2026 INSC 1189

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2102 OF 2011

Shekappa And Ors. .....Appellant(s)

Versus

State of Karnataka .....Respondent(s)

J U D G M E N T

K. V. Viswanathan, J.

1) Two women (PWs 17 and 18), who witnessed their husbands being done to death in the middle of the night by the appellants, unfolded their version of the macabre incident. The Trial Court did not believe them. The High Court, in an appeal against acquittal, found their version credible and being corroborated by medical evidence. The acquittals were reversed and the appellants were convicted for offences punishable under Sections 143, 148, 302, 323, 341 read with Section 149 IPC. They were sentenced to life imprisonment for the offence under Section 302 and to varying periods for the minor offences. Aggrieved, the convicts are in appeal before us.

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Reason:

2) The two deceased in this case are Mallappa and Gulappa. It transpires that six months prior to the date of the incident, i.e., on 09.09.2001, a bull belonging to the Rudrappa (A-2) had caused injury to the goat of Nagappa (PW-25) by goring. PW-25 asked the appellant/A-2 to reimburse the treatment expenses of Rs. 600/-. A-2 initially gave a goat to PW-25 and asked him to retain the same till the amount was paid. However, A-2 later on took away the goat and it is alleged that in the process he also beat up the younger brother of PW-25.

3) It is alleged that the two deceased and one Fakkirappa, the elder brother of PW-25, along with PW-25 went and met the appellants (except appellant No. 4) and were promised by the said appellants that the matter would be settled. Thereafter, it appears that all the persons met in the house of the deceased and when A-2 was questioned by PW-25 as to why he had taken the goat without informing, A-2 is supposed to have retorted by saying that he will neither pay the amount nor return the goat and PW-25 may do whatever he likes.

4) Thereafter, it appears that all the accused, except A-4, came to the house of PW-25 and A-2 tried to assault PW-25 with an axe on his neck and when PW-25 tried to protect himself, the blow fell on his right palm. According to the prosecution, the appellants believed that it was the two deceased who were responsible for inducing PW-25 to file the complaint to the Police (Exh. P. 32).

5) It is alleged that it was in this background that the present incident transpired during the intervening night of 08.09.2001 and 09.09.2001.

6) According to the version of Doddasiddavva (PW-17), w/o deceased Mallappa and Siddavva @ Sannasiddavva (PW-18), w/o deceased Gulappa, the incident occurred in the following manner:-

Anasavva (PW-16), the mother of the deceased, her husband Beerappa, the wives of both the deceased and the deceased had finished their dinner at about 10:30 PM on 08.09.2001 and had gone to sleep. Beerappa, father of the

deceased had gone to the nearby temple to sleep. PW-17, her 11-month-old child and her deceased husband Mallappa were sleeping on a raised platform in front of their house. PW-18 and her deceased husband Gulappa had gone to sleep in the cattle shed near their house which was 60 to 70 feet away from where deceased Mallappa slept. PW-16 and the children of the deceased Mallappa were sleeping inside the house and since the house was small, the others were sleeping at different places outside. The adults in the family did work as labourers for their livelihood.

7) According to the eyewitness accounts of PW-17 and PW-18, at about 1:00 AM during the intervening night of 08.09.2001 and 09.09.2001, PW-17 heard the cry of her 11-month-old child. When she woke up, she saw the accused Shekappa (A-1), Rudrappa (A-2), Hanumappa (A-3) and Gangappa (A-4) standing armed with axes. When she raised an alarm, Yellappa (A-5), Suresh (A-6) held her legs and Kenchappa (A-7) held her hands. At that time, Rudrappa (A-2), assaulted Mallappa on his mouth with an axe and when

Mallappa raised his hand, Gangappa (A-4), assaulted Mallappa with axe. Shekappa (A-1) assaulted Mallappa on his neck.

8) When PW-17 started screaming and shouting, the accused, after trying to assault her with axe, proceeded towards the cattle shed to finish Gulappa after proclaiming that they have finished Mallappa. PW-17 rushed behind them.

9) According to PW-17, Anasavva (PW-16) and PW-16's husband-Beerappa also followed PW-17 to the cattle shed. She saw Hanumappa (A-3) and Kenchappa (A-7) holding PW-18. Yellappa (A-5) and Suresh (A-6) were standing in the alley keeping a watch. Shekappa (A-1), Rudrappa (A-2) and Gangappa (A-4) assaulted Gulappa with axe. The accused persons also struck PW-18 on her forehead with the blunt handle of axe and pushed her on to PW-17. All the accused fled from the place of the incident.

10) It is alleged that after daybreak, PW-17 went to the Police Station and lodged a written complaint (Exh. P.7). A case was registered as Crime No. 74 of 2001.

