

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

Criminal Appeal No(s). 118/2020

VENKATESH

Appellant(s)

VERSUS

THE STATE OF KARNATAKA

Respondent(s)

O R D E R

The present Appeal has been filed by Venkatesh- Accused no.3 (hereinafter the 'appellant') against the judgment dated 16.11.2017 whereby the High Court of Karnataka has confirmed his conviction under Sections 302 and 341 read with Section 34 of IPC and the consequential sentence of life imprisonment awarded by the Presiding Officer, Fast Track Court (Sessions) Judge-V, Bangalore City vide judgment and order dated 04.02.2012.

2. The case of the prosecution was that, on 18.03.2010 at about 10:30 p.m, Ranganath (hereinafter the 'deceased'), after closing his Fair Price Shop situated near Coolie Nagar Bridge at Nandini Layout, Bangalore, was returning home on his motorbike. When the deceased reached near 4<sup>th</sup> Main, 8<sup>th</sup> Cross, Ravi Layout, Jai Maruthi

Nagar, he was assaulted by accused nos. 1 and 2 with the intention to commit his murder. While the appellant along with accused no.4 wrongfully restrained the deceased from escaping, it is alleged that accused nos.1 and 2 who were armed with longs (choppers) inflicted multiple injuries on the neck, chest and other vital parts of the deceased, due to which he fell down and died on the spot.

3. The complainant- Jaya Prakash (P.W..1) reported the matter to the Jurisdictional Police Station immediately at 11:50 p.m, based on which Crime No.92/2010 was registered at 12:45 p.m.

4. The prosecution examined 21 witnesses and marked 21 documents along with 12 material objects.

5. The Trial Court held accused nos. 1 and 2 and the appellant guilty of the offence punishable under Section-341, 302 read with Section 34 of the IPC and sentenced them to life imprisonment along with other lesser punishments.

6. The role attributed to the appellant is that when the deceased was attacked by accused nos. 1 and 2 and he attempted to escape, the appellant along with accused no.4 prevented the deceased to flee from the spot and meanwhile, enabled accused nos. 1 and 2 to inflict multiple injuries with sharp edged weapons.

7. It was in the backdrop of such specific allegations that the following common charges were framed against all the accused:

**"CHARGE"**

That you accused persons on 18/3/10 at about 10:30 p.m. in the night when deceased Ranganath aged about 32

years was going after closing his Fair Price Shop situated near Coolie Nagar Bridge, Nandini Layout, at about 10:40 p.m. when deceased Ranganath on his bike on 4<sup>th</sup> Main, 8<sup>th</sup> Cross, ravi Layout, Jai Maruthi Nagar, you accused persons with previous grudge and you accused persons with common intention of killing him, you accused no.3 and 4 wrongfully restrained deceased Ranganath from proceeding further and thereby committed an offence punishable under Section 341 r/w 34 of IPC and within the cognizance of Court of Sessions.

Secondly, you accused persons on the above said date, time and place with the common intention to kill deceased Ranganath, wrongfully restrained him from further proceeding, and at that time the accused No.1 told to other accused as "we should not leave him, if we leave him, he will not leave us, let us finish him" and assaulted with long on the neck of Ranganath and you accused No.1 who was standing behind him also assaulted Ranganath with long on his head and back and when Ranganath tried to escape from the clutches of you accused persons, at that time you accused No.1 and 2 chased Ranganath and assaulted to him abruptly with the help of long and caused grievous injuries to him and committed murder of Ranganath intentionally causing his death and thereby you accused persons committed an offence punishable under Section 302 r/w 34 of IPC and within the cognizance of Court of Sessions."

8. Amongst the 21 witnesses examined by the prosecution, we find that Ganesh (P.W.3) and Narsimha Murthy (P.W.4) are the crucial eyewitnesses.

