

KAVP010032072022



Presented on : 19-04-2022
Registered on : 19-04-2022
Decided on : 18-06-2026
Duration : 04 Years 01 Month 29 Days

**IN THE COURT OF THE II ADDL. DISTRICT AND SESSIONS
& SPL. JUDGE, VIJAYAPURA.**

PRESENT: SRI ABDUL-RAHIMAN. A. NANDGADI,
B.Com.,LL.B.,(Spl.),
II Addl. District And Sessions & Spl.
Judge, Vijayapura.

DATED THIS 18th Day of JUNE, 2026.

SESSIONS CASE No.54/2022

Complainant: The State,
represented by the P.I.,
APMC Police Station.
(By Learned Public Prosecutor)

V/s

Accused Persons: 1. Veeresh S/o. Sukhadev Hanjagi, Age:
20 Years, Occ: Pan Shop Business,
R/o: In front of Gol-Gumbaz,
Vijayapura.

(By Sri. S.D.P.,-Advocate)

1. Date of Offence : 20.12.2020
2. Date of report of Offence : 20.12.2020

3. Date of arrest of Accused : 21.12.2020

4. Date of release of Accused on bail : 25.05.2021

5. Period of undergone in Custody :

	<u>Y</u>	<u>M</u>	<u>D</u>
Accused :	00	05	04

6. Name of the Complainant : **Saddamhusen
Davalasab Narasanagi**

7. Commencement of trial : **04.10.2023**

8. Closing of trial : **27.10.2025**

9. Offences complained of : **U/Sec. 341, 302 R/W Sec.
34 of I.P.C.**

10. Opinion of the Judge : **Accused found Not
Guilty. Hence he is
Acquitted.**

**(ABDUL-RAHIMAN. A. NANDGADI),
II ADDL. DISTRICT AND SESSIONS &
SPL. JUDGE, VIJAYAPURA.**

JUDGMENT

CW31/PW15-C.P.I., Golgumbaz Police Station, has submitted the Chargesheet against the Accused alleging that he has committed the offences punishable U/Secs 341, 302 R/w Sec.34 of I.P.C.

2. *Brief facts of the Prosecution case are as under:*

C.W.1/P.W.3/Saddamhusen D Narasanagi has lodged a Complaint before APMC Yard Police Station i.e., before CW30/PW16 on 20.12.2020, contending that, he is residing in the address mentioned in the Complaint alongwith his family members. His parents are having 4 sons and 4 daughters, daughters are residing in their respective matrimonial houses. His brother Nabirasul was doing centering work, residing separately alongwith his wife and 3 children. He was going to his work at about 9 am and returning in the evening at 6 pm. His brother Nabirasul use to go to the Pan Shop of the Accused, situate infront of Golgumbaz. There was a quarrel inbetween his brother and the Accused inrespect of payment of Rs.2,000/- as his brother had incurred the said debts with the Accused for Gutaka. His brother had informed the same before him and his wife. On 19.12.2020 inbetween 6.00 pm., to 8.00 pm., Accused had assaulted his brother with rod, his brother had

informed the same to him. On 20.12.2020 at about 10.00 am., to 11 am., when he was proceeding in his Tum Tum vehicle, he saw that his brother was standing in front of the Pan Shop of the Accused. At about 4 pm., when he was near Hakeem Chowk, he received the information that his brother was murdered at Station Back Road. Accordingly he and his family members went to the spot and saw the dead body of his brother Nabirasul lying, wherein blood was oozing from his nose, ear and mouth; he had sustained injuries on his back, leg and forehead, four stones were also lying there, which were stained with blood. Later Police shifted the deadbody to the Government Hospital. So, he has lodged a Complaint to take necessary action against the Accused.

3. *On 20.12.2020 CW30/PW16, being the S.H.O. of Golgumbaz Police Station, has registered the said Complaint/Ex.P.15 at Golgumbaz P.S. Crime No.112/2020 for the offence punishable U/Sec. 302 R/w Sec. 34 of I.P.C. and sent the Original Complaint*

and F.I.R. to the Jurisdictional Magistrate through CW25.

Initially CW30/PW16 has investigated the matter, thereafter CW31/PW15 has investigated the matter; and after completing the investigation, on finding sufficient materials against the Accused and Children in Conflict with law, he has filed the Chargesheet against the Accused, for the offences punishable U/Sec. 341, 302 R/w Sec. 34 of IPC.

4. *On complying Section 207 of Cr.P.C., the Learned I Addl. Senior Civil Judge and C.J.M., Vijayapura, has committed the case to this Court, U/Sec 209 of Cr.P.C., as the offences alleged against the Accused are punishable U/Secs. 341, 302 R/w Sec. 34 of IPC., which are exclusively triable by the Court of Sessions, by its Order dated 19.03.2022.*

On committal, the same has been registered as S.C. No.54/2022. Accused was secured, as he was on bail.

The learned P.P. has opened the case of Prosecution by describing the Charge, brought against the Accused, as required U/Sec 226 of Cr.P.C.

5. Since there were sufficient grounds put-forth by the Prosecution against the Accused to proceed against him, so the Accused was not discharged, as required U/Sec 227 of Cr.P.C.; and this Court has framed the Charge against the Accused, for the offences punishable U/Secs. 341, 302 R/w Sec. 34 of IPC, as required U/Sec 228 of Cr.P.C., on 13.06.2023, which read as under:

“That, That you Accused No.1 along with Juvenile in conflict with law No.2 to 4 on 20.12.2020 at about 11 A.M., at Station Back road, near Excise Office of Vijayapura City, wrongfully restrained the deceased Nabirasul S/o Davalsab Narasanagi, Age: 30 years, R/o Vijayapura and thereby committed an offence punishable under section 341 of I.P.C and within my cognizance.

Secondly, on the same date, same place, same time you Accused No.1 along with Juveniles in conflict with law No.2 to 4 committed murder intentionally

causing the death of deceased Nabirasul S/o Davalsab Narasanagi, Age: 30 years, R/o Vijayapura and there by committed an offence punishable U/Sec.302 of IPC and within my cognizance.

Lastly, on the same date, same place, same time, you Accused along with Juvenile in conflict with law No.2 to 4 in furtherance of your common intention committed the murder of Nabirasul S/o Davalsab Narasanagi and thereby committed an offence punishable under Section 34 of IPC and within my cognizance.

6. The Accused did not plead guilty and he claims to be tried, so he was not Convicted for the said offences, as required U/Sec 229 of Cr.P.C.

7. Date for Prosecution evidence was fixed. Though the Prosecution has cited 31 witnesses, but it has examined 17 witnesses as P.W.1 to P.W.17; got marked 40 documents as Ex.P.1 to Ex.P.40; and got marked 15 Material Objects as M.O.1 to M.O.15.

Learned Counsel for the Accused has cross-examined all the witnesses of the Prosecution, except

the Witnesses, who have been termed as Hostile Witnesses, to the case of the Prosecution.

8. The Statement of Accused was recorded on 16.12.2025, as provided U/Sec 313 of Cr.P.C. The Accused has denied the incriminating substance appearing against him in the Evidence, in his Statement, recorded U/Sec 313 of Cr.P.C.

9. Due to availability of evidence, the Accused was not Acquitted, as required U/Sec 232 of Cr.P.C.

Matter was posted for Arguments.

