

State of Karnataka Vs Suresh

Court: Karnataka High Court

Date of Decision: July 13, 2011

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 235, 313, 325 (1), 378 (1), 428
Penal Code, 1860 (IPC) â€” Section 302

Hon'ble Judges: V. Suri Appa Rao, J; N. Ananda, J

Bench: Division Bench

Advocate: N.S. Sampangiramaiah, HCGP, for the Appellant; M.H. Haneef, for Laksh Law Assts., for the Respondent

Final Decision: Allowed

Judgement

V. Suri Appa Rao, JJ.

The State of Karnataka through J.P. Nagar Police has filed this appeal u/s 378(1) and (31) of Code of Criminal

Procedure against the judgment of acquittal dated 29.03.2006 on the file of Principal City Civil and Sessions Judge, Bangalore, whereby the sole

accused Suresh was acquitted for the offence punishable u/s 302 IPC.

2. The prosecution case in brief is as follows:

i) Deceased Smt. Jayamma was having a petty shop by the side of her residence on Puttenahalli Main Road, J.P. Nagar 7th Phase, Bangalore. On

11.10.2004 at about 7.30 P.M her neighbour, one Shanappa and his wife Smt. . Renamma were quarrelling with each other. On hearing the noise,

deceased Jayamma went there to see as to what was going on. As she did not return to the house, her son Dilip Kumar (Complainant) came out of

the house and saw his mother scolding the accused as to why he was interfering in others matters and sent him away from that place.

ii) On the same day, at about 9.30 p.m. the accused came back and hit the deceased with a chopper on her back side of the head and arm. The

same was witnessed by PW-3 - Raja the elder brother of the complainant, neighbour Shanappa and PW 4 Munegowda. They chased the accused

after the assault on the deceased was over. PW-2 Complainant took his mother to NIMHANS Hospital. The doctor declared her dead.

iii) PW-16 - H.K. Venkataswamy, Sub-Inspector, went to hospital and came to know about the death of the deceased. He recorded the

complaint Ex.P2 as per the version of the Complainant and on the basis of that, case in Crime No. 338/2004 was registered and FIR submitted.

On the same day he arrested the accused at 11.40 p.m., seized blood stained MO-3 chopper and MO-8 shirt under panchanama, prepared

inquest panchanama Ex.P1, recorded the statements of P Ws 3, 4 and another, subjected the dead body for post mortem. PW-9 Dr. Anand of

KIMS Hospital conducted the post mortem and opined that the death of deceased Jayamma was due to shock and haemorrhage as a result of the

injuries which were all ante mortem and fresh. Accordingly, he issued the post mortem report Ex.P7. PW-16 sent the seized articles to FSL

received report Ex.P14. After completion of investigation, charge sheet was filed.

iv) The learned Sessions Judge framed charge u/s 302 IPC against the accused. The plea of the accused is one of denial.

v) The prosecution in order to establish the charge, has examined P Ws 1 to 16 and relied upon Exs.P-1 to P-21 and M Os 1 to 8. The defence

got marked Ex.D1 (Requisition).

vi) After hearing the learned Public Prosecutor and the defence Counsel and the evidence of prosecution witnesses, the learned Sessions Judge

found the accused not guilty of an offence punishable u/s 302 IPC and acquitted him u/s 325(1) Code of Criminal Procedure Aggrieved by the

judgment of acquittal recorded by the learned Sessions Judge, the State has filed this appeal.

3. We have heard Sri. N.S. Sampangiramaiah, learned HCGP for the State and Sri. M.H. Haneef, learned Counsel for Respondent - accused.

4. The prosecution in order to prove that the deceased Jayamma met with an homicidal death examined P Ws 1, 9, 11 and 16 and relied on Ex.P1

-Inquest report, Ex.P7 - Post Mortem Report and Ex.P8 -opinion of the Medical Officer.

