



**REPORTABLE**  
**IN THE SUPREME COURT OF INDIA**  
**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NOS.541-543 OF 2015**

**SRI CHIKKEGOWDA & ORS.                      ...APPELLANTS**

**VS.**

**STATE OF KARNATAKA ETC.    ...RESPONDENTS**

**WITH**

**CRIMINAL APPEAL NOS. 1509-1510 OF 2015**

**NEELAKANTAPPA                                      ...APPELLANT**

**VS.**

**STATE OF KARNATAKA ETC. ...RESPONDENTS**

**J U D G M E N T**

**VIKRAM NATH, J.**

1. Sixteen (16) accused were put to trial for the charges of unlawful assembly and culpable homicide amounting to murder of one Mohan Kumar (deceased) and for the charges of causing grievous hurt and outraging modesty of the injured Smt. Annapurna (PW-1), the wife of the deceased. During trial,

accused no.10 died, as such, proceedings against him were abated. The trial proceeded against the surviving fifteen (15) accused being accused nos.1 to 9 and 11 to 16. The Trial Court vide judgment dated 13.09.2010 acquitted all the accused of all the charges framed against them in Sessions Case Nos.144 of 2003 and 196 of 2003. It would be relevant to note that Session Case No.144 of 2003 proceeded against accused nos.2 to 16 as accused no.1 had been absconding, however, later on, when he was arrested his trial was also committed and was registered as Session Case No.196 of 2003.

2. Aggrieved by the judgment of the Trial Court, the State preferred Criminal Appeal No.161 of 2011 against all the surviving fifteen (15) accused, whereas the informant/injured preferred Criminal Appeal No.335 of 2011 against accused nos.2 to 9 and 11 to 16 and further preferred Criminal Appeal No.345 of 2011 against accused no.1. All the three appeals were clubbed together and vide common judgment dated 29.10.2014, the appeals were partly allowed. The High Court confirmed the acquittal of accused nos.7, 8, 9, 12, 13, 14, 15 and 16 of all the charges and at the same time convicted the accused Nos.1 to 6 and 11 for offences

punishable under Sections 143, 147, 148, 324, 302 read with Section 149 of the Indian Penal Code, 1860<sup>1</sup> and awarded them life sentence under Section 302 read with Section 149 IPC and further lesser punishment under the other offences. The sentences were ordered to run concurrently. The High Court acquitted the above convicted accused from the offences under Sections 326, 354, 341, 307 read with Section 149 IPC. Aggrieved by their conviction, Appeal Nos.541 and 543 of 2015 has been preferred by the convicted accused nos.1 to 6. Further, Appeal Nos.1509-1510 of 2015 has been preferred by the accused no.11.

3. On the fateful day, i.e., 16.03.2003, at about 06:00 a.m., when the deceased came out of his house in the village carrying milk to the dairy, the sixteen (16) accused persons, who bore previous enmity with the deceased and the prosecution witnesses, blocked his way and assaulted him with dangerous weapons, causing fifteen (15) injuries as per the post-mortem report. They further

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<sup>1</sup> IPC.

inflicted life-threatening injuries on the wife of the deceased (PW-1), who had tried to save and shield her husband and stop the accused from assaulting him. Thereafter, upon the arrival of other residents of the village, the accused persons fled the scene of crime.

4. The deceased and the injured (PW-1) were taken to the Primary Health Centre (PHC) at Gandasi. Dr. Sunil Kumar (PW-18) posted at the Primary Health Centre referred them to the District Hospital as he did not have sufficient facilities to treat the deceased who was still alive at that time. Both the injured i.e. the deceased and his wife (PW1) were then taken to J.C. Hospital at Hassan, where after examining them, the doctors declared that Mohan Kumar had been brought dead and further started the treatment of his wife, the injured(PW1). While the injured were still at the Primary Health Centre at Gandasi, the police had reached there, and PW-1 had narrated the entire incident. On the written complaint prepared by the police at her dictation, she affixed her signatures. On the basis of the said complaint, a First Information Report was registered and investigation commenced. The Investigating Officer conducted the necessary inspections, prepared the site