Heard the Arguments of Learned P.P. for the State; and the Learned Counsel for the Accused.

10. Following Points arise for my consideration:

1. Whether the Prosecution proves beyond all reasonable doubts that, deceased NabiRasool was indebted to the Accused for Rs 2,000/-, due to which there was a quarrel inbetween them on 19.12.2020, wherein Accused had assaulted NabiRasool with Iron Bar on his person; and on 20.12.2020 inbetween 11:00 am to 4:45 pm.,

Accused with the aid of three other persons (Children in conflict with law) has caused assault upon NabiRasool, with the Stones/MO2 to MO6 near the Fort Wall, near Excise Office, on the Station Back Road, in the shrubs and bushes and caused him to death; thereby the Accused has committed the offence punishable U/Secs 341, 302 of IPC?

2. What Order?

11. *I have carefully gone through the Prosecution papers placed in the form of Charge-sheet/Challan; the ocular and documentary evidence led by the Prosecution; the Arguments advanced on behalf of the Complainant/State and the Accused, respectively.*

12. *Answers to the above points are-*

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

Point No.2: As per final order, for the following:

REASONS

13. Point No.1:-

It is the case of the Prosecution that:

a) Accused and Nabirasool were friends; due to their friendship, Nabirasool had incurred debts of Rs.2000/- with regard to consumption of Gutka owing to Accused; and whenever Accused demanded repayment of the said amount, Nabirasool used to postpone the repayment of the said amount, on one or the other pretext. This aspect is shown to be the motive behind the incident of the assault by the Prosecution.

b) On 19.12.2020, when the Accused demanded repayment of Rs.2000/- from Nabirasool, since Nabirasool denied the repayment of the said amount, the Accused assaulted Nabirasool in front of his panshop, situate in front of Golgumbaz, Vijayapura with Iron Rod, which was witnessed by Mehaboob Bepari/CW.18/PW.8, Haji-Malang/CW.19/PW.9 and Tippu-Sultan Khatik/CW.20/PW.10; the said witnesses have pacified the quarrel and had rescued Nabirasool from the hands of the Accused.

c) On 20.12.2020 when Nabirasool had been to the Panshop of the Accused, wherein upon demand by

the Accused to repay of Rs.2000/-; again Nabirasool denied to repay the said amount and Nabirasool extended life threat to the Accused contending that he will go and bring his friends and take away his life; and went towards fort wall, on the Station Back Road; for which the Accused went towards the said fort wall alongwith three other persons (Children in conflict with law), raised quarrel with Nabirasool contending that instead of he taking away his life, the Accused abused Nabirasool to take away his life, he/Accused will take his/Nabirasool's life and caused assault upon Nabirasool with Stones/MO.2 to MO.6 on his forehead, face, head, back and limbs causing bleeding injuries to him; thereby caused the death of Nabirasool, at Station Back Road, near fort-wall situated near the Excise office, Vijayapura.

d) the Complainant/CW1, Mehaboob Bepari/CW18, Haji Malang/CW19 and Tipu Sulthan/CW20 had seen Nabirasool near the Pan shop

of the Accused in the morning on 20.12.2020, forming last seen theory.

e) When the Complainant/CW.1/PW.3 was near Hakeem Chowk, on 20.12.2020 at about 4 pm, he received information that the dead body of his brother Nabirasool was lying near fort-wall, near Excise office on the Station Back Road, in the shrubs and bushes. Accordingly, he took his brothers namely Mehboobsab/CW.10/PW.5, his wife Kashimbi/CW.15/PW.13 and another brother Maktumsab/CW.11 and the wife of deceased Nabirasool i.e., Jainabi/CW.16/PW.14 to the spot.

f) The Accused met Khajamoinuddin/CW.17/PW.17 on 20.12.2020 at 1-30 pm and intimated him that he has assaulted Nabirasool with the stones and caused him to death.

g) Upon arrest of the Accused; and when the Accused was in APMC Yard Police Station, Complainant/CW.1/PW.3, his brother Mehboobsab/CW.10/PW.5 were secured to the said Police Station,

wherein the Accused informed them that, he has caused assault upon their brother/Nabirasool alongwith three other persons and taken away his life, forming Extra Judicial Confession.

13.01. *So as per the case of the Prosecution, Mehaboob Bepari/CW.18/PW.8, Hajimalang/CW.19/PW.9 and Tippusultan Khatik/CW.20/PW.10 are shown to be eye witnesses to the incident of assault caused by the Accused upon Nabirasool on 19.12.2020; and they are shown as the Last Seen Theory witnesses, who are shown to have seen Nabirasool in the company of the Accused near his Pan shop on 20.12.2020.*

The Complainant/Saddamhusen/CW.1/PW.3 and Mehboobsab/CW.10/PW.5 who are the brothers of Nabirasool are shown to be the subsequent conduct witnesses; and Last Seen Theory witnesses, who are shown to have seen Nabirasool in the company of the Accused near his Pan shop on 20.12.2020; as well as

the witnesses leading to suggest Extra Judicial confession by the Accused.

Khajamoinuddin/CW.17/ PW.17 is shown to be the witness before whom the Accused has confessed committing of assault upon Nabirasool and causing him to death, thereby shown him as Extra Judicial Confession witness.

Seizure of Iron Rod and Clothes of Accused at the instance of the Accused.

14. *The Prosecution has led the evidence of Mehaboob Bepari/CW.18 as PW.8; Haji-Malang/CW.19 as PW.9 and Tippu Sultan Khatik/CW.20 as PW.10. All these witnesses are shown to have possessed chicken shops in the vicinity where the Accused is running his Pan shop, situate in front of Golgumbaz, Vijayapura.*

On careful perusal of the ocular evidence of these witnesses, these witnesses specifically contended that neither they know the Accused, nor Nabirasool; and they have specifically contended that they do not know

anything about the incident, said to have taken place on 19.12.2020, wherein Accused had assaulted Nabirasool with Iron Rod. Further, these witnesses have specifically denied that they are aware about the fact that, Nabirasool was indebted to the Accused to the tune of Rs.2000/- and when Accused demanded Nabirasool to repay the said amount, Nabirasool was postponing the repayment of said amount and due to which there was a quarrel between Nabirasool and Accused on 19.12.2020, wherein the Accused had assaulted Nabirasool with the Iron Rod. And further this witnesses have denied that they had seen Nabirasool in the company of the Accused on 20.12.2020 standing in front of his Pan shop.

Infact all these 3 witnesses have not supported the case of Prosecution. They have been turned as Hostile witnesses; and their Statements have been marked as Ex.P.26, 27 and 28, respectively.

15. *The Prosecution has led the evidence of Saddamhusen/CW.1 as PW.3. On careful perusal of the ocular evidence of this witness, he contends that, the incident of assault said to have been caused by the Accused upon his brother Nabirasool on 19.12.2020 was intimated to him by his brother Nabirasool; and further contends that neither he, nor Nabirasool have lodged any complaint against the Accused for causing such assault upon Nabirasool.*

Further, this witness contends that, on 20.12.20220 when he was going on his Tum-Tum, he had seen his brother Nabirasool standing in front of the shop of the Accused, in the morning around 11am; and on the said day at about 4.00 pm., when he was near Hakeem Chowk, he received the information that the dead body of his brother was found lying near fort-wall.

