



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 10TH DAY OF FEBRUARY 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

CRIMINAL APPEAL NO. 100271 OF 2022

(374(CR.PC)/415(BNSS)-)

C/W

CRIMINAL APPEAL NO. 100104 OF 2023

CRIMINAL APPEAL NO. 100809 OF 2025



IN CRL.A NO. 100271/2022

BETWEEN:

RAMESH SHIVARAYI MALLAPURE,
AGE: 32 YEARS, OCC: NIL,
R/O. DHUPADAL,
TQ: GOKAK, DIST: BELAGAVI-591218.

...APPELLANT

(BY SRI. ASHOK R. KALYANASHETTY, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
THROUGH MUDALGI CIRCLE POLICE STATION,
R/BY IT'S STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA BENCH,
AT: DHARWAD.

...RESPONDENT

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





THIS CRIMINAL PETITION IS FILED UNDER SECTION 374(2) OF CR.P.C., SEEKING TO SET ASIDE THE JUDGMENT OF CONVICTION AND ORDER OF SENTENCE PASSED BY XII ADDITIONAL DISTRICT AND SESSIONS JUDGE, BELAGAVI SITTING AT: GOKAK IN S.C.8011/2021 BY HIS JUDGMENT OF CONVICTION DATED 21.04.2022 AND ORDER OF SENTENCE DATED 22.04.2022 RESPECTIVELY FOR OFFENCES PUNISHABLE UNDER SECTIONS 302, 307 AND 504 OF IPC AND ACQUIT THE APPELLANT/ ACCUSED NO.1, IN THE INTEREST OF JUSTICE AND EQUITY.

IN CRL.A NO. 100104/2023

BETWEEN:

THE STATE OF KARNATAKA,
REPRESENTED BY THE
THE CIRCLE POLICE INSPECTOR,
MUDALAGI CIRCLE, MUDALAGI POLICE STATION,
BELAGAVI DISTRICT, THROUGH THE
ADDITIONAL STATE PUBLIC PROSECUTOR,
ADVODATE GENERAL OFFICE,
HIGH COURT OF KARNATAKA,
DHARWAD BENCH, DHARWAD-580011.

...APPELLANT

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

AND:

1. SHIVARAYI SINAPPA @ SIDDAPPA MALLAPURE,
AGED 61 YEARS,
R/O. DHUPADAL, TQ: GOKAK,
DISTRICT: BELAGAVI-591307.
2. LAXAVVA @ LAXMAVVA SHIVARAJ MALLAPURE,
AGED 56 YEARS,
R/O. DHUPADAL, TQ: GOKAK,
DISTRICT: BELAGAVI-591307.



3. MAHADEVI ANAND BAGANAL,
AGED 31 YEARS,
R/O. DHUPADAL, TQ: GOKAK,
DISTRICT: BELAGAVI-591307.

...RESPONDENTS

(BY SRI. ASHOK R. KALYANASHETTY, ADVOCATE)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) OF CR.P.C. SEEKING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 21.04.2022 AND 22.04.2022 PASSED BY THE XII ADDITIONAL DISTRICT AND SESSIONS BELAGAVI (SITTING AT GOKAK) IN S.C.NO. 8011/2021; TO SET ASIDE THE JUDGMENT AND ORDER DATED 21.04.2022 AND 22.04.2022 PASSED BY THE XII ADDITIONAL DISTRICT AND SESSIONS JUDGE, BELAGAVI (SITTING AT GOKAK) IN S.C.NO. 8011/2021. SO FOR IT RELATES A ACQUITTAL OF RESPONDENTS NO.1 TO 3/ACCUSED NOS.2 AND 3 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 302, 307, 504, 341 READ WITH 34 OF IPC AND RESPONDENT NO.3/ACCUSED NO.4 FOR THE OFFENCES PUNISHABLE UNDER SECTION 302, 307, 504 READ WITH 34 OF IPC; TO CONVICT AND SENTENCE THE RESPONDENTS NO.1 AND 2/ACCUSED NOS.2 AND 3 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 302, 307, 504, 341 READ WITH 34 OF IPC AND FURTHER CONVICT AND SENTENCE THE RESPONDENT NO.3/ACCUSED NO.4 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 302, 307, 504 READ WITH 34 OF IPC AND ALSO SENTENCE THE RESPONDENT NO.3/ACCUSED NO.4 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 341 OF IPC, IN THE INTEREST OF JUSTICE AND EQUITY.



IN CRL.A NO. 100809/2025
BETWEEN:

SMT. MAHADEVI W/O. ANAND BAGANAL,
AGED ABOUT 33 YEARS, OCC: HOUSEHOLD,
R/O. DHUPADAL, TQ: GOKAK,
DIST: BELAGAVI.

