

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 9TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

CRIMINAL APPEAL NO.100233 OF 2025

BETWEEN:

RAVI S/O. KANAKAPPA PATROT,
AGE: 40 YEARS, OCC. LABOURER,
R/O. SIDDAPUR, NOW TOLAMATTI ROAD,
SHIVANAGOUDA PATIL FARMHOUSE,
TQ. BILAGI, DIST. BAGALKOTE, PIN-587116.

- APPELLANT

(BY SRI. S.P. KANDAGAL, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
THROUGH BILAGI POLICE STATION,
BILAGI TALUK, BAGALKOTE DISTRICT,
R/BY. THE STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA, DHARWAD BENCH.

- RESPONDENT

(BY SRI. M.B. GUNDAWADE, ADDITIONAL S.P.P.)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) OF CR.P.C. (SECTION 415(2) OF BNSS, 2023) PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 04.10.2024 PASSED BY THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, BAGALKOTE IN SESSIONS CASE NO. 12/2023 AND ACQUIT THE APPELLANT/ACCUSED OF THE OFFENCES UNDER SECTION 302 OF IPC AND ETC.

THIS CRIMINAL APPEAL, HAVING BEEN HEARD AND RESERVED ON 07.04.2026, COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, JUSTICE **H.P.SANDESH**, DELIVERED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE H.P.SANDESH
AND
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI



CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE H.P.SANDESH)

This Criminal Appeal is filed against the judgment of conviction and order of sentence passed in S.C. No. 12/2023 for the offences punishable under Section 302 of IPC questioning the imprisonment for life and to pay a fine of ₹5,000/- and prayed this Court to set aside the judgment of conviction and sentence.

2. The factual matrix of case of prosecution is that the accused and deceased Chandrappa were known to each other, the husband of PW3, i.e. deceased was addicted to consumption of alcohol, he used to consume alcohol everyday. The deceased did not turn up to house on 08.12.2022 but he left the house stating that he is going near Bilagi cross and when he did not turn up, PW3 and children went to sleep. But on 09.12.2022 at about 08.00 a.m. PW11 made a phone call that a body is lying in Modi plot at Bilgi cross and asked her to come to the said place, she went to the place and identified that the said body is of her husband, she lodged the complaint stating that her husband was murdered by someone else. Hence case is registered and investigation is conducted. The accused was arrested and after the completion of the investigation the charge sheet was filed;

after filing of the charge sheet case was registered as C.C. No. 7/2023; thereafter the matter was committed to the Sessions Court and the same is numbered as S.C. No. 12/2023; the accused was secured, he did not plead guilty and claims the trial, hence prosecution relies upon the evidence PWs 1 to 13, got marked documents as per Exs.P.1 to P.40 so also MOs 01 to 11.

3. The charges levelled against the accused is that on 08.02.2022 at 11.30 p.m. in the open space of property bearing No. 319/1 belonging to one Sivaganga situated at Badagandi Village, when deceased Chandrappa insisted the accused to offer him liquor, the accused getting enraged by it, assaulted him with a big sized stone on his head and committed the murder. The trial judge having considered the evidence of PWs1 to 13 and documentary evidence, since the accused also denied incriminating evidence under Section 313 of CrPC, appreciated both the case of prosecution and also the defence and comes to the conclusion that accused only committed the murder of the deceased and convicted him and sentenced for the offence referred above. Aggrieved by the judgment of conviction and sentence, the present appeal is filed before this Court.

4. The main contention of the counsel appearing for the appellant-accused is that the case is rested upon circumstantial evidence. He further contended that the trial judge committed an error in not considering the material contradictions and discrepancies in the oral evidence of the prosecution witnesses and the punishment imposed on the appellant is on higher side. The trial judge committed an error in relying upon the circumstantial evidence produced by the prosecution and finding is erroneous which led to the miscarriage of justice. The counsel in his arguments submits that when the case is rested upon circumstantial evidence, only evidence relied upon by the prosecution is last seen theory and blood stains on the cloth of the accused were recovered at the instance of the accused. The counsel would submit that trial Court relied upon the evidence of PW8 and PW9 and the evidence of PW3, wife of the deceased is nothing but an improvement in her evidence.