15.01. *As per the ocular evidence of this witness, this witness is shown to be a hearsay witness to the alleged incident of assault said to have been*

caused upon Nabirasool by the Accused on 19.12.2020; a witness suggesting last seen theory said to have seen Nabirasool in front of the Pan shop of the Accused, but he did not contain that he had seen his brother/Nabirasool with and in the company of the Accused near the Pan shop of the Accused on 20.12.2020 at 11am; and this witness is also shown as the hearsay witness to the motive, alleged by the Prosecution.

15.02. *Coming to the ocular evidence of this witness with regard to the knowledge of this witness with regard to the motive, as alleged by the Prosecution, more specifically examination-in-chief of Saddamhusen/CW.1/PW.3, at Page No.5, Para-1, at line Nos.1 to 3 which reads as under:*

"ಅಲ್ಲದೆ ನನ್ನ ತಮ್ಮನು ಯಾವ ಕಾರಣಕ್ಕಾಗಿ ಕೊಲೆ ಮಾಡಿರುತ್ತೀರಿ ಅಂತಾ ಕೇಳಿದ್ದೆ. ಆಗ ಅವರು ಹೇಳಿದ್ದು ಈಗ ನನಗೆ ನೆನಪಿಲ್ಲ. ಆರೋಪಿತರು ನನ್ನ ತಮ್ಮನನ್ನು ಕಲ್ಲಿನಿಂದ ಮತ್ತು ಕೈಗಳಿಂದ ಹೊಡೆದು ಕೊಲೆ ಮಾಡಿರುತ್ತಾರೆ ಅಂತಾ ಗೊತ್ತಾಯಿತು."

As per this evidence, the Complainant/ Saddamhusen/CW.1/PW.3 contends that, when he

asked the Accused as to for what reason he had committed the murder of his brother, Accused intimated the reason, but while deposing, he do not remember the said reason.

So as per the ocular evidence of this witness, this witness do not speak about the motive, with regard to incurring of debts by Nabirasool, on account of consuming Ghutka with the Accused, to the tune of Rs 2,000/-.

15.03. *Coming to the ocular evidence on the point of last seen theory by the Complainant, more specifically examination-in-chief of PW.3, at Page-2, Para-3, line Nos 9 to 15, which reads as under:*

"ದಿನಾಂಕ 19.12.2020 ರಂದು ಸಂಜೆ 6 ರಿಂದ 8 ಗಂಟೆ ಅವಧಿಯಲ್ಲಿ ಆರೋಪಿ ನನ್ನ ತಮ್ಮನಿಗೆ ರಾಡನಿಂದ ಹೊಡೆಬಡಿ ಮಾಡಿದ್ದು ಆ ವಿಚಾರವನ್ನು ನನಗೆ ತೋರಿಸಿ ಹೇಳಿದ್ದು. ದಿ. 20.12.2020 ರಂದು ಮುಂಜಾನೆ 10 ರಿಂದ 11 ಗಂಟೆ ಸುಮಾರಿಗೆ ನಾನು ನನ್ನ ಟಮಟಮ ತೆಗೆದುಕೊಂಡು ಹೊರಟಿದ್ದಾಗ ನನ್ನ ತಮ್ಮ ಮೃತ ನಬಿರಸೂಲ ಈತ ಆರೋಪಿಯ ಪಾನಶಾಪ ಮುಂದುಗಡೆ ನಿಂತಿದ್ದು ನಾನು ಅವರಿಬ್ಬರೂ ಏನಾದರೂ ಮಾತನಾಡುತ್ತಿರಬಹುದು ಅಂತಾ ಹೋಗಿದ್ದೆ."

As per this evidence, the Complainant Saddamhusen/CW.1/PW.3 contends that on

19.12.2020 inbetween 6pm to 8pm in the evening, Accused had caused assault upon his brother with Iron Rod; same was intimated to him by his brother; and on 20.12.2020 inbetween 10 am to 11 am in the morning when he was going on his Tum-Tum, his brother Nabirasool was standing infront of the Pan shop of the Accused.

On careful scrutiny of this ocular evidence of this witness, wherein this witness firstly contends that Accused had caused assault upon his brother Nabirasool on 19.12.2020 with Iron Rod; and further the said witness further contends that his brother Nabirasool had gone to the shop of Accused on the next day morning. This version of the witness appears to be unrealistic.

15.04. *Further on careful perusal of the ocular evidence of this witness, this witness specifically contends that, neither he nor his brother had lodged complaint against the Accused, for the Accused having*

caused assault upon Nabirasool on 19.12.2020 with the Iron Rod.

15.05. *Further this witness has averred in the Complaint/ExP15 that, they were about to extend warning to the Accused, not to cause assault upon his brother/Nabirasool. Inotherwords this witness has contended that, yet they had not warned the Accused from he causing assault upon Nabirasool with Iron Rod on 19.012.2020.*

But coming to the ocular evidence of the wife of Nabirasool i.e. Jainabi/CW.16, who has been examined as PW.14, more specifically cross-examination of PW.14, at Page No14, Para No 4, which reads as under:

“I have not personally gone to the Accused and warned him no to raise quarrel with my husband/ Nabirasool. But, my brother-in-law Saddamhusen /PW.3, Mahiboobsab/ PW.5 had warned Accused, not to raise quarrel with my husband/ Nabirasool. Such warning was extended to the Accused, two days prior to the death of my husband/ Nabirasool.”

As per this evidence, wife of Nabirasool has contended that, she has not gone personally to the Accused and warned him for raising quarrel with her

husband, but her brothers-in-law/PW.3 and PW.5 had warned the Accused not to raise quarrel with her husband; and such warning was extended to the Accused, two days prior to the death of her husband Nabirasool.

This ocular evidence of PW.14 falsifies two facts viz.,

a) extending warning to the Accused by the Saddamhusen/CW.1/PW.3 and his brother/PW.5, which runs contrary to the averments contended by the Saddamhusen/PW.3 in the Complaint/Ex.P.15; and

b) warning was extended two days prior to the death of Nabirasool. As per the case of Prosecution death of Nabirasool was caused on 20.12.2020 and alleged incident of assault was caused by the Accused upon Nabirasool with Iron road on 19.12.2020 i.e., one day prior to the death,

thereby the ocular evidence of the wife of deceased Nabirasool leads to suggest contrary to the facts alleged about assault said to have been caused by the Accused

on 19.12.2020; and extending of warning two day prior to the death of Nabirasool.

Thus, the evidence of all these witnesses contradicts with the version of Complainant/PW.3. So the version of the Complainant cannot be believed, unless it is corroborated with the versions of the other Prosecution witnesses.

16. *The Prosecution has led the evidence of Kasimbi/CW.15 as PW.13. This witness is shown as a subsequent conduct witness. As per the oral evidence of this witness more specifically:*

a) Examination-in-chief of PW.13, at Page No 2, Para No 6, Line No 1 to 3, which reads as under:

“It is false to suggest that, I am deposing falsely that, I have identified the Iron Rod/MO.13 and slippers /MO.1 and stones/MO.2 to 6”.

As per this evidence, Kasimbi/PW.13 contends that Nabirasool was in his house, Accused came on his bike and took him on his bike.

b) *Cross-examination done by the Prosecution to PW.13, at Page No 3, Para No 1, which reads as under:*

“It is true to suggest that, on the day of death of Nabirasool, he himself had gone from the residence at about 10.30 am in the morning”.

