



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JULY, 2024

BEFORE

THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL APPEAL No. 2145 OF 2023

C/W

CRIMINAL APPEAL No. 2118 OF 2023

IN CRL.A.No.2145/2023:

BETWEEN:

SHRI. ARJUN @ PRASHANTH
ARJUN NR @ PRASHANTH (A-4)
S/O NAGARAJACHARI
(AS PER CHARGE-SHEET)
AGED ABOUT 23 YEARS
GOWRIPURA VILLAGE
JAGALUR TALUK
DAVANAGERE DISTRICT- 577 001.

...APPELLANT

(BY SRI C H HANUMANTHARAYA, ADVOCATE FOR
SRI DHARANESHA, ADVOCATE)



AND:

1. STATE OF KARNATAKA
BY JAGALURU P S
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BANGALORE – 560 001.
2. SHRI PRAKASHA P
S/O PALAPPA P
AGED ABOUT 60 YEARS
GOWRIPURA VILLAGE



JAGALURU TALUQ
DAVANAGERE DISTRICT – 577 528.

...RESPONDENTS

(BY SRI R RANGASWAMY, HCGP FOR R1
R2 IS SERVED AND UNREPRESENTED)

THIS CRL.A IS FILED U/S. 14(A)(2) OF SC/ST (ACT) PRAYING TO SET ASIDE THE ORDER OF THE HON'BLE II ADDITIONAL DISTRICT AND SESSIONS COURT, AT DAVANAGERE IN ITS SPECIAL CASE No.276/2023 ORDER DATED 17.10.2023 AND FURTHER BE PLEASED TO ENLARGE THE APPELLANT ON BAIL IN CR.No.7/2023 OF JAGALUR P.S., WHICH IS NOW PENDING FOR TRAIL ON THE FILE OF THE HON'BLE II ADDITIONAL DISTRICT AND SESSIONS COURT AT DAVANAGERE FOR THE OFFENCE P/U/S 143, 147, 148, 120B, 302, 201, 212, 149 OF IPC AND SEC.3(2)(v-a) 3(2)(v) OF SC/ST (POA) ACT AND ETC.,

IN CRL.A.No.2118/2023:

BETWEEN:

SHRI PRASHANTH KUMAR (A-12)
S/O SHANKARAPPA POLICE PATIL
(AS PER CHARGE-SHEET)
AGED ABOUT 24 YEARS
HANIVALA VILLAGE
GANGAVATHI TALUK
KOPPALS DISTRICT – 583 227.

...APPELANT

(BY SRI C H HANUMANTHARAYA, ADVOCATE FOR
SRI DHARANESHA, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY JAGALURU P.S
REPRESENTED BY



STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BANGALORE – 560 001.

2. SHRI PRAKASHA P
S/O PALAPPA P
AGED ABOUT 60 YEARS
GOWRIPURA VILLAGE
JAGALURU TALUQ
DAVANAGERE DISTRICT – 577 528.

...RESPONDENTS

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R2 IS SERVED AND UNREPRESENTED)

THIS CRL.A IS FILED U/S. 14(A)(2) OF SC/ST (ACT) PRAYING TO SET ASIDE THE ORDER OF THE HON'BLE II ADDITIONAL DISTRICT AND SESSIONS COURT, AT DAVANAGERE IN ITS SPECIAL CASE No.276/2023 ORDER DATED 17.10.2023 AND FURTHER BE PLEASED TO ENLARGE THE APPELLANT ON BAIL IN CR.No.7/2023 OF JAGALURU P.S., WHICH IS NOW PENDING FOR TRAIL ON THE FILE OF THE HON'BLE II ADDITIONAL DISTRICT AND SESSIONS COURT, AT DAVANAGERE FOR THE OFFENCE P/U/S 143, 147, 148, 120B, 302, 201, 212, 149 OF IPC AND SECTION 3(2)(v-a), 3(2)(v) OF SC/ST (POA) ACT AND ETC.,

