



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JANUARY, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO. 1930 OF 2017

BETWEEN:

1. KUMAR
S/O ESHWARAPPA
DRIVER
R/O AMATEKOPPA VILALGE
SHIKARIPURA TALUK
SHIVAMOGGA DISTRICT-577 427.

...APPELLANT

(BY SRI. M. SHASHIDHARA, ADVOCATE)

AND:

1. STATE BY SHIKARIPURA RURAL POLICE
SHIKARIPURA
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA
BENGALURU-560 001.

...RESPONDENT

(BY SMT. RASHMI JADHAV, ADDL. SPP)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) OF CR.P.C PRAYING TO SET ASIDE THE IMPUGNED JUDGMENT AND ORDER DATED 13.11.2017 PASSED BY THE III





ADDITIONAL SESSIONS JUDGE, SHIVAMOGGA IN
S.C.NO.68/2016 - CONVICTING THE APPELLANT/ACCUSED FOR
THE OFFENCES PUNISHABLE UNDER SECTIONS 302 AND 201
OF IPC.

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL JUDGMENT

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

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

2. This appeal is filed against the conviction for
the offence punishable under Section 302 and 201 of
Indian Penal Code (hereinafter referred as IPC) and
sentenced the accused for life imprisonment and also pay
fine of Rs.20,000/- for the offence under Section 302 of
IPC and undergo sentence for a period of 3 years and also
pay fine of Rs.5,000/- in respect of Section 201 of IPC and



default sentence also imposed for both the offences and the same is challenged before this Court.

3. The factual matrix of case of prosecution is that on 01.05.2015 at about 5:50 a.m., the complainant and one Rudrappa have noticed the body of the deceased lying on the edge of the road near Kanivemane Village bridge; on going-over they found that it was the body of the person known to them from a resident of Amatekoppa Village; deceased had sustained injuries on left ear and on right side of the head, blood was oozing from nose; abrasion was noticed on the fingers and knee; then they have informed the incident to the brother/accused through phone; but they could not reach out to the accused since his mobile was not reachable at that moment, then they informed the wife of C.W.4, the accused came to the spot on receiving the information. On enquiry, the accused told that in the early morning at about 4:30 a.m., the deceased left home for morning walk as usual and he suspected in between 5:30 a.m. to 06:00 a.m., unknown



vehicle might have caused the accident resulted in his death. Based on this, the case was registered on the very same day at 8:00 a.m., invoked the offence punishable under Section 279, 304A of IPC and Section 134(A and B), 187 of Indian Motor Vehicles Act, 1988 (hereinafter referred as IMV Act). Immediately after receiving the information, the complainant Police have visited the spot and conducted the mahazar in the presence of complainant and punch witnesses H.B.Puttappa and Shivamurthappa; then the body was shifted to Mc.Gann Hospital by Canter which was brought by the accused; the inquest and postmortem was conducted at the hospital. The Police have investigated the matter and subsequently when the complaint was given by P.W.8 that it was a mysterious death and not a case of accidental one; maternal uncle of the deceased had lodged the complaint alleging that 2 days prior to the incident, accused visited their house when he was along with C.W.23 Nemyanaika, he had confessed before him stating that on the greed of



money to get the insurance proceeds which was in the name of deceased to a tune of Rs,45,00,000/- he committed the murder and represented it as a case of accident to the public, based on this complaint, Police have registered the case invoking Section 302 and 201 of IPC and investigated the matter and apprehended the accused on 19.12.2015 and during the course of investigation, recorded the statement of owner of the Canter vehicle which was used by the accused to commit murder and the same was seized and recorded the statement of the officers of the Insurance company, wife of the accused and C.W.26-Hanumantha the daily wages labour who was working in the house of the accused. The maternal uncle C.W.2 has stated that since the birth of deceased, he was brought up in his care and custody in their house and 1½ years back, the accused took the deceased to his house; hence, by suspecting the hand of accused in the death of deceased made representation to the Police through investigation. The Police after the investigation filed the