11) Inquest was held as per Exh. P.14 and Exh. P.15. Thereafter, the bodies of the deceased were sent to the Public Health Centre, Navalgund, District Dharwad, for conducting autopsy. Statements of some of the witnesses were recorded. According to the prosecution, pursuant to the statements of the accused, seizures were effected.

12) On 10.09.2001, arrest was effected of A-1, A-3, A-4 and A-7 and recovery of the blood stained clothes of A-1 was allegedly effected. Based on the voluntary statement, it is claimed that axe was discovered. Pursuant to the voluntary statement of A-1, A-3 and A-4, on 06.11.2001, A-2 and A-5 were arrested. Based on the statement, discovery of axe was made. A-6 was thereafter arrested on 29.11.2001. Investigation was completed and chargesheet was filed on

03.12.2001. The prosecution examined PWs 1 to 27 and marked Exhs. P.1 to P.38 and produced M.O. Nos. 1 to 24.

13) Dr. Junjeshwar (PW-19) conducted the post-mortem of both the deceased between 3.10 PM and 5.00 PM on 09.09.2001. The following injuries were noticed on the deceased Mallappa:-

> "1) Incised wound on the neck, transversely situated at the lower part of the neck extending from front to back. Whole neck was separated from the body except four inch skin was holding to get attached to the body on the back of the neck.
>
> 2) Incised wound at the mouth on left side measuring 3' x 1". Skin was hanging and there was a fracture of left mandible.
>
> 3) There was an amputation of left forefinger at the level of proximal phalynx.
>
> 4) Incised wound on the dorsum of the left palm, transversely situated measuring 4'x 1" muscle deep. The said injury was at the level of ring and middle finger."

14) On the deceased Gulappa, the following injuries were found:-

> "1) Incised wound on the neck transversely situated at the lower part of the neck, extending from right to the left. Whole neck was separated from the body except three inch breadth skin was holding i.e. attached to the body on the left side of the neck below the ear. Length of the wound was all around the neck.

2) Incised wound on the right side of the face, transversely situated starting from the middle of the nose to the ear label measuring 10' in length and depth of the wound was 4" and it is connected to injury no. 1.

3) There was compound fracture of the whole mandible with hanging of the skin over it was present.

4) Fracture of upper jaw at the middle.

5) Verticle incised wound at the left front part of the shoulder measuring 4' x 2'x2".

6) Incised wound below the left clavicle measuring 21 1/2" to 1"x 1/2 ".

7) Middle finger was amputated at distal phalynx on the left side.

8) Incised wound incident to injury no.6 measuring 2"x 1" x1".

9) Fracture of left clavicle was present."

15) It was opined that the injuries were antemortem in nature and the death was due to shock and haemorrhage caused by the injuries on the neck. Exhs. P.25 and P.27 post-mortem reports were issued. The Trial Court found that the prosecution had established that the death of Mallappa and Gulappa were homicidal in nature. The High Court having confirmed the same, we find no reason to dislodge the said finding.

16) The High Court, however, reversed the acquittal of the Trial Court. The High Court has summarized the reasons for which the Trial Court recorded the judgment of acquittal by setting them out as follows: -

> "i) PW's.22 and 25 are not eyewitnesses to the incident.
>
> ii) The recovery of weapons is not proper.
>
> iii) The presence of PW.25 of doubtful. If PW.25 was present on the scene of occurrence, the accused did not have spared him as he had filed a complaint against them.
>
> iv) There is a delay in lodging the complaint and due to the deliberation between PW.25 and the wife of deceased to falsely implicate the accused.
>
> v) PW's.16, 17 and 18 did not inform the occurrence of offence to other villagers.
>
> vi) The injury of PW.18 is simple in nature and the chances of sustaining injury by any other means other than assault was always there.
>
> vii) No independent witnesses have been examined.
>
> viii) time of death varies. The opinion of PW.19 who conducted the autopsy on the dead body and according to PW .19, there is gap of 04:00 hours between murder of deceased Mallappa and Gulappa.
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> ix) PW's. 17 and 18, being the wives of deceased Mallappa and Gulappa, there is discrepancy in their evidence. The conduct of these witnesses is not natural and their evidence is not acceptable.
>
> x) The prosecution has not proved the source of light under which PW's.16, 17, 18 and other witnesses have witnessed the incident.
>
> xi) As per the evidence of PW.19, there is a time gap of 04.00 hours between the murder of Mallappa and Gulappa. The murder of Mallappa took place at about

01.30 a.m., on 08/09.09.2001 and that of Gulappa took place at about 05.00 a.m. on 09.09.201*(sic)* and nobody had witnessed the commission of offence.

xii) Since PW's.21, 23 and 25 are all interest witnesses, their evidence is not reliable.

xiii) In the complaint, PW.17 has referred to the presence of PW's 16, 21, 22 and 25. PW.25 was responsible for falsely implicating the accused, as he had grudge on the accused and he was closely following the trial of the case filed against the accused.

xiv) The documents marked as per Ex.P30 to P33 did not establish motive.

xv) The names of eyewitnesses in Column N0.7 of the Inquest form are not found and evidence also discloses that the deceased had many enemies in their village and the deceased might have been murdered by someone else."