5. PW-1 - S. Anthoni has deposed that on 12.10.2004 he has been called to the NIMHANS Hospital by J.P. Nagar Police to act as pancha to

Inquest proceedings to be drawn on the dead body of the deceased Jayamma. Accordingly, he visited HIMHANS Hospital and in his presence

the Police drawn inquest over the dead body of the deceased Jayamma. They noticed a chopped wounds on the backside of head, left arm and

other injuries on the deceased Jayamma. Ex.P1 - Inquest report prepared in his presence and Ex.P1(a) is his signature. He also stated that one

Alisab and another panch witnesses also attested Ex.P1 - Inquest panchanama.

6. PW-9 - Dr. Anand, who conducted post mortem on the dead body of the deceased Jayamma has stated in his evidence that on 12.10.2004 at

about 1.00 P.M. the dead body of the deceased Jayamma was brought before him by the Police along with a requisition of the Police Inspector to

conduct post mortem examination. Accordingly, he has conducted post mortem examination and found the following external injuries over the dead

body of the deceased:

- a) One chopped wound over left side on the middle of occipital region with fracture of skull exposing lacerated brain;
- b) Incised wound on left side of occipital region below injury No. 1;
- c) Incised wound over right side of lower part of occipital region;
- d) Another chopped wound over lower 1 /3rd lateral aspect of left arm, humerus bone was cut into two pieces exposing the left arm;
- e) Abrasion over front of left knee.

On inspection, he noticed scalp being contused over left occipital region, skull being fractured underneath the chopped wound (injury No. 1) over

left side of occipital bone, laceration of meninges and the brain being lacerated and exposed through the chopped wound. He was of the opinion

that the death of the deceased Jayamma due to shock and hemorrhage as a result of aforesaid injuries, which were all ante mortem and fresh and

the time since death was between 12 to 24 hours prior to post mortem examination (Ex.P7).

7. PW-16 - H.K. Venkataswamy, Inspector of Police, J.P. Nagar Police Station has deposed that on 11.10.2004 at about 9.50 P.M. while he

was on rounds at 5th Phase, J.P. Nagar he received wireless message to the effect that one Smt. Jayamma was assaulted near Kambithota,

Puttenahalli and she was admitted in NIMHANS Hospital for treatment. He went to NIMHANS Hospital and came to know that the deceased

Jayamma was dead and Death Memo was already issued by the Medical Officer. He therefore, examined the dead body of the deceased and

conducted inquest panahanama in the presence of PW-2 and Sri. Dilip Kumar and Alisab and noticed the injuries on the dead body of the

deceased. During the inquest he recorded the statement of P Ws 3, 4 and others and thereafter subjected the deceased for post mortem

examination. Thus, the evidence of P Ws 1, 9 and 16 the prosecution would establish that the death of the deceased Jayamma as homicide on

account of the injuries on the vital part of the middle of occipital region and due to fracture of skull.

The next point for consideration is whether the Respondent/accused is responsible for the cause of death of Smt. Jayamma.

8. It is the case of the prosecution that, on 11.10.2004 at about 7.30 A.M. one Shanappa and his wife Renamma were quarrelling with each other

and on hearing the quarrel the deceased Jayamma went there to see as to what was going on there and she has scolded the accused who is her

neighbour asked him as to why he was interfering with others matter and this was witnessed by PW-2 - Dilip Kumar son of the deceased.

Thereafter, at about 9.30 P.M. the accused -Suresh being annoyed against the deceased assaulted the deceased Jayamma with MO-3 - Chopper

and caused severe injuries. According to the prosecution, PW-2 - Dilip Kumar son of the deceased, PW3 - Raja, the elder brother of Dilip

Kumar, Shanappa, neighbour of the deceased, PW-4 - Munegowda, the husband of the deceased, PW-5 - Sharadamma, neighbour of the

deceased and PW-12 - N. Lakshman had witnessed the incident of assault. Out of them PW-5 did not support the prosecution case and she

turned hostile to the prosecution case.