plan and the inquest, collected blood-stained and plain earth from the place of occurrence, and took into possession the weapons used in the crime, which had been discarded by the accused while leaving the scene. Upon the arrest of the accused, the Investigating Officer further recovered certain other weapons at their pointing out, recorded statements, and, being prima facie satisfied with the evidence collected that it was a triable case, submitted a police report under Section 173(2) of the Code of Criminal Procedure, 1973<sup>2</sup>. The Magistrate concerned, after taking cognizance, committed the case to the Sessions Court. The Trial Court thereafter framed charges and read them out to the accused, who pleaded not guilty and claimed to be tried.

5. The prosecution examined in all twenty-three (23) witnesses and also filed 33 documentary evidence, which were duly proved and marked as Exts.P-1 to P-33 and further produced 13 material objects, which were duly proved and marked as MO-1 to MO-13. On behalf of the defense, two witnesses were examined –accused

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<sup>2</sup> Cr.P.C..

no.1, Chikkegowda entered the witness box as DW -1 and one Dr. Kumar was produced as DW-2. The details of the evidence led is as under:

**Witnesses:**

- PW-1 (Smt. Annapurna), informant/injured, eyewitness,
- PW-2 (Suresh Babu), eyewitness,
- PW-3 (Jayaprakash), eyewitness,
- PW-4 (Omkaramurthy), eyewitness,
- PW-5 (Raghupathi), eyewitness,
- PW-6 (Basavaraju), eyewitness,
- PW-7 (Manjula), eyewitness,
- PW-8 (Lohith), eyewitness,
- PW-9 (Shankarappa), eyewitness,
- PW-10 (Virupakshappa), witness of recovery,
- PW-11, Revenue Inspector, witness proved the removal of encroachment/obstruction,
- PW-12 (Nandish), witness of spot inspection, recovery of weapons and articles from place of incident,
- PW-13 (Dharnish), witness of recovery of weapons at the instance of accused nos.2, 3 and 4,

- PW-14 (Manju Nath), Surveyor, had made the measurements of the disputed land.
- PW-15 (Yogish), witness of recovery of sickle from the house of Chikkegowda,
- PW-16 (Kantharaja), witness of the recovery of sickle from the house of Chikkegowda,
- PW-17 (Dr. K.K. Hebbar), Medical Officer, who conducted the autopsy.
- PW-18 (Dr. Sunil Kumar), the Medical Officer at the Primary Health Centre, Gandasi,
- PW-19 (Shiva Kumar), part of the team which arrested accused no.8-9.
- PW-20 (K.L. Ganesh), the 1<sup>st</sup> Investigating Officer,
- PW-21 (H.N. Panchaksharappa), 3<sup>rd</sup> Investigating Officer.
- PW-22 (H.G. Somashekar), produced the FIR before the Magistrate,
- PW-23 (A. Nagappa), 2<sup>nd</sup> Investigating officer who submitted the chargesheet.

**Documents produced on behalf of the prosecution.**

<b>Ex.P1</b>	Complaint
<b>Ex.P1(a)</b>	Signature of PW-1
<b>Ex.P1(b)</b>	Signature of PW-18, Dr. Sunil Kumar

<b>Ex.P1(c)</b>	Signature of PW-20 and endorsement
<b>Ex.P2</b>	Inquest Report
<b>Ex.P2(a)</b>	Signature of PW-4
<b>Ex.P3</b>	Spot Mahazar
<b>Ex.P3(a)</b>	Signature of PW-9
<b>Ex.P3(b)</b>	Signature of PW-12
<b>Ex.P4</b>	Seizure Mahazar
<b>Ex.P4(a)</b>	Signature of PW-10
<b>Ex.P4(b)</b>	Signature of PW-13
<b>Ex.P5</b>	Seizure Mahazar
<b>Ex.P5(a)</b>	Signature of PW-10
<b>Ex.P5(b)</b>	Signature of PW-13
<b>Ex.P6</b>	Seizure Mahazar
<b>Ex.P6(a)</b>	Signature of PW-10
<b>Ex.P6(b)</b>	Signature of PW-13
<b>Ex.P7</b>	Seizure Mahazar
<b>Ex.P7(a)</b>	Signature of PW-10
<b>Ex.P7(b)</b>	Signature of PW-13
<b>Ex.P8</b>	Seizure Mahazar
<b>Ex.P8(a)</b>	Signature of PW-10
<b>Ex.P8(b)</b>	Signature of PW-13
<b>Ex.P9</b>	Seizure Mahazar
<b>Ex.P9(a)</b>	Signature of PW-10
<b>Ex.P9(b)</b>	Signature of PW-13
<b>Ex.P10</b>	Seizure Mahazar
<b>Ex.P10(a)</b>	Signature of PW-15



