



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 25TH DAY OF MARCH, 2026



PRESENT
THE HON'BLE MR. JUSTICE H.P.SANDESH
AND
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI
CRIMINAL APPEAL NO.100496 OF 2023 (C)

BETWEEN:

VISHWANATH S/O. MALLAPPA CHIGARI,
AGE: 35 YEARS, OCC. AGRICULTURE,
R/O. SHELA VADI, TQ. NAVALGUND,
DIST. DHARWAD-582208.

...APPELLANT

(BY SRI. A.R. PATIL, ADVOCATE)

AND:

THE STATE OF KARNATAKA
R/BY. ADDITIONAL STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA, DHARWAD,
PIN-580011, NAVALGUND CIRCLE POLICE STATION.

...RESPONDENT

(BY SRI. M.B GUNDAWADE, ADDITIONAL SPP)

THIS CRIMINAL APPEAL IS FILED U/SEC. 374(2) OF CR.P.C. (415(2) OF BNSS-2023) SEEKING TO ALLOW THE CRIMINAL APPEAL AND TO SET ASIDE JUDGMENT AND ORDER OF CONVICTION DATED 21.10.2022 AND SENTENCE DATED 27.10.2022 PASSED BY THE IV ADDL. DISTRICT AND SESSIONS JUDGE, DHARWAD IN S.C.NO. 154/2019 IN PUNISHABLE UNDER SECTION 302, 307 OF IPC AND ACQUIT THE APPELLANT IN THE INTEREST OF JUSTICE.

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

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





ORAL JUDGMENT

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

Heard the learned counsel appearing for the appellant and also the learned Addl. SPP appearing for the respondent/State.

2. This appeal is filed against the judgment of conviction dated 21.10.2022 and order of sentence dated 27.10.2022 passed in SC No.154/2019 by the learned IV Addl. District and Sessions Judge, Dharwad (for short, 'Trial Court') for the offence punishable under Sections 302 and 307 of IPC and prays this Court to acquit the accused.

3. The factual matrix of case of the prosecution before the trial Court is that the complainant by name Devakka, mother of the victim, lodged a complaint stating that she had performed the marriage of her daughter 7 years back with the accused and in the said wedlock, both of them having three children. The accused, who is the son-in-law of PW1, was suspecting the fidelity of the victim and was ill-treating and assaulting her without any reasons. Hence, the daughter of PW1 came and settled in her house. But in view of the intervention of elders of the village, advised the accused and inspite of it, he continued



the ill-treatment on the victim. That on 15.05.2019, the accused went to Kalakeri and sought permission to take his wife and children to his village Shalavadi, as there is Guru Shanteshwara Jatra in the village and accordingly, the complainant (PW1) along with her daughter and grandchildren went to Shalavadi. On the same day, after having dinner at around 10 o'clock, the complainant and her grandchildren had slept in front of the house and her daughter Smt.Lakshmi and son-in-law i.e. accused had slept in the room inside the house. After sometime, the complainant's daughter Smt.Lakshmi came out of the house with hue and cry; at that time, the accused followed her with chopper in his hand and abused her in a filthy language and with an intention to kill her, inflicted the injury on her neck, head and hand and caused the grievous injuries. When the complainant went to rescue her daughter, the accused also assaulted the complainant with the same weapon on her neck and hand and caused grievous injuries. On hearing the hue and cry, the neighbours came and pacified the dispute and at that time, the accused ran away from the spot. Later, the persons gathered there, shifted both the injured to the government hospital for treatment. The said Lakshmi died in KIMS Hospital, Hubli, due to



severe injuries sustained by her. Based on the complaint of PW1, the police had registered the case at the first instance for an offence punishable under Section 307 of IPC and thereafter, invoked Sections 302 and 504 of IPC.