charge sheet invoking Section 302 and 201 of IPC and filed the charge sheet and case was also committed to the Sessions Court since the offence is triable by the Sessions Court and accused did not plead guilty and claims trial and hence, prosecution relies upon the evidence of P.W.1 to P.W.22 and Ex.P.1 to Ex.P.45 and MO.1 and portion of statement of C.W.23 is marked as Ex.D.1. The Trial Court recorded the statement of accused under Section 313 of Cr.PC. Having considered both oral and documentary evidence available on record and on appreciation of both oral and documentary evidence, the Trial Court answered the charges levelled against the accused as affirmative in coming to the conclusion that the accused only committed the murder of the victim using the Canter vehicle which belongs to the P.W.5 and also convicted the accused for screening of the evidence by invoking Section 201 of IPC, the same is challenged before this Court by the accused.

4. The counsel appearing for the appellant would vehemently contend that the Trial Court not appreciated



the evidence available on record in a proper perspective. There is a delay in lodging the complaint and reaching of FIR to the jurisdiction Magistrate also not been explained. The counsel would vehemently contend that incident was taken place on 01.05.2015 and case for invoking of Section 302 of IPC only in the month of December that too based on the statement of P.W.8 who is an uncle of the accused having ill-will against him that he claimed the share over the insurance amount and he refused to share the amount and hence, a false complaint was lodged. The counsel would vehemently contend that except motive that only with an intention to take the money from insurance company, a murder was committed, nothing is placed on record, except confession statement of the appellant, no other incriminating material or circumstances proved by the prosecution independently. The trial Judge committed serious error in convicting the appellant when the chain of circumstances is broken. The incomplete chain of circumstances relied upon by the prosecution does not



proves the guilt of the accused in any way. The Doctor who conducted the postmortem examination and in the presence of panch witnesses and cause of death of the deceased is very clear that it is due to traffic accident and hence, question of invoking offence under Section 302 of IPC does not arise and it is not a case of homicidal and committed an error relying upon the evidence of prosecution witnesses solely particularly based on the evidence of P.W.8, P.W.9, P.W.12 and Doctor evidence P.W.15 not corroborates with the evidence of P.W.8. Hence, it requires interference.

5. Per contra, the counsel appearing for the respondent/State-Addl. SPP -Rashmi Jadhav would vehemently contend that weapon was seized and seized weapon was also sent to the FSL, but no material with regard to the report from the FSL. The counsel would vehemently contend that P.W.8 evidence is very clear that when he was sitting along with P.W.9, accused came and made extra judicial confession and the evidence of P.W.8



and P.W.9 is very clear with regard to he made the confession in the presence of both of them, nothing is elicited to disbelieve the evidence of P.W.8 and P.W.9. The counsel appearing for the State/respondent also relies upon the evidence of P.W.5 who is owner of the Canter vehicle and he categorically deposed that in the previous day of the incident, the vehicle was taken from him and also the P.W.12 who is working in the house of accused categorically deposes that the deceased was not having the habit of making morning walk and the said evidence is also not disturbed in the cross-examination. Having considered all these materials available on record and the fact that deceased was in the house of the accused on the previous day is also taken note of by the Trial Court and Trial Court has minutely taken note of evidence available on record and hence, not a case for acquittal the accused.

6. Having heard the learned counsel for the appellant and also the learned counsel for the respondent/State-HCGP and also considering the material



available on record, we have perused the same and point that would arise for the consideration of us are:

- 1) *Whether the Trial Court committed an error in convicting the accused for the offence punishable under Section 302 and Section 201 of IPC in coming to the conclusion that prosecution has proved the case against the accused beyond reasonable doubt?*
- 2) *What order?*

Point No.1:

7. We have perused both oral and documentary evidence available on record. The prosecution mainly relies upon oral evidence of P.W.8 and P.W.9 who deposes before the Court that accused came and made extrajudicial confession and also prosecution mainly relies upon the evidence of P.W.12 who is the employee of the accused and also P.W.5 who is the owner of the vehicle Canter.