<b>Ex.P10(b)</b>	Signature of PW-16
<b>Ex.P10(c)</b>	Signature of PW-17
<b>Ex.P11</b>	Post Mortem Report
<b>Ex.P11(a)</b>	Signature of PW-17
<b>Ex.P12</b>	Wound Certificate of Smt. Annapoorna
<b>Ex.P12(a)</b>	Signature of PW-18
<b>Ex.P13</b>	Photocopy of Page No.76 of the MLC Book
<b>Ex.P14</b>	Photocopy of the statement of Smt. Annapoorna
<b>Ex.P15</b>	Hospital Memo Dt. 16.03.2003
<b>Ex.P16</b>	First Information Report in Crime No.38 of 2003
<b>Ex.P17</b>	Letter Dt. 16.03.2003
<b>Ex.P18</b>	Memo Dt. 16.03.2003 of JC Hospital/Hassan
<b>Ex.P19</b>	Passport Dt. 16.03.2003 issued by the Police Officials
<b>Ex.P20</b>	Report of PW-20 PSI K.L. Ganesh
<b>Ex.P21</b>	Self statement of the first Accused Chikkegowda
<b>Ex.P21(a)</b>	Signature of PW-21
<b>Ex.P22</b>	Self statement of the second accused Shadakshari
<b>Ex.P23</b>	Self statement of the third accused Shanthakumar
<b>Ex.P24</b>	Self statement of the fourth accused

	Ravi Kumar
<b>Ex.P25</b>	Self statement of the fifth accused Vijaya Kumar
<b>Ex.P26</b>	Self statement of the sixth accused Honnegowda
<b>Ex.P27</b>	Self statement of the seventh accused Sathisha
<b>Ex.P28</b>	Self statement of the eighth accused Karuna @ Karunakara
<b>Ex.P29</b>	Sketch of the spot
<b>Ex.P30</b>	First Information Report in Crime No.13/2003
<b>Ex.P31</b>	First Information Report in Crime No.14/2003
<b>Ex.P32</b>	Copy of the report Dt. 19.06.2003 of Forensic Science Laboratory
<b>Ex.P33</b>	Serology Report Dt.29.10.2005

**List of Material Objects.**

MO-1	One shirt
MO-2	One blue coloured underwear
MO-3	One blue coloured Banian
MO-4	One sickle
MO-5	Two wooden clubs of forest wood
MO-6	Four forest stones
MO-7	Two sickles

MO-8	Two rods used for taking off coconut cover
MO-9	Two broken sticks
MO-10	Two forest clubs
MO-11	Blood mixed mud
MO-12	Ordinary mud
MO-13	Sickle

6. The Trial Court after considering the evidence on record extended the benefit of doubt to all the accused and acquitted them of all the charges. The conclusion of acquittal by the Trial Court is primarily based on the following findings:

- (i) It discarded the evidence of PW-1 while placing reliance on the cross-examination of PW-17, Dr. K.K. Hebbar (Medical Officer who conducted the autopsy), wherein he stated that the deceased could have died between 3:00 a.m. to 4:00 a.m.
- (ii) It was influenced by the plea set up by the defense that PW-1 was in an illegitimate relationship with PW-3, and that PW-3, along with his henchmen and PW-1, had committed the murder of Mohan Kumar in the early hours

of 16.03.2003, thereafter falsely implicating the accused on account of enmity.