THESE APPEALS COMING ON FOR ADMISSION THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

1. Crl.A.No.2145/2023 is filed by accused No.4 and Crl.A.No.2118/2023 is filed by accused No.6.
2. The appellants – accused Nos.4 and 6 sought for setting aside the order dated 17.10.2023 passed in Special



Case No.276/2023 by the II Additional District and Sessions Judge, Davanagere, whereunder, their bail application sought in respect of Crime No.7/2023 of Jagalur Police Station registered for the offences under Sections 143, 147, 147, 120B, 302, 201 and 211 r/w Section 149 of the Indian Penal Code, 1860 (*for short hereinafter referred to as 'IPC'*) and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*for short hereinafter referred to as "the SC/ST Act"*), came to be rejected.

3. Heard learned counsel for the appellants – accused Nos.4 and 6 and learned High Court Government Pleader for respondent No.1 – State. In spite of service of notice, respondent No.2 has remained absent and unrepresented.

4. Case of the prosecution is that; the deceased Sri.Ramakrishna was a Social worker since two to three years. He tried to bring awareness about the programmes of Grama Panchayath namely, Grameen Udyog Khatri Yojana and NAREGA Yojana. The appellant- accused No.1



who is working as a Panchayath Development Officer alleged to have mis-utilized the funds meant for Grama Panchayath work and the deceased has obtained the records through R.T.I and informed the same to the Higher Authorities of the appellant – accused No.1. The Superior Officers of the appellant- accused No.1 kept him under suspension. In order to wreak vengeance against the deceased, the appellant - accused No.1 conspired with the other accused to kill the deceased. In furtherance of the said conspiracy, accused Nos.2 to 6 assaulted the deceased with stone and machete and caused his death.

5. The appellants – accused Nos.4 and 6 who are in judicial custody, filed the bail application in Special Case No.276/2023 and the same came to be rejected by the impugned order, which is challenged in this appeal.

6. Learned counsel for the appellants – accused Nos.4 and 6 would contend that the deceased was a rowdy sheeter and he had several enemies. He contends that accused Nos.1 to 3, 5 and 7 have been granted bail, out of



which accused Nos.1 and 3 have been granted bail by this Court. He contends that the deceased was an aggressor and he had abused accused Nos.2 and 4 and caught hold accused No.4 and pushed him on the kadapa stone slab and it was broken. At that time, to save him, accused No.6 intervened and assaulted the deceased with broken kadapa stone slab on his head, twice. The said act of accused No.6 is in exercise of right of private defence for accused No.4. He contends that the only eye witness to the incident is CW25 who has stated the acts of the deceased quarrelling with accused Nos.2 and 4 and assaulting accused No.4. The name of accused No.6 is not stated in the F.I.R. The said act comes under Section 300 of IPC as the alleged incident has taken place without pre-meditation and in a sudden fight. In the postmortem report, five injuries stated to be sustained by the deceased are cut wounds and they are not the incised or chopped wounds. The deceased was a lawless person and he had several enemies as he used to quarrel with everybody in the village. The appellants – accused Nos.4 and 6 are in



judicial custody since 08.01.2023 and as the charge sheet is filed, they are not required for the custodial interrogation. With this, he prayed to allow the appeal and grant bail to the appellants – accused Nos.4 and 6.

7. *Per contra*, learned High Court Government Pleader for respondent No.1 – State would contend that the deceased was a social worker and he had informed about mis-utilization of funds by accused No.1 to his Higher Authorities and therefore, accused No.1 conspired with the other accused and in furtherance of the said conspiracy, accused Nos.2 to 6 assaulted the deceased and committed his murder. The appellant – accused No.4 is the son-in-law of accused No.1. The charge sheet, Column No.17 would indicate that accused No.2 has assaulted the deceased. The statement of the eye witness namely CW-25 has also been recorded under Section 164 of Cr.P.C and in the test identification parade, he has identified these appellants as the persons who assaulted the deceased. There are other eye witnesses namely, CWs.28



to 30. There is recovery of blood stained cloths and the F.S.L report would indicate the blood stains over the cloths and machete. The act of these appellants is a pre-planned murder. The postmortem report would indicate five cut injuries caused on the head of the deceased. If the appellants – accused Nos.4 and 6 are granted bail, there is a threat to the prosecution witnesses. With this, he prayed to dismiss the appeal.