8. Now, this Court has to reconsider the evidence of P.W.8 and he categorically deposes before the Court



that the deceased Umesh was a handicapped and he was unable to walk and this accused came and took him on the guise that he had to obtain the Voter ID card and Aadhaar card and in April 2015, Umesh also came to the marriage, on that date, Umesh came and told that he will not return to the house of the accused since he is subjecting him for harassment. But, he came to know that on 01.05.2015, he came to know that Umesh passed away in road accident and the same was also informed by the accused at 8:30 a.m. It is also his evidence that accused abruptly and suddenly cremated the dead body by burning the same and normally they do the same by burial, but he intentionally does the cremation by burning the same. It is also his evidence that he enquired with the accused whether he had taken any insurance in the name of the deceased, but he denied. But, subsequently came to know that policies are taken in the name of the deceased to the tune of Rs.45,00,000/- and also he made the claim from the Insurance company. This witness was cross examined



and answer is elicited that the father of the deceased left his mother and his sister also got married another person and also the deceased studied upto 9th standard and he only provided the education to him and having document and he was not having any Voter ID or Aadhar card prior to taking him to his house. However, in the cross-examination he admits that there was a ID card in 2010 and the same pertains to the address of accused No.1. When the suggestion was made that policy was taken in the year 2012, he says he was not aware of the same. It is suggested that burning is the only mode of rituals in their community and the same was denied. But, he says that Insurance company people came and enquired about the policy, then he came to know about the same that in that Insurance policy, the accused was the nominee. It is suggested that he was having ill-will that accused will get the insurance amount and hence, he lodged the false complaint and said suggestion was denied. P.W.8 says



that the accused made extrajudicial confession with him when the P.W.9 was along with him.

9. The other witness is P.W.9, who is also a witness to extrajudicial confession and he categorically says that when he was sitting along with P.W.8, accused came and told that he committed the murder of deceased Umesh by using the rod, but he did not ask why he committed the murder, but he says that they did not enquire the same. Hence, this witness was turned hostile and cross examined and in the cross-examination suggestion was made to the witness by the Public Prosecutor that in order to get the insurance amount, he committed the murder and the same was admitted and the said statement was made by the accused in front of them. In the cross-examination, he admits that before the arrival of the accused they did not discuss anything about the Insurance policy. It is also suggested to him that the witness P.W.8 has not given any statement before the Superintendent of Police and the said portion of the



statement was recorded as Ex.D.1, but he categorically says that accused left after revealing the same within half an hour, but they did not made any attempt to hand over the accused to the Police.

10. The other witnesses are P.W.10 and P.W.11 who are the Village Accountant and they have deposed before the Court that accused made the statement that he is going to show the place of incident and also washing of Canter vehicle which was used for committing the murder. In the cross-examination of these two witnesses also nothing is elicited from the mouth of witnesses to disbelieve the evidence of P.W.10 and P.W.11.

11. The P.W.12 is the employee of the house of the accused, who categorically deposes before the Court that the deceased was not having any habit of making morning walk and also says that he was unable to walk properly, but he says that he found the accused in the house at 5:30 a.m., but this witness was treated as hostile and suggestion was made that the accused took the deceased



and he made the statement in terms of Ex.P.24 and the same is denied. However, he admits that he himself belongs to the village of the wife of the accused and suggestion was made that he is falsely deposing and the same is denied. Having considered this evidence, the counsel for accused did not cross examine this witness even not denied that the deceased was not making any walking in the early morning and also with regard to the deceased was unable to walk properly and the said evidence of P.W.12 remains.

12. Now coming to the evidence of P.W.5, who is the owner of the Canter vehicle and he categorically deposes before the Court that sometimes the accused used to take his Canter vehicle since he was knowing the driving and also knows the deceased and in the previous day he only took the vehicle when he had expressed that he was unable to go for hire of the Canter and thereafter, he had handed over the Canter to him and one month prior to arresting the accused, accused called him and



asked where is he and when he informed that he is in the house, he called him to road side and he instructed him that if Police comes and makes any enquiry with him, he should inform the Police that both of them went to Ranebennur in order to bring sheep dung, accordingly he made the statement before the Police. But, in the cross-examination he says that he was demanding the rental charges repeatedly and on the very same day when the accused instructed him, Police came and enquired him and Police visited his house twice in between the gap of 25 days. It is suggested that he was having ill-will against the accused and the same was denied. However, he claims that in order to get release of the vehicle, he had spent the money and even not made any suggestion that accused did not instruct him as he deposed.

