IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

CRIMINAL APPEAL Nos.1685 OF 2018, 2100 OF 2018, 2577 OF 2018, 2639 OF 2018 AND 664 OF 2019

CRIMINAL APPEAL Nos.1685 OF 2018

Between:
Battula Srinu @ Mataye Kottu Srinu,
R/o. Nagarjuna Colony,
Sattenapally, Guntur District.

...Appellant/Accused No.1

AND

The State of Andhra Pradesh,
Rep. by its Public Prosecutor,
High Court of Andhra Pradesh.

...Respondent/complainant

CRIMINAL APPEAL No.2100 OF 2018

Between:
Tadikonda Srinivasa Rao @ Ganduluri Srinivasa Rao,
S/o Koteswara Rao,
occ.Coolie, R/o.Gundluru Village,
Sattenapalli Mandal, Guntur District.

...Appellant/Accused No.2

AND
The State of Andhra Pradesh,
Rep. by its Public Prosecutor,
High Court of Andhra Pradesh

....Respondent/Complainant

CRIMINAL APPEAL No.2639 OF 2018

Between:

Pasupuleti Srinivas @ Mykel Jonson @ Mykel Srinu,
S/o Kotaiah,
R/o. Vaddavalli, Sattenapalli,
Guntur District.

...Appellant/Accused No.3

The State of Andhra Pradesh,
Rep. by its Public Prosecutor,
High Court of Andhra Pradesh **...Respondent/Complainant**

CRIMINAL APPEAL No.664 OF 2019

Between:

Bontha Rama Krishna,
S/o. Koteswara Rao,
R/o. Venkatapaiah Colony,
Sattenapalli Town, Guntur District.

...Appellant/Accused No.6

AND

The State of Andhra Pradesh,
Rep. by its Public Prosecutor,
High Court of Andhra Pradesh **....Respondent/Complainant**

CRIMINAL APPEAL No.2577 OF 2018

Between:
Shaik Rafi,
Kanakanapalli Village,
Yannadevi, Sattenpalli.

...Appellant/Accused No.4

AND

The State of Andhra Pradesh,
Rep. by its Public Prosecutor,
High Court of Andhra Pradesh **....Respondent/Complainant**

Date of Judgment Pronounced : 07-10-2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE K.SURESH REDDY

AND

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

1. Whether Reporters of Local newspapers may be allowed to see the judgment? Yes/No

2. Whether the copy of judgment may be marked to Law Reporters/Journals? Yes/No

3. Whether Their Lordships wish to see the fair copy of the judgment? Yes/No

K.SURESH REDDY, J.

JUSTICE SUMATHI JAGADAM

*** THE HON'BLE SRI JUSTICE K.SURESH REDDY**

AND

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

+ CRIMINAL APPEAL Nos.1685 OF 2018, 2100 OF 2018, 2577 OF 2018, 2639 OF 2018 AND 664 OF 2019

% Dated: 07.10.2026

CRIMINAL APPEAL Nos.1685 OF 2018

Between:
Battula Srinu @ Mataye Kottu Srinu,
R/o. Nagarjuna Colony,
Sattenapally, Guntur District.

...Appellant/Accused No.1

AND

The State of Andhra Pradesh,
Rep. by its Public Prosecutor,
High Court of Andhra Pradesh.

...Respondent/complainant

CRIMINAL APPEAL No.2100 OF 2018

Between:
Tadikonda Srinivasa Rao @ Ganduluri Srinivasa Rao,
S/o Koteswara Rao,
occ.Coolie, R/o.Gundluru Village,
Sattenapalli Mandal, Guntur District.

...Appellant/Accused No.2

AND
The State of Andhra Pradesh,
Rep. by its Public Prosecutor,
High Court of Andhra Pradesh

....Respondent/Complainant

CRIMINAL APPEAL No.2639 OF 2018

Between:

Pasupuleti Srinivas @ Mykel Jonson @ Mykel Srinu,
S/o Kotaiah,
R/o. Vaddavalli, Sattenapalli,
Guntur District.

...Appellant/Accused No.3

The State of Andhra Pradesh,
Rep. by its Public Prosecutor,
High Court of Andhra Pradesh **...Respondent/Complainant**

CRIMINAL APPEAL No.664 OF 2019

Between:

Bontha Rama Krishna,
S/o. Koteswara Rao,
R/o. Venkatapaiah Colony,
Sattenapalli Town, Guntur District.