(iii) It observed that PW-18, Dr. Sunil Kumar, (the Medical Officer at the PHC) had given a false statement and had further improved his statement in order to help the prosecution's case by stating that the deceased was alive when he examined him at the PHC at Gandasi and considering his serious condition and the nature of injuries, he had referred him to a superior medical centre.

(iv) It was of the view that the other eyewitnesses were all planted and none of them had actually witnessed the commission of the crime.

7. Aggrieved by the judgment of the Trial Court, three appeals were preferred before the High Court as already detailed in the opening paragraphs. One appeal was filed by the State of Karnataka and the other two appeals were filed by the informant. The High Court considered the material on record. It minutely and carefully scrutinized the evidence led during the trial. The High Court found that the view taken by the Trial Court was not a probable view, the evidence had not been correctly

appreciated and that the findings recorded were not based on the correct appreciation of the evidence on record. There was clear perversity in arriving at the conclusion of extending benefit of doubt to the accused(s). The High Court noted that the Trial Court had committed a manifest error in disbelieving the deposition of the injured PW-1, who was also the informant. The reasons for disbelieving her testimony were not sustainable in facts & in law. The reasons for disbelieving the deposition of PW-1 were twofold, firstly, that the time of death indicated by PW-1 was found to be incorrect in view of the medical evidence given by PW-17, Dr. K.K. Hebbar (the Medical Officer who had conducted the autopsy) that the time of death could be between 3:00 a.m. to 4:00 a.m, and not 6:00 a.m. as stated by PW-1. The second reason was that the Trial Court believed the defense version of castigating PW-1 of having illegitimate relationship with PW-3 and the theory that they in conspiracy with others, could have committed the murder of Mohan Kumar, in the dead of the night and thereafter falsely implicated the accused(s) due to existing enmity.

8. The High Court found that both these grounds taken by

the Trial Court to disbelieve PW-1, the injured/informant, were absurd and contrary to the settled legal position of appreciating the testimony of an injured eyewitness.

9. The High Court clearly observed that medical evidence cannot prevail over the ocular testimony and, therefore, merely because PW-17, Dr. K.K. Hebbar (the Medical Officer who conducted the autopsy), stated in his cross-examination that the death could have occurred between 3:00 a.m. and 4:00 a.m., the same cannot be taken as the exact time of death. Once the injured had clearly stated right from the stage of her first statement, which formed the basis of the First Information Report, and with which she remained consistent even during trial, the mere observation/opinion of PW-17 that the death could have occurred between 3:00 a.m. and 4:00 a.m. could not be taken to be the exact time of death.
10. The post-mortem report did not mention the exact time of death but only noted that it could have occurred 10 to 12 hours prior to the time the post-mortem was conducted. Since the post-mortem was carried out between 3:00 p.m. and 4:00 p.m. on 16.03.2003, the time of death falling 10 to 12 hours earlier could very

well correspond to the time stated by PW-1, i.e., around 6:00 a.m.

11. Further, the High Court found that the defense theory relating to an illicit relationship between PW-1 and PW-3 as being the reason for the divorce of PW-3 from his wife could not be accepted, as the marriage of PW-1 with the deceased had been solemnized sometime in the year 1996-97, whereas the divorce petition of PW-3 had been filed in the year 1995 itself. Thus, when the marriage of PW-1 with the deceased had not even taken place, the plea of an illicit relationship being the cause of PW-3's divorce could not be substantiated. Merely because a suggestion was put to one of the witnesses, PW-9, regarding the alleged relationship, no credibility could be attached to the said defense version.
12. It is also worth noting, as mentioned by the High Court, that no suggestion was put to PW-1 in cross-examination regarding her alleged illicit relationship with PW-3.
13. Proceeding further, the High Court found that the testimony of PW-18, Dr. Sunil Kumar (the Medical Officer at PHC, Gandasi) could not have been discarded

or disbelieved and that he had no reasons to give a false statement.