4. The law was set in motion based on the complaint of PW1 in registering the Crime No.61 of 2019 and the IO conducted the investigation and filed the charge sheet and on filing of the charge sheet, case was registered as CC and thereafter matter was committed to the Sessions Court. The Sessions Judge, having secured the accused, framed the charges, and accused did not plead guilty and claims trial, and hence prosecution examined PW1 to PW18 and also got marked documents as per Ex.P1 to P41 and also the material objects at MO.1 to MO.14. The trial Judge, having concluded the evidence of the prosecution, subjected the accused for 313 statement and accused denied the incriminating evidence, but not led any defence evidence. The trial Judge, having considered both oral and documentary evidence, came to the conclusion that the evidence of PW1 is consistent and she also sustained the injury and an attempt was made to take away the life of the victim and also on account of the injuries sustained by her daughter, she



was succumbed to the injuries and therefore, convicted the accused for the offence punishable under Section 302 and 307 of IPC, but acquitted for the offence under Section 504 of IPC. Being aggrieved by the judgment of conviction and sentence, the present appeal is filed before this Court.

5. The counsel appearing for the appellant in his argument would vehemently contend that the Trial Judge has not considered the medical report and the complainant intentionally deposed before the Court that the accused has taken away the life of his wife. The trial Judge has committed a serious error in convicting the appellant, relying upon the evidence of PW1-complainant and PW7, who is the minor daughter of the accused and the victim, and also the evidence of PW9-relative and PW11-brothers of PW1, and only considered the interested witnesses, but failed to ascertain the truth, like separating the grain from the chaff and the Trial Court has drawn an adverse inference against the appellant. The counsel appearing for the appellant also brought to the notice of this Court that afterthought, statement of PW-7 was recorded before the learned Magistrate that too after one month of the incident and her evidence cannot be believed. The counsel also vehemently contends that the trial



Judge has committed an error in considering the extrajudicial confession of PW9 and also failed to consider the medical document or independent witnesses other than the relative and neighbour. He further submits that PW6 was turned completely hostile and PW5 also supported the case of the prosecution in part, but overall appreciation of evidence is erroneous. The counsel for the appellant, during the course of his argument, would vehemently contend that there was no any intention for the accused to take away the life of his wife and if he really intended to take away the life, he would have taken the life of the wife, when she went back and stayed in her parental house, but only for the purpose of showing the festival to his children and also wife, he brought her back; and this circumstance is not considered by the trial Court.

6. The counsel for the appellant would also vehemently contend that an act was done under the grave and provocation and hence, it will not come within the purview of Section 302 of IPC and it comes within the purview of Exceptions to Section 300 of IPC. The trial Judge even not discussed the same while considering the material on record as to whether it comes within the purview of Exception to Section 300 of IPC. The counsel



would vehemently contend that with regard to the Exception is concerned, the trial Judge has not meticulously taken note of while discussing the same in paragraph No.46 and therefore, it is a fit case to bring the case within the purview of Exceptions to Section 300 of IPC and failed to consider the evidence available on record with a proper perspective, which has resulted in miscarriage of justice.

7. The counsel for the appellant in support of his argument relies upon judgment of the Hon'ble Apex Court in the case of ***Dauvaram Nirmalkar Vs. State of Chattisgarh***¹ and brought to notice of this Court the discussion made in the said judgment in paragraphs-7 and 8 and even considered the judgment of ***K.M. Nanavati vs. State of Maharashtra***², wherein the discussion was made with regard to the definition of "Provocation" and held that when the quarrel has taken place, loss of self-control in the facts and situations would come to the aid of the accused and also brought to notice of this Court the discussion made in Paragraph-12 and also Exceptions were discussed in Paragraph-13; and in Paragraph-14, the judgment

¹ Crl. A. No.1124/2022, dated 02.08.2022

² 1962 Supp (1) SCR 567



of **K. M. Nanavati** (supra) and the judgment in **Budhi Singh Vs. State of Himachal Pradesh**³ was discussed and the Apex Court comes to the conclusion that *on the night of the occurrence, the deceased had consumed alcohol and had told the appellant to leave the house, if not, he would kill the appellant. There was sudden loss of self-control on account of a 'slow burn' reaction followed by the final and immediate provocation.* The counsel brought to the notice of the paragraph-17 of the said judgment, wherein the Apex Court modified the sentence of imprisonment to the sentence already undergone. The counsel would submit that in the case on hand also, the accused is in custody since 2019 i.e. more than 7 years.