...Appellant/Accused No.6

AND

The State of Andhra Pradesh,
Rep. by its Public Prosecutor,
High Court of Andhra Pradesh **....Respondent/Complainant**

CRIMINAL APPEAL No.2577 OF 2018

Between:
Shaik Rafi,
Kanakanapalli village,
Yannadevi, Sattenpalli.

...Appellant/Accused No.4

AND

The State of Andhra Pradesh,
Rep. by its Public Prosecutor,
High Court of Andhra Pradesh **....Respondent/Complainant**

!Counsel for the appellants : Smt. A. Swarupa Reddy,
Dr. Challa Srinivasa Reddy,
Sri B.V. Ram Naresh Kumar,
Sri K.V. Durga Divakar and
Sri S. Dilip Jaya Ram

^Counsel for the respondent: **Learned Additional Public Prosecutor**

<GIST:

>HEAD NOTE:

? Cases referred:

***1. (2014) 10 SCC 14*,**

2. *(2020) 7 SCC 1*

3. 2023 INSC 988

4. *2026 INSC 217*

Date of reserved for orders : 16.07.2026
Date of pronouncement : 07.10.2026
Date of uploading : 10.10.2026

APHC010375032018 **IN THE HIGH COURT OF ANDHRA PRADESH**
AT AMARAVATI **[3596]**
(Special Original Jurisdiction)

WEDNESDAY, THE 7th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

CRIMINAL APPEAL NO: 1685/2018

Between:

Battula Srinu @ Mataye Kottu Srinu, **...APPELLANT**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Appellant:

1. A SWARUPA REDDY

Counsel for the Respondent(S):

1. K R J RAO
2. PUBLIC PROSECUTOR (AP)

APHC010395112018

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3596]
(Special Original Jurisdiction)

WEDNESDAY, THE 7th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

CRIMINAL APPEAL NO: 2100/2018

Between:

Tadikonda Srinivasa Rao @ G.Srinivasa Rao **...APPELLANT**

AND

State Of Ap **...RESPONDENT**

Counsel for the Appellant:

1. Dr CHALLA SRINIVASA REDDY

Counsel for the Respondent:

1. THOTA RAMAKOTESWARA RAO
2. PUBLIC PROSECUTOR (AP)

APHC010700852018

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3596]
(Special Original Jurisdiction)

WEDNESDAY, THE 7th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

CRIMINAL APPEAL NO: 2577/2018

Between:

Shaik Rafi **...APPELLANT**

AND

The State Of Andhra Pradesh **...RESPONDENT**

Counsel for the Apellant:

1. B V RAM NARESH KUMAR
2. LEGAL AID

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

APHC010726302018

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3596]
(Special Original Jurisdiction)

WEDNESDAY, THE 7th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

CRIMINAL APPEAL NO: 2639/2018

Between:

Pasupuleti Srinivas @ Mykel Jonson @ Mykel Srinu **...APPELLANT**

AND

The State Of Andhra Pradesh **...RESPONDENT**

Counsel for the Appellant:

1. K V DURGA DIVAKARR
2. LEGAL AID

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

APHC010252272019

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3596]
(Special Original Jurisdiction)

WEDNESDAY, THE 7th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

CRIMINAL APPEAL NO: 664/2019

Between:

Bontha Rama Krishna **...APELLANT**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Appellant:

1. S DILIP JAYA RAM

Counsel for the Respondent(S):

1. K R J RAO
2. PUBLIC PROSECUTOR (AP)

Whether the Judgment is :

Speaking Yes / Reasoned Yes

Reportable Yes

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

WEDNESDAY, THE SEVENTH DAY OF OCTOBER TWO THOUSAND AND TWENTY SIX

SPECIAL DIVISION BENCH

PRESENT

THE HON'BLE SRI JUSTICE K.SURESH REDDY

AND

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

CRIMINAL APPEAL Nos.1685 OF 2018, 2100 OF 2018, 2577 OF 2018, 2639 OF 2018 AND 664 OF 2019

C O M M O N J U D G M E N T

(Per Hon'ble Sri Justice K.Suresh Reddy)

Aggrieved by the conviction and sentence recorded in the judgment dated 09.2.2018 in S.C.No. 330 of 2012 on the file of the Court of learned Special Judge for Trial of Cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989-cum-IV Additional District and Sessions Judge, Guntur, appellant-accused No. 1 filed Criminal Appeal No.1685 of 2018, appellant/accused No.2 filed Criminal Appeal No.2100 of 2018, appellant/accused No.3 filed Criminal Appeal No.2639 of 2018, appellant-accused No.4 filed Criminal Appeal No.2577 of 2018 and appellant/accused No.6 filed Criminal Appeal No.664 of 2019.

