



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

CRIMINAL APPEAL NO. 853 OF 2013 (C)

BETWEEN:

KRISHNAIAH
S/O CHIKKAIAH
AGED ABOUT 46 YEARS
COOLIE, R/AT HARIJANA COLONY,
MUGULUVALLI, AMBALE HOBLI
CHIKMAGALUR TALUK
CHIKMAGALUR DISTRICT-577101

...APPELLANT

(BY SRI. SHANKARAPPA S., ADVOCATE)

AND:

STATE BY CHIKKAMAGALUR RURAL
POLICE STATION,
REP BY S.P.P.
HIGH COURT BUILDING,
BANGALORE-01

...RESPONDENT

(BY SRI. VINAY MAHADEVIAIAH, HCGP)

THIS CRL.A IS FILED U/S. 374(2) CR.P.C BY THE ADV.,
FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY
BE PLEASED TO SET ASIDE THE ORDER DATED:06/07.11.12
PASSED BY THE PRL. SESSIONS JUDGE, CHIKMAGALUR IN
S.C.NO.141/10 - CONVICTING THE APPELLANT/ACCUSED FOR
THE OFFENCE P/U/S 337 AND 304 PART II OF IPC. AND THE





APPELLANT/ACCUSED IS SENTENCED TO UNDERGO R.I. FOR THREE (3) YEARS AND TO PAY FINE OF RS.1,00,000/- (RUPEES ONE LAKH) IN DEFAULT TO PAY FINE, TO UNDERGO FURTHER S.I. FOR A PERIOD OF 9 MONTHS, FOR THE OFFENCES P/U/S 304 PART II OF IPC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL JUDGMENT

This appeal is by the accused being aggrieved by the judgment of conviction and order of sentence dated 06.11.2012 passed in Sessions Case No.141/2010 on the file of the Court of the Principal Sessions Judge, Chikkamagalur, by which the accused/appellant has been convicted and sentenced to undergo rigorous imprisonment for 3 years and to pay fine of ₹1,00,000/-, in default, to undergo simple imprisonment for a period of 9 months for the offence punishable Section 304 Part II of IPC. In addition, to undergo rigorous imprisonment for 6 months and to pay fine of ₹500/-, in default, to undergo simple imprisonment of 15 days for the offence punishable Section 337 of IPC.



2. A complaint dated 31.01.2010 as per Ex.P3 came to be filed alleging that, during procession of the *Jathra* at 07:30 p.m., on 31.01.2010, accused while lighting torch with kerosene, had kicked the same by his leg, which had caused burn injuries to one Shankar and one Ravi. The said complaint reads as under:

"ರವರಿಗೆ,
ಶಾಣಾಧಿಕಾರಿಗಳು
ಗ್ರಾಮಾಂತರ ಪೊಲೀಸ್ ಠಾಣೆ,
ಚಿಕ್ಕಮಗಳೂರು.

ಯಿಂದ,
ರತ್ನ ಕೇಂ ಶಂಕರ್,
27 ವರ್ಷ, ಪ.ಜಾತಿ
ಕೂಲಿ ಕೆಲಸ. ಮುಗುಳವಳ್ಳಿ ಕಾಲೋನಿ,
ಫೋನ್ : 9343031322.