...APPELLANT

(BY SRI. ASHOK R. KALYANSHETTY, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
(GHATAPRABHA PS),
BY ITS STATE PUBLIC PROSECUTOR,
ADVOCATE GENERAL'S OFFICE,
HIGH COURT BUILDING PREMISES,
DHARWAD-580011.

...RESPONDENT

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

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 415 (2) OF BNSS 2023, PRAYING TO ACQUIT HER OF THE CHARGE FOR THE OFFENCE PUNISHABLE UNDER SECTION 341 OF IPC BY SETTING ASIDE THE JUDGMENT OF CONVICTION DATED 21.04.2022 PASSED BY THE XII ADDITIONAL DISTRICT AND SESSIONS JUDGE BELAGAVI SITTING AT GOKAK IN S.C.NO.8011/2021, IN THE INTEREST OF JUSTICE AND EQUITY.

THESE APPEALS, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
AND
HON'BLE MRS JUSTICE GEETHA K.B.



ORAL JUDGMENT

(HON'BLE MR. JUSTICE MOHAMMAD NAWAZ)

These appeals arise out of the judgment and order dated 21.04.2022 and 22.04.2022 passed in SC No.8011/2021 on the file of the Court of the XII Additional District and Sessions Judge, Belagavi, sitting at Gokak (for short, 'Sessions Judge').

2. Vide impugned judgment, the learned Sessions Judge has convicted accused No.1 for the offence punishable under Sections 302, 307 and 504 of IPC and accused No.4 for the offence punishable under Section 341 of IPC. Further, accused Nos.2 to 4 are held not guilty of the charged offences and accordingly they are acquitted.

3. Against the conviction and sentence, accused No.1, has preferred Criminal Appeal No.100271/2022 and accused No.4 has preferred Criminal Appeal No.100809/2025.



4. The State has preferred Criminal Appeal No.100104/2023, challenging the acquittal of accused Nos.2 to 4.

5. We have heard learned counsel, Sri Ashok R Kalyanshetty appearing for the accused and the learned Additional SPP, Sri M.B.Gundwade appearing for the State. Perused the evidence and material on record.

Brief facts:

6. The first informant, Sri Dundappa Siddappa Walikar (P.W.1) is the father of deceased Ramesh Dundappa Walikar. First informant's daughter (P.W.11) was given in marriage to accused No.1. Accused Nos.2 and 3 are the parents and accused No.4 is the younger sister of accused No.1. The marriage of accused No.1 and P.W.11 took place about 9 years prior to the incident. They had 2 daughters in their wedlock. About 5 years prior to the incident, P.W.11 came to her parental house in Hullolli Village for the delivery of third child. After the



delivery of a son, family planning surgery was conducted. The accused being enraged, as they were not consulted before performing the said surgery, did not take P.W.11 back to her matrimonial house. Hence, P.W.11 initiated proceedings under the Protection of Women from Domestic Violence Act, 2005. Conciliations were held at the intervention of the elders. As a result of which, P.W.11 joined her husband-accused No.1 in his house situated at Dupadal Village. However, he started ill-treating P.W.11, for the reason that she had undergone the family planning surgery without his consent and she had also approached the court.

7. On 31.12.2019, P.W.11 called her father-P.W.1 over phone and informed that her husband i.e., accused No.1 has assaulted her and requested P.W.1 to take her back to his house. P.W.1 along with his wife, son and other elders of the village went to the house of accused No.1 in Dupadal Village in a cruiser vehicle, to convene a panchayat. When they reached the house of accused No.1,



his daughter-P.W.11, who was present in the house, informed that the accused have gone to the land of accused No.4. Hence, all of them went in the vehicle to the land of accused No.4, wherein the accused were present in front of the farmhouse of accused No.4. P.W.1 and other elders enquired them as to why they are ill-treating P.W.11. At that time, accused No.1 stating that P.W.11 is his wife and he would do anything to her, abused them in filthy language as 'Bosadi makkalira' (ಬೋಸಡೀ ಮಕ್ಕಳೀರಾ). When P.W.1, his son (deceased) and other elders objected, accused No.4 held the shirt collar of first informant's son and accused Nos.2 and 3 started pulling and pushing him. Accused No.1 went inside the house and brought a sickle and assaulted on his back and neck. When P.W.1 rushed to rescue him, accused No.1 assaulted him with the said sickle on his waist. Thereafter, all the accused fled from the scene.

8. The injured P.W.1 and his son were shifted in the very same vehicle to K.H.I. Hospital, Ghataprabha. On



the way to the hospital, first informant's son Ramesh Dundappa Walikar succumbed to the injuries.

9. The statement of P.W.1 was recorded from the hospital by P.W.12-PSI of Ghataprabha Police Station, on the basis of which the case was registered against the accused and the FIR was transmitted to the jurisdictional Court.

10. P.W.13, who took over the investigation, went to the spot, conducted inquest and spot mahazar, arrested accused Nos.1 to 4. Further, on the voluntary statement-Ex.P.34 of accused No.1, recovered the incriminating articles including the weapon of offence i.e., sickle (ಕುರುಪಿ) marked as M.O.1. On completion of the investigation, he filed charge-sheet against accused Nos.1 to 4.