2. Since all these Criminal Appeals arise out of the same Sessions Case, they are heard together and are being disposed of by this common judgment

3. Initially, charge sheet was filed against Accused Nos.1 to 6. Even before framing of charges, Accused No.5 died on 22.12.2011. Hence case against him stood abated. Consequently, Accused Nos.1 to 4 and Accused No.6 were tried by the learned Additional Sessions Judge under the following two (2) charges.

i) First charge was under Section 120B IPC

ii) Second charge was under Section 302 r/w 34 IPC

4. Substance of the charge is that, on 14.10.2010, at about 7:15 p.m., A1 to A4 and A6, having conspired with each other and in furtherance of their common intention, attacked one Khambala Koteswara Rao (hereinafter referred to as 'the deceased') at Balaji Sweet Home, belonging to P.W.8, and hacked him with hunting sickles and knives, causing his instantaneous death, thereby committed offences punishable under Sections 120-B(1) and 302 read with Section 34 of IPC.

5. After completion of trial, the learned Additional Sessions Judge convicted the appellants/accused under Sections 120 B (1) and 302 IPC and sentenced them to undergo Rigorous Imprisonment for '**Life'** and also to pay a

fine of Rs.1000/- each, in default to undergo Simple Imprisonment for six (6) months.

6. Case of the prosecution, briefly, is as follows:-

All the accused and the material prosecution witnesses are residents of Sattenapalli. P.W.1 is younger brother and P.W.3 is son of the deceased respectively. The deceased was also resident of Sattenapalli. The deceased, along with A.1 and A.2, was engaged in real estate business. In the course of their business transactions, disputes arose between the deceased and A.1, A.2, owing to which the latter bore grudge against the deceased. A.4 used to assist the deceased. It is alleged that at about 4.00 p.m. on 14.10.2010, all the accused conspired to do away with the life of the deceased. Subsequently, at about 7.30 p.m. on the same day, the deceased, accompanied by A.4, went to Balaji Sweet Shop to have badam milk.

(ii) At that juncture, A.1 to A.3 entered into sweet shop and attacked the deceased with hunting sickles and knives indiscriminately. As a result of attack, the deceased fell down near the counter and died in the shop. P.W.4 and P.Ws.9 to 11, who were working as salesmen in the said sweet shop, became panic and came out of the shop. After the attack, A.1 and A.2 left the scene on a motorcycle (M.O.14). Thereafter, A.4 took the motorcycle belonging to the deceased and fled from the scene along with A.3 on the said motorcycle (M.O.13). Having witnessed the incident, P.W.7 telephoned P.W.1

and informed him about the incident. Immediately, P.W.1 rushed to Balaji Sweet Shop and found the deceased lying in a pool of blood. Upon viewing the CCTV footage of the incident, P.W.1 approached the police and lodged a report.

(iii) In the meanwhile, on receipt of information, P.W.15, the then Inspector of Police, Sattenapalli Town Police Station visited Balaji Sweet Shop and found the deceased lying in a pool of blood. He deployed police personnel to safeguard the scene of offence and returned to police station. At about 9.00 p.m. on the same day, P.W.1 went to the police station and lodged a report, which was marked as Ex.P.1. On receipt of Ex.P.1, P.W.15 registered a case in Crime No.126 of 2010 for the offence punishable under Section 302 r/w 34 IPC. He issued copies of First Information Report to all the concerned. First Information Report was marked as Ex.P.10. Thereafter, P.W.15 visited Balaji Sweet Shop at about 9.45 p.m., secured the presence of P.W.13 and another, and prepared an observation report-Ex.P4. He also prepared a rough sketch-Ex.P.11 at the scene of offence. He got the scene photographed and videographed through P.W.12, and the photographs and CD were marked as Ex.P.3. Subsequently, at about 11.00 p.m., he shifted the dead body to Community Health Centre, Sattenapalli.

