, it is not forthcoming any suspicion over Accused No.1-Elma Baretto. While giving statement by PW.5 during Inquest she has not stated that she had seen Accused No.1 in the house of deceased on 24 and 25.01.2021 and she went in auto-rickshaw of her brother-in-law on 26.01.2021 in the morning.

30. PW.6 did not give statement while conducting Inquest. I recorded his statement on 02.02.2021. I do not know if PW.6 was present when Inquest was conducted. Witness further volunteers since PW.30 was IO at that time, I cannot say whether PW.6 was present when Inquest was conducted. Before me PW.6 did not state he was present when the Inquest was conducted. PW.6 did not state before me when at the last he saw deceased. If necessary we see previous investigation papers. It is false to suggest that though I saw in the Inquest mahazar and UDR complaint the presence of PW.6, I deliberately left out the same in his statement recorded on 02.02.2021.

31. It is false to suggest that CW.3 and PW.5 did not give statements before me. It is false to suggest that I have created statements of CW.3 and PW.5.

32. While recording statements while conducting Inquest, it was found missing of gold articles in the house of

deceased. In that regard PW.30 was investigating the case, by that time he received complaint from PW.3. PW.3 in complaint has stated when he made call to Accused No.1, she did not pickup the call. It is false to suggest that we secured accused No.1 to the police station and not through PW.30. It is false to suggest that Accused No.1 herself came to police station when we made call to her. It is false to suggest that Accused No.1 did not give voluntary statement.

33. Both panch witnesses are in a distance of 15-16kms from our office. On curiosity and to know the status of the case, the villagers of deceased came to police station and I took them as panchaas. I had not seen the house of deceased till the accused No.1 took us to the house. I had not taken the help of police who had already visited house of deceased. The place wherein bottle which was shown by the Accused No.1 is first place on the way to house of deceased from police station. It is false to suggest that the accused No.1 did not take us to house of deceased, did not show and produce pillow and bairas. It is false to suggest that the accused No.1 did not take us to her house and did not produce gold articles. It is false to suggest that the gold articles were with us before the accused No.1 took us to the house of deceased. It is false to suggest that PW.4 saw gold articles in the police station before the accused No.1 was taken to house of deceased. It is false to suggest that accused No.1 did not show bottle by the side of

road. It is false to suggest that accused No.1 did not produce her mobile with SIM card. It is false to suggest that by misusing the custody, different mahazars were created in the police station. It is false to suggest that by misusing her custody, photographs were also created.

34. It is false to suggest that motorcycle was brought from the house of PW.11 by PW.30 and our staff. It is false to suggest that Accused No.2 Charan did not produce mobile. It is false to suggest that accused No.2 did not give voluntary statement before me. It is false to suggest that Accused No.2 did not take us to his wife's house and did not produce Karimani Gold chain with Yesu pendant. It is false to suggest that by misusing his custody, photographs of Accused No.2 were created.

35. In the mobile of Accused Nos.1 and 3 there were Four conversations. Four conversations recorded between Accused Nos.1 to 3 have been explained in the mahazar by me. I have not mentioned among 11 transcripts were from which Four conversations, but, I have taken 11 transcripts from Four conversations. Since PW.12 and 4 know language as appeared in the conversations, I have not translated the said conversations from the original language to Kannada language. I have not mentioned the conversations of the language. I came to know the said conversations are in

Konkani language. It is false to suggest that the alleged conversations held between Accused Nos.1 and 3 have no way concerned to the present case. It is false to suggest that the voices appeared in the conversations are not belonged to Accused Nos.1 and 3.

36. I do not remember about conducting TIP of Accused No.2. Intimation sent by Jurisdictional Magistrate according permission to conduct TIP, TIP conducted by TEM in respect of Accused No.2 are shown to witness. After going through the above witness states he does not remember about conducting TIP in respect of Accused No.2. A perusal of head of charge sheet, TEM who conducted TIP of Accused No.2 is also not cited as witness. The report of TEM conducting TIP of Accused No.2 is available in charge sheet. TIP report is marked as Ex.D2.

37. It is false to suggest that PW.30 did not collect voice sample of accused Nos.1 and 3 in Jail and did not produce SD card containing voice sample of Accused Nos.1 and 3.

38. I have not collected medical records of deceased to show if deceased was under medication for old age ailments. It is false to suggest that though no materials were available against Accused Nos.1 and 2, I have submitted false charge sheet against them.

Cross-examination by Smt. AN Advocate for Accused No.3:-

39. It is true poison, pesticide and insecticide are different potency or varied in degrees to human life. Poison contain dangerous substance. Pesticides contain less substance. Insecticides contain more less substance. I have recorded statement of vendor from whom pesticide was purchased. I have not taken receipt for purchase of pesticide.

40. It is false to suggest that Accused No.3 did not take us to his house and did not show and produce MO.18. It is false to suggest that accused No.3 did not give voluntary statement. It is false to suggest that by misusing custody of Accused No.3, photographs were created. It is false to suggest that accused No.3 has no nexus with the MOs and the case. It is false to suggest that no such conversations were in the mobile of accused No.3. It is false to suggest that such conversations were created.

Re-examination: Nil.

(Computerized to my dictation in the open court)

ROI & AC

II Addl District and Sessions Judge,
Mangaluru, D.K.