11. Before the trial Court, 16 witnesses were examined and 50 documents and 15 material objects were produced and marked on behalf of the prosecution.



12. The learned Sessions judge framed the following points for consideration.

POINTS FOR CONSIDERATION

- "1. Whether death of deceased is homicidal?*
- 2. Whether the prosecution proves beyond reasonable doubt that accused No.1 murdered deceased by assaulting him with sickle?*
- 3. Whether prosecution proves beyond reasonable doubt that accused No.1 attempted to murder P.W.1 with very sickle?*
- 4. Whether prosecution proves beyond reasonable doubt that accused No.1 intentionally insulted P.W.1?*
- 5. Whether prosecution proves beyond reasonable doubt that accused Nos.2 to 4 abetted the commission of offences by accused No.1?*
- 6. Whether prosecution proves beyond reasonable doubt that accused No.2 to 4 shared common intention with accused No.1 to commit the offences alleged?*
- 7. Whether prosecution proves beyond reasonable doubt that accused No.4 wrongfully restrained*



*deceased and accused No: 2 and 3 wrongfully
restrained PW:1?*

8. What order?"

13. The learned Sessions Judge answered point Nos.1 to 4 in the 'affirmative', 5 and 6 in the 'negative' and point No.7 in the 'affirmative' only against accused No.4.

14. Challenging the conviction and sentence passed against accused Nos.1 and 4, the learned counsel Sri. Ashok R. Kalyanashetty has contended as under:

- i. The deceased- Ramesh Dundappa Walikar and the first informant, Dundappa Siddappa Walikar (P.W.1) have not sustained injuries on account of any assault by the accused, on the other hand, they sustained injuries when they fell down from the motorcycle while chasing the accused, and came in contact with the sharp edged stones.



- ii. The complainant's party themselves are the aggressors as they went to the house of accused No.1 along with several villagers. They assaulted accused No.1 in his house and then went to the house of accused No.4 and assaulted accused Nos.2 to 4.
- iii. The accused also sustained injuries; accused Nos.2 to 4 were arrested from the Hospital. The injury sustained by them has been suppressed by the prosecution.
- iv. Even the accused lodged a complaint, which is admitted by the prosecution witnesses including the investigation officer-P.W.13, and non-production of the complaint, FIR in respect of the case registered by the accused against the complainant and others raises a doubt in the prosecution case.



- v. There are material contradictions in the evidence of the alleged eye witnesses, which goes to the root of the prosecution case.
- vi. The Doctor who treated P.W.1 and the Doctor who conducted P.M. examination have opined that the injuries could be caused due to a fall from the motorcycle and coming into contact with the sharp edged stones and thorns.
- vii. The recovery of sickle-M.O.1 at the instance of accused No.1 is doubtful. As per FSL report, no blood stains were found on the said sickle and therefore, the recovery is planted.
- viii. The material witnesses, namely Shravana, and Shankar Karigar are not examined by the prosecution and they are purposely withheld.



ix. There was no motive whatsoever for the accused to commit any offence. Accused No.4 was residing separately in her house in the farm land and P.W.11 was residing separately with her husband i.e., accused No.1 in Dhupadal village cordially.

15. Learned counsel for the accused contended that the reasons assigned by the learned Sessions Judge to convict the accused are not in accordance with law and same has resulted in miscarriage of justice and accordingly, sought to allow the appeal and set aside the impugned judgment and order of conviction and sentence passed against accused Nos.1 and 4.

16. Challenging the acquittal of accused Nos.2 and 3, for all the charged offences and acquittal of accused No.4 for the charged offences except Section 341 of IPC, the learned additional S.P.P has contended as under:



- i. PWs.1 to 3 are the eye witnesses and amongst them, P.W.1 is an injured witness. They are material witnesses and their evidence is trustworthy and believable.
- ii. The witnesses have categorically stated about the overt acts of each of the accused. There is nothing elicited in their cross-examination to disbelieve their testimony.
- iii. P.W.1 being the injured witness, his evidence assumes importance. He has deposed about accused No.1 assaulting the deceased on the vital part of body with a dangerous weapon like sickle and also deposed about assaulting P.W.1 with the same sickle and causing grievous injuries to him.
- iv. The post mortem report-Ex.P6 issued by P.W.5 clearly indicates the nature of injuries sustained by the deceased and the cause of



death. Similarly, the wound certificates- Ex.P4 and Ex.P11 issued by P.W.4 and P.W.6 clearly indicates the nature of injury sustained by P.W.1.

- v. The blood stain on the weapon has been spoken by the panch witnesses as well as the investigation officer and also noticed at the time of conducting seizure mahazar. Therefore, absence of blood stains on the sickle as per the FSL report is not fatal to the prosecution case.
- vi. All the accused had a common intention to commit the murder and also had an intention to do away with the life of P.W.1 and therefore, all the accused are liable to be convicted for the charged offences.