As per this evidence, during the cross-examination of Kasimbi/PW.13 by the Prosecution, she admits the suggestion made to her on the day of death of Nabirasool, he himself had gone from the residence at about 10.30am in the morning.

c) *Examination-in-chief of PW.13, Page No 2, Para No 3, which reads as under:*

“About 4 ½ years back, when my youngest brother-in-law/ Nabirasool was in his residence, Accused came n his bike and took my youngest brother-in-law/ Nabirasool with him on his bike”.

As per this evidence, Kasimbi/PW.13 contends that Nabirasool used to go to the shop of Accused and he had incurred debts with the Accused to the tune of Rs.2000/-, there was a tussle between Nabirasool and Accused for the said debts, wherein the Accused had extended life threat to Nabirasool and said incident was

informed to her by her youngest brother-in-law Nabirasool.

d) Cross-examination of PW.13, Page No 5, at Para No 2, which reads as under:

“Saddamhusen /CW.1/PW.3 had informed me that, my youngest Brother-in-law/ Nabirasool had incurred debts of Rs.2000/- from the Accused and due to the said debt, there was a tussle between Nabirasool and Accused. The said tussle had taken place on Saturday i.e. 19th. Even Nabirasool had informed me about incurring of debts by him by the Accused and Accused raising quarrels with him. But I have not stated the said fact before APMC Police. Witness volunteers hat, her youngest brother-in-law/Nabirasool had informed the event of earlier incident on 20th itself”.

As per this evidence, Kasimbi/PW.13 contends that, PW.3 had informed that Nabirasool had incurred debts of Rs.2,000/- and due to said debt, there was a tussle inbetween Nabirasool and the Accused.

16.01. *So as per the ocular evidence of this witness, this witness in one breath contends that Nabirasool was taken by the Accused on his motorcycle on the day of alleged incident; and in another breath,*

she contends that Nabirasool, he himself had gone to the Pan shop of the Accused.

Further, this witness in one breath contends that Nabirasool had informed her about the quarrel taken place inbetween him and the Accused on 19.12.2020 and in another breath, the said event was informed by PW.3.

So under such circumstances, it will not feasible to believe the version of Kasimbi/PW.13. The version of Kasimbi/PW.13 do not get corroborated to the version of the Complainant/PW.3.

17. *The Prosecution has got examined Mehaboobsab/CW10 as PW5, contending that Accused had confessed revealed before this witness, about the assault caused by him upon Nabirasool and causing him to death.*

On careful perusal of the ocular evidence of this witness, initially in his examination in chief he did not contend about revelation of incident of causing assault

by the Accused upon his brother/Nabirasool, but when this was termed as Hostile witness by the Prosecution, while his cross examination, this witness answer in the affirmative to the suggestion posed to him on behalf of the Prosecution. This witness in the said cross examination contends that, on 21.12.2020 he was called by the Police, so he had gone to the Police Station, wherein Accused was present and he has revealed the facts of he causing assault upon his brother/Nabirasool and causing him to death.

But during the course of the cross examination of this witness on behalf of the Accused, this witness contends that there received the deadbody of his brother/Nabirasool on the next day of his death i.e., on 21.12.2020 and cremation was completed by 1:30 p.m. Further this witness contends that he do not remember the timing when he was called by the Police to the Police Station.

So such piece of evidence, creates doubt in the version of this witness.

18. *Prosecution has examined Khaja Mainoddin/ CW17 as PW17 contending that the Accused on 20.12.2020 at 1:30 had revealed before him that he has caused assault upon Nabirasool and has caused him to death.*

18.01. *Coming to the ocular evidence of this witness, morespecifically, cross examination of PW17, at Page No 2, Para Nos 3 to 6, which read as under:*

“On receiving information from the Accused that, he has committed the murder of Nabirasool, I have not informed the event of death to the Police officials.”

“On receiving the information from Accused, I have neither informed to the Police Officials of APMC Police Station or to Golgumbaz Police Station.”

“I have not appeared before any of the Police Station, while returning from my native.”

“On receiving the information from Accused, I have not passed the said information, either to my relatives or my friends or to Police Personnels of APMC Police Station”.

As per this evidence, Khaja Mainoddin/PW17 contends that, upon receipt of the information from the Accused, he has neither informed the said fact to the Police officials of APMC Police, or to Gol Gumbaz Police,

nor appeared before any Police Station, after returning from his native, nor passed the said information to his relatives or friends or Police Personnel of APMC PS.

18.02. *Generally, when a person received the information of causing of murder from the Accused, the said person, either ask the Accused person to surrender him before the Police, or the said person appears before the Police and inform the same, or transmit the said information to his relatives and friends, suggesting them to inform the same to the family members of the deceased. But no such subsequent activities of this witness is found, on receipt of the information.*

So such version of the witness tends suspicion and invites doubt in believing it.

19. *Further it is the case of the Prosecution that, the Investigating Agency has revealed, discovered certain facts from the Accused and recovered Iron Rod used for commission of crime, at the instance of the*

Accused, on the basis of his Voluntary Statement/Exp40.

Further, it is the case of the Prosecution that the Accused has given Voluntary Statement as per Exp40, on the basis of which Iron Rod/MO13 used by the Accused for commission of crime was revealed as per Seizure Mahazar/Exp11; Clothes of the Accused as per MO14 & MO15 were seized under the said Seizure Mahazar/Exp11.

19.01. *But the Accused has denied to have given any Voluntary Statement as per Exp40.*

So, it is for the Prosecution to prove the seizure of the MO13 to MO15 on the basis of Voluntary Statement of the Accused as per Exp40, as provided U/Sec 27 of Evidence Act.

19.02. *On perusal of the Seizure Mahazar/Exp11, it is seen that no any Preliminary Mahazar, or discloser Panchanama, nor any document is placed by the Prosecution to suggest that the*

Voluntary Statement was given by the Accused as per law, as required U/Sec 27 of Indian Evidence Act.

19.03. *As per the decisions,*

a) of the Hon'ble Apex Court in the case of Babu Sahebagouda Rudragoudar & Others Vs State of Karnataka, reported in 2024(3) KCCR 2957 (SC), wherein it is observed and held in Para Nos 64 to 69 are as under:

"64. Further, in the case of Subramanya v.

State of Karnataka, it was held as under: -

"82. Keeping in mind the aforesaid evidence, we proceed to consider whether the Prosecution has been able to prove and establish the discoveries in accordance with law. Section 27 of the Evidence Act reads thus:

"27. How much of information received from Accused may be proved. — Provided that, when any fact is proved 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."

83. The first and the basic infirmity in the evidence of all the aforesaid Prosecution witnesses is that none of them have deposed the exact Statement said to have been made by the appellant herein which ultimately led to the

discovery of a fact relevant under Section 27 of the Evidence Act.

84. If, it is say of the investigating officer that the Accused appellant while in custody on his own free will and volition made a Statement that he would lead to the place where he had hidden the weapon of offence, the site of burial of the dead body, clothes etc., then the first thing that the investigating officer should have done was to call for two independent witnesses at the police station itself.

Once the two independent witnesses would arrive at the police station thereafter in their presence the Accused should be asked to make an appropriate Statement as he may desire in regard to pointing out the place where he is said to have hidden the weapon of offence etc. When the Accused while in custody makes such Statement before the two independent witnesses (panch-witnesses) the exact Statement or rather the exact words uttered by the Accused should be incorporated in the first part of the panchnama that the investigating officer may draw in accordance with law.