5. The counsel also would submit that the trial Court committed an error in relying upon the evidence of PW4 so also the evidence of PW5, the evidence of the Doctor PW7 and relied upon the wound certificate of the accused which is marked as Ex.P.22. The counsel would submit that the blood group is 'AB'

group, but no evidence is placed before the Court whether it belongs to the deceased or the accused; further there is no any motive to commit the murder and only motive attributed by the prosecution is that the deceased insisted to offer liquor and the same cannot be a motive. The counsel would further submit that PW11 first found the dead body and prosecution mainly relied upon the document Exhibit P40 FSL report so also the voluntary statement of accused at Exhibit P28. But the same cannot be relied upon. The counsel also submits that the trial Judge has committed an error in relying upon the evidence of PW3, PW4, PW7, PW8, PW9 and PW13 and the material available on record is not sufficient. The counsel also admits that there was a long gap of last seen witness as well as body was found on the next day. When the burden lies on the prosecution to prove the same and the same is not proved, it is not a case for invoking Section 302 IPC and the trial court ought to have taken note that there was no any intention to commit the murder and there was no any previous ill will and without prejudice, the counsel would submit that the trial Court ought to have invoked Section 304 of IPC.

6. Per contra, the counsel appearing for the State Additional State Public Prosecutor would submit that the evidence of last seen witnesses, PW8 and PW9 is very clear and both of them had seen the accused and deceased in the late night at around 11.00 p.m. The counsel would submit that evidence of the Doctor-PW7 is very clear as to the time since death, Postmortem report which is marked as PW17 is very clear that time since death is 12 to 24 hours. The counsel would submit that postmortem was conducted on the next day at 02.00 p.m. and the same corresponds to the timings of the last seen theory of the prosecution is that in the late night both accused and deceased were together. The counsel also would submit that PW3 and accused both were loitering having consumed the alcohol. The counsel would submit that recovery is also proved by examining PW4 and his evidence is consistent regarding recovery i.e. T-shirt and pant and Exhibit P10 is the mahazar for recovery. The counsel also would submit that the evidence of PW7-Doctor is very clear that it is a case of homicide. The accused in his evidence did not deny the incriminating circumstances that both of them were together in the previous night; and when the blood

stains were found in the shirt of the accused, he ought to have given explanation, but he was very silent.

7. The counsel also observed that the accused also had sustained injuries and to that effect also there is no any explanation and Exhibit P22 wound certificate is also clear. The accused was arrested on 10.12.2022. All the circumstances clearly point out the role of the accused in committing the murder. Hence, the trial judge rightly appreciated both oral and documentary evidence.

8. In reply to this argument, the counsel for the appellant would submit that the body was found on the next day and there was no motive, none of the witnesses speak about the involvement of this accused and unless chain of circumstances is proved, question of convicting the accused does not arise and hence it requires interference of this Court.

9. Having heard the counsel appearing for the appellant as well as the counsel appearing for the State, the points that arise consideration of this Court are:

(1) Whether the trial judge committed an error in convicting the accused for the offence punishable

under Section 302 of IPC believing the circumstantial evidence and whether it requires interference of this Court?

(2) *What order?*

10. The case of prosecution is that on 08.12.2022 at 11.30 p.m., in the open space of property bearing No. 319/1 belonging to one Sivaganga situated at Vadagandi Village, the accused enraged on the insistence of the deceased to offer liquor, committed the murder with a big stone.

11. The prosecution mainly relies upon the evidence of the Doctor regarding homicidal death is concerned. Postmortem Report Exhibit P17 clearly discloses that injuries sustained over head was caused by hard and blunt objects. The Doctor who conducted the postmortem also deposed that cause of death is due to hemorrhagic shock due to injury sustained over the head by hard and blunt object; and having considered the evidence of PW7, nothing is elicited in the cross examination of PW7, which is put in respect of the cause of death. The Doctor also categorically says that he has furnished the opinion of cause of death of deceased when the FSL report was sent to him and he

gave the final opinion; in the cross-examination except the answer elicited from the mouth of PW7 that if stone like MO1 falls on a person's leg, a fracture likely to occur but he denied the suggestion that if a person falls on stone like MO1, the injuries are not likely to occur, the same was denied and there is no serious dispute regarding the nature of injury and cause of death. Hence this Court has to accept that it is a case of homicide.

12. Now this Court has to consider the other evidence available before the Court. The law was set in motion based on the complaint given by PW3 which is marked as Exhibit P5 wherein the case of prosecution is narrated that she found the dead body on the information, and in the complaint it is stated that the murder might have committed in between 06.30 p.m. and in the early morning before 07.30 as he left the house at 06.30 p.m. but he did not turn up and specifically stated that someone committed the murder using the stone. The contents of the complaint also deposed by PW3 in her evidence and she identifies her signature in the complaint-Exhibit P5. In the evidence also she says that CW19 and CW20 last seen the accused and deceased in the previous night and the same was

informed to her; MOs 1 to 4 are also identified by her; photos were taken in terms of Exhibit P4 at the time of spot mahazar. In her cross-examination, except eliciting that near the Bilgi cross, more vehicles will move and there are shops and tea shops in the said place, nothing is elicited. It is also suggested that if anybody scream at the spot, the same will be heard by Lamani Thanda people who were staying in the hut; there were number of stones lying at the spot. It is elicited that her husband was consuming alcohol from last two years. The witness also says that her husband informed that accused also used to accompany him. In her cross-examination, suggestion was made that due to influence of alcohol, deceased fell down on the stone and sustained injuries but nothing is elicited with regard to the last seen theory which she has spoken in paragraph number 4 of the chief evidence and even not denied in the cross-examination.