ದಿನಾಂಕ 31.01.10

ಮಾನ್ಯರೇ,

ಈ ಮೂಲಕ ನೀಡುವ ದೂರು ಏನೆಂದರೆ ದಿನಾಂಕ 31.1.10 ರಂದು ಮುಗುಳವಳ್ಳಿ ಹರಿಜನ ಕಾಲೋನಿಯಲ್ಲಿ ಕರಿಯಮ್ಮನ ಜಾತ್ರೆ ಕಾಳಗದ ಹಬ್ಬದ ಜಾತ್ರೆ ಇತ್ತು. ರಾತ್ರಿ 7.30 ಗಂಟೆಯಿಂದ ಕರಿಯಮ್ಮನ ಮೆರವಣಿಗೆ ಹೊರಟು ಮುಗುಳವಳ್ಳಿ ಸರ್ಕಲ್ ಹತ್ತಿರ ಬರುತ್ತಿರುವಾಗ ಕರೆಂಟ್ ಹೋಯಿತು ಆಗ ಪಂಜು ಹಿಡಿದುಕೊಂಡಿದ್ದ ಕೃಷ್ಣಯ್ಯ ಪಂಚಿಗೆ ಸೀಮೆಎಣ್ಣೆ ಹಾಕಿ ಕಾಲಿನಿಂದ ಪಂಜನ್ನು ಹೊದಿದ್ದರಿಂದ ಸೀಮೆಎಣ್ಣೆ ನನ್ನ ಗಂಡ ಶಂಕರ್‌ನ ಮೇಲೆ ಮತ್ತು ನನ್ನ ಅಕ್ಕ ಶಂಕಮ್ಮನ ಮಗನಾದ ರವಿಯ ಮೇಲೆ ಸೀಮೆಎಣ್ಣೆ ಬಿದ್ದು ಅವರು ಹಾಕಿಕೊಂಡಿದ್ದ ಬಟ್ಟೆಗಳಿಗೆ ಬೆಂಕಿ ಹತ್ತಿಕೊಂಡು ಉರಿಯ ತೊಡಗಿದವು. ಆಗ ನಾನು ಮತ್ತು ನನ್ನ ಅಕ್ಕನ ಗಂಡ ದೇವಿರಾಜು ಹಾಗೂ ಮೆರವಣಿಗೆಯಲ್ಲಿದ್ದ ಉಮೇಶ್, ರವಿ, ರಮೇಶ್, ರುದ್ರಯ್ಯ ನೀರು ಹಾಕಿ ಬೆಂಕಿ ಹಾರಿಸಿದರು. ಚಿಕ್ಕಮಗಳೂರು 108 ಆರೋಗ್ಯ ಕವಚಕ್ಕೆ ಕರೆ ಮಾಡಿ ಚಿಕ್ಕಮಗಳೂರು ಆಸ್ಪತ್ರೆಗೆ ತಂದು ಸೇರಿಸಿರುತ್ತೇವೆ. ಈ ಘಟನೆಯಾದಾಗ ರಾತ್ರಿ ಸುಮಾರು 8 ಗಂಟೆಯಾಗಿತ್ತು. ಸೀಮೆಎಣ್ಣೆ ಇದ್ದ ಪಂಜನ್ನು ನಿರ್ಲಕ್ಷ್ಯತನದಿಂದ ಕಾಲಿನಿಂದ ಒದ್ದದ್ದರಿಂದ ನನ್ನ ಗಂಡ ಶಂಕರ ಹಾಗೂ ರವಿಗೆ ಬೆಂಕಿ ಹತ್ತಿಕೊಂಡು ಸುಟ್ಟು



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ಗಾಯಗಳನ್ನು ಮಾಡಿದ ನಮ್ಮೂರಿನ ಕೃಷ್ಣಯ್ಯನ ಮೇಲೆ ಕಾನೂನು ರೀತಿಯ
ಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳಬೇಕಾಗಿ ಕೋರಿಕೆ.

ತಮ್ಮ ವಿಶ್ವಾಸಿ,
ಸಹಿ/-
(ರತ್ನ)"

In furtherance to the said complaint, respondent-Police registered the case in Crime No.38/2010 for the offence punishable under Section 337 of IPC. Since injured Ravi died during the treatment on 05.02.2010, offence under Section 304 of IPC was added.

3. After investigation, the respondent-Police filed charge sheet. Charges were framed against the accused for the offences punishable under Section 337 and 304 of IPC. Since the accused pleaded not guilty and sought to be tried, the matter was set down for trial.