(iv) P.W.15 seized M.Os.7, 8, 10 and 11 at the scene of offence. At about 11.30 p.m. on the same day, he recorded statement of P.W.2, technician who was associated with the CCTV footage in the shop. He

instructed P.W.2 to transfer the visuals stored in the DVR into a DVD. He also seized M.Os.1 to 3, namely, the DVR, adapter and BPL television, from the sweet shop. P.W.2 transferred the visuals from the DVR into DVD (MO4) under a cover of a panchanama.

(v) At about 8.00 a.m. on 15.10.2010, P.W.15 visited Community Health Centre, Sattenapalli, along with P.W.13 and another. He recorded statements of P.Ws.1, 3, 8 and others. He then held inquest over the dead body in the presence of P.W.13 and another. Inquest report was marked as Ex.P.5. Thereafter, he sent the dead body for post-mortem examination.

(vi) P.W.14, Civil Assistant Surgeon, Area Hospital, Sattenapalli, conducted autopsy over the dead body. He found as many as 25 injuries on the dead body. He opined the cause of death was due to haemorrhage and hypovolaemic shock resulting from injuries to the neck vessels and lung. He issued Post-mortem Certificate- Ex.P.9.

(vii) Thereafter, P.W.15 recorded statements of salesmen, P.W.4 and P.Ws.9 to 11. After postmortem examination, P.W.15 collected clothes of the deceased, marked as MOs.16 to 19. On 16.10.2010, P.W.15 recorded statement of P.W.5. On 02.11.2010, at about 12.45 p.m., P.W.15 apprehended A.1 to A.4 while they were alighting from a lorry proceeding on Piduguralla- Sattenapalli Road, in the presence of mediators. During interrogation, the accused confessed about their involvement in the commission of offence and stated that they had set fire to their clothes.

Pursuant to the confessional statements made by the accused, P.W.15 seized M.O.12, two knives, from the fields of A.1 under a cover of a panchanama. P.W.15 also seized two motorbikes, marked as M.Os.13 and 14, from the scooter stand situated at RTC Bus Stand, Vinukonda, pursuant to the confessional statements made by the accused.

(viii) On 03.11.2011, at about 1.00 a.m., P.W.15 arrested A.5 and A.6. All the accused were remanded to judicial custody. He forwarded the material objects to Forensic Science Laboratory, Hyderabad, under a letter of advice. RFSL reports were marked as Exs.P.13 and P.14. After collecting all the documents and after completion of investigation, P.W.15 filed charge sheet.

7. In support of its case, the prosecution examined P.Ws.1 to 15, marked Exs.P1 to P14 and exhibited M.Os.1 to 19. On behalf of the defence, no witness was examined except marking Exs.D1 to D4-portions of statements recorded under Section 161 Cr.P.C.

8. When the accused were examined under Section 313 Cr.P.C., they denied the incriminating evidence appearing against them.

9. Accepting the evidence of prosecution witnesses, particularly, P.Ws.1, 2, 4 and P.Ws.8 to 11 coupled with Ex.P13, the learned Additional Sessions Judge convicted all the appellants/accused as aforesaid.

10. Heard Smt. A. Swarupa Reddy, Dr. Challa Srinivasa Reddy, Sri B.V. Ram Naresh Kumar, Sri K.V. Durga Divakar and Sri S. Dilip Jaya Ram, learned counsel appearing for the appellants and Sri Marri Venkata Ramana, learned Additional Public Prosecutor appearing for the State/respondent.

11. Learned counsel for the appellants strenuously contend that the name of Accused No.2 alone was mentioned in the earliest report, Ex.P1, though P.W.1 was admittedly acquainted with Accused Nos.1, 3 and 4, and that the omission to mention their names in the earliest report casts a serious doubt on the subsequent version of the prosecution. They further contend that the testimony of P.W.4 and P.Ws.9 to 11, who were working as salesmen in Balaji Sweet shop who were strangers to the accused, cannot safely be relied on in the absence of test identification parade.

12. Learned counsel further contend that no reliance can be placed on the testimony of P.W.5 with regard to the conspiracy, particularly in view of the delay in recording his statement. They also contend that the prosecution failed to establish motive for the accused to kill the deceased.