17. The learned Additional S.P.P contended that the trial Court ought to have convicted accused Nos.2 to 4 for



all the charges levelled against them and accordingly, sought to allow the appeal filed by the State.

18. Ex.P25 is the complaint lodged by P.W.1. The complaint averments are that complainant is a resident of Hullolli in Hukkeri Taluk and accused No.1 is the resident of Dhupadal village. Complainant's daughter-Mahananda(P.W.11) was given in marriage to accused No.1, about 9 years prior to the date of incident. Since 5 years, accused No.1, his parents and his sister, were harassing his daughter. For the third delivery, his daughter came to his house and about 4 years prior, she gave birth to the third child. Thereafter, family planning surgery was performed on her daughter. The accused were not happy and they were harassing his daughter. Therefore, they convened a Panchayat with the help of elders and advised the accused.

19. On 31.12.2019, his daughter telephoned to the complainant and informed him about the harassment



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meted to her by the accused. Hence, the complainant along with his son, wife and other elders of the village went in a cruiser vehicle to Dhupadal village, to the house of accused no.1. His daughter who was present in the house informed them that her husband and parents have gone to the farmhouse of accused No.4. Therefore, to advise the accused, all of them went to the farmhouse, wherein, all the accused were present. When they advised them and told them to look after his daughter properly, accused No.1 started abusing in filthy language stating that he will do anything to his wife. Accused No.4 held the neck of his deceased son. Her parents started pulling and pushing him and at that time, accused No.1 went inside the house and brought a sickle (ಕುರುಪಿ) and assaulted on the left side of the neck of complainant's son, due to which, he started bleeding. Once again accused No.1 assaulted on the left waist of P.W.1 and he too sustained bleeding injuries. Thereafter, he and his son were taken to



Ghataprabha K.H.I Hospital in the cruiser vehicle, however, on the way, his son died.

20. The defence of the accused is that the complainant's party themselves are the aggressors, as they themselves have come to the house of the accused in a cruiser vehicle along with the villagers. They initially came to the house of accused No.1 and assaulted him and thereafter, they went to the house of accused No.4, wherein they assaulted accused No.4 and deceased tried to outrage the modesty of accused No.4. Accused Nos.2 and 3 started running away and while chasing them on a motorcycle, the deceased and the complainant fell down from the motorcycle and sustained injuries and the deceased succumbed to the injuries.

21. The above suggestions were put to P.W.1 to P.W.3, however they have categorically denied it. Infact, the complainant and others have gone to Dhupadal village in a cruiser jeep and there is no material to show that



some of them have been to Dhupadal village on a motorcycle. The suggestion put to P.W.1 to P.W.3 that some of them have gone to the spot on a motorcycle was outrightly denied by the said witnesses. Hence, question of deceased or P.W.1 sustaining injuries by falling from the motorcycle and coming into contact with the sharp edged stones etc., would not arise.

22. The learned counsel drawing the attention of the Court to the opinion furnished by the Doctors who issued P.M. report as well as the wound certificate in respect of P.W.1, contended that the defence theory regarding injuries sustained by deceased and P.W.1 has been proved.

23. P.W.4 while referring to Ex.P.4-the wound certificate of P.W.1 issued by him would admit that if a person riding on a motorcycle falls on cut edge of bush or sharp edged stones, may sustain injuries as mentioned by him in Ex.P.4. However, P.W.6 has denied that such



injuries mentioned by him in Ex.P.11- wound certificate of P.W.1, could be caused in such an event. At the same time, P.W.4 and P.W.6 have confirmed that the injuries found on the injured could be caused with the sickle, which was sent for their opinion.

24. We have perused the injuries sustained by P.W.1 as mentioned in Ex.P.4 and Ex.P.11.

25. As per Ex.P.4-the injury certificate issued by P.W.4, P.W.1 has sustained a cut lacerated wound on the left buttock measuring 15x5x3 c.ms., with a fracture of ileum. The said injury is stated to be grievous in nature. P.W.1 was discharged and referred to higher center and took treatment from P.W.6, on the same day i.e., on 31.12.2019, who noticed sharp incised wound over the left iliac region of the abdomen measuring 4"x2" and 2" deep with underlying muscles cut. The iliac bone below the injury was fractured. P.W.6 has stated that the injured was discharged on 18.01.2020 and the injury noticed by



him could be caused with weapon like M.O.1-sickle shown to him.

26. The fact that P.W.1 sustained injuries on account of the assault by accused No.1 from a sickle is not only stated by the injured P.W.1 himself, but also by P.W.2 and P.W.3. The doctor's evidence corroborates that the said injury sustained by P.W.1 was caused with a weapon/M.O.1.