8. Having heard the learned counsels, the Court has perused the impugned order and the charge sheet records.

9. On perusal of Column No.17 of the charge sheet, it would indicate that the deceased was inside the Dabha in which CW25 was working. When accused Nos.4 and 6 entered the Dabha keeping outside the machete near the Beeda shop, at that time, the deceased started quarrelling with accused No.4 and tried to assault him and at that time, accused Nos.2 and 3 went inside the Dabha and accused No.2 asked the deceased as to why he is doing so and causing trouble to them. At that time, the deceased



pushed accused No.2 and he fell down. At that time, accused No.4 raised his hand to assault the deceased and the deceased held the neck of accused No.4 and lifted him and thrown him on the kadapa stone slab. At that time, accused Nos.2, 3, 5 and 6 assaulted the deceased with hands and legs. At that time, the deceased was holding the neck of accused No.4 and pulling him and therefore, accused No.6 took a piece of broken kadapa slab stone and assaulted with the same on the back side of the head of the deceased and therefore, the deceased left accused No.4 and accused No.6 again assaulted the deceased on the back side of his head and the deceased fell down and accused No.4 went out of the Dabha and took machete and came back and assaulted the deceased with machete, on his head. Considering the said accusation, it is the deceased who started first quarrelling with accused No.4 and assaulted and thrown him on the kadapa stone slab. The documents produced would indicate that the deceased was a rowdy sheeter. The postmortem report does not indicate any incised or chopped wounds to suggest that



the injuries have been caused with the machete. The doctor who conducted the postmortem examination over the dead body of the deceased has opined that the death was due to severe hemorrhagic shock as a result of secondary lethal injuries sustained to the brain. Whether the appellants had conspired with accused No.1 to kill the deceased and in furtherance of the said conspiracy, they assaulted and killed the deceased is a matter of trial. The appellants – accused Nos.4 and 6 are in judicial custody since 08.01.2023 and as the charge sheet is filed, they are not required for custodial interrogation. The apprehension of the prosecution that if the appellants – accused Nos.4 and 6 are granted bail, there is a threat to the prosecution witnesses, can be met with, by imposing stringent conditions. The appellants – accused Nos.4 and 6 have made out grounds for setting aside the impugned order and grant of bail. In the result, the following;

ORDER

Both the appeals are ***allowed***. The impugned order dated 17.10.2023 passed in Special Case No.276/2023 by



the II Additional District and Sessions Judge, Davanagere is set-aside. The appellants – accused Nos.4 and 6 are granted bail in a Special Case No.276/2023 (Crime No.7/2023 of Jagalur Police Station), pending on the file of the II Additional District and Sessions Judge, Davanagere, subject to the following conditions;

- (i) The appellants-accused Nos.4 and 6 shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) each, with two sureties for the likesum to the satisfaction of the Trial Court.*
- (ii) The appellants-accused Nos.4 and 6 shall not threaten the prosecution witnesses.*
- (iii) The appellants-accused Nos.4 and 6 shall appear before the Trial Court, on all the dates of hearing, unless exempted and co-operate in speedy disposal of the case.*
- (iv) The appellants-accused Nos.4 and 6 shall not commit any similar offence during the pendency of the case registered against them.*
- (v) The appellants-accused Nos.4 and 6 shall mark their attendance on the second Sunday*



*of every month, in Jagalur Police Station
between 10.00 am and 5.00 pm, till the
disposal of the case registered against them.*

**Sd/-
JUDGE**

GH
List No.: 1 Sl No.: 16