13. Now Court has to take note of the evidence of PW8. In his evidence PW8 deposes that he knows both the deceased and also the accused. His evidence is that when he was in the Pan Shop in the previous night along with CW19, accused and deceased went towards Sai bar at around 11 o'clock and thereafter accused only came back and they closed the shop at 12.30 and went to their

residence. In the early morning he came to know about the murder of the deceased, he had informed the same to the Police. In the cross-examination, he admits that there are other shops by the side of his shop and also admits that number of people visit his shop and there are more tea shops in the said cross. When a suggestion was made that when number of people come to his shop, he cannot identify but witness categorically says that accused used to come to his shop for purchasing of the Beedi. In the further cross examination, it is elicited with regard to the location of the place. He admits that whoever visits the Sai Bar cannot be seen from him. But his evidence is very clear that both of them having consumed the alcohol and came to his shop. Having considered this evidence, it is very clear that he had found both accused and deceased at 11 o'clock and accused alone came back while returning and nothing is elicited from the mouth of this witness that he did not notice both of them in the late night and no serious dispute regarding last seen.

14. The other witness is PW9, he says that there was a family function of marriage and both accused and deceased with the influence of alcohol came there and started dancing along with them, at that time CW21 scolded them and sent them out, and

next day he came to know that deceased was murdered. This fact was informed to the police. This witness was also subjected to cross examination. In the cross examination, he says that accused was moving near his house and he had seen earlier. When they started dancing with their woman folk, sent him to go out. In the cross-examination, except suggesting that both of them did not come to the place, nothing is elicited. However, this witness says that both accused and deceased regularly used to consume alcohol and moving around. Suggestion was made that on the particular date accused and deceased consumed the alcohol and hence this suggestion is very clear that accused and deceased went near their function and not disputed the very presence of accused and deceased that both of them were there in the previous night and function was also started after 11 pm. Having considered the evidence of PW8 and PW9 it is very clear that both of them had seen the accused and deceased in the previous night. Hence the prosecution has proved the last seen theory.

15. The other circumstances relied upon by the prosecution is blood stained cloth of the accused were seized. PW4 in his evidence deposes before the Court that he was called by the

Police and motorcycle was seized by drawing the mahazar in terms of Exhibit P6 and photo was taken in terms of Exhibit P7 and the owner of the vehicle who has been examined as PW10 comes before the Court and deposes that this accused was working with him and using the motorcycle which was seized in the Police Station at the instance of the accused and the owner got released the vehicle from the Court. It is also his evidence that accused pointed out the spot where he committed the murder and mahazar was drawn in terms of Exhibit P8 and photo was taken. At this juncture itself this Court can take note of the fact that it was not discovery as per the accused and the place of incident was known to others since body was found in the very same place. This evidence cannot be relied upon, however, the evidence of PW4 is very clear that accused led them and produced his cloth stating that he was wearing those clothes at the time of the incident and there were blood stains in the cloth and in his presence and also CW6 panchanama was drawn and T-shirt and pant were seized, and sketch was also prepared, he identified signature in Exhibit P10 and also the sketch Exhibit P11 so also the photo Exhibit P12. In the cross-examination of this witness, it is only elicited that he was having an acquaintance

with Bilagi Town Police. But suggestion was made that he was a stock witness and the same was denied. Except the general denial that accused did not lead them to spot and also produced any cloth, nothing is elicited to disbelieve his evidence. The evidence of PW4 is consistent with regard to the recovery of cloth of the accused.

16. It is also important to note that the prosecution mainly relies upon Exhibit P10 seizure of the cloth and so also relies upon the FSL report marked as Exhibit P20. It is very clear that Article Nos. 1, 2, 3, 5, 6, 7, 8, 9, 10 and 11 were stained with human blood 'AB" group. The FSL report is also very clear that the cloth which was seized at the instance of the accused were also stained with very same blood and including the clothes of the deceased, and accused also has not given any explanation either in statement u/S 313 CrPC and also not led any evidence. The accused ought to have given explanation when the material goes against him with regard to the seizure of his cloth and the same contains the blood of the 'AB' group. Hence the other circumstances involving the accused in the crime substantiate the case of the prosecution.