9. PW-2 - Dilip Kumar son of the deceased has deposed; that on 11.10.2004 at about 7.30 P.M. the deceased Jayamma found one Shanappa

and his wife Renamma were quarrelling with each other near their house which was situated behind her tea stall and the accused Suresh intervened

in the said quarrel. H's mother pacified them and then advised the accused not to interfere with the matters of others then the accused went away

from the said place and on the same day at about 9.00 P.M. while he was in his residence, he noticed that the deceased Jayamma was going

near Arrack Shop which is situate at a distance of about 30 to 40 feet from her residence, the accused Suresh took a chopper and hit on the back

side of his mother with chopper. When his mother cried and called him, immediately after hearing the cry he rushed near Arrack Shop and found

the accused assaulting his mother on left arm and ran away holding the chopper, as a result of which his mother sustained severe injuries on her

head and left arm and fell on the ground. His elder brother Raja - PW-3 and father - Munegowda - PW-4 rushed to the spot and they took the

injured in an autorickshaw to NIMHANS Hospital. The Doctor after examining his mother declared her dead. One Kumar son of Smt.

Sharadamma - PW-5 telephoned to the Police about the incident and the Police came to the Hospital and he gave Ex.P2 statement before the

Police about the incident. He further stated that on the next day morning the Police visited the scene of offence and prepared panchanama and

seized blood stained mud and unstained sample mud as per M Os 1 and 2. Ex.P3 is the panchanama. He further stated that MO-3 is the chopper,

which the accused used to assault his mother. In the cross-examination, it was suggested to him that on account of enmity between himself and the

accused as both of them are rivals each other in their job and he has falsely deposed against the accused. PW-2 has denied the suggestion.

10. PW-3 - Raja, the elder brother of PW-2 has stated in his evidence that the deceased Jayamma was his mother. The accused Suresh was

residing in a room behind their residence. The deceased was running a petty shop near the arrack shop. On 11.10.2004 himself, his brother PW-2

- Dilip Kumar and father PW-4 - Munegowda returned to their house at about 6.30 P.M. At about 7.00 P.M. he took his wife Mangala to

Hospital for medical checkup. At about 9.30 P.M. they returned back to their house. While they were returning from the Hospital to their house,

he found PW-2 - Dilip Kumar running towards arrack shop situate behind their residence. Therefore, he too went to the said place and by that

time his mother had fallen on the ground on the road with severe bleeding injuries on her head and left arm and also found the accused running

away from the said place holding chopper saying that "Jayamma died". When they tried to catch hold of the accused, he showed them the

chopper, therefore, he did not proceed further, he took his mother in an Autorickshaw to NIMHANS Hospital. There the doctor after examination

declared her dead and Police came to the Hospital and recorded the statement. He also stated that at the time of incident the street lights were

burning and M Os 4 to 7 are blood stained clothes of his mother. In the cross-examination, he has denied the suggestions that he deposed falsely

at the instance of his brother - Dilip Kumar (PW-2).

11. PW-4 - Munegowda, husband of the deceased has deposed;- that on 12.10.2004 he returned to his house and at the time when he was about

to take his dinner, he heard the cries of his wife Jayamma and the accused making galata behind their house near the Arrack shop. When he came

out and called his wife and accordingly, his wife came to the house. Thereafter, at about 9.45 or 9.50 P.M. again his wife went out of his house

and shortly thereafter he again heard the galata. When himself and his two cons went near Arrack shop by that time the accused Suresh hit with

chopper on the left arm of the deceased and ran away from the said place, as a result of which the deceased sustained severe injuries.