13. The prosecution also relies upon the evidence of P.W.7 General Insurance company employee and so also the evidence of P.W.13 – Manjunath, the Branch Manager of Birla Sun Life Insurance Company Limited and so also



P.W.14 - Sadanandha, Branch Manager of H.D.F.C and
P.W.16 - RavirajA.N, Manager of Corporation Bank for
having open the account in the name of the deceased. The
prosecution relies upon these witnesses linking the role of
the accused. Having considered all these materials on
record, no dispute that on 01.05.2015, Umesh died and
also no dispute that at the first instance, it was pretended
that it was a case of accident and offences under Section
207 and 304A and other allied offences of Motor Vehicles
Act were also invoked. But, the P.W.8 has suspected the
role of the accused in committing the murder and hence,
he had lodged the complaint and Police also investigated
the matter.

14. It is important to note that P.W.12 who is an
employee of the house of the accused, he categorically
deposed that the deceased was not having the habit of
making morning walk and even he was unable to walk
properly and though he did not support the case of
prosecution with regard to the presence of the accused is



concerned, he deposed that accused was in his house. But, in the cross-examination of P.W.12, even defence did not disputes the fact that the deceased was not having the habit of mourning walk. It is also important to note that original documentary evidence discloses that he was suffering from 75% of disability and he is an handicap and the same is also spoken by P.W.8 who is the uncle of both the deceased and accused. The documentary evidence which clearly reveals considering the material on record that though a policy was taken in the year 2012 for an amount of Rs.20,00,000/- in the name of the deceased and the same was paid only one installment and thereafter it was not paid. But, the records reveals that on 01.01.2015 all the balance amount was paid and got renewed the policy.

15. It is also important to note that immediately after renewing of earlier policy on 06.01.2025, the bank account was also opened and taken one more policy for an amount of Rs.20,00,000/- and again account was opened



in the Corporation Bank and policy of Rs.5,00,000/- was taken in total for sum of Rs.45,00,000/- and all this was done in the month of first week of January i.e., renewal and taking of two policies and witnesses P.W.7, P.W.13, P.W.14 and P.W.16-Bank managers and officials of the Insurance company deposed the same for having taken the policies. It is also important to note that though these policies were taken, but murder was committed on 01.05.2015.

16. The evidence of P.W.8 and P.W.9 is very clear that when the Police suspected the role of the accused, accused came and confessed extrajudicial confession in the presence of P.W.8 and P.W.9. The P.W.9 also categorically deposes that accused came and confessed when he was sitting along with P.W.8 and though these two witnesses are cross examined, particularly P.W.8 that he was having an ill-will with regard to the accused did not share the amount of the insurance policy, but false complaint was lodged, except this suggestion nothing is



elicited with regard to the prior enmity between the P.W.8 and the accused since the P.W.8 is none other than the maternal uncle of deceased as well as the accused. When such being the case, only question was put to him with regard to the enmity since he did not agree to share the amount of the insurance policy. But, the fact is that it was pre-determined and all this was done in the month of January-2015 renewing of policy and taking of other two policies within a span of 6 days and committing the murder on 01.05.2025 and immediately after lapse of 4 months, when the case was registered for the road traffic accident, immediately the accused made the claim from the Insurance company since his name was mentioned as nominee.