4. Nine witnesses have been examined on behalf of the prosecution as PW1 to PW9 and 6 documents have been marked as Exs.P1 to P6; six material objects have been marked as MO1 to MO6. One witness has been examined on behalf of the accused as DW1.



5. The Trial Court framed the following points for its consideration:

- "(1) Whether the prosecution proves that 31.1.2010, at about 7.30 PM, near Bevinakatte of Harijana Colony in Muguluvalli village of Aldur Hobli in Chikmagalur Taluk, during the procession of the Deity, the accused, caused burn injuries to Shankar, by doing an act so rashly and negligently as to endanger human life or personal safety of others, and thereby committed an offence punishable under Section 337 of I.P.C.?"*
- (2) Whether the prosecution further proves that, on the aforesaid date, time and place, during the procession of the Deity, the accused, did an act so rashly and negligently as to endanger human life or personal safety of others, due to which act Ravi S/o Devaraj, sustained burns and died on 5.2.2010 and thereby the accused committed culpable homicide not amounting to murder, an offence punishable under Section 304 of I.P.C.?"*
- (3) What order?"*

The Trial Court, on appreciation of the evidence, passed the impugned judgment of conviction and order of sentence. Being aggrieved by the same, the present appeal is filed.

6. Learned counsel appearing for the appellant taking this Court through the records submits that,



(a) perusal of the contents of the complaint itself indicates that, the case was of an accident, there being neither any intention nor negligence on the part of the accused justifying framing of charges against the accused for the offence punishable Section 337 and 304 of IPC. She refers to the deposition of complainant who is examined as PW4 as well as the deposition of PW5 the injured witnesses, who have in unison deposed that, on the fateful day, there was festival of Kariyammadevi temple, during which time, there was a power cut and the accused had merely attempted to light the torch dipped with the kerosene.

(b) that, the specific defence of the accused is that, the injured Shankar PW5 as well as the deceased Ravi who were standing near the vessel containing the kerosene, had stood up, resulting in the kerosene filled in the vessel spilling on them and accidentally catching fire. The accused who was present at that time had attempted to



dose off the fire as the other member of public including the children were present at the spot.

(c) that, the event was organized by CW10 and CW11, who were responsible for any untoward incident, that in order to escape from the consequences, they had framed the accused herein, who had neither any intention nor has acted negligently.

(d) that, admittedly the accused had paid ₹10,000/- to PW5 and ₹50,000/- to the deceased for their treatment. The accused is a daily wage Coolie worker, who has been wrongly framed.

(e) that, PW4 and PW5 have admitted that they had a cordial relationship with the accused prior to the incident indicating absence of any ill intention or motive. She submits that, the case completely lacks elementary ingredient of Section 304 or 337 of IPC, which the Trial Court has failed to appreciate and seeks for allowing of the appeal.



7. *Per contra*, learned HCGP justifying the judgment and order submits that, the presence of the accused at the spot has not been disputed and the same is established by the prosecution. The injured witness has spoken and his testimony cannot be discredited. The death of Ravi who is the nephew of the complainant is not in dispute, which resulted from and out of the burn injuries sustained by him. He submits that, the case squarely falls within the provisions of Section 304A of IPC that the incident had occurred due to sheer negligence and recklessness of the accused taking life of an innocent person. Therefore, no grounds are made out for interference in the matter. Therefore, he seeks for dismissal of the appeal.

8. Heard and perused the records.

9. Section 304 of IPC reads as under:

"304. Punishment for culpable homicide not amounting to murder.—*Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is*



done with the intention of causing death, or of causing such bodily injury as is likely to cause death;

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death."

10. Exception 1 to Section 300 of IPC providing the definition of when culpable homicide does not amount to murder reads as follows:

*"Exception 1.—**When culpable homicide is not murder.**—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident."*

A perusal of the aforesaid provision indicates that, for an offence to fall under Part II of Section 304 of IPC, a person accused of culpable homicide not amounting to murder should have had a **knowledge of his act causing hurt which may result in grievous hurt or the death of the person.**

11. Section 337 of IPC reads as follows:

***"337. Causing hurt by act endangering life or personal safety of others.**—Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both."*



The aforesaid section indicates that, the person alleged of commission of offence shall have acted in **rash and negligent** manner.