This first part of the panchnama for the purpose of Section 27 of the Evidence Act is always drawn at the police station in the presence of the independent witnesses so as to lend credence that a particular Statement was made by the Accused expressing his willingness on his own free will and volition to point out the place where the weapon of offence or any other article used in the commission of the offence had been hidden. Once the first part of the panchnama is completed thereafter the police party along with the Accused and the two independent witnesses (panch-witnesses) would proceed to the particular place as may be led by the Accused.

If from that particular place anything like the weapon of offence or blood stained clothes or any other article is discovered then that part of the entire process would form the second part of

the panchnama. This is how the law expects the investigating officer to draw the discovery panchnama as contemplated under Section 27 of the Evidence Act. If we read the entire oral evidence of the investigating officer then it is clear that the same is deficient in all the aforesaid relevant aspects of the matter.” (emphasis supplied)

65. Similar view was taken by this Court in the case of Ramanand @ Nandlal Bharti v. State of Uttar Pradesh⁶, wherein this Court held that mere exhibiting of memorandum prepared by the Investigating Officer during investigation cannot tantamount to proof of its contents. While testifying on oath, the Investigating Officer would be required to narrate the sequence of events which transpired leading to the recording of the disclosure Statement.

66. If we peruse the extracted part of the evidence of the Investigating Officer(PW-27) (reproduced supra), in the backdrop of the above exposition of law laid down by this Court, the interrogation memos of the Accused A-2(Exhibit P-15) and A-1 (Exhibit P-16), it is clear that the Investigating Officer(PW-27) gave no description at all of the conversation which had transpired between himself and the Accused which was recorded in the disclosure Statements. Thus, these disclosure Statements cannot be read in evidence and the recoveries made in furtherance thereof are non est in the eyes of law.

67. The Investigating Officer(PW-27) also stated that in furtherance of the voluntary Statements of Accused(A-1 and A-2), he recovered and seized two axes and one koyta produced by A-1 in the field of Ansari and one jambiya produced by A-2. The Investigating Officer(PW-27) nowhere stated in his deposition that the disclosure Statement of the Accused resulted into the discovery of these weapons pursuant to being pointed out by the Accused.

68. The Investigating Officer(PW-27) further stated that he arrested Accused A-3, recorded his voluntary Statement and seized two sickles. However, neither the so called voluntary Statement nor the seizure memo were proved by the Investigating Officer(PW- 27) in his evidence.

69. Thus, we are of the firm opinion that neither the disclosure memos were proved in accordance with law nor the recovery of the weapons from open spaces inspire confidence and were wrongly relied upon by the High Court as incriminating material so as to reverse the finding of the acquittal recorded by the trial Court.”

b) of the Hon’ble High Court of Karnataka, in the case of Subbanna Vs Mudukappa & Others, reported in 2023 Cr. R. 450 (Kant), wherein it is observed in Para No 33 as under:

“33. If the above essentials are applied to the recovery so alleged by the Prosecution, such a recovery is not duly proved as contemplated under Section 27 of the Indian Evidence Act. If the said articles were found and discovered from an open place, then it cannot be held to be discovered in consequence of information received from the Accused. Mere recovery of the said MO-1 the cart-peg would not be sufficient to connect Accused No. 2 with the said article. The recovery made must be found to have been made as a consequence to the Statement made by him in custody. In other words, if the nexus in between is not established, the said Statement made out would be inadmissible in evidence.”

c) of the Hon'ble High Court of Karnataka, in the case of Suresh Vs State of Karnataka by Bajpe Police Station Mangaluru Taluk, DK, reported in 2024(2) KCCR 1784, wherein it is observed in Para No 15 as under:

"15. Before going to the other aspects, it is relevant to refer to the judgment of the Trial Court wherein the Prosecution has not produced any material objects to substantiate the case of theft. No doubt, the alleged recovery is said to have taken place on the strength of the voluntary Statement of the Accused. Whether the said voluntary Statement was recorded in accordance with law or not has to be considered along with the dictum of the Hon'ble Supreme Court in the case of Subramanya Vs. State of Karnataka stated supra. The Hon'ble Supreme Court in paragraphs No. 83 and 84 of the said judgment observed as under:

"83. The first and the basic infirmity in the evidence of all the aforesaid Prosecution witnesses is that none of them have deposed the exact Statement said to have been made by the appellant herein which ultimately led to the discovery of a fact relevant under Section 27 of the Evidence Act.

84. If, it is say of the investigating officer that the Accused appellant while in custody on his own free will and volition made a Statement that he would lead to the place where he had hidden the weapon of offence, the site of burial of the dead body, clothes etc., then the first thing

that the investigating officer should have done was to call for two independent witnesses at the police station itself. Once the two independent witnesses would arrive at the police station thereafter in their presence the Accused should be asked to make an appropriate Statement as he may desire in regard to pointing out the place where he is said to have hidden the weapon of offence etc. When the Accused while in custody makes such Statement before the two independent witnesses (panch-witnesses) the exact Statement or rather the exact words uttered by the Accused should be incorporated in the first part of the panchnama for the purpose of Section 27 of the Evidence Act is always drawn at the police station in the presence of the independent witnesses so as to lend credence that a particular Statement was made by the Accused expressing his willingness on his own free will and volition to point out the place where the weapon of offence or any other article used in the commission of the offence had been hidden. Once the first part of the panchnama is completed thereafter the police party along with the Accused and the two independent witnesses (panch-witnesses) would proceed to the particular place as may be led by the Accused. If from that particular place anything like the weapon of offence or blood stained clothes or any other article is discovered then that part of the entire process would form the second part of the panchnama. This is how the law expects the investigating officer to draw the discovery panchnama as contemplated under Section 27 of the Evidence Act. If we read the entire oral evidence of the investigating officer then it is clear that the same is

deficient in all the aforesaid relevant aspects of the matter."

19.04. *On careful perusal of materials placed by the Prosecution, it is seen that,*

a) the IO/PW16 has not recorded any Preliminary Mahazar to suggest the fact that Accused has expressed his desire before the Panchas; nor has mentioned the said facts in the opening paras of the Seizure Mahazar/Exp11.

b) both the Pancha witnesses viz., CW2/PW2 and CW3/Dead have not stated that Accused has expressed his desire or willingness to show the place, either where he had concealed the Iron Rod/MO13, or his clothes as per MO14 & MO15, shown in the Seizure Mahazar/Exp11.

Failure in recording such Mahazar/Panchanama will lead to doubt the credentialities of the fact that, the Accused has expressed his willingness to show the places, on his free Will and volition.

c) *Even the Seizure Mahazar/Exp11, recorded by IO/PW16 donot speak about the conversation transpired inbetween the Accused and the IO, wherein Accused has either expressed his willingness to show the places to the IO, or to the Panchas. Exact wordings used by the Accused persons are to be spelled in the Mahazar. Even this is missing.*

d) *so disclosure memo is absent.*

19.05. *Looking from any angle, it can be said that the Prosecution has utterly failed to prove the requisites, as required U/Sec 27 of Indian Evidence Act, to believe the fact that Accused has given Voluntary Statement as per Exp40; at the instance of the Accused the materials as per MO13 to MO15 were discovered, revelation as shown in the Seizure Mahazars/Exp11.*

20. *The Learned PP would contend that as per the injuries found on the dead body of Nabirasool shown in the Post Mortem Report/Exp23 and the Inquest Mahazar/Exp1, it is crystal clear that he was*

assaulted with Stones found lying near the spot where the deadbody was found, as he has sustained the external injuries on his head, face, back and other parts of his body/person.