13. Learned counsel for the appellants further contend that the CCTV footage marked as M.O.4, being secondary electronic evidence, is inadmissible in the absence of certification complying with the requirements of Section 65-B of the Indian Evidence Act, 1872.

14. Learned counsel for the appellants placed reliance on the judgments of the Hon'ble Supreme Court in ***Anvar P.V. Vs. P.K.Basheer***[1] and ***Arjun Panditrao Khotkar Vs. Kailash Kushanrao Gorantyal***[2].

15. Learned counsel for the appellants further contend that the prosecution failed to examine the customers who were present in the sweet shop at the time of incident. As such, the learned counsel appearing for the appellants request this Court to allow all the appeals by setting aside the conviction and sentence recorded by the learned Additional Sessions Judge.

16. On the other hand, the learned Additional Public Prosecutor opposed the appeals, contending that the prosecution has established the motive through the evidence of P.W.1, coupled with Ex.P1. He further contends that the prosecution could able to establish, through the evidence of P.W.5, the motive for the accused to commit murder of the deceased. He

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[1] ***(2014) 10 SCC 14*****,**

[2] ***(2020) 7 SCC 1***

further contends that P.W.4 and P.Ws.9 to 11 are independent witnesses, having no interest either in the prosecution or in the accused, and that their evidence clearly establish the attack on the deceased by A1 to A4. He also contends that the weapons and motorcycles were recovered at the instance of the accused and that the evidence of P.W.13, mediator, lends support to the prosecution case with regard to such recoveries. According to the learned Additional Public Prosecutor, the identity of the accused is not in dispute.

17. With regard to CCTV footage, learned Additional Public Prosecutor contends that the original DVR was produced before the Court and that both the DVR and the DVD were sent to Forensic Science Laboratory for examination. Report of Forensic Science Laboratory (Ex.P13) is relied on in support of the prosecution case. As such, the learned Additional Public Prosecutor requests this Court to dismiss all the appeals by confirming the conviction and sentence recorded by the learned Additional Sessions Judge.

18. We have considered the rival submissions carefully and scrutinized the entire evidence on record.

19. P.W.1 is none other than younger brother of the deceased. He has stated in his evidence that at about 8.00 p.m. on 14.10.2010, P.W.7 telephoned him and informed about the incident. He immediately rushed to Balaji Sweet shop, where he found the deceased lying in a pool of blood.

20. P.W.1 further stated that he requested P.W.8, owner of the shop, to show him the CCTV footage. After viewing the footage, P.W.1 went to the police station at about 9.00 p.m. and presented Ex.P1 report. He has also stated about the real estate business carried on by the deceased along with Accused Nos.1 and 2 and the disputes between them in the course of such business. Though P.W.1 was cross-examined at length, nothing adverse has been elicited so as to discredit his testimony with regard to the events narrated by him. At the same time, the omission of the names of Accused Nos.1, 3 and 4 in the earliest report, Ex.P1, assumes significance and has to be considered in the context of the entire evidence on record, particularly the evidence relating to the identification and participation of the accused.

21. We shall next consider the evidence of eyewitnesses, namely, P.W.4 and P.Ws.9 to 11. Admittedly, these witnesses were working as salesmen in Balaji Sweet shop. P.W.8, owner of the shop, also confirmed that they were employed therein.

22. According to these witnesses, the incident took place at about 7.30 p.m. on 14.10.2010. They deposed that Accused Nos.1 to 3 entered into the shop and attacked the deceased with hunting sickles and knives indiscriminately. They further stated that the deceased had come to the shop along with Accused No.4, who was working as his assistant, and that Accused No.4 was waiting outside when the attack took place.

23. P.W.5 also spoke about the accused leaving the scene on two motorcycles, M.Os.13 and 14. According to their testimony, Accused Nos.1 and 2 left on one motorcycle, while Accused Nos.3 and 4 left on the motorcycle belonging to the deceased. The fact that P.W.4 and P.Ws.9 to 11 were employees of the shop lends assurance to their presence at the scene of offence. Their evidence, however, has to be assessed with reference to their opportunity to observe the incident, the consistency of their testimony on material particulars, the circumstances in which they identified the accused and the other evidence available on record. Though these witnesses were subjected to lengthy cross-examination, no material contradiction or infirmity has been brought on record. Hence, there is no reason to discard their testimony. Their evidence, therefore, has to be considered in conjunction with the electronic evidence and the other circumstances relied on by the prosecution.