12. Perusal of the contents of complaint reveals that, accused had attempted to light the torch with the kerosene and had tried to extinguish the fire by kicking the torch.

13. It is necessary to note that, the incident has taken place during the festival of the Village, where admittedly about 200 to 300 people had gathered. There is also no dispute to the fact that during the celebration, there was a power cut, and it is in this process, the accused had purportedly attempted to light the torch. It is not uncommon that during the festive procession, the atmosphere is always charged up taking extra care and caution. Particularly, when there is power cut, it is normal that each will try his best to reach out to source of light. These circumstances cannot be lost sight of, more so when there is no allegation of any ill-will or criminal interest or



motive. Though the defence taken by the accused is that the kerosene contained in the vessel spilled on PW5 the injured witness and the deceased Ravi, who were sitting beneath the said vessel, the said suggestion had been denied.

14. PW4, in her chief examination, has stated as under:

"1. When the procession came near the Neem tree katta the electricity went off. At that time accused was holding a burning torch and was standing on the neem tree katta. There was a steel vessel on the neem katta with kerosene. Accused led the burning torch into the said vessel containing the kerosene, as a result of the same the vessel containing the kerosene was also caught with the fire."

In her cross-examination PW4 has stated as under:

"2. ಈ ಘಟನೆ ನಡೆಯುವ ಮೊದಲು ನಾವು ಮತ್ತು ಆರೋಪಿ ಚೆನ್ನಾಯೇ ಇದ್ದವು ಎಂದು ಸೂಚಿಸುವುದು ಸರಿ. ಸದರಿ ಬೇವಿನ ಮರದ ಕಟ್ಟೆಯ ಎತ್ತರ 5 ರಿಂದ 6 ಅಡಿ ಎತ್ತರ ಇತ್ತು ಎನ್ನುವುದು ಸರಿ. ಸದರಿ ರವಿ ಬೇವಿನ ಕಟ್ಟೆಯ ಕೆಳಗೆ ನಿಂತು ದೇವರ ಉತ್ಸವ ಬಂದಾಗ ಏಳಲು ಹೋಗಿ ಕಟ್ಟೆಯ ಮೇಲಿನ ಎಣ್ಣೆಯ ಪಾತ್ರೆ ತಗುಲಿ ಅವನ ಮೇಲೆ ಬಿದ್ದು ಪಕ್ಕದಲ್ಲಿಯೇ ಇದ್ದ ಪಂಜಿನಿಂದ ಅವನಿಗೆ ಬೆಂಕಿ ತಗಲಿ ಬೆಂಕಿ ಹತ್ತಿತು ಎನ್ನುವುದು ಸರಿಯಲ್ಲ. ಅದೇ ರೀತಿ ರವಿಗೆ ಬೆಂಕಿ ಹತ್ತಿದ್ದನ್ನು ನಂದಿಸಲು ಶಂಕರ್ ಅಲ್ಲಿಗೆ ಹೋದಾಗ ಅವನಿಗೂ ಬೆಂಕಿ ತಗಲಿತು ಎನ್ನುವುದು ಸರಿಯಲ್ಲ. ರವಿ ಮತ್ತು ಶಂಕರ್ ಅಕ್ಕಪಕ್ಕದಲ್ಲಿ ನಿಂತಿದ್ದರು ಎನ್ನುವುದು ಸರಿ. ಚಾ.ಸಾ-10/ಧರ್ಮೇಶ ಮತ್ತು ಚಾ.ಸಾ-11/ಶಿವಕುಮಾರ ಇವರ ಮುಂದಾಳತ್ವದಲ್ಲಿ ಸದರಿ ಕರಿಯಮ್ಮ ದೇವಿಯ ಗುಡಿಯ ಜಾತ್ರೆ ನಡೆದಿತ್ತು ಎನ್ನುವುದು ಸರಿ. ಸದರಿ ಬೆಂಕಿಯ ಘಟನೆ ಜಾತ್ರೆಯಲ್ಲಿ ನಡೆದು ತಮ್ಮ ಮೇಲೆ ಬರುತ್ತದೆ ಎಂದು ಚಾ.ಸಾ-10 ಮತ್ತು 11 ಸದರಿ ಆರೋಪಿಯ ಮೇಲೆ ಸುಳ್ಳು ಆರೋಪ ಮಾಡಿದ್ದಾರೆ ಎನ್ನುವುದು ಸರಿಯಲ್ಲ. ನಾವು ಆರೋಪಿಯನ್ನು ಹೆದರಿಸಿ ರೂ.60,000-00 ಗಳನ್ನು ಪಡೆದಿದ್ದೇವೆ ಎನ್ನುವುದು ಸರಿಯಲ್ಲ. ಸಾಕ್ಷಿ ಸ್ವಇಚ್ಛೆಯ ಮೇರೆಗೆ ಹೇಳುವುದೇನೆಂದರೆ ಸದರಿ ಬೆಂಕಿ ಹತ್ತಿದ ಮೇಲೆ ಆರೋಪಿ ನನ್ನ ಗಂಡನ ಚಿಕಿತ್ಸೆಗಾಗಿ ರೂ.10,000-00 ಹಾಗೂ ಸತ್ತ ರವಿಯ ಚಿಕಿತ್ಸೆಗಾಗಿ