17. The third circumstance is the accused also had sustained injuries and he was taken to the hospital after his arrest, is also not in dispute and document Exhibit P22, wound certificate belongs to the accused. Having perused document Exhibit P22, it is clear that accused had sustained the injuries on the dorsum of left foot and this accused was taken to the hospital on the day of arrest on 10.12.2022 at 08.45 p.m. and injury was simple in nature and the same might be caused due to part coming in contact with hard and rough surface object. With regard to the injury is concerned also there is no any explanation on the part of the accused. The evidence of the Doctor is also very clear with regard to the nature of injury sustained by the accused. The nature of injury sustained by the accused is also proved by the prosecution and no explanation on the part of the accused.

18. The evidence of Investigating Officer is also very clear with regard to the recording or statement of PWs 8 and 9 immediately after the incident with regard to the last seen evidence and also the blood stained clothes were seized at the instance of the accused. In the cross examination of Investigating Officer nothing is elicited to disbelieve the same. Apart from that, independent evidence of PW4 is also very clear regarding seizure

of the cloth at the instance of the accused and seizure of the cloth is also nothing but a discovery at the instance of the accused and no one had seen the same and he took the panch witness also the Investigating Officer and produced the same which was hidden by him.

19. No doubt the prosecution case is with regard to the motive is concerned that the deceased insisted the accused to offer liquor and by enraged by the same, the accused committed the murder by using the stone. No doubt there was no any pre-ill-will between them. It is also important to note that record clearly discloses that both of them were addicted to the alcohol and the same was spoken by PW3 that deceased was addicted from last two years. The evidence of the witnesses is also very clear that on the previous day night both of them consumed the alcohol that is spoken by PW9. They noticed that both of them started dancing with family members and they were sent out.

20. Furthermore, in the case of circumstantial evidence, motive is significant and even if it is significant also the Court cannot brush aside the evidence available on record. The trial judge, having taken note of the evidence available on record,

particularly the legal position regarding circumstantial evidence, considered the Judgment of Apex Court in **1989 Supp (2) SCC 706 (Padala Veera Reddy V. State of Andhra Pradesh)** and took note that when the case is rested upon the circumstantial evidence, the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established, and those circumstances should be of a definite tendency, unerringly pointing towards the guilt of the accused, and circumstances should be 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 in order to sustain conviction, chain link must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused.

21. In the case on hand also there was no any explanation on the part of the accused with regard to the incriminating circumstances pointed out during the recording of statement u/S 313 CrPC. The trial judge also took note of the factual aspect of motive is that motive is not an essential ingredient of an offence, and the question of motive need not be considered when the evidence is clear that particular accused was the assailant and

therefore there is no burden of proof on the prosecution based on the existence of any motive, relying upon the Judgment in **1972 Cri.L.J. 1668 (Surajpal Singh Vs. State of Madhya Pradesh)** considering the Apex Court Judgment and further considering the Apex Court Judgment of **AIR 1963 ORI. 33 (State Vs. Durga Charan Bank)**, took note that motive is only indispensable for conviction of the accused and when the facts are clear and the same is immaterial.

22. The trial judge also took note of last seen theory, relying upon the judgment of **State of Rajasthan Vs. Kashi Ram (2006) 12 SCC 254**, and came to the conclusion that the same is also an additional link of last seen theory, and considered the evidence of PW8 and PW9. The trial judge also took note of voluntary statement of the accused as per Exhibit P28 and in terms of the voluntary statement, accused led the Investigating Officer and also the panch witness to the place where he committed the murder and also the clothes were produced which were blood stained worn by him at the time of the incident. Exhibit P10 is the mahazar to that effect. The evidence of PW4 is consistent regarding seizure is concerned and he has supported the case of the prosecution and nothing is elicited. The spot

which was shown by the accused is not admissible except recovery of stained cloth. The learned trial Judge taken note of the FSL report which reveals that the clothes of the accused were also stained with the very same blood group. So also with regard to the place of occurrence is concerned, no dispute by the defence and only suggestion was made to the witness that deceased fell down on the stone, sustained injuries and succumbed to the injuries. Apart from that even medical evidence is also taken note of and during course of cross examination by the defence itself suggested that the same is not the lonely place and the same is busy place.

23. All these circumstances point out only the accused only committed the murder. When reasoning was given by the trial Court considering the prosecution evidence, we do not find any grounds to come to a other conclusion that accused has not committed the murder. The trial judge in detail considered the material on record both oral evidence as well as the documentary evidence, which point out the role of the accused in committing the murder. Hence the trial Judge has not committed any error in convicting the accused and sentencing and the grounds which have been urged during the course of argument

by the counsel appearing to the appellant, we do not find any force in the submission. Hence it is not a case for interference by this Court. Accordingly, we answer the point No. 1 in the negative.

24. In view of the discussions made above, we pass the following Order.

ORDER

Appeal is dismissed. Judgment of conviction and sentence passed by the trial Court is confirmed.

**SD/-
(H.P.SANDESH)
JUDGE**

**SD/-
(B. MURALIDHARA PAI)
JUDGE**

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