27. The learned counsel would contend that as per the evidence of P.W.4 and P.W.6, M.O.1 was sent to them for examination on the same day and therefore, both of them examining M.O.1-sickle on the same day is improbable and doubtful.

28. Merely because the weapons were sent for the opinion of the doctors on the same day itself is not a ground to hold that the said weapons were not at all sent to the doctors for their opinion. It is not the case of the defence that both the doctors have examined the weapon-



M.O.1 at the same time, so as to doubt their testimony with regard to opinion furnished by them.

29. P.W.1 being an injured witness, his evidence is very material, notwithstanding his relationship with the deceased. He has reiterated the complaint averments with regard to the motive and the incident in question. He has deposed that accused Nos.1 to 4 were questioning them as to why they have performed the family planning operation after the third delivery of his daughter, without their permission. For the said reason, they had not taken back his daughter to the matrimonial home. About 6 months prior, a panchayat was conducted in the village. After the panchayat, even in the police station, talks were held. Thereafter, the accused took his daughter to their house. However, the accused were harassing his daughter and picking up quarrel with her and, assaulting her. His daughter had filed a maintenance case against her husband that is accused No.1. Even, in that regard, the accused was harassing his daughter. 15 days after his



daughter was sent to her matrimonial home, they once again started ill treating her. On 30.12.2019, she called him and informed about the harassment meted to her by the accused. Therefore, at about 04.00 p.m., he along with his wife, son and other villagers went in Cruiser vehicle to Dhupadal village and reached the village at about 05.00 p.m., and went to his daughter's house. His daughter informed that her husband and his parents have gone to the land and therefore, he took his daughter's son Shravan along with them and went to the land of accused No.4, so as to advise them. They reached the land at about 05.30 p.m. The house of accused No.4 was situated in the land, wherein all the accused were present in front of the house. When they enquired them as to why they are ill treating his daughter, accused No.1 started abusing stating that she is his wife and he will do anything. When even the Panchayathdars asked them as to why they are ill treating complainant's daughter, accused No.1 went inside the house, brought a sickle, accused No.4 held the



shirt collar of deceased Ramesh and accused No.1 assaulted him on the neck and back. Accused Nos.2 and 3 pushed him and accused No.1 once again assaulted him with the same sickle on his waist. Thereafter, all the accused ran away from the spot.

30. P.Ws.2 & 3 have corroborated the evidence of P.W.1. The said witnesses have also gone to Dhupadal village along with P.W.1, his wife and deceased in the Cruiser vehicle. The evidence of P.Ws.1 to 3 clearly discloses that when P.W.1, deceased and others went to advise the accused not to ill-treat the daughter of P.W.1, the accused picked up quarrel and accused No.4 abused the complainant and held the collar of the deceased and accused No.1 went inside and brought a sickle and assaulted him on his neck and back. Further, he assaulted P.W.1 on the waist. They have denied the suggestion that the complainant's party themselves assaulted accused No.1 in his house and then went to the house of accused No.4 and assaulted her and outraged her modesty and



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when accused Nos. 2 and 3 came to the spot, they threw stones at accused No.3 and therefore all the accused ran away towards the hill etc., Further, denied that when PW1 and deceased started chasing them on the motor cycle, they fell down and sustained injuries etc.

31. The incident took place at about 06.30 p.m. on 31.12.2019. Immediately, after the incident, P.W.1 and deceased were shifted to Ghataprabha Hospital. On the way to the hospital, deceased succumbed to the injuries. On receiving the information, P.W.12, PSI of Ghataprabha Police Station visited the hospital and recorded the statement of P.W.1 given through C.W.16. The complaint is lodged without any loss of time i.e., at about 08.30 p.m., and by 8.45 p.m., FIR was registered.

32. As per postmortem report-Ex.P6, deceased died as a result of hemorrhage shock secondary to bleeding due to injury to major blood vessel of neck and internal bleeding secondary to lung injury® side.



33. P.W.5, who conducted the autopsy and issued the postmortem-Ex.P6 has noticed the following external injuries:-

- i) A cut lacerate wound measuring 10x6x4c.m on lateral part of left side of neck. It was bleeding.*
- ii) A cut lacerated wound measuring 12x10x5 c.m on the mid one third of right side of back associated with bleeding and clots.*

and he found following internal injuries.

- i) Fracture of four and fifth ribs posteriorly (Back) on right side below the cut lacerated wounds at the back.*
- ii) The right lung was injured associated with bleeding. Surrounding it there was collection of blood in chest cavity about 500 ml. to 700ml.*
- iii) At neck the carotid artery at left side was injured associated with bleeding. Oesophagus was also injured associated with bleeding in situs.*
- iv) Left side lung, heart, liver, spleen, kidney were congested. The stomach contained digested food.*



34. From the medical evidence and the oral evidence of P.Ws.1 to 3, we have no hesitation to hold that the deceased died on account of the injuries sustained by him and said injuries were caused by accused No.1 by assaulting with a sickle.