17) We have heard Mr. Basava Prabhu S. Patil, learned Senior Counsel for the appellants and Mr. Avishkar Singhvi, learned Additional Advocate General for the State. We have also called for the original records from the Trial Court and perused the same. The learned Senior Counsel for the appellants reiterated the contention advanced before the Courts below and took us to the relevant part of the records. The learned Additional Advocate General defended the judgment.

18) We have carefully considered the contentions of the learned counsel on both sides.

PRINCIPLES GOVERNING APPEAL(S) AGAINST ACQUITTALS: -

19) We are conscious that the High Court was hearing an appeal against an acquittal. We have also perused the reasons for the acquittal. The High Court was also conscious of the fact that it was hearing an appeal against acquittal and it recorded that the reasoning given by the Trial Court was wholly unreasonable, perverse and not based on the record. The High Court also recorded that judgment of the Trial Court suffered from serious illegality and misreading the entire evidence.

20) In ***Arulvelu and Another*** vs. ***State Represented by the Public Prosecutor and Another***, (2009) 10 SCC 206, this Court held that in a case of appeal against acquittal, the Appellate Court has full power to review, re-appreciate and reconsider the evidence upon which the order of acquittal was founded. The only caveat was that where two reasonable conclusions

are possible on the basis of evidence on record, the Appellate Court should not disturb the finding of acquittal recorded by the Trial Court. Further, to set aside judgment of acquittal, the Appellate Court should arrive at a clear finding that the judgment of the Court below acquitting the accused was clearly perverse or wholly unsustainable in law.

21) We have perused the judgment of the Trial Court and the reasons recorded by it for acquittal. To say the least, the Trial Court has discarded crucial evidence that was available to clearly implicate the appellants and has glorified the non-essential aspects which in no manner dilute the direct eyewitness versions of the two spouses of the deceased PWs 17 and 18 respectively. We agree with the High Court that the judgment of the Trial Court was totally unsustainable and was in direct contradiction to the eyewitness accounts. No two views are possible in this case, and the only view possible is the guilt of the appellants.

ROLE OF MOTIVE IN CASES OF DIRECT EVIDENCE: -

22) It is fairly well settled that motive pales into insignificance where there is direct evidence which is trustworthy. In this case, not only is there the direct evidence of PWs 17 and 18, but the motive also stands established. As set out above, pursuant to the bull belonging to Rudrappa (A-2) causing injury to the goat of Nagappa (PW-25), there was enmity between PW-25 and the accused party. It has also come in evidence that the deceased Mallappa and Gulappa had taken the side of PW-25 in the said dispute. There was a meeting at the residence of the deceased where A-2 was questioned about taking away the goat left by A-2 with PW-25 as an interim arrangement till the payment of adequate compensation. It had also come in evidence that the complaint (Exh. P.32) was lodged by PW-25 when the accused party tried to assault PW-25 as a sequel to the said talks.

23) In this background, the Trial Court was not justified in totally brushing aside the aspect of motive. In any event, in view of the clinching evidence of Doddasiddavva (PW-17),

wife of deceased Mallappa and Siddavva (PW-18), wife of deceased Gulappa, there is no manner of doubt that appellants were indeed responsible for the attack on the deceased and their consequential death.

RELIABLE AND TRUSTWORTHY ACCOUNT OF PWS 17 & 18: -

24) At the outset, it must be noticed that accused party and the deceased family were known to each other. PW-17 has clearly deposed that on the day of the incident she, her husband and her infant child were sleeping on the raised platform in front of their house. Her mother-in-law PW-16 was sleeping inside the house along with the grandchildren. Her father-in-law, Beerappa, was sleeping in the temple.