8. The counsel for the appellant also relies upon judgment of the Apex Court reported in the case of **Valson Vs. State of Kerala**⁴ and brought to the notice of this Court the Paragraph-4, wherein the Apex Court comes to the conclusion that *the facts are sufficient to show that the injuries sustained by the deceased, though in the ordinary course, is sufficient to cause death, would not have been intended to be inflicted by the*

³ (2012) 13 SCC 664

⁴ AIR 2002 SC 2339



brother assailant and brought the case within the purview of Section 304 Part I of the IPC.

9. The appellant's counsel also relied upon the judgment of the Delhi High Court in the case of ***Jithan Bora Vs. State (Govt. of NCT), Delhi***⁵ and brought to the notice of this Court, the discussion made by the Delhi High Court, particularly at Paragraph-41, wherein it has held that *sequence of events shows that the incident occurred on the spur of the moment and without any premeditation. It was the deceased, who first went to the appellant's house in the middle of the night, and intervened in a verbal altercation between the appellant and his wife. Although the appellant followed him with a knife in his hand and was exhorting that he would kill him, the same, by itself, does not conclusively establish an intention to kill. At best, it indicates that passions were running high.* The counsel referring this paragraph would contend that in the case on hand also, even though the accused came with weapon, but he was not having any intention and hence it is a fit case to bring the case within the purview of Exceptions to Section 300 of IPC.

⁵ CrI.A.No.85/2024, decided on 18.03.2026



10. Per contra, the learned Addl. SPP appearing for the respondent/State would vehemently contend that the case on hand will not come within the purview of Exceptions to Section 300 of IPC and there was no any such provocation. The learned Addl. SPP would vehemently contend that when PW1 has refused to send her daughter and children, but only on the advice of the elder persons, agreed to send her daughter, however, she was also accompanied with them. The factual matrix clearly discloses that the accused not only quarreled with the victim, but he followed the victim with a deadly weapon of chopper and in the presence of PW1, inflicted the injury and PW1 is an eye witness to the incident. There was no any such provocation at the time of the incident, except the quarrel. The Addl. SPP brought to the notice of this Court that the accused not only inflicted the injury on the victim, but also when PW1 tried to rescue her daughter, at that time, he also inflicted the injury on PW1 also, that too aiming the neck of PW1. The Wound Certificate, which is produced before the Court clearly discloses that PW1 has also sustained injuries. Even though the injuries are simple in nature, the Court has to take note of the vital parts of both the victim as well as PW1, who had sustained injury to her neck and hence, it



is a clear case of an intention to take away the life of the victim and also an attempt was made to take away the life of PW1. The same has been considered by the trial Court while appreciating the evidence to invoke Section 302 as well as Section 307 of IPC. The Addl. SPP also brought to the notice of this Court the demeanor of cross examination of PW1 by the defence itself that this accused is an angry person and always he was angry, but there was no any such incident of provocation and that too on the date of bringing the victim and also the children to his house. On the very day, he inflicted the injuries with deadly weapon knowingly well that it will lead to a death of a person, if such injuries are inflicted with the deadly weapon of chopper.