35. The learned counsel contended that the recovery of M.O.1-sickle is doubtful, since according to the prosecution the said sickle was blood stained, on the other hand as per FSL report, no blood stains were found on the said sickle.

36. The accused No.1 was apprehended on 01.01.2020 at about 06.00 a.m. from a place called Navinamala in Dhupadal village and he was produced before P.W.12-Investigating Officer at about 06.30 a.m. His voluntary statement was recorded as per Ex.P.34. A blue collar shirt and a blue pant were seized, which contained blood stains, marked as M.O.2 and M.O.3. Further, accused No.1 led the police and pancha towards Gokak



falls and at his instance a kurpi (sickle) which was blood stained and concealed in the mud was recovered.

37. P.W.2-Investigating Officer has deposed about sending seized articles for FSL. As per FSL report, pant of the accused was blood stained. But, M.O.1 was not blood stained.

38. P.W.8 is the panch witness to the seizure mahazar-Exs.16 and Ex.P.18 under which the clothes of the accused and the sickle were seized. He has supported the case of prosecution. He has stated about the seizure of the clothes in the police station and also recovery of M.O.1-sickle at the instance of the accused. In the mahazar, M.O.-1 sickle was shown to be blood stained and even P.W.6 has stated that the said M.O.-1 was blood stained. However, as per FSL report, the M.O.1 was not stained with any blood.

39. The contention of the learned counsel that since M.O.1 was not stained with blood, as per FSL report and



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therefore, the recovery is doubtful and the entire case of the prosecution is false etc., cannot be accepted. This is a case where the prosecution is mainly relying on the evidence of the eye witnesses including the injured witness. Having perused the testimony of P.W.1 to P.W.3, we have no hesitation to hold that deceased was assaulted with a sickle by accused No.1, due to which he sustained injuries and died on the way to the hospital. In fact, M.O.1-sickle has been identified by P.W.1 to P.W.3 as the weapon used by accused No.1, P.W.8 has stated that the said sickle was recovered at the instance of accused no.1.

40. The learned Sessions Judge, relying on the evidence of P.W.1 to P.W.3, assessed the role of each accused. The trial Court held that Exhibit P.25-complaint is the earliest document giving details of the incident and it is promptly lodged. It contains exhaustive details of incident and what all transpired on 31.12.2019. The learned Sessions Judge noticed the specific role attributed to accused Nos.2 to 4 in Ex.P.25 and the scuffle between



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them and deceased. At that juncture, accused No.1 went inside the house, brought a sickle and attacked the deceased and P.W.1. Hence, held that fetching of sickle and assaulting the deceased and P.W.1 is the sole impulsive act of accused No.1 himself, in which other accused have no role to play. Further held, according to P.W.1 to P.W.3, accused No.4 held the collar shirt of deceased, which is prior to the actual assault and mere holding of collar neck of deceased would not indicate that she facilitated accused No.1 to assault the deceased. Her act was as a result of altercation which took place and there is nothing on record to show that she had any idea of accused No.1 fetching the sickle and assaulting the deceased. Further, even there is no evidence placed by prosecution to show how she behaved at the time of assault and immediately after it, except that she ran away with other accused. Hence, acquitted A2 to A4 of the main charges. The findings recorded by the trial Court to acquit



accused Nos.2 to 4 of the main charges is in accordance with law.

41. A perusal of the evidence of P.W.1 to P.W.3 do not indicate that accused Nos.2 to 4 had any intention to commit the murder of deceased Ramesh or that they had any intention to inflict injuries to P.W.1. As per the testimony of P.W.1, accused Nos.2 and 3 pushed him and at that time accused No.1 assaulted him with the sickle on his waist. Undisputedly, accused Nos.2 to 4 were unharmed and in the scuffle, there is a possibility that accused Nos.2 and 3 pushed P.W.1. The fact that accused No.1 bringing the sickle from the house and then all of a sudden assaulting the deceased and P.W.1 cannot be attributed to them to hold that they too shared the common intention along with accused No.1. Insofar as accused No.4 is concerned, the trial Court has convicted her for the offence punishable under Section 341 of IPC. The reasons assigned are that there is consistent evidence on record so far as the act of accused No.4 holding the



shirt collar of deceased prior to assault. The trial Court has held that the said act amounts to wrongful restraint of deceased.

42. We have carefully perused the evidence of P.W.1 to P.W.3. P.W.1 has stated that accused No.4 held the shirt collar of his deceased son and pulled him. Similar is the evidence of P.W.2 and P.W.3. To convict a person for the offence punishable under Section 341 of IPC, it has to be shown that the said person has voluntarily obstructed any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed.