25) PW-17 also deposed that her brother-in-law, deceased Gulappa, was sleeping in the cattle shed along with his wife. She clearly spoke of electricity being available and there is evidence, in the form of Exh. P.9, to the effect that there was electricity supply in the area of the incident. PW-17 deposed that, during the intervening night of 08.09.2001 and

09.09.2001, at about 10:00 or 10:30 PM, food was prepared and all of them had dinner; that after finishing dinner, PW-17, her husband Mallappa and her infant child slept on the raised platform; that the electric light in front of the door was burning; that around 1:00 AM in the night the child cried as someone stepped on its legs; that when she woke up, she saw Yellappa (A-5) and Suresh (A-6) catching hold of her legs; and Kenchappa (A-7) holding her hand. PW-17 deposed that Rudrappa (A-2) assaulted her husband on his mouth with the axe which he was holding; that after receiving the axe blow on the mouth when Mallappa raised his hand Gangappa (A-4) assaulted Mallappa's left hand with axe; Shekappa (A-1) assaulted on Mallappa's neck with an axe; that there was profuse bleeding from her husband's body and she started weeping loudly. PW-17 deposed that hearing her, Anasavva (PW-16) came out from inside the house. PW-17 deposed that the accused persons uttered that they have finished off Mallappa and if Gulappa is spared he will become a nuisance

and that he should be finished. Thereafter, the accused persons ran towards the cattle shed with the axes.

26) Thereafter, PW-17 deposed that she, along with her mother-in-law and father-in-law (who had heard the scream and arrived from the temple) proceeded towards the cattle shed. PW-17 no doubt speaks of Nagappa (PW-25), Mallappa (PW-22) and Basavva (PW-21) also coming behind her.

27) What is important however, is that PW-17 clearly deposes that when she reached near the cattle shed, Kenchappa (A-7) and Hanumappa (A-3) firmly caught hold of PW-18 Siddamma's hands; that Yellappa (A-5) and Suresh (A6) were standing in the alley keeping a watch; that Shekappa (A-1), Rudrappa (A-2), Gangappa (A-4) assaulted Gulappa with an axe; that PW-18 was pushed towards PW-17 and PW-18 was struck on the right side of her forehead with the blunt handle of the axe. Thereafter, PW-17 disposed that the accused fled away and that Mallappa and Gulappa died due to the injuries. PW-17 speaks of lodging a complaint Exh. P.7.

28) Similarly, PW-18 the wife of the deceased Gulappa, after adverting to the incident which was the motive, spoke of the incident that happened during the night intervening 08.09.2001 and 09.09.2001. Like PW-17, she spoke about how the families slept in different parts of the house. Thereafter, PW-18 deposed that in the middle of the night, at 1:00 am, she heard the sound of people running; that she woke up and saw Shekappa (A-1) holding an axe in his hand with blood stains; that blood had splattered on his shirt; that Rudrappa (A-2) also had an axe in his hand which also had blood on it and there was blood on his shirt as well. PW-18 spoke of Gangappa (A-4) having an axe with blood stains and stains on his clothes. When PW-18 started screaming, Kenchappa (A-7) and Hanumappa (A3) came running and tightly held her mouth; that Shekappa (A-1) struck her husband's neck with an axe; Gangappa (A-4) struck her husband near the mouth with axe and Rudrappa (A-2) struck her husband's neck with axe.

29) PW-18 deposed further that Yellappa (A-5) and Suresh (A-6) were standing and exhorting to chop off Gulappa. PW-18 speaks of PW-17, PW-16 mother-in-law, father-in-law Beerappa and PW-25 Nagappa and others who came running there, at which point the accused persons pushed her aside and Hanumappa (A-3) assaulted her forehead and neck with the wooden handle of the axe. Thereafter, PW-18 stated that the accused persons fled away.

30) Dr. Junjeshwar (PW-19) examined PW-18 and noticed a swelling on the forehead on the right-side measuring 1" x 1" and recorded that she complained of pain in the neck. The Doctor opined that the injury was simple and was caused by a hard and blunt object and that the injury was fresh. The Doctor confirmed that the said injury can be caused if a person is assaulted with the handle of an axe. Exh. P.23 wound certificate was issued.

31) PW-17 and PW-18 are natural witnesses. They are spouses of the deceased, and it is only natural that they were

together with the deceased considering that the incident occurred in the middle of the night. The accused were known to the witnesses, and they have graphically described as to what transpired. The overt acts attributed to each other were clearly brought out and nothing has been elicited in cross examination to shake the credibility of their testimonies. The Trial Court over emphasized on minor contradictions which have no significance whatsoever. The core of their evidence is that the two witnessed the brutal assault of their spouses. There is evidence to the effect that electricity light was available. To discard Exh. P.9, which is a Certificate given by the Assistant Executive Engineer (PW-10), the Trial Court has embarked upon a convoluted form of reasoning.