ರೂ.50,000-00ಗಳನ್ನು ಕೊಟ್ಟಿರುತ್ತಾನೆ. ನಾವು ಆರೋಪಿಗೆ ಹೆಚ್ಚಿನ ಹಣ ಕೇಳಿ
ತೊಂದರೆ ನೀಡುತ್ತಿದ್ದೇವೆ ಎನ್ನುವುದು ಸರಿಯಲ್ಲ.

15. PW5 during his chief examination has stated as
under:

"1. ಇಂದಿಗೆ ಎರಡು ವರ್ಷಗಳ ಹಿಂದೆ ದುರ್ಗಮ್ಮದೇವಿಯ
ಜಾತ್ರಾ ಮಹೋತ್ಸವವು 7-30 ಗಂಟೆಗೆ ಪ್ರಾರಂಭವಾಯಿತು. ಸದರಿ ಉತ್ಸವವನ್ನು
ನೋಡಲು ಊರಿನ ಜನರಲ್ಲ ಸೇರಿದ್ದರು. ನಾನು, ನನ್ನ ಪಕ್ಕ ಮೃತ ರವಿ, ನನ್ನ
ಹೆಂಡತಿ/ಪ್ರಾ.ಸಾ4 ಹಾಗೂ ಚಾ.ಸಾ-3 ರಿಂದ 9 ಸಹ ಅಲ್ಲಿಯೇ ಇದ್ದೆವು. ಸದರಿ
ದೇವಿಯ ಉತ್ಸವ ಬೇವಿನಕಟ್ಟೆಯ ಹತ್ತಿರ ಬರುವ ವೇಳೆಗೆ ವಿದ್ಯುತ್ ಸಂಪರ್ಕ
ನಿಂತುಹೋಯಿತು. ಆ ವೇಳೆಗೆ ಉತ್ಸವವು ಗ್ಯಾಸ್ ಮತ್ತು ಪಂಚಿನ ಬೆಳಕಿನಲ್ಲಿ
ನಡೆಯುತ್ತಿತ್ತು. ಆ ವೇಳೆಗೆ ಆರೋಪಿ ಕೃಷ್ಣಯ್ಯ ಪಂಜನ್ನು ಹಿಡಿದುಕೊಂಡು ಬೇವಿನ
ಕಟ್ಟೆಯ ಮೇಲೆ ನಿಂತಿದ್ದ. ಆರೋಪಿಯು ಸದರಿ ಬೆಂಕಿ ಹತ್ತಿದ ಪಂಜನ್ನು ಸ್ಟೀಲ್
ಪಾತ್ರೆಯಲ್ಲಿದ್ದ ಸೀಮೆಎಣ್ಣೆಯಲ್ಲಿ ಅದ್ದಿದಾಗ ಅದಕ್ಕೂ ಸಹ ಬೆಂಕಿ ಹತ್ತಿಕೊಂಡಿತು.
ಈ ರೀತಿ ಸ್ಟೀಲ್ ಪಾತ್ರೆಗೆ ಬೆಂಕಿ ಹತ್ತಿದ ತಕ್ಷಣ ಆರೋಪಿ ಕೃಷ್ಣಯ್ಯ ಸದರಿ ಬೆಂಕಿ
ಹತ್ತಿದ ಸ್ಟೀಲ್ ಪಾತ್ರೆಯನ್ನು ತನ್ನ ಕಾಲಿನಿಂದ ಒದ್ದ ಈ ರೀತಿ ಒದ್ದಿದ್ದರಿಂದ ಸದರಿ
ಸೀಮೆಎಣ್ಣೆ ಹಾಗೂ ಬೆಂಕಿ ಮೃತ ರವಿ ಮತ್ತು ನನ್ನ ಮೇಲೆ ಬಿದ್ದು ನನಗೂ ಹಾಗೂ
ರವಿ ಇಬ್ಬರಿಗೂ ಬೆಂಕಿ ಹತ್ತಿಕೊಂಡಿತು. ನಾನು ನನ್ನ ಪರ್ಟನ್ನು ಹಾಗೂ ಬನಿಯನ್
ನ್ನು ಬಿಚ್ಚಿ ಬಿಸಾಕಿದೆ. ರವಿಗೆ ಬಹಳ ಬೆಂಕಿ ಹತ್ತಿದ್ದರಿಂದ ಏನೂ ಮಾಡಲು ಆಗಲಿಲ್ಲ.
....

16. The holistic reading of the evidence of PW4 who
was the eyewitness and PW5 who was the injured witness,
it becomes apparent that, there was neither any intention
nor there was any motive attributable to the accused in
the untoward incident that had taken place. No material
evidence is on record to justify that accused had
knowledge of his act causing the death under the
circumstances contemplated under Section 304 of the IPC.
Therefore, convicting the accused for the offence



punishable under Section 304 Part II of the IPC, in the considered view of this Court, is unsustainable.