43. From the evidence of P.W.1 to P.W.3, it cannot be said that the ingredients of Section 339 of IPC (wrongful restraint) has been made out against accused No.4. The said witnesses have not stated that by holding the shirt collar and pulling, accused No.4 has wrongfully caused obstruction and prevented the deceased from



proceeding in any direction. It can be seen that P.W.1, deceased and others went to the house of accused No.4, wherein the incident took place. When the complainant and others advised accused No.1, he abused them and there was a scuffle and in the said scuffle, accused No.4 is alleged to have held the shirt collar of the deceased. That by itself is not sufficient to hold that she has committed an offence under Section 339 of IPC punishable under Section 341 of IPC. The conviction of A4 for the said offence, is therefore, liable to be set aside.

44. It is the contention of the learned counsel for the accused that even the accused have lodged a complaint and the said complaint has been suppressed by the prosecution. He contended that the genises of the incident has been suppressed. The accused have sustained injuries and non-explanation of the same leads to a conclusion that the accused are innocent of the offence alleged.



45. P.W.13-Investigating Officer in his cross-examination has admitted that there was a counter case registered by the accused. However, he stated that in the said case 'B' report was filed. Admittedly, the said 'B' report has not been challenged by the accused. The accused by way of defence evidence have not brought on record the FIR or the wound certificates if any, wherein they are alleged to have sustained injuries. They have not stated in the written submissions filed by them after their statements under Section 313 of Cr.P.C. were recorded, about the complaint lodged by them. In the written submission, accused No.3 has stated that in the quarrel, the opponents have twisted her hand and therefore, she suffered pain. Accused No.4 stated that she got hurt to her head in the incident and therefore, she is suffering from headache.

46. The defence has not got marked any documents to show that either any of the accused have sustained injuries in the incident. Even accepting that they have



suffered those injuries as stated in their written submission, it cannot be said that they have sustained any such grievous injuries. Hence, non-production of the complaint or FIR lodged by the accused, which admittedly ended in a 'B' report after investigation, is not fatal to the prosecution case.

47. Admittedly the incident took place in the farmhouse of accused No.4. The trial Court has convicted accused No.1 for the offence punishable under Section 307 of IPC for attempting to commit the murder of P.W.1.

48. As we have already observed, P.W.1 has sustained grievous injuries on his buttock. PW4, who treated PW1 and issued Exhibit P.4, has noticed a cut lacerated wound at left buttock measuring 15x5x3 centimeters. He has deposed that as per Exhibit P.4, P.W.1 sustained fracture of ileum. Similarly P.W.6 has issued Exhibit P.11-wound certificate pertaining to P.W.1, as per which, P.W.1 sustained incised wound over the left



iliac region of abdomen measuring 4"x2" and 2" deep. The learned Sessions Judge has come to the conclusion that the part of the body at which P.W.1 is assaulted is a vital part and further held, the nature of weapon used, the part of the body chosen, the force in which accused No.1 assaulted P.W.1 and the nature of injury being fatal, proclaim the intention of accused No.1 to kill even P.W.1.

49. We have carefully perused the evidence of P.W.1, the injured in this case as well as the evidence of P.W.2 and P.W.3, the other eye witnesses. P.W.1 has deposed that after accused No.1 brought the sickle from the house, he assaulted with the said sickle on the neck and back of the deceased. When he screamed and tried to save his son, he was pushed by accused Nos.2 and 3, at that time, accused No.1 assaulted on his left side of the waist. Even P.W.2 and P.W.3 have stated in their evidence that accused No.1 has assaulted with the sickle on left side of the waist of P.W.1. The witnesses have stated that accused No.1 gave one blow on the waist of



P.W.1 whereas he assaulted on the neck and back of the deceased with the sickle. It is not the case of prosecution that after giving a blow on the waist of P.W.1, again accused No.1 tried to assault him with the sickle or he tried to give a blow on the neck or head of P.W.1. It is also not the case of prosecution that P.W.1 sustained the injury while trying to prevent blow on his head or neck. Hence, from the evidence of P.W.1 to P.W.3, it can be gathered that accused No.1 gave one blow to P.W.1 on his waist. If he had any intention to commit his murder, he would have assaulted him again or assaulted either on his head or on his neck, as he assaulted the deceased. Hence, it cannot be held that there was any intention on the part of accused No.1 to commit the murder of P.W.1. However, the doctor has categorically stated that the injury sustained by P.W.1 is a grievous injury, as we have already noticed from Exhibits P.4 and P.11. Therefore, we hold that accused No.1 by causing grievous injuries to P.W.1 from a dangerous weapon has committed an offence



punishable under Section 326 of IPC, which is also an alternative charge framed in this case. The conviction and sentence passed against accused No.1 for the offence punishable under Section 307 of IPC is therefore liable to be set aside and he is liable to be convicted under Section 326 of IPC for causing grievous injury to P.W.1.