14. The High Court also separated the grain from the chaff. It meticulously scrutinized the evidence of each witness. It disbelieved a couple of witnesses who were examined as eyewitnesses; however, it relied upon only those eyewitnesses who were able to withstand the test of scrutiny, and whose testimony remained unshaken even after cross-examination.
15. The High Court did not convict all the accused but only seven out of sixteen (16), affirming the Trial Court's conclusion of acquittal for the rest. It also acquitted the present appellants of the charges of outraging the modesty of PW-1 and of attempt to murder, convicting them only for causing grievous hurt with respect to the injuries suffered by PW-1. It is thus noticeable that the judgment of the High Court reflects an overall balanced and reasonable approach. It did not fully accept the prosecution version, but relied only upon that part for which credible evidence had been led.
16. We have heard learned Senior counsel/counsel for the parties and have perused the material on record.



17. Learned senior counsel for the appellants primarily attacked the judgment of the High Court on two grounds:

a) Firstly, the High Court did not record any finding, nor arrive at a conclusion, that the view taken by the Trial Court in recording acquittal was not a probable view. In the absence of such a finding or conclusion, the conviction recorded by the High Court was palpably incorrect and contrary to the settled legal principles governing interference with a judgment of acquittal. The law is well settled that unless the Appellate Court arrives at a conclusion that the reasoning given by the court below in recording acquittal was perverse and not a probable view, it could not upset the same or substitute the acquittal with a conviction. Reliance was placed upon the following judgments:

(i) **Muralidhar alias Gidda v. State of Karnataka.**<sup>3</sup>

(ii) **Krishna @ Krishnappa v. State of**

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<sup>3</sup> (2014) 2 SCC(Crl) 690.

### **Karnataka.<sup>4</sup>**

The second argument advanced on behalf of the appellants was that the evidence of the injured/informant, PW-1, was unreliable and liable to be discarded. The Trial Court, after considering the material on record, had rightly concluded that the deposition of PW-1 was not worthy of reliance. The defense had created a clear dent in the prosecution story by setting up the plea that PW-1 and PW-3, along with their accomplices, were themselves involved in the murder of Mohan Kumar, the husband of PW-1, on account of their illicit relationship. Furthermore, since PW-17, Dr. K.K. Hebbar (the Medical Officer who conducted the post-mortem), had stated that death occurred around 03:00 to 04:00 a.m., the version of PW-1 that the incident happened around 06:00 a.m. was

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<sup>4</sup> Criminal Appeal No.162 of 2009, dated 14.11.2014.

not worthy of reliance. The Trial Court had therefore rightly extended the benefit of doubt to the appellants after taking into account other inconsistencies and contradictions in the evidence led during trial. Apart from these two main submissions, several minor discrepancies were also pointed out by the learned senior counsel for the appellants.

18. In response, learned counsel appearing for the respondent-State of Karnataka, vehemently submitted the following:

- (a) That the High Court has dealt in detail about the patent fallacies committed by the Trial Court in recording the acquittal. It is clear from a bare reading of the judgment of the High Court that it had dealt with all the aspects and findings of the Trial Court, which it found to be perverse;
- (b) The appellants are not correct in submitting that the High Court did not record any finding that the conclusion of acquittal arrived at by the Trial Court was not a probable one;
- (c) Further, the evidence of PW-1, the

injured/informant has been rightly relied upon by the High Court for reasons recorded therein. The injuries of PW-1 were neither disputed nor challenged by the defense. Further, it is also not the case of defense that the injuries had been self-inflicted;

(d) The theory set up by the defense that PW-1 and PW-3, in conspiracy, had got the husband of PW-1 murdered was unacceptable, as in that case there would have been no occasion for PW-1 to sustain injuries.;

(e) An injured witness, having sustained grievous injuries, would not falsely implicate others while leaving out the true assailants who had murdered her husband;

(f) Enmity between the parties was admitted, and the deceased had succeeded in securing access to a public road for one of the witnesses after getting the encroachment and illegal possession of the accused removed only a couple of months earlier. There was thus a very strong reason for the accused to eliminate the deceased, as they were frustrated and annoyed by his support and pairvi in securing access to the

public land for the said witness;

(g) It was also submitted that the evidence of PW-1 stood corroborated by the medical evidence both PW-17 and PW-18, regarding the injuries caused, the manner in which it had been caused and the use of the weapons as narrated by the PW-1;

(h) Even if some of the witnesses had faltered, the testimony of a single witness, if of sterling quality, would be sufficient to record a conviction. The High Court dealt with this aspect of the matter in detail and relied upon two other eyewitnesses who supported the deposition of PW-1.