24. The objection with regard to CCTV footage marked as M.O.4 requires consideration. The appellants contend that M.O.4 is a copy of the CCTV recording transferred from the original DVR and that, in the absence of a certificate under Section 65-B of the Indian Evidence Act, the said electronic record cannot be relied upon.

25. In support of the said contention, learned counsel placed reliance on ***Anvar P.V. Vs. P.K. Basheer, (2014) 10 SCC 473, and Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, (2020) 7 SCC 1.***

26. On the other hand, learned Additional Public Prosecutor contends that the original DVR, marked as M.O.1, was produced before the Court and that the original recording equipment as well as the DVD were sent to the Forensic Science Laboratory for examination.

27. We have considered the rival submissions on this aspect. The prosecution case, as emerging from the evidence of P.W.2, the technician, and P.W.8, the owner of Balaji Sweet Shop, is that the CCTV footage was transferred from the DVR to a DVD. P.Ws.2 and 8 deposed that the Investigating Officer seized the DVR, marked as M.O.1 along with adopter, MO2 and T.V., MO3, from Balaji Sweet Shop belonging to P.W.8. P.W.15, the Investigating Officer, also deposed with regard to the seizure of the DVR and other relevant articles and their subsequent forwarding to the Forensic Science Laboratory for examination.

28. In Ex.P13, the expert has recorded the following:

"The sealed cardboard box contained the following marked by me as:

Item No.1: One 4 CH DVR CC Camera Recording Equipment, model: TA-462S, bearing Serial No.003D5402, affixed with punch chit written

on it as Item No.6, contained one SATA Hard Disk of make: Seagate, model: ST3500418AS, Capacity: 500GB, bearing S/N. 9VMFHNAL.

Item No.2: One DVD-R of make: National, capacity: 4.7 GB, written on it as "Copy from CC camera Balaji Sweet Shop" etc., along with punch chit.

EXAMINATIONS CONDUCTED

1) Physical Examination.
2) Examination regarding working condition.
3) The hard disk of Item No.1 is forensically imaged (cloned) onto an empty hard disk of APFSL. This cloned hard disk is used for examination by using a computer having TV Tuner Card.

REPORT

Based on the above examinations, I found that:

1) *Item Nos.1 and 2 are in working condition.*
2) *I captured the video recording channel wise separately (4 channels) from the coned hard disk of item no.1 pertaining to the date and time stamp as per LOA i.e. on 14.10.2010 from 7.05 p.m. to 8.05 p.m. These four video clips with 'mpg' file format are recorded in a DVD-R marked as "Annexure-I, COM/115/2010"*

29. A perusal of Ex.P13 clearly discloses that the captured video recordings were extracted separately, channel-wise, from all the four channels of the cloned hard disk of Item No.1, pertaining to the date and time stamp mentioned in the LOA, i.e., 14.10.2010 between 7.05 p.m. and 8.00 p.m. The four video clips, in 'mpg' file format, were thereafter recorded on a DVD-R, as stated in FSL report. Thus, the CCTV footage contained in the original DVR

(M.O.1) was copied onto the DVD-(CD) (M.O.4). Significantly, both the original DVR (M.O.1) and the DVD-(CD) (M.O.4) were produced before the Court by P.W.15, the Investigating Officer.

30. In the circumstances, M.O.1, being the original electronic record containing the CCTV footage, having been produced before the Court, the requirement of a certificate under Section 65-B of the Indian Evidence Act, 1872, does not arise in respect of the original electronic record. Further, P.Ws. 2 and 8 deposed in their evidence stating that the investigating officer-P.W.15 seized original DVR (M.O.1) from their shop. They further stated that P.W.15 copied the visuals into M.O.4 (DVD) with the help of P.W.2. The objection raised in this regard, therefore, cannot be sustained. The prosecution, accordingly, relies on the said electronic evidence to substantiate its case with regard to the occurrence in question.