50. It is the specific case of the prosecution that P.W.1 along with his wife, deceased son and other villagers, in all 10 in number, went to Dhupadal Village in a cruiser to the house of accused No.1 to conduct panchayat and advise him, since he was harassing the complainant's daughter. On coming to know that accused No.1 and his parents have gone to the farmland of accused No.4, they went to the farmland of accused No.4 in the same vehicle, wherein all the accused were present. It is not the case of the defence that at that time they were armed with any weapon. However, the fact remains that the complainant along with his deceased son, wife and other elders of the village, went themselves to the



spot i.e., the house of accused No.4, where the unfortunate incident took place. The witnesses have not stated that as soon as they went near the farmhouse of accused No.4, all the accused attacked them or accused No.1 assaulted P.W.1 and the deceased with a sickle. According to the witnesses, when they questioned the accused as to why they are repeatedly harassing and assaulting the complainant's daughter, accused No.1 got enraged and started abusing saying that he will do anything to his wife and saying that they are repeatedly conducting panchayat, he went inside the house, brought a sickle and assaulted the deceased on the neck and back and also assaulted P.W.1 on the waist.

51. P.W.1 in his cross-examination has admitted that he along with his deceased son, wife and panchas namely CWs.10 to 16 went to Dhupadal village in a cruiser vehicle. Among them, CW.14 is examined as P.W.2 and CW.11 is examined as P.W.3. All those persons had gone to the house of accused No.4 either to question or advise



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accused No.1 and the other accused regarding the harassment meted to the complainant's daughter. As could be seen from the evidence of P.W.1 to P.W.3, initially, there was a verbal quarrel and then a scuffle and then accused No.1 went inside the house and brought a sickle and all of a sudden assaulted the deceased. When P.W.1 tried to intervene, he was also assaulted on the waist. From the same, it cannot be said that accused No.1 had premeditation to take away the life of deceased-Ramesh. The incident has occurred in a heat of passion upon a sudden quarrel. Further, it cannot be said that accused No.1 has taken undue advantage or acted in a cruel or unusual manner at the time of incident. At the same time, the contention of the learned counsel for the accused that the complainant's party themselves are the aggressors and therefore, no offence is made out, cannot be accepted. Admittedly, the complainant, the deceased and other elders of the village, who went to the spot, were not carrying any weapon with them. It is not the case of the



defence that immediately after going to the land of accused No.4, they started assaulting the accused so as to retaliate against the said attack.

52. For the aforesaid reasons, we are of the view that the conviction recorded by the trial Court against accused No.1 for the offence punishable under Section 302 is not sustainable. On the other hand accused No.1 is liable to be convicted for the offence punishable under Section 304 Part-I of IPC since it can be clearly held that he had inflicted injuries on the vital part of the body of deceased with the intention of causing death or causing such bodily injury as is likely to cause death, in a sudden quarrel, without premeditation. The offence committed by him would thus fall under *Exception IV* to Section 300 of IPC, i.e. culpable homicide not amounting to murder, punishable under Section 304 part I of IPC.

53. For the foregoing reasons, we proceed to pass the following:

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ORDER

- i. Criminal Appeal No.100104/2023 preferred by the State is dismissed.
- ii. Criminal Appeal No.100809/2025 preferred by accused No.4 is allowed. The judgment and order dated 21.04.2022 passed by the learned XII Additional District and Sessions Judge, Belagavi, in S.C. No.8011/2021 convicting the appellant/accused No.4 for the offence punishable under Section 341 of IPC is hereby set aside. The appellant/accused No.4 is acquitted of the said offence.
- iii. Criminal Appeal No.100271/2022 preferred by accused No.1 is partly allowed. The judgment and order dated 21.04.2022 passed by the learned XII Additional District and Sessions Judge, Belagavi, in S.C. No.8011/2021 insofar as convicting and sentencing accused No.1 for the offence under Sections 302 of IPC and 307 of IPC is hereby set aside. The conviction and sentence passed in respect of the offence punishable under Section 504 of IPC is confirmed.



- iv. Accused No.1 is convicted for the offence punishable under Section 304 Part-I and 326 of IPC.
- v. Accused No.1 is sentenced to undergo rigorous imprisonment for a period of 10 years for the offence punishable under Section 304 Part-I of IPC and shall pay fine of Rs.10,000/-, in default of payment of fine, shall undergo simple imprisonment for a period of two months.
- vi. Accused No.1 is sentenced to undergo rigorous imprisonment for a period of three years for the offence punishable under Section 326 of IPC and shall pay fine of Rs.5,000/-, in default of payment of fine, he shall undergo simple imprisonment for a period of one month.
- vii. He is entitled to set off for the period of imprisonment already undergone by him.
- viii. All the sentences shall run concurrently.
- ix. Accused No.1 is directed to surrender before the trial Court within a period of one month, to serve the remaining part of sentence.



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x. The bail bond of accused No.1 stands cancelled.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE

SH para 1 to 10
RKM-para 11 to 22
HMB-Para 23 to 39
KMV- Para 38 to end

CT-MCK
LIST NO.: 1 SL NO.: 16