And as per the opinion expressed by the Doctor/CW23/PW6 in Postmortem Report that the cause of death is due to Shock and Haemorrhage shock as a result of sustaining injury to the head, leading to Death.

20.01. *Per contra, the Learned Counsel for the Accused would contend that only on the basis of Postmortem Report, the Accused cannot be convicted for the offence punishable U/ Sec 302 of IPC.*

20.02. *As per the decisions*

*a) of **the Hon'ble Apex Court in the case of Nagendra Sah V/s State of Bihar, reported in (2021) ACR 942**, wherein it is observed in Para No.23, as under :*

“23. Therefore, what survives for consideration is only an opinion of the medical

practitioner who conducted autopsy and gave a report on the cause of death. As held in the case of Balaji Gunthu Dhule (supra), only on the basis of post-mortem report, the appellant could not have been convicted of the offence punishable under Section 302 of IPC and consequently for the offence punishable under Section 201 of IPC.”

b) of the Hon’ble Apex Court in the case of Balaji Gunthu Dhule vs State Of Maharashtra dated 19 September, 2012, reported in AIR 2013 SUPREME COURT 264, wherein it is observed in para No 9, as under:

“9). The High Court has also relied upon the postmortem report of the Doctor. In our opinion, since the entire evidence of the eye—witnesses has not been accepted by the High Court, it could not have merely relied upon the postmortem report to convict the appellant for an offence under Section 302 of the I.P.C. Further, in our view, the postmortem report should be in corroboration with the evidence of eye—witnesses and cannot be an evidence sufficient to reach the conclusion for convicting the appellant. In view of the above, we have no other alternative but to allow this appeal and set aside the judgment and order passed by the High Court convicting the appellant for an offence punishable under Section 302 of the I.P.C.”

20.03. *Postmortem Report being a Medical Examination Report will form only a corroborative piece*

*of evidence; and it will not form an independent piece of evidence, leading to suggest the commission of the offence, muchtheless punishable U/Sec 302 of IPC. Postmortem Report is a corroborative piece of evidence and unless corroboration is soughtfor from the other ocular or documentary evidence placed by the Prosecution, such Postmortem Report cannot become the sole bases for conviction. I find force to my above view as per the decision of **the Hon'ble Apex Court in the case of Balaji Gunthu Dhule vs State Of Maharashtra, reported in (2012) 11 SCC 685,** wherein it is held in Para No.9, as under:*

“9. The High Court has also relied upon the postmortem report of the Doctor. In our opinion, since the entire evidence of the eye—witnesses has not been accepted by the High Court, it could not have merely relied upon the postmortem report to convict the appellant for an offence under Section 302of the I.P.C. Further, in our view, the postmortem report should be in corroboration with the evidence of eye—witnesses and cannot be an evidence sufficient to reach the conclusion for convicting the appellant. In view of the above, we have no other alternative but to allow this appeal and set aside the judgment and order passed by the High Court convicting the appellant for an offence punishable under Section 302 of the I.P.C.”

20.04. *Applying the said preposition of law to the instant case at hand, even if the Postmortem Report/Ex.P23 and the Inquest Mahazar/ExP1 is taken into consideration at there face value, even then it cannot become the sole bases for holding conviction of the Accused for the offence punishable U/Sec 302 of IPC, suggesting that the Accused has caused the injuries shown in the said documents.*

21. *Since the case of the Prosecution fails purely on Circumstantial Evidence, it is necessary to find out the linking evidence to link the Accused to the Crime.*

21.01. *It is necessary to have reference to the decisions of the Hon'ble Apex Court on this point.*

a) in the case of C.Changareddy and others V/s State of A.P, reported in (1996) 10 SCC 193, *wherein it is observed as under;*

“In a case based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in

nature. Moreover, all the circumstances should be complete and there should be no gap left in the chain of evidence. Further the proved circumstances must be consistent only with the hypothesis of the guilt of the Accused and totally inconsistent with his innocence....”

b) in the case of Padala Veera Reddy V/s State of A.P and others, reported in AIR 1990 SC 79, wherein tests to believe the circumstantial evidence are laid down viz.,

“(1) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;

(2) those circumstances should be of a definite tendency unerringly pointing towards guilt of the Accused;

(3) the circumstances, taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the Accused and none else; and

(4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypotheses than that of the guilt of the Accused and such evidence should not only be consistent with the guilt of the Accused but should be inconsistent with his innocence.”

c) in the case of Hanumantha Govinda Naragundakar and another V/s State of Madhya

Pradesh, reported in AIR 1952 SC 343, wherein it is

observed as under :

“It is well remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should be in the first instance be fully established and all the facts so established should be consistent only with the hypothesis of the guilt of the Accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the Accused and it must be such as to show that within all human probability the act must have been done by the Accused.”

d) in the case of Sharad Birdhichand Sarda

V/s State of Maharastra, reported in AIR 1984 SC

1622, wherein condition precedents are laid down to

get establish the circumstantial evidence to base the

conviction of the Accused, which reads as under :

“(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned ‘must’ or ‘should’ and not ‘may be’ established;

(2) the facts so established should be consistent only with the hypothesis of the guilt of the Accused, that is to say, they should not be explainable on any other hypothesis except that the Accused is guilty;

(3) the circumstances should be of a conclusive nature and tendency;

(4) there should exclude every possible hypothesis except the one to be proved; and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the Accused and must show that in all human probability the act must have been done by the Accused.”

21.02. Applying the said preposition of law to the instant case at hand, the Prosecution has failed to show that the circumstances from which an inference of guilt is sought to be drawn against the Accused; forming the said links to be cogently and firmly established; it will not define the tendency unerringly pointing towards the guilt of the Accused; forming a chain of the facts, leading to pin point the guilt of the Accused; and not surrounded by any other hypotheses than that of the guilt of the Accused.

21.03. Thus under such circumstances, the circumstantial evidence led by the Prosecution will be insufficient to base the conviction of the Accused for

commission of guilt, alleged against the Accused, punishable U/Secs. 341, 302 R/W Sec 34 of IPC.

22. *Further it is the case of the Prosecution that Nabirasool had incurred debt of Rs 2000/- from the Accused towards consumption of Gutkha, forming motive for the allege incident of assault and cause of death of Nabirasool.*

22.01. *Coming to the ocular evidence on this point of Motive, morespecifically,*

a) examination-in-chief of PW3, at Page No 5, Para No 1, Line Nos 1 to 3, which reads as under:

“ಅಲ್ಲದೇ ನನ್ನ ತಮ್ಮನ್ನು ಯಾವ ಕಾರಣಕ್ಕಾಗಿ ಕೊಲೆ ಮಾಡಿರುತ್ತಿರಿ ಅಂತಾ ಕೇಳಿದ್ದೆ. ಆಗ ಅವರು ಹೇಳಿದ್ದು ಈಗ ನನಗೆ ನೆನಪಿಲ್ಲ.”.