31. The legal position with regard to the admissibility of electronic evidence is no longer res integra. ***In Anvar P.V. Vs. P.K. Basheer, (2014) 10 SCC 473***, the Hon'ble Supreme Court held that the special procedure prescribed under Section 65-B of the Indian Evidence Act is attracted when an electronic record is sought to be produced in the form of computer output. The said principle was subsequently considered and authoritatively clarified by the three-Judge Bench in ***Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, (2020) 7 SCC 1.***

32. The distinction recognised in the aforesaid decisions is between the original electronic record or the original device containing such record, on the one hand, and a computer output or copy derived therefrom, on the other. Where the original electronic record itself is produced before the Court, the requirement of a certificate under Section 65-B of the Indian Evidence Act does not arise merely because the record is electronic in nature. The certificate requirement is attracted where reliance is placed upon a computer output or other secondary electronic evidence.

33. Aforesaid principle was subsequently considered by the Hon'ble Supreme Court in **State of Karnataka Vs. T. Naseer @ Nasir @ Thandiantavida Naseer,[3].** In that case also, the original electronic devices were before the Trial Court as primary evidence. The Hon'ble Supreme Court noticed that, in such circumstances, there was no requirement of a certificate under Section 65-B of the Indian Evidence Act in respect of the original electronic devices. The Court further noticed that the certificate obtained by the prosecution had been furnished by way of abundant caution.

34. In the present case, the prosecution relies on the original DVR, marked as M.O.1, as well as DVD, marked as M.O.4, containing the copied

[3] **2023 INSC 988**

footage. The learned Additional Sessions Judge is stated to have played the footage in open Court in the presence of the accused and their counsel.

35. In the case on hand, the DVR containing the CCTV recording was seized during the course of investigation, produced before the Trial Court and marked as M.O.1. Thus, the prosecution is not relying merely upon a copy of the CCTV footage generated from the DVR. The original electronic device in which the relevant CCTV recording was stored was itself brought on record as M.O.1.

36. The electronic record contained in the said original device is, therefore, required to be treated as primary electronic evidence. Consequently, Certificate under Section 65-B of the Indian Evidence Act is not required in the circumstances of the case.

37. It is true that the Hon'ble Supreme Court, in its recent decision in ***Pooranmal v. State of Rajasthan***[4], reiterated that a certificate under Section 65-B(4) of the Indian Evidence Act is mandatory where electronic evidence is sought to be introduced by way of secondary evidence. The said principle, however, operates in the field of secondary electronic evidence and does not obliterate the distinction drawn in ***Arjun Panditrao Khotkar*** between the original electronic record and a computer output derived therefrom.

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38. Applying the aforesaid principles to the facts of the present case, since M.O.1-DVR itself, containing the original CCTV recording, was produced before the Trial Court and marked in evidence, the absence of a certificate under Section 65-B(4) of the Indian Evidence Act does not render the original electronic record contained in M.O.1 inadmissible. As already pointed out, P.Ws.2 and 8 have stated that P.W.15 seized M.Os.1 to 3 from their shop. The objection raised by the appellants on the said ground is, accordingly, liable to be rejected.

39. We shall now consider the evidence relating to the criminal conspiracy. The prosecution mainly relies on the testimony of P.W.5 in this regard. P.W.5 stated that, at about 3.00 p.m. on 14.10.2010, he witnessed the accused discussing about the elimination of the deceased. However, despite witnessing the said conversation, he did not disclose the matter to anyone at that time.

40. It is also significant that P.W.5 was stated to be a close friend of the deceased. Nevertheless, according to P.W.15, the Investigating Officer, the statement of P.W.5 was recorded for the first time on 16.10.2010, two days after the conversation. Failure of P.W.5 to disclose the conspiracy at the earliest opportunity, coupled with the delay in recording his statement, assumes significance while assessing the reliability of his testimony. Having regard to these circumstances, his evidence requires cautious scrutiny and, in

the absence of adequate assurance from the surrounding circumstances, cannot safely be treated as sufficient to establish the conspiracy.

41. On an overall consideration of the material available on record, we are not inclined to place any reliance on the belated testimony of P.W.5, to sustain the charge of criminal conspiracy under Section 120-B IPC.

42. The prosecution has also relied on the alleged recovery of weapons and motorcycles pursuant to the confessional statements made by the accused. P.W.15 deposed with regard to the seizure of the hunting sickle marked as M.O.9, the knives marked as M.O.12 and the motorcycles marked as M.Os.13 and 14. P.W.13, the mediator, was examined in support of the recoveries. As the evidence of P.W.15 coupled with the evidence of P.W.13 clinchingly establish the recovery of M.Os.9 and 12 to 14 at the instance of accused.