19. Having considered the submissions advanced and having scrutinized the material on record, we are of the firm view that the High Court has not committed any error warranting interference. The reasons for the same are elaborated hereinafter.

20. The first argument raised on behalf of the appellant, that the High Court erred in not recording a finding, while upsetting the order of acquittal, that the view taken by the Trial Court could not have been a probable view, is misplaced. The High Court meticulously dealt

with the findings recorded by the Trial Court and, short of expressly stating that they were absurd, clearly found grave error in the reasoning given by the Trial Court. Even if the High Court omitted to write a single line stating that the view taken by the Trial Court could not have been a probable view, it would be unfair and unjust to hold that the judgment of the High Court could be faulted on this ground.

21. We have examined the testimony of PW-1, the post-mortem report, as well as the testimony of PW-17, Dr. K.K. Hebbar, who conducted the post-mortem. According to PW-1, her husband was murdered sometime around 6:00 a.m. According to the post-mortem report, conducted the same day between 3:00 p.m. and 4:00 p.m. by Dr. K.K. Hebbar (PW-17), it was recorded that death could have occurred about 10 to 12 hours earlier. Counting backwards from 3:00 p.m. to 4:00 p.m., the time of death would thus relate to between 5:00 a.m. and 6:00 a.m. The time of death can never be defined with accuracy; it can only be given as a probable estimate during autopsy, with a margin of a couple of hours (plus/minus) always being assumed.
22. PW-1 in her testimony clearly stated that the incident

took place at 6:00 a.m. She vividly described how the assailants, after obstructing her husband from carrying the milk, assaulted him with dangerous weapons, and also described the specific roles played by the assailants. She herself sustained grievous injuries, which are supported by medical evidence, and the injury report was duly proved. The injuries sustained by her were not challenged by the defense, either by disputing the injury report or by alleging that they were self-inflicted to create false evidence. The evidence of Dr. Hebbar, PW-17, proved the post-mortem report; however, during cross-examination by defense counsel, when asked whether death could have occurred between 3:00 a.m. and 4:00 a.m., he answered in the affirmative. It is this part of the cross-examination which was heavily relied upon by the Trial Court as a major factor to discard the testimony of PW-1

23. It is well settled that if there is a conflict in the ocular testimony and the medical testimony/evidence, it is the ocular evidence which will prevail unless found to be totally unreliable. In this regard, reference may be made to the followings decision wherein the above principle was reiterated:

23.1. In the judgment of **Darbara Singh v. State of Punjab**<sup>5</sup>, it was held that:

*“10. So far as the question of inconsistency between medical evidence and ocular evidence is concerned, the law is well settled that, unless the oral evidence available is totally irreconcilable with the medical evidence, the oral evidence would have primacy. In the event of contradictions between medical and ocular evidence, the ocular testimony of a witness will have greater evidentiary value vis-à-vis medical evidence and when medical evidence makes the oral testimony improbable, the same becomes a relevant factor in the process of evaluation of such evidence. It is only when the contradiction between the two is so extreme that the medical evidence completely rules out all possibilities of the ocular evidence being true at all, that the ocular evidence is liable to be disbelieved...”*

**(Emphasis supplied)**

23.2. In the judgment of **State of U.P. v. Hari Chand**<sup>6</sup>, it was held that:

*“13. ...In any event unless the oral evidence is totally irreconcilable with the medical evidence it has primacy.”*

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<sup>5</sup> (2012) 10 SCC 476.

<sup>6</sup> (2009) 13 SCC 542.



23.3. In the judgement of **Pruthviraj Jayantibhai Vanol v. Dinesh Dayabhai Vala & Ors**<sup>7</sup>, it was held that:

*“17. Ocular evidence is considered the best evidence unless there are reasons to doubt it...”*

23.4. In the aforesaid decisions, this Court has consistently accorded greater weight to ocular testimony than to the opinion of medical experts, and the same principle governs the case before us.