17. It is also important to note that the P.W.12 categorically deposes before the Court that deceased was grazing the cattle and he is not an educated person and also P.W.8 categorically deposes that he studied only upto 9th Standard and also the policy was taken to the tune of



Rs.20,00,000/- each in case of death of a person when he was grazing the cow, that too in the house of accused, no one would invest such huge amount for the insurance policy and apart from that it is not the case of the accused that he had also taken the policy for his life, but only he had taken the policy for his handicapped brother and apart from that evidence of P.W.5 is very clear that in the previous date of the incident, he took the vehicle from the P.W.5 and also the very evidence is that when the Police came to know about that it is a mysterious death and not an accidental death and about to enquire P.W.5, the accused went and instructed P.W.5 to inform that he himself and the accused went to Ranebennur, accordingly P.W.5 made the statement before the Police because on the very same day, the Police came and enquired him and this evidence of P.W.5 is also not rebutted in the cross examination of P.W.5. All these materials were taken note of by the Trial Court while considering the evidence. All these circumstances, chain of events supports the case of



prosecution and that has been discussed from paragraph No.48 with regard to the motive and extrajudicial confession and also the conduct of the accused prior and subsequent to the incident and detailed discussion was made with regard to the lodging of complaint and prior to that registration of the case under Section 279, 304A of IPC in paragraph No.48 and lodging of complaint by P.W.8 on 18.12.2015 in paragraph No.19 and also taking of policy on different dates in the month of January and renewing of policy was also discussed in paragraph No.50 of the judgment of the Trial Court and even taken note of when the policy was lapsed and the same was renewed on 01.01.2015 and apart from that the date of issuance of policy was also taken note of in paragraph No.51 and it is a cold blooded murder by the accused in order to claim the insured amount of deceased and motive for committing the murder was also taken note of in paragraph Nos.51 and 52 and particularly the evidence of P.W.5 and P.W.12 was also discussed in paragraph No.53 and also Ex.P.7 is



the certificate issued by the concerned authority stating that deceased had a permanent disability of 75% on his lower limb and the same supports the evidence of P.W.18 that he was unable to walk properly and also the evidence of P.W.12 is very clear that the deceased was not having the habit of morning walk. All these circumstances were taken note of by the Trial Court and when such detailed order was passed by the Trial Court in coming to the conclusion that prosecution has proved the motive to commit the murder of the deceased that with an intention to obtain a large sum of insurance proceeds which obtained in the name of accused, he had patched up a plan to murder his own brother who is an handicapped person and evidence of P.W.8 and P.W.9 who speaks about the extrajudicial confession was discussed in paragraph No.58. When such material was taken note of by the Trial Court and taken the pain in appreciating of evidence of the chain of circumstances in committing the murder, we do not find any error on the part of the Trial



Court in convicting the accused considering each and every circumstances.

18. The counsel appearing for the appellant would vehemently contend that even Section 201 of IPC cannot be attracted, but the evidence of P.W.10 and P.W.11 is very clear that immediately after causing an accident and committing the murder, accused washed the Canter vehicle and also P.W.10 and P.W.11 specifically deposed that accused only made the voluntary statement that he would point out the place of incident and where he had washed the Canter vehicle and the same was spoken by both the Village Accountant before the Court. Hence, it is nothing but screening of the evidence available in the place of incident as well as washing the blood stains on the vehicle and also the P.W.5 evidence is very clear that in the previous day of the incident, vehicle was taken from him and used the same and also he pretended that he is not aware of the same and when the complainant noticed the body was found on the road, he tried to reach out the



accused, but he could not reach the accused and hence, it was informed to C.W.4 and the conduct of the accused also to be taken note of and he himself shifted the body of the deceased in the very same Canter vehicle and all these factors are taken note of and Section 201 of IPC invoked against the accused since he made all his efforts to screen the evidence of committing of the offence and hence, we do not find any error on the part of invoking Section 201 of IPC convicting the accused since he made all his efforts to screen the evidence.

19. Having perused the proviso of Section 201 of IPC, it is very clear with regard to causing disappearance of evidence of offence or giving false information to screen the offender that includes the main offender also not it is by any third person causing disappearance of evidence of offence or giving false information to screen the offender and the said contention cannot be accepted and hence, no force in the submission of the counsel appearing for the



appellant and hence, the said argument cannot be accepted. Hence, we answer the point No.1 as negative.

Point No.2:

20. In view of the discussions made above, we pass the following:

ORDER

The Criminal Appeal is ***dismissed.***

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

**Sd/-
(VENKATESH NAIK T)
JUDGE**

RHS
List No.: 1 Sl No.: 22