11. The Addl. SPP also brought to the notice of the Court that PW10 and PW15 have treated both the injured immediately and also spoken about the nature of injuries and Ex.P35-PM report issued by PW18, who conducted the postmortem, has also given the opinion in terms of Ex.P39 that the weapon could cause such injuries and opinion is also against the accused. The Addl. SPP would also submit that even weapon was also seized at the instance of the accused and PW3 deposes with regard to the recovery of chopper and though PW6 turned hostile, he is only a



hearsay witness that he came to know about the incident over the phone. PW5 supported the case of prosecution but only turned hostile and treating him as hostile also, the answer is elicited from the mouth of PW5 by the learned Public Prosecutor and this witness is also only in respect of the seizure of the cloths of the deceased and also the inquest. The evidence of PW5 is also not material in arriving to the conclusion that the accused has committed the murder.

12. Having heard the counsel appearing for the appellant and also the learned Addl. SPP for the respondent/State and also analysing both the oral and documentary evidence available on record and also in keeping the grounds urged in the appeal memo and oral submissions, the points that would arise for consideration of this Court are:

- i) Whether the trial Court committed an error in convicting the accused for the offence punishable under Sections 302 and 307 of IPC, believing the evidence of PW1-eye witness and other prosecution witnesses, and whether it requires interference of this Court?
- ii) Whether the appellant has made out a case to bring the case within the purview of Exceptions to Section 300 of IPC to reduce



the conviction and sentence and whether it requires interference?

iii) What order?

13. Having heard the counsel appearing for the appellant and also the counsel appearing for the State and also the respective submissions, we have meticulously considered both oral and documentary evidence available on record as to whether it is a case for acquittal or for reducing the sentence, to bring the case within the purview of Exceptions to Section 300 of IPC as contented by the counsel appearing for the appellant. Whether the trial Court committed an error in convicting the accused for the offence of Sections 302 and 307 of IPC.

14. Having considered the material available on record, this Court already considered the case of prosecution in sum and substance and narrated the same above that the accused was suspecting the fidelity of his wife and no doubt, the marriage had taken place 7 years ago and also PW1 has narrated under what circumstances, this alliance was made that the accused came to the said village for painting work and one of the elder of the village suggested for marriage and hence, the same was considered and performed the marriage. It is also not in dispute



that in the said wedlock, there were three children to both the accused and the victim. It is also the case of the prosecution that due to the suspicion of the character of the victim, inspite of the advise of the well-wishers, the accused continued the same treatment to the victim and hence, she went and stayed back along with her children in the house of PW1. It is also important to note that on the date of the incident only, the accused went and brought the children and also the victim and there was a festival in the village. But the case of PW1 is very clear that she did not agree, but on the advice of the elders of the village, she agreed to send her daughter and grandchildren, however, she also accompanied with the victim. It is also important to note that it is the evidence of PW1 that all of them have had the dinner and thereafter slept in the house. PW1 and her grandchildren were sleeping outside the house and heard the screaming sound inside the room, where the victim and accused were sleeping and her daughter came out from the house, at that time, the accused followed her with the deadly weapon of chopper and in front of PW1, the accused inflicted the injuries, that too on the vital parts. It is also the evidence of PW1 that when she noticed the same, she tried to rescue the daughter, at



that time, the accused inflicted the injury on PW1 also and she has sustained the injuries. It is also important to note that having heard the screaming sound, other neighbours also rushed to the spot and noticed that the accused ran away from the place, having noticed all people are gathered near the house. All the prosecution witnesses have supported the case of the prosecution except PW6 and PW5 partly turned hostile.

15. PW6, who is also a hearsay witness, deposed before the Court that he came to know about the incident over the phone and PW5 though turned hostile in part, but his evidence is very clear with regard to the seizure of the cloth of the deceased and also the inquest. PW5 is not a material witness with regard to the incident is concerned. But the evidence of PW1 and PW7 that they have witnessed the incident, has to take note of. No doubt, the counsel appearing for the appellant brought to the notice of this Court the admission given by PW7, who is none other than the daughter of the victim and the accused. No doubt, she was aged about 7 years at the time of recording her statement under Section 164(6) of Cr.P.C. before the learned Magistrate, but she has also given clear admission that on the say of PW1, she has deposed before the Court. When such