The Certificate Exh. P.9 is to the following effect: -

> "That it is hereby informed that on 9/9/2001 at about 1.30 to 1.35 a.m, there was supply of electricity at Belavatgi Village"

PW-10, who was the Assistant Executive Engineer, Navalgund has clearly deposed that after confirming the records of his

office, he has furnished information in his letter stating that there was supply of light during that night. No doubt, PW-10, after stating that he verified the records of Navalgund AEB Station with regard to the supply between 1.30 and 1.35 AM, on being asked whether there was supply before 1.30 AM, he stated that there was supply throughout that night from 10.00 p.m. to 6.00 a.m. As a sequel to this answer, it was added that he had enquired with another Assistant Executive Engineer, who was in charge of Navalgund sub-station of KEB, on telephone and he himself did not verify the records personally. He expressly denied the suggestion that there was no power supply between 1.30 and 1.35 AM but also denied the suggestion that he had not verified the records.

32) In any event, as rightly held by the High Court, having known the accused persons, the witnesses can even identify them by their voice and appearance. The High Court has also relied on the evidence of PWs 16, 17 & 18 on the aspect that there was light in front of the house of the deceased and has held that since the accused were standing in close proximity

at the time of the incident there was absolutely no basis to reject their testimony with regard to the identity of the accused. Notwithstanding the finding of the Trial Court on the reliability of Exh.P.9 and the evidence of PW-10, the role of the accused in the overt act is clearly spoken to by PWs 17 & 18.

33) We are also not impressed with the submission on behalf of the appellants that PWs 17 & 18, being widows of the deceased, are interested witnesses and that their evidence is to be discarded. It is well settled that merely because a witness is a related witness, that witness need not be an interested or a partisan witness. We found the evidence of PWs 17 & 18, natural and trustworthy. Keeping in mind the overall facts and circumstances, we have not been persuaded to hold them to be interested or partisan witnesses, warranting jettisoning of their evidence. We have absolutely no reason to disbelieve the evidence of PWs 17 and 18.

SCOPE OF INQUEST: -

34) Much was made out of the fact, by the Trial Court, that in the Inquest Panchnama, the names of eyewitnesses were not disclosed. The High Court has rightly rejected this submission.

35) Section 174 of the Code of Criminal Procedure,1973 (for short 'the Cr.P.C.', now Section 194 of the Bharatiya Nagarik Suraksha Sanhita, 2023), is intended to make a report after investigation into the apparent cause of death of the individual, describing such wounds, fractures, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon and instrument such marks appear to have been inflicted. As held by this Court in ***Radha Mohan Singh Alias Lal Saheb and Ors.*** vs. ***State of U.P.***, (2006) 2 SCC 450, details about the overt acts, or as to how the deceased was assaulted and who assaulted the deceased, or under what circumstances the assault was occasioned and who were the witnesses to the assault, are foreign to the

concept of inquest proceedings. The scope of Section 174 of Cr.P.C. is very limited. It is to determine whether a person has died under suspicious circumstances or whether the death was unnatural and if so, what was the apparent cause of death. A testimony of an eyewitness cannot be discarded on the ground that their names did not appear in the inquest report.

36) In ***Radha Mohan Singh (supra,)*** this Court held as under:

> **"13.** The provision for holding of inquest is contained in Section 174 CrPC and the heading of the section is *Police to enquire and report on suicide, etc.* Sub-sections (1) and (2) thereof read as under:
>
> > "174. *Police to enquire and report on suicide, etc.*— (1) When the officer in charge of a police station or some other police officer specially empowered by the State Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the State Government, or by any general or special order of the District or Sub-Divisional Magistrate, shall proceed to the place where the body of such deceased person is, and

there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(2) The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-Divisional Magistrate."

14. The language of the aforesaid statutory provision is plain and simple and there is no ambiguity therein. An investigation under Section 174 is limited in scope and is confined to the ascertainment of the apparent cause of death. It is concerned with discovering whether in a given case the death was accidental, suicidal or homicidal or caused by animal and in what manner or by what weapon or instrument the injuries on the body appear to have been inflicted. It is for this limited purpose that persons acquainted with the facts of the case are summoned and examined under Section 175. The details of the overt acts are not necessary to be recorded in the inquest report. **The question regarding the details as to how the deceased was assaulted or who assaulted him or under what circumstances he was assaulted or who are the witnesses of the assault is foreign to the ambit and scope of proceedings under Section 174. Neither in practice nor in law is it necessary for the person holding the inquest to mention all these details.**