17. Section 337 of the IPC as noted above, warrants care and caution to be taken by the person. Admittedly, the accused had attempted to light the torch during the festival in view of the power cut, there might have been lapse of due care and caution, which ought to have been exercised by the accused.

18. Accused is not tried for the offence under Section 304A of IPC. Considering the place, time and gathering of about 200 to 300 people around, and also the charged festive atmosphere when there was a power cut, and in the absence of any cogent and acceptable material evidence brought on by the prosecution, this Court, in the peculiar facts and circumstances of the matter, is of the considered view that the judgment of conviction and sentence of the accused for the offence punishable under 304 Part II be set aside and judgment of conviction and



sentence for the offence punishable under Section 337 is to be sustained.

19. However, since the said provision also provides for sentence of payment of fine, this Court deems it appropriate to modify the sentence by directing the accused to pay ₹75,000/-, of which ₹25,000/- shall be paid to PW5 and ₹50,000/- shall be paid to the immediate heir of the deceased Ravi.

20. The aforesaid fine amount shall be paid within thirty days from the date of receipt of certified copy of this order, failing which, appellant shall undergo rigorous imprisonment for a period of six months as ordered by the Trial Court.

21. The appeal is ***disposed of*** accordingly.

Sd/-
(M.G.S. KAMAL)
JUDGE

PA
List No.: 1 Sl No.: 2