As per this evidence, the Complainant/PW3 contends that he do not remember the motive expressed by the Accused before him in the Police Station for causing the death of his brother/Nabirasool.

b) cross examination of PW14, at Page No 4, Para No 2, which reads as under:

“It is true to suggest that, my husband/Nabirasool was not having any financial constraints; and he was financial sound”.

As per this evidence Jainabi/PW14- the wife of deceased Nabirasool contends that her husband was not having any financial constraints.

22.02. *further the Investigating Agency has not placed any materials on record to suggest existence of any debt owe by Nabirasool towards the Accused, as alleged.*

22.04. *Thus motive suggested by the Prosecution has remained unproved.*

23. *Further the Learned counsel for the Accused would contend that the Prosecution has utterly failed to prove the presence of the Accused at the place where the deadbody of deceased Nabirasool was found, at the relevant point of time.*

It is true that, the most important chain to link the Accused to the crime, is showing the presence of the Accused at the scene of offence. And that itself is missing in this case.

23.01. *It is the trite Principle of law that, when two views are possible in a case, then a view which benefits to the Accused is to be accepted. So also, when the case of the Prosecution exhibit or creates a suspension or doubt, then the benefit of such doubt is to be given to the Accused. I found support to my above view as per the decision of **Hon'ble High Court of Karnataka in the case of State of Karnataka, Town Police Station, Chitradurga V/s Vidyadhara (Crl. Appeal No.11/2011 C/W Crl. Appeal No.960/2010, D.O.D. 07.06.2019)**, wherein it is observed in Para No.17 as under:*

“17. It is well settled that when two views are possible, the view which is favourable to the Accused shall be acceptable. Though the Trial Court accepted the contention of the Accused and rightly held that there is no abetment made by the Accused to the deceased to commit the suicide, but wrongly held that

the Accused has harassed the deceased mentally which made the deceased to commit suicide and convicted him under Section 498A of IPC. The Trial Court cannot appreciate the evidence of the Prosecution partly only to prove the case of 498A and partly disbelieve the evidence for the offence under Section 306 of IPC. The entire evidence shall be appreciated together and there must be some incident soon prior to the commission of suicide by the deceased, but no such incident is brought on record by the Prosecution except vague allegations. It has occurred long back after two years of the marriage, but no specific incident has occurred soon before the death of the deceased. Hence, I hold that the Prosecution has failed to prove the charges leveled against the Accused beyond all reasonable doubt. Therefore the benefit of doubt is extended to the Accused. Accordingly, I hold that the Accused is entitled for the acquittal of the charges levelled against him under Sections 498A of IPC.”

23.02. *Even the view suggested by the Learned Counsel for the Accused, that Accused was not available on the place where the deadbody of deceased Nabirasool was found, on the ill-fate day i.e., 20.12.2020, the same will create a doubt in the case of the Prosecution. And the benefit of doubt is to be extended to the Accused.*

24. *Considering the materials placed by the Prosecution on record, the Prosecution has failed to prove that*

a) the Accused was available on the spot where the deadbody of deceased Nabirasool was found, at the relevant point of time i.e., at the time of allege assault;

b) Iron Rod/MO13 was discovered at the instance of the Accused i.e., on the basis of the Voluntary Statement of the Accused/Ex.P40, under the Seizure Mahazar/ExP11;

c) Clothes of Accused as per MO14 & MO15 were seized by the Investigating Agency through IO/PW16, under the Seizure Mahazar/Ex.P11;

d) linking evidence forming chain to link the Accused to the Crime;

e) ocular evidence placed through its witnesses is corroborated with the Medical evidence; technical evidence; and Scientific evidence;

f) Involvement and seizure of Iron Rod/MO13 in the crime; and

g) identification of Iron Rod/MO13 by the Eye-witnesses, or by the Panchas to the Seizure Mahazar/ExP11.

h) Extra Judicial confession has remained unproved;

i) motive has remained unproved.

j) Last Seen theory projected by the Prosecution has remained unproved.

k) occurrence of earlier incident of assault i.e., on 19.12.2020 has remained unproved.

24.01. *The evidence placed by the Prosecution is not sufficient to convict the Accused for the offence punishable U/Secs. 341, 302 R/W Sec 34 of IPC.*

24.02. *Thus, the ocular evidence and the documentary evidence placed by the Prosecution on record tends to suspect and create a doubt in the case of the Prosecution.*

24.03. *Further on the basis of materials placed by the Prosecution on record, it can be seen that the case of the Prosecution is full of doubts; the Prosecution has failed to prove the event of assault; the presence of the Accused as on the date of alleged assault; there are material omissions on the part of the Prosecution leading to serious suspicion and doubt in the case of Prosecution.*

24.04. *Thus, the Prosecution has failed to prove the incident alleged by it, wherein the Accused has committed certain acts amounting to commission of the offence punishable U/Sec. 341, 302 R/W Sec 34 of IPC, leading to a grave suspicion and doubt in the case of the Prosecution.*

The story of the Prosecution is full of doubts, which do not warrant conviction of the Accused for the offence punishable U/Secs. 341, 302 R/W Sec 34 of I.P.C.

*Hence, I am constrained to answer **Point No.1 in the Negative.***

25. Point No.2:-

Under such circumstances and in the absence of any effective, sufficient, cogent and believable evidence from the side of the Prosecution, it is hard to conclude that, the Accused has done an act, which will exhibit commission of the Offences punishable U/Secs 341, 302 R/W Sec 34 of IPC, as alleged; and for having answered Point No.1 in the Negative, I proceed to pass the following-

ORDER

Acting U/Sec. 235(1) of Cr.P.C., the Accused is hereby Acquitted for the offences punishable U/Sec 341, 302 R/w Sec. 34 of I.P.C.

Bail Bond and Surety Bond of the Accused shall stand discharged.

Registry is requested to Issue intimation to the Revenue Authorities to withdraw the entry made in the R/R extract of the surety, as his surety bond has been discharged.

The seized Articles/MO1-M.O.1/Brown Colour Chappal; M.O.2/2 Kg. Stone; M.O.3/2 Kg. Stone; M.O.4/ 5 Kg. Stone; M.O.5/6 Kg. Stone; M.O.6/10 Kg. Stone; M.O.7/Bloodstained Mud; M.O.8/Un Bloodstained Mud; M.O.9/Shirt; M.O.10/Banian; M.O.11/Night Pant; M.O.12/Brown Colour Underwear; M.O.13/Iron Rod; M.O.14/Blue Colour Half Shirt and M.O.15/ Gray Colour Night Pant, now being worthless, are ordered to be destroyed, after the Appeal period is over.

Motorcycle bearing Reg No KA-28-EG 4133, shown in Positive Photographs /Exp9 & Exp10, which is released into the Interim custody of CW21/PW7- Deepak Sunkappa Konchikorwar, as per the Orders of the I Addl Senior Civil Judge and CJM Vijayapura dated 05.03.2022, is made Absolute.

The Accused shall execute Personal Bond for Rs.1,00,000/- with one Surety for the likesum, as required U/Sec 437-A of Cr.P.C., undertaking to appear before the Hon'ble Appellate Court, if any Appeal

***is preferred being aggrieved by this
Judgment, as and when summoned.***

(Typed by me in the Home office, script corrected and signed by me and then Judgment pronounced by me, in the Open Court on this the 18th Day of JUNE, 2026).