15. In *Pedda Narayana* v. *State of A.P.* [(1975) 4 SCC 153 : 1975 SCC (Cri) 427 : AIR 1975 SC 1252] it was held that the proceedings under Section 174 have a very limited scope. The object of the proceedings is merely to ascertain whether a person has died under suspicious circumstances or an unnatural death and if so, what is the apparent cause of the death. **The question regarding the details as to how the deceased was assaulted or who assaulted him or under what circumstances he was assaulted is**

foreign to the ambit and scope of the proceedings under Section 174. Neither in practice, nor in law, was it necessary for the police to mention those details in the inquest report. It is, therefore, not necessary to enter all the details of the overt acts in the inquest report. Their omission is not sufficient to put the prosecution out of Court. In *Shakila Khader* v. *Nausheer Cama* [(1975) 4 SCC 122 : 1975 SCC (Cri) 379 : AIR 1975 SC 1324] the contention raised that non-mention of a person's name in the inquest report would show that he was not an eyewitness of the incident was repelled on the ground that an inquest under Section 174 CrPC is concerned with establishing the cause of death and only evidence necessary to establish it need be brought out. The same view was taken in *Eqbal Baig* v. *State of A.P.* [(1986) 2 SCC 476 : 1986 SCC (Cri) 232 : AIR 1987 SC 923] that the non-mention of name of an eyewitness in the inquest report could not be a ground to reject his testimony. Similarly, the absence of the name of the accused in the inquest report cannot lead to an inference that he was not present at the time of commission of the offence as the inquest report is not the statement of a person wherein all the names (the accused and also the eyewitnesses) ought to have been mentioned. The view taken in *Pedda Narayana* v. *State of A.P.* [(1975) 4 SCC 153 : 1975 SCC (Cri) 427 : AIR 1975 SC 1252] was approved by a three-Judge Bench in *Khujji* v. *State of M.P.* [(1991) 3 SCC 627 : 1991 SCC (Cri) 916 : AIR 1991 SC 1853] and it was held that the testimony of an eyewitness could not be discarded on the ground that their names did not figure in the inquest report prepared at the earliest point of time. The nature and purpose of inquest held under Section 174 CrPC was also explained in *Amar Singh* v. *Balwinder Singh* [(2003) 2 SCC 518 : 2003 SCC (Cri) 641] . In the said case the High Court had observed that the fact that the details about the occurrence were not mentioned in the inquest report showed that the investigating officer was not sure of the facts when the inquest report was prepared and the said feature of the case carried weight in favour of the accused. After noticing the language used in Section 174 CrPC and earlier decisions of this Court it was ruled that the High Court was clearly in error in observing as aforesaid or drawing any inference against the prosecution.

> **Thus, it is well settled by a catena of decisions of this Court that the purpose of holding an inquest is very limited viz. to ascertain as to whether a person has committed suicide or has been killed by another or by an animal or by machinery or by an accident or has died under circumstances raising a reasonable suspicion that some other person has committed an offence. There is absolutely no requirement in law of mentioning the details of the FIR, names of the accused or the names of the eyewitnesses or the gist of their statements, nor is it required to be signed by any eyewitness.** In *Meharaj Singh* v. *State of U.P.* [(1994) 5 SCC 188 : 1994 SCC (Cri) 1391] the language used by the legislature in Section 174 CrPC was not taken note of, nor the earlier decisions of this Court were referred to and some sweeping observations have been made which are not supported by the statutory provision. We are, therefore, of the opinion that the observations made in paras 11 and 12 of the reports do not represent the correct statement of law and they are hereby overruled. The challenge laid to the prosecution case by Shri Jain on the basis of the alleged infirmity or omission in the inquest report has, therefore, no substance and cannot be accepted."
>
> [Emphasis supplied]

37) We are also not impressed with the finding of the Trial Court that PWs 16, 17 and 18 did not inform the occurrence to other villagers, or that no independent witness has been examined. Considering the time of the incident, the witnesses examined were the most natural witnesses and PW-18, it should not be forgotten, is also an injured witness. The fact that PW-17 mentioned about the presence of certain other individuals, who may not have the character of an

eyewitness, does not, on facts, detract from the fact that PWs 17 and 18 were eyewitnesses. Further, the injuries noticed on the deceased and spoken to by Dr. Junjeshwar (PW-19) amply corroborate the version of PW-17 and PW-18 on all material aspects.

INFERENCE BASED ON DIGESTIVE PROCESS: -

38) One other aspect, which weighed with the Trial Court, was the deposition of the Dr. Junjeshwar (PW-19) about the probable time gap of four hours between the death of Mallappa and Gulappa. The Trial Court relied on the evidence of PW-19, who had answered to a question, asked by the court, in the following manner:-

> "I. Court Question:
>
> If Mallappa and Gulappa had taken food together and taking into consideration the contents of stomach of Mallappa and Gulappa whether both of them were murdered at same time or whether there was difference of time in their death?
>
> II. Answer:
>
> Taking into consideration of contents of stomach of Mallappa and Gulappa, provided, if they had taken meals

together, in my opinion, Gulappa died Four hours after Mallappa died.