43. As such, the evidence of P.W.14, Civil Assistant Surgeon, coupled with the testimony of the eyewitnesses-P.Ws.4 and 9 to 11 and the contents of the inquest report, clearly establishes that the death of the deceased was homicidal. The ocular testimony, the admissible electronic evidence, the medical evidence and the circumstances surrounding the recoveries, when considered cumulatively, establish the participation of Accused Nos.1 to 4 in the commission of offence. The omissions and other infirmities pointed out by the learned counsel for the appellants, when considered in the light of the

evidence as a whole, are not of such magnitude as to create a reasonable doubt regarding their participation. The prosecution has, therefore, succeeded in establishing the guilt of Accused Nos.1 to 4 under Section 302 IPC by cogent, reliable and legally admissible evidence beyond reasonable doubt.

44. However, the evidence relied on by the prosecution to establish the charge under Section 120-B(1) IPC stands on a different footing. Though the evidence on record is sufficient to establish the participation of Accused Nos.1 to 4 in the commission of offence under Section 302 IPC, the same does not establish, beyond reasonable doubt, the existence of any prior agreement or meeting of minds amongst them so as to constitute the offence of criminal conspiracy. The testimony of P.W.5, for the reasons discussed hereinabove, does not inspire confidence to establish such agreement. The prosecution has, therefore, failed to establish the charge under Section 120-B(1) IPC against Accused Nos.1 to 4 beyond reasonable doubt.

45. Insofar as Accused No.6 is concerned, the prosecution is relying on the evidence of P.W.5. As already pointed out that though P.W.5 witnessed the conspiracy at about 3.00 p.m. on 14.10.2010, he did not disclose the same with anyone. For the above reasons and having regard to the belated recording of statement of P.W.5 and the absence of sufficient corroborative circumstances, we are not inclined to place any reliance on the testimony of P.W.5 to sustain the conviction under Section 120-B(1) IPC. Further, there is

no other cogent, reliable and legally admissible evidence connecting Accused No.6 either with the alleged conspiracy or with the commission of the homicidal death of the deceased. The prosecution has, therefore, failed to establish the guilt of Accused No.6 under Sections 302 and 120-B(1) IPC beyond reasonable doubt.

46. In the result, Criminal Appeal No.664 of 2019 is allowed, setting aside the conviction and sentence recorded against appellant/A6 under Sections 120 B (1) and 302 IPC by the learned Special Judge for Trial of Cases under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989-cum-IV Additional District and Sessions Judge, in Sessions Case No.330 of 2012 dated 09.2.2018. Consequently, appellant/A6 is acquitted. Fine amount, if any, paid by appellant/Accused No.6 shall be refunded to him. Appellant/Accused No.6 is directed to be set at liberty forthwith, if he is not required in connection with any other case or crime.

47. Insofar as Accused Nos.1 to 4 are concerned, Criminal Appeal Nos.1685 of 2018, 2100 of 2018, 2639 of 2018 and 2577 of 2018 are partly allowed. Conviction recorded against the appellants/Accused Nos.1 to 4 under Section 120-B (1) IPC by the learned Special Judge for Trial of Cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989-cum-IV Additional District and Sessions Judge, in Sessions Case No.330 of 2012, dated 09.02.2018, is hereby set aside and they are acquitted

of the said charge. However, the conviction and sentence recorded against the appellants/Accused Nos.1 to 4 under Section 302 IPC is hereby confirmed. Needless to state, the period already undergone by the appellants/Accused Nos.1 to 4 shall be given set-off under Section 428 Cr.P.C.

Consequently, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE K.SURESH REDDY

JUSTICE SUMATHI JAGADAM

Date: 07.10.2026
Note:
LR copy to be marked
B/o GR

HON'BLE SRI JUSTICE K SURESH REDDY

And

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

CRIMINAL APPEAL Nos.1685 OF 2018, 2100 OF 2018, 2577 OF 2018, 2639 OF 2018 AND 664 OF 2019

(Per Hon'ble Sri Justice K. Suresh Reddy)

Date: 07.10.2026

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