***(ABDUL-RAHIMAN. A. NANDGADI),
II ADDL. DISTRICT AND SESSIONS &
SPL. JUDGE, VIJAYAPURA.***

ANNEXURE

Witnesses examined on behalf of Prosecution:

C.W.4/PW1	:	Mehaboob A Walikar
C.W.2/PW2	:	Rahul S Lande
C.W.1/PW3	:	Saddamhusen D Narasanagi
C.W.6/PW4	:	HaroonRasheed H. Jawadagi
C.W.10/PW5	:	Maiboobsab D Narasanagi
C.W.23/PW6	:	Dr. Dharmaraya Ingale
C.W.21/PW7	:	Deepak S. Kunchikoravar
C.W.18/PW8	:	Mehaboob B Bepari
C.W.19/PW9	:	Hajimalang M. Mannur
C.W.20/PW10	:	Tippusultan B. Khatik
C.W.25/PW11	:	I. S Gudurmamath
C.W.22/PW12	:	Sharanappa G. Managuli
C.W.15/PW13	:	Khasimbi M Narasanagi
C.W.16/PW14	:	Jainabi N Narasanagi
C.W.31/PW15	:	B.K. Mukartihal (PI)
C.W.30/PW16	:	Somesh R Gejji (PSI)
C.W.17/PW17	:	Khazamainuddin H. Badeghar

Witnesses examined on behalf of Defence:

- Nil -

Exhibits marked on behalf of Prosecution:

Ex.P.1	:	Inquest Panchanama
Ex.P.1(a)	:	Signature of PW-1
Ex.P.1(b)(c)	:	Signature of PW-16

<i>Ex.P.2 to 7</i>	:	<i>Photographs</i>
<i>Ex.P.8</i>	:	<i>Motorcycle Seizure Panchanama</i>
<i>Ex.P.8(a)</i>	:	<i>Signature of PW-2</i>
<i>Ex.P.8(b)</i>	:	<i>Signature of PW-16</i>
<i>Ex.P.9</i>	:	<i>Photograph</i>
<i>Ex.P.10</i>	:	<i>Photograph</i>
<i>Ex.P.11</i>	:	<i>Cloth Seizure Panchanama</i>
<i>Ex.P.11(a)</i>	:	<i>Signature of PW-2</i>
<i>Ex.P.11(b)</i>	:	<i>Signature of PW-16</i>
<i>Ex.P.12</i>	:	<i>Photograph</i>
<i>Ex.P.13</i>	:	<i>Photograph</i>
<i>Ex.P.14</i>	:	<i>Statement of PW-2</i>
<i>Ex.P.15</i>	:	<i>Complaint</i>
<i>Ex.P.15(a)</i>	:	<i>Signature of PW-3</i>
<i>Ex.P.15(b)</i>	:	<i>Signature of PW-16</i>
<i>Ex.P.16</i>	:	<i>Photograph (Spot)</i>
<i>Ex.P.17</i>	:	<i>Photograph (Spot)</i>
<i>Ex.P.18</i>	:	<i>Spot panchanama</i>
<i>Ex.P.18(a)</i>	:	<i>Signature of PW-4</i>
<i>Ex.P.18(b)</i>	:	<i>Signature of PW-16</i>
<i>Ex.P.19</i>	:	<i>Cloth Seizure Panchanama</i>
<i>Ex.P.19(a)</i>	:	<i>Signature of PW-4</i>
<i>Ex.P.19(b)</i>	:	<i>Signature of PW-16</i>
<i>Ex.P.20</i>	:	<i>Photograph (Spot)</i>
<i>Ex.P.21</i>	:	<i>Form No.146(i)</i>
<i>Ex.P.21(a)</i>	:	<i>Signature of PW-16</i>
<i>Ex.P.22</i>	:	<i>Form No.146(ii)</i>
<i>Ex.P.22(a)</i>	:	<i>Signature of PW-16</i>
<i>Ex.P.23</i>	:	<i>P.M. Report</i>
<i>Ex.P.23(a)</i>	:	<i>Signature of PW-6</i>
<i>Ex.P.24</i>	:	<i>Weapon Examination Report</i>
<i>Ex.P.24(a)</i>	:	<i>Signature of PW-6</i>
<i>Ex.P.24(b)</i>	:	<i>Signature of PW-15</i>
<i>Ex.P.25</i>	:	<i>Statement of PW-7</i>

<i>Ex.P.26</i>	:	<i>Statement of PW-8</i>
<i>Ex.P.27</i>	:	<i>Statement of PW-9</i>
<i>Ex.P.28</i>	:	<i>Statement of PW-10</i>
<i>Ex.P.29</i>	:	<i>Statement of PW-12</i>
<i>Ex.P.30</i>	:	<i>PWD sketch</i>
<i>Ex.P.31</i>	:	<i>65(B) Certificate</i>
<i>Ex.P.31(a)</i>	:	<i>Signature of PW-15</i>
<i>Ex.P.32</i>	:	<i>Report of CW30</i>
<i>Ex.P.32(a)</i>	:	<i>Signature of PW-15</i>
<i>Ex.P.32(b)</i>	:	<i>Signature of PW-16</i>
<i>Ex.P.33</i>	:	<i>B Register Extract</i>
<i>Ex.P.33(a)</i>	:	<i>Signature of PW-15</i>
<i>Ex.P.34</i>	:	<i>Report of CHC671</i>
<i>Ex.P.34(a)</i>	:	<i>Signature of PW-15</i>
<i>Ex.P.35</i>	:	<i>Acknowledgment</i>
<i>Ex.P.35(a)</i>	:	<i>Signature of PW-15</i>
<i>Ex.P.36</i>	:	<i>Property Extract</i>
<i>Ex.P.36(a)</i>	:	<i>Signature of PW-15</i>
<i>Ex.P.37</i>	:	<i>RFSL Report</i>
<i>Ex.P.37(A)</i>	:	<i>Sample Seal</i>
<i>Ex.P.38</i>	:	<i>FIR</i>
<i>Ex.P.38(a)</i>	:	<i>Signature of PW-16</i>
<i>Ex.P.39</i>	:	<i>Rough Sketch</i>
<i>Ex.P.39(a)</i>	:	<i>Signature of PW-16</i>
<i>Ex.P.40</i>	:	<i>Voluntary Statement</i>

Exhibits marked on behalf of Defence:

- Nil -

Material objects marked on behalf of Prosecution:

<i>M.O.1</i>	:	<i>Brown Colour Chappal</i>
<i>M.O.2</i>	:	<i>2 Kg. Stone</i>
<i>M.O.3</i>	:	<i>2 Kg. Stone</i>

M.O.4	:	5 Kg. Stone
M.O.5	:	6 Kg. Stone
M.O.6	:	10 Kg. Stone
M.O.7	:	Bloodstained Mud
M.O.8	:	Un Bloodstained Mud
M.O.9	:	Shirt
M.O.10	:	Banian
M.O.11	:	Night Pant
M.O.12	:	Brown Colour Underwear
M.O.13	:	Iron Rod
M.O.14	:	Blue Colour Half Shirt
M.O.15	:	Gray Colour Night Pant

**(ABDUL-RAHIMAN. A. NANDGADI),
II ADDL. DISTRICT AND SESSIONS &
SPL. JUDGE, VIJAYAPURA.**