III. Cross examination by learned PP:

Now I see Ex.P.25. On the basis of stomach contents, contents Ex.P.25 Mallappa - might have taken his last meal 2 or 3 hours prior to his death. Now I see Ex .P.27. After seeing the contents of small intestine mentioned in Ex.P.27. Gulappa might have taken his last meal 6 to 8 hours prior to his death. Only on the basis of contents of small intestine the opinion regarding time since death after last meal, cannot be given. It is false to suggest that the stomach get emptied between 3 1/2 hours to 4 hours time.

IV. Cross by Sri KMS:

In this case death of both Mallappa and Gulappa is instantaneous."

We must notice here that the Doctor PW-19 in the earlier part of the testimony had deposed as follows: -

"14. The stomach of Gulappa was empty. There was semi digested fluid in the small intestine. Looking to the contents of stomach and intestine of Gulappa, I say that he must have died more than four hours after the last meal.

Looking to the contents of the stomach of deceased Malappa he must have died within four hours after his last meal."

39) The Trial Court recorded the following finding: -

".... I do not find any reason to disbelieve the opinion expressed by P.W. 19 Dr. Junjeshwar to the Court question

that there was gap of four hours between the death of Mallappa and Gulappa. It is the case of the prosecution and also evidence of eye witnesses that death of Mallappa and Gulappa were instantaneous."

40) The High Court recorded the following findings while reversing the Trial Court's reasoning: -

"Looking at the question put by the court to P.W.19, it appears that, it is not a simple question, which could be answered. It is a complex question, while answering the said question, Doctor-PW-19 has stated that, Gulappa must have died four hours after Mallappa died. When he has already referred as regard to the death of Mallappa and Gulappa, stating that, Gulappa died four hours after the last meal and Mallappa died within four hours of the last meal. There is no discrepancy in his statement, however, in the light of the question put by the court, he might have stated that there is a gap of four hours between two deaths. The trial court erred in relying on the same to disbelieve the prosecution case. Learned Sessions Judge has taken this discrepancy as ground to acquit the accused. The Apex Court has repeatedly held that, when there is a direct reliable ocular evidence as against the medical evidence, the ocular evidence should be preferred. Even then, the learned Sessions Judge has overlooked the ocular evidence, more so the evidence of the widows, who have lost their husbands. The findings of the learned trial Judge does not stand to reason, as to how after murdering Mallappa, the accused could wait for four hours and commit the murder of Gulappa. Both incidents have taken place near the house of the deceased. The learned trial Judge has not even appreciated as to how can there be 4 hours gap between both the murder. It is not that the murder of Mallappa had taken at one place and murder of Gulappa had taken place at a quite distance place. Even PW-19-Doctor has categorically stated that the contents of stomach is one of the factors to ascertain the time of the death of the person after lapse of last meal, that is not the

> decisive factor and the trial court should not have relied only on that stray sentence in the evidence of P.W.19 to come to the conclusion that the prosecution has failed to prove the charge."

We are inclined to agree with the finding of the High Court.

41) The eyewitness accounts clearly demonstrate that the incident happened at around 1:00 AM during the night intervening 08.09.2001 and 09.09.2001. Evidence is also clear that food was prepared around 10:00 PM and thereafter dinner was taken. The incidents were one after the other in quick succession. The Trial Court has exclusively relied upon the answer to a Court question given by the Doctor (PW-19) and based on the inference about the digestive process, the incident has been disbelieved.

42) In ***Nihal Singh and Ors.*** vs. ***State of Punjab***, [1964] 4 SCR 5, this Court held that the time required to digest food varies depending on the nature of food taken, the digestive capacity of the individual concerned, and his health at a particular time. It is also well settled that when there are acceptable eyewitnesses on record speaking clearly about

the time of the incident, no conclusion can be clearly based on probabilities of digestive timings and in any event, that cannot be the sole basis to reject the oral evidence. This Court held as under:-

> **"..... Apart from the fact that the time required to digest food varies depending upon the nature of the food taken, the digestive capacity of the individual concerned and his health at a particular time, it is also not possible to rely upon such evidence unless there is some definite evidence that the deceased had not taken any substantial food within a few hours before his death.** Without such definite data, a Court cannot come to any conclusion on the general habit of villagers taking lunch at 1 p.m. and dinner at 7 p.m. The capacity to retain urine for longer time than usual depends upon individual habits. That apart this aspect of the case was not pursued in the cross-examination of the doctor and no question was put to her on the basis of the said two factors. The High Court was, therefore, right in holding that the learned Additional Sessions Judge was wrong in giving undue importance to the said circumstances." (Page 13)
>
> [Emphasis supplied]

43) This Court in ***Shivaji Sahabrao Bobade & Anr.*** vs. ***State of Maharashtra***, (1973) 2 SCC 793 adverting to the digestive process and how far it can be conclusive, held as follows: -