answer is elicited from the mouth of PW7, her evidence cannot be considered as consistent evidence, but in view of the admission, it is very clear that she is a tutored witness. It is also trite law that in a case of minor children evidence, who comes and deposes before the Court, if the Court comes to the conclusion that their evidence is consistent, then the Court can rely upon. If the evidence is not consistent and if any admission is given that she was tutored, then the evidence of the child witness cannot be relied upon. This Court would like to reply upon the judgment of the Apex Court in the case of ***Gul Singh Vs. State of MP***⁶ that *testimony of a child witness cannot be rejected unless found unreliable and tutored*. It is also held that *on a careful scrutiny, the testimony of a child witness is found truthful, there can be no obstacle in the way of accepting the same and recording conviction of the accused on the basis of his testimony* as held in the judgment of the Apex Court in the case of ***Ganpathi Vs. State of Tamil Nadu***⁷, so also in ***K. Venkateshwarlu Vs. State of AP***⁸. However, the Court has to take note of the evidence of PW1, who had witnessed the

⁶ 2015 (88) ACC 358 (SC)

⁷ (2018) 5 SCC 549

⁸ AIR 2012 SC 2955



incident and apart from that she is an injured witness having sustained injuries on account of injuries inflicted by the accused. The Wound Certificate-Ex.P28 is very clear that PW1 has suffered simple injuries and nature of injuries also to be taken note that there were three injuries, particularly, the one who inflicted the injury on her i.e. incised wound over the right side of neck measuring 4 x 1 cm and hence, the Court has to take note of this document and the very intention of the accused in inflicting the injury not only on the victim and also inflicting the injury on PW1, who is an eye witness. There is nothing before the Court to disbelieve the evidence of PW1 and no doubt, the material available before the Court points out the very role of the accused in inflicting the injury to the victim as well as PW1 and nothing is elicited from the mouth of these witnesses and even defence not disputed the very incident. If the testimony of an eye-witness is otherwise found trustworthy and reliable, the same cannot be disbelieved and rejected merely because certain insignificant, normal or natural contradictions have appeared into his testimony. If the consistencies, contradictions, exaggerations, embellishments and discrepancies in the testimony are only normal and not material in nature, then the testimony of an eye



witness has to be accepted and acted upon. Distinctions between normal discrepancies and material discrepancies are that while normal discrepancies do not corrode the credibility of a party's case and the same is discussed in the judgment of the Hon'ble Apex Court in the case of **Ashok Kumar Chaudhary v. State of Bihar**⁹, so also in the case of **Dimple Gupta (Minor) Vs. Rajiv Gupta**¹⁰. While cross examining the witness PW1, suggestions were made to PW1 that the accused is very angry person and always he will be angry and that line of cross examination shows that the incident is not disputed, but only an attempt was made to bring the case within the purview of Exceptions to Section 300 of IPC. But having considered the evidence of PW18-doctor, who conducted the PM and his report is very clear that there were 19 injuries and also the weapon was sent to the doctor and the doctor has given the opinion in terms of Ex.P39. In the cross examination of PW18, only suggestions were made and those suggestions were categorically denied by the doctor. Having taken note of the medical evidence and also 19 injuries, that too

⁹ 2008 (61) ACC 972 (SC)

¹⁰ AIR 2008 SC 239



more injuries are chop wound injuries inflicted on the wife by the accused and the same is witnessed by PW1, there is a direct evidence against the accused. Apart from that, PW1 has also sustained the injuries and the very same weapon was used for inflicting the injury to PW1. The doctor also opined that injury Nos.16 to 19 are defence injuries on the victim, that means, the victim made an attempt to escape from the blow given by the accused, that too to ward off the injuries, which were aimed on the neck of the victim and all these materials suggest that with an intention to take away the life, the accused inflicted the several injuries on the victim. The trial Court has also taken note of the evidence of PW1, who had sustained the injuries. Though the injuries are simple in nature, but he had aimed to inflict the injury on the neck of PW1 and that injury also measuring 4x1 cm over the neck, i.e. injury No.2 in Wound Certificate-Ex.P28 and hence, we do not find any error on the part of the trial Court in appreciating the evidence. This Court would like to refer the judgment of the Apex Court in the case of ***Bhagirathi Vs. State of MP***¹¹ wherein it is held that *when an injured witness is examined, the deposition of an injured witness should be relied*