9. Ganesh (P.W.3) deposed that on 18.03.2010, he came from Kurubarahalli and was having dinner near bridge at about 10:30 p.m. when the deceased came there on his motorbike and inquired why he was having dinner there. The witness explained the circumstances for having dinner on the bridge as his mother had gone out of station. At that moment of time, a four-wheeler boarded with four persons came at the spot. The appellant got down from the Auto and stood in front of Ranganath (deceased). Simultaneously, accused

nos. 1 and 2 also got down from auto and started assaulting Ranganath (deceased) with choppers over the neck and chest region. When Ranganath (deceased) tried to escape, these accused nos.1 and 2 continued to assault him with choppers on the back side due to which Ranganath (deceased) fell down and died on the spot.

10. This witness was cross-examined at length but nothing could be elucidated to cast doubt on the veracity of his deposition.

11. Similar is the deposition by Narsimha Murthy (P.W.4), who was working as a supplier in Gangothri Bar and Restaurant situated at J.C. Nagar. He deposed that the three accused, including the appellant, visited the abovementioned bar and at around 10:30 p.m. to 10:40 p.m., when he was standing at the door of the shop, he saw that the appellant along with accused no.4 had prevented the deceased from going further whereas accused nos. 1 and 2 (Narayana and Ravi Kumar) assaulted the deceased with choppers which caused him injuries on neck, head and both hands. He specifically stated that he had also heard accused no. 1 saying to accused no.2 that the deceased be not allowed to leave as he would otherwise finish them. This witness too has been cross-examined at length and except for admitting his distant relationship with the deceased, there is nothing which can create any suspicion on the truthfulness of his deposition.

12. We have heard learned counsel for the appellant as well as learned counsel for the State of Karnataka at considerable length and have gone through the contents of the F.I.R., chargesheet as

well as ocular version of the vital witnesses, with their able assistance. Learned counsel for the appellant has emphatically argued mainly on two grounds that the charge was defective as no specific allegation was made against the appellant and that the witnesses relied upon by the Courts below, i.e. Ganesh (P.W.3) and Narasimha Murthy (P.W.4) are interested witnesses as they were known to the deceased.

13. The Trial Court as well as the High Court, both have minutely examined the entire evidence and came to firm conclusion that the appellant was the one who prevented the Ranganath- deceased from moving further which resulted in an ample opportunity to the assailants, namely, accused nos. 1 and 2 to cause severe multiple injuries on the vital parts of the deceased.

14. In this view of the matter, the concurrent conclusion drawn by the Courts below that the appellant is guilty of committing offences under Section 341 and 302 IPC, with the aid of Section 34 of IPC, is legally correct and does not warrant any interference by this Court.

15. We thus do not find any merit in this appeal which is accordingly, dismissed.

16. At this juncture, learned counsel for the appellant submits that the period spent by the appellant as an undertrial, has not been accounted towards the total period of sentence to be undergone by him.

17. It goes without saying that whatever period the appellant had

spent in custody during trial shall be taken into account while counting the total period of sentence required to be undergone by him. The competent authority will do the needful in this regard at the appropriate stage.

18. Pending application(s), if any, shall stand disposed of

.....J.  
( SURYA KANT)

.....J.  
(ABHAY S. OKA)

New Delhi  
03<sup>rd</sup> August, 2022

ITEM NO.104

COURT NO.14

SECTION II-C

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SCriminal Appeal No(s). 118/2020

VENKATESH

Appellant(s)

VERSUS

THE STATE OF KARNATAKA

Respondent(s)

( LIST IN THE MONTH OF AUGUST, 2022 )

IA No. 152429/2019 - EXEMPTION FROM FILING O.T.

IA No. 158782/2019 - EXEMPTION FROM FILING O.T.

IA No. 158781/2019 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES)

Date : 03-08-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE ABHAY S. OKA

For Appellant(s) Mr. Ashwin V. Kotemath, Adv.  
Ms. E. R. Sumathy, AOR

For Respondent(s) Mr. V. N. Raghupathy, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The Appeal is dismissed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NISHA KHULBEY)  
SENIOR PERSONAL ASSISTANT

(signed order is placed on the file)

(PREETHI T.C.)  
BRANCH OFFICER