24. From the testimony of PW-1, we do not find that she had faltered in any manner, or that her version in the examination-in-chief, which was fully in line with the First Information Report and her statement under Section 161 CrPC, could be said to have been impeached. During cross-examination, the defence could not elicit anything from PW-1 to render her testimony unreliable or worthy of being discarded. Interestingly, the defense did not put a single question to PW-1 challenging her injuries, the injury report, or even with regard to her

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<sup>7</sup> (2022) 18 SCC 683.

alleged illicit relationship with PW-3. In such circumstances, the disbelieving and discarding of the testimony of PW-1 by the Trial Court was purely conjectural and unsustainable in law. The High Court has rightly found fault with the said finding of the Trial Court.

25. The other reason for discarding the evidence of PW-1 by the Trial Court was with respect to the defense theory that PW-1 was in an illicit relationship with PW-3 and that they had jointly conspired to eliminate the deceased (husband of PW-1) by hiring or with the help of accomplices of PW-3. The reason given for the illicit relationship was that PW-1 was responsible for the divorce of PW-3. In the evidence of PW-9, Shankarappa (father of the deceased), when this question was put to him during cross-examination, he stated that the divorce proceedings of PW-3 had taken place sometimes in 1995 whereas the marriage of PW-1 with the deceased was of the subsequent year 1996-1997. Thus, the cause of divorce of PW-3 with his wife would not have been attributed to PW-1 and her alleged illicit relationship with PW-3. In any case, as already noted above, the defense did not make any suggestion during the cross-

examination of PW-1 that she had an illicit relationship with PW-3 and that they had conspired together with other accomplices of PW-3 to eliminate her husband, the deceased. What inspired the Trial Court to rely upon such a theory set up by the defense, which had no supporting documents or evidence is not understood. The Trial Court ought to have condemned the conduct of the defense in unnecessarily casting aspersions upon PW-1.

26. Apart from the above two reasons, which weighed heavily with the Trial Court in according the acquittal, which we have found to be totally untenable, we now proceed to deal with the other factors and the evidence on record which justify the conviction recorded by the High Court.
27. The prosecution had proved that the death of the deceased was homicidal. The time and place of the crime were also established, the FIR was promptly lodged and duly communicated to the Magistrate concerned, and the medical evidence supported the prosecution version. PW-18, Dr. Sunil Kumar (the Medical Officer in-charge of the PHC at Gandasi), had examined the injured PW-1 and stated that the deceased, who was then alive, should

be immediately referred to a higher medical centre considering his critical condition due to the injuries sustained by him. The police reached the PHC at Gandasi and recorded the oral statement of PW-1, on the basis of which the First Information Report was registered. The prosecution further proved all the recovery memos relating to various recoveries made from the spot as well as from the accused persons pursuant to their statements under Section 27 of the Evidence Act, 1872.

28. We also find that the High Court has taken a balanced view and has minutely scrutinized the evidence. It confirmed the acquittal of accused nos. 7, 8, 9, and 12 to 16, having found insufficient evidence to record their conviction. It also found insufficient evidence with respect to the charge of outraging the modesty of PW-1 and the charge of attempt to murder, holding that the injuries sustained by PW-1 were grievous in nature but not dangerous to life. The High Court further relied upon the testimony of PW-1, and in addition, that of another eyewitness, PW-7, while discarding the evidence of the other eyewitnesses.

29. The formal witnesses who proved the recovery, the injuries, the post-mortem, the arrest, and the Investigating Officers have neither turned hostile nor been found unworthy of reliance. For all the reasons recorded above, we find no ground to interfere with the impugned judgment of the High Court convicting the appellants.
30. The appellants are in custody and shall continue to serve out their remaining sentence as per law. The appeals are dismissed.
31. Pending applications, if any, stand disposed of.

.....J.  
[VIKRAM NATH]

.....J.  
[SANJAY KAROL]

.....J.  
[SANDEEP MEHTA]

**NEW DELHI;  
OCTOBER 07, 2025**