¹¹ AIR 2019 SC 264



upon unless there are strong grounds for rejection of his evidence on the basis of major contradictions and discrepancies for the reason that his presence on the scene stands established in the case and it is proved that he suffered the injuries during the said incident. Similar view was also taken in the judgment of the Apex Court in the case of ***State of Haryana Vs. Krishnan***¹². The larger Bench of the Apex Court was also taken note of the said fact into consideration in the case of ***Mukesh Vs. State for NCT of Delhi & Others***¹³. The Apex Court in the judgment of ***Bhagwan Jagannath Markad Vs. State of Maharashtra***¹⁴ also reiterated the same. These judgments of the Apex Court are also applicable in the facts of the present case, since the evidence of PW1 is consistent and she has also sustained injuries and her presence on the scene stands established and the same is proved that she has suffered injuries. There are no materials to reject her evidence and there are no any major contradictions and discrepancies in the evidence of PW1 and hence, we answer Point No.I as 'negative'.

¹² AIR 2017 SC 3125

¹³ AIR 2017 SC 2161 (Three-Judge Bench)

¹⁴ (2016) 10 SCC 537



Point No.II:

16. Now with regard to the very contention of the counsel appearing for the appellant that there was no any intention for the accused to take away of the life of the victim and it was a case of grave provocation and also relied upon the judgments of the Apex Court. This Court has also taken note of the principles laid down in the judgments of the Apex Court, which have been relied upon and so also the judgment of the Delhi High Court. No doubt, Delhi High Court in Paragraph-41 has taken note of the circumstances under which the incident had taken place and so also in the judgment of the Apex Court in a case of ***Dauvaram Nirmalkar*** supra, has taken note of the factual aspects in Paragraph-7 and also the ingredients of Section 300 of IPC in Paragraph-8 and also taken note of the judgment of the Apex Court in a case of ***K.M. Nanavati*** supra, wherein paragraph-12, the Apex Court comes to the conclusion that *the second part emphasizes that the offender's reaction to the provocation is to be judged on the basis of whether the provocation was sufficient to bring about a loss of self-control in the fact situation* and so also the discussion was made that the Court has to take note of *the gravity of provocation and turns*



upon the whole of the victim's abusive behavior towards the accused. Gravity does not hinge upon a single or last act of provocation deemed sufficient by itself to trigger the punitive action and hence, comes to the conclusion that it is a case which comes under Exceptions to Section 300 of IPC and modified the judgment invoking Section 302 to Part I of Section 304 of IPC. So also the judgment of the Apex Court in a case of **Valson** referred above by the counsel appearing for the appellant and also taken note of the discussions made in Paragraphs-4 and 5.

17. Having considered the principles laid down in the said judgments referred by the counsel appearing for the appellant and also the submissions of appellant's counsel and also the Addl.SPP for the State, this Court has to examine whether it comes within the purview of Exceptions to Section 300 of IPC. But in the case on hand, it has to be noted that the victim was staying along with her children at her mother's house and on the date of the incident only, the accused went and brought her to his house. It is also important to note that all of them had the dinner in the night and thereafter all of them were sleeping. But at around 10 o'clock, PW1 heard the screaming sound of her daughter and when she came out, the accused followed her with