> "11. ..... *Modi's Medical Jurisprudence,* extracts from which have been given by both the Courts, makes out that a mixed diet of animal and vegetable foods, normally taken by Europeans, takes 4 to 5 hours for complete digestion while a vegetable diet, containing mostly farinaceous food usually consumed by Indians, does not leave the stomach completely within 6 to 7 hours after its ingestion. Indeed,

> the learned author cautiously adds that the stomachic contents cannot determine with precision the time of death "in as much as the power of digestibility may remain in abeyance for a long time in states of profound shock and coma". He also states "it must also be remembered that the process of digestion in normal healthy persons may continue for a time after death". **The learned Judges reminded themselves of the imponderables pointed out by Modi which makes the "digestive" testimony inconclusive and, therefore, insufficient to contradict positive evidence, if any, about the time of death. To impute exactitude to a medical statement oblivious to the variables noticed by experts and changes in dietary habits is to be unfair to the science. We are not prepared to run the judicial risk of staking the whole verdict on nebulous medical observations.** Given so according to P.W. 5 deceased took tea some time after 12.30 p.m. when they started for Bibi. At that time the possibility of his having had something to eat is not ruled out. If so, the medical *evidence* as to the time of death will not be inconsistent with the post-mortem findings."
>
> [Emphasis supplied]

44) The attempt by the learned senior counsel for the appellants to create a doubt on the prosecution case by falling back on the inconclusive digestive process is an argument which in itself, on facts, is very difficult to digest.

45) Much was made out of the purported delay in lodging the First Information Report Exh. P.6 and also of the so called contradiction between the evidence of Doddasiddavva (PW-17) and Somashekhar (PW-20), who helped PW-17 draft the complaint. We have carefully examined the evidence of

Doddasiddavva (PW-17) and Somashekhar (PW-20) on the aspect of the so-called contradiction. We find that there is no contradiction whatsoever that is worth mentioning. PW-17 says that after the incident in the night, at 8:00 am she left for the Police Station and though she gave information, the police insisted on written complaint. While waiting she saw Somashekhar (PW-20) passed by and requested him to lodge the complaint. PW-20 states that he was proceeding to Tehsildar's office on that day when he met PW-17 on the way and PW-17 requested him to write the complaint and as such he wrote the complaint. In fact, as found by the High Court this is a corroboration and not a contradiction.

46) Equally untenable is the argument on delay in lodging of the FIR. We need to do no better than to set out the findings of the High Court which we endorse on these aspects:

> "The complaint is registered at 10:00 a.m., on 09.09.2001 and the F.I.R. is received at 02:30 p.m., by the C.J.M. Dharwad, who was Incharge Magistrate, Navalgund. Pw.17, as regard to the delay, she has stated that on account of death of her husband and Gulappa, all the family members

were grieving. The villagers had assembled at about 08:00 a.m., thereafter, PW.25-Nagappa, complainant~PW.17 and another went to the Police Station and by the time they reached Police Station it was 10:00 a.m. Though PW.17 gave the information about the incident, the police insisted her to give a written complaint, as such, they were waiting for someone to write a complaint and when they saw PW.20 passing by, they requested him to write a complaint. Accordingly, PW.20 wrote a complaint as per the instructions of PW.17. PW.24, Police officer registered the said complaint. It has come in the evidence of PW.17 that there was no bus facility. The evidence of PW.20 substantially corroborate with the evidence of PW.17, he has stated that at about 10 to 10:15 a.m., on 09.09.2001, he was proceeding towards the office of the Tahsildar, PW.17 saw him and called and requested him to write a complaint on her behalf. He wrote the complaint as per her instruction. She understood the contents and put her thumb impression. No doubt, the distance between the place of occurrence and the Police Station is 6 kms but, it is a village and the incident had taken place during night and two deaths have taken place in the family, the villagers had gathered at 08:00 a.m., there is nothing unnatural in the evidence of Pw.17, circumstances stated are natural, the trial court has held that the delay in filing the complaint has resulted in deliberation and consultation with PW.25. This finding is arrived by the trial court without appreciating the evidence of PW.17."

47) We are also not impressed by the reasoning of the Trial Court to justify the acquittal that certain variations in the deposition of PWs 17 and 18 were fatal to the prosecution story or the further holding that PWs 22 and 25 did not have the character of eyewitnesses. These aspects do not derogate

from the core aspect of the prosecution story which has been clearly established by the evidence of PWs 17 and 18.

48) For the reasons stated above, we find no good ground to interfere with the well-considered judgment of the High Court. The appeal is dismissed. The appellants are directed to surrender forthwith, failing which, the Trial Court is directed to take steps to take the appellants into custody.

.....J.
[**K. V. VISWANATHAN**]

.....J.
[**ARUN PALLI**]

New Delhi;
November 3, 2026