a deadly weapon of chopper and inflicted injuries on her head, neck and hand and the same is witnessed by PW1. The Court also to take note of the fact that the injuries sustained by the victim that is chop wound injuries, total 19 in number and it is not a single blow to say that it was not having any intention to take away the life of the victim and mercilessly inflicted the same. Apart from that, the evidence of the doctor is very clear that injury Nos.16 to 19 are the defence injuries. Hence, it is very clear that the victim also made an attempt to ward off the very intention and also inflicting the injuries all over the body, when the accused inflicted the injury with the deadly weapon. When such being the case, the very contention of the counsel for the appellant that it is a case for invoking Exceptions to Section 300 of I.P.C. cannot be accepted and also the contention that this Court can bring the same within the purview of Exceptions to Section 300 of IPC cannot be accepted. It is also important to note that the accused had not only taken the victim to his house on the particular date, but also started quarrelling with his wife and it is not the case of the defence that the victim started abusing the accused that too in intolerable words. But the accused followed her when she came out from the room when



the accused started quarrel and inflicted the injury and this Court also taken note of several injuries inflicted on the victim. If it is a case of sudden provocation, he would have inflicted single injury and if it is a case of single blow, then arguments of the counsel for the appellant would have been accepted, but here is a case of series of injuries inflicted with the deadly weapon i.e., 19 injuries and almost all are the chop wound injuries and that the other injuries are sustained when the victim herself tried to escape from the blow of the accused and these injuries also on the vital part i.e. neck and head. The principles laid down in the judgments referred by the counsel appearing for the appellant will not come to the aid of the appellant, having taken note of the nature of injuries and number of injuries and also the circumstances under which the incident was taken place and also to take note of the fact that both the victim and also the accused were not in cordial terms and the victim having not tolerated the harassment, went and stayed back in the house of PW-1 and on the particular day, that too when PW-1 did not agree to send her along with the accused, but only heeding to the advice of the well-wishers, she sent her along with children, however, she also accompanied the daughter and grandchildren. When all such



materials disclose before the Court, which is not controverted and not a case for bringing the case within the purview of Exceptions to Section 300 of IPC. No doubt, the counsel appearing for the appellant brought to the notice of this Court that the demeanor of cross-examination of PW-1, during the cross, wherein they elicited the nature of behaviour of the accused and also counsel brought to notice of this Court that he was always angry and the same cannot be a ground to come to a conclusion that he had lost his self-control and no such circumstances warranted in the case on hand to lose his self-control, which has been discussed by the Hon'ble Apex Court in the judgments referred *supra*. Here it is not a case of losing of self-control and there was no such occasion to the accused to lose his self-control. But the accused himself quarreled with the victim, who is sleeping along with him and he started the quarrel and when she came out from the house, he followed her with deadly weapon and inflicted the injuries. Hence, it is not a case to bring the case within purview of Exceptions to Section 300 of IPC and hence, we answered point No.II as 'negative'.



18. In view of the above discussions, we proceed to pass the following:

ORDER

- i. The appeal filed by the appellant is ***dismissed.***
- ii. The impugned judgment of conviction and order of sentence passed by the trial Court is confirmed.
- iii. The trial Judge had directed the children of the deceased to approach the District Legal Services Authority (DLSA), but the fact that all these children are minors and the trial Judge ought not to have directed the minor children to approach the DLSA instead of directing the DLSA to invoke Section 357(A) of the Criminal Procedure Code to award the appropriate compensation. Hence, we direct the DLSA, Dharwad to consider the case under Section 357(A) of Cr.P.C., if it is not considered and award appropriate compensation to the children of the victim.



- iv. It is made clear that all the children are minors and hence, the DLSA having awarded the appropriate compensation to the children, shall keep the amount in Fixed Deposit in the name of the minor children till they attain the age of majority.

SD/-
(H.P.SANDESH)
JUDGE

SD/-
(B. MURALIDHARA PAI)
JUDGE

JTR/RKM
CT:PA
List No.: 1 Sl No.: 9