Immediately, she was taken in an autorickshaw to NIMHANS Hospital. The Doctor examined the deceased and declared her dead. He further

stated that he saw the accused assaulting his wife from a distance of about 5 to 10 feet and street lights were burning near the said Arrack shop. At

that time many people also gathered near the said Arrack shop. He also identified MO-3 - chopper shown to him as the same weapon used by the

accused to assault the deceased. In the cross-examination, he has stated that himself, his sons chased the accused to a distance of 50 to 60 feet

but they could not apprehend the accused. He further stated that he saw the accused giving only one blow with the chopper on the left arm of the

deceased and did not witness the accused giving any more blow with chopper on the head and other parts of the body.

12. PW-5 - Sharadamma has stated in her evidence her residence is situated about 200 feet away from the residence of the deceased and she

heard the voice of the deceased and she did not know who assaulted the deceased Jayamma and she has not seen any galata between the accused

Suresh and the deceased Jayamma and also did not witness the accused assaulting the deceased with chopper on the head.

13. The prosecution examined P Ws 7 and 8 - Police Constables attached to J.P. Nagar Police Station to prove the fact that they apprehended

the accused who was running holding chopper. PW - 7 - Ramakrishna T.. Police Constable has stated in his evidence that on 11.10.2004 himself

and PW-8 - Ramanna were on Beat Duty at Puttenahalli from 8.00 P.M. onwards on 12.10.2004. At about 11.15 P.M. on that day while they

were proceeding from Puttenahalli towards Kambithota on the road one person came to them holding a chopper. At that time he was chased by a

group of some people. The chopper which was held by him was stained with blood. He informed them that he committed the murder of one

Jayamma near Arrack shop at Kambithota at about 9.30 P.M. by assaulting her with the said chopper. He also told them that the person belongs

to the deceased Jayamma were chasing him and therefore he came and surrendered to them. He further deposed that he sent PW-8 - Ramanna to

Kambithota to ascertain the said fact. He waited at the same place till PW-8 to return. PW-8 came and informed him that one woman by name

Jayamma murdered at Kambithota, then they took the said person to J.P. Nagar Police Station and produced him before H.K. Venkataswamy,

the Inspector of Police along with Ex.P5 a written report. He also stated that the Inspector of Police took the said person into custody and seized

the chopper under Ex.P6 - panchanama in the presence of panch witnesses. He also stated that the accused is the same person who surrendered

to them on the night and MO-3 is the chopper which was held by the accused at that time.

14. PW-8 - Ramanna, another Police Constable who was also on night beat duty along with PW-7 has deposed;- that on 11.10.2004 himself and

PW-7 were on Beat Duty from 8.00 P.M. onwards till 8.00 A.M. on 12.10.2004. At about 11.15 P.M. while they were proceeding from

Puttenahalli towards Kambithota one person by name Suresh came in a hurried manner holding a chopper and informed that he has committed

murder of Jayamma near Arrack shop at Kambithota at about 9.30 P.M. during the quarrel with her and that he hit her with the said chopper and

the said person further informed them that some persons related to the deceased Jayamma were chasing him and therefore he came and

surrendered to them. He further stated in the evidence that himself and PW-7- took the accused in an Autorickshaw to the Police Station and

produced him before the Police Inspector and submitted a report. The Inspector recorded his statement and he also stated that the said chopper

was stained with blood. The Police Inspector took the accused and the chopper to his custody. He also stated that the Inspector of Police seized

the said chopper under Ex.P6 - panchanama and MO-3 is the chopper which was held by the accused at that time.

15. PW-12 - Laxmana who is also residing in Kambithota, Puttenahalli has stated in his evidence that he is having house near the house of the

deceased. He has stated that the house of the deceased is away from three roads from his residence. On 11.10.2004 at about 8.30 P.M. when he

was passing near the house of the deceased after closing his shop and by the time he came near the petty shop of the deceased he saw some galata

was going between the accused Suresh and deceased Jayamma and some people had also gathered there then himself and others consoled both

the accused and the deceased and asked them not to make any galata and he went to the house, the accused also went towards his house. At

about 9.00 P.M while he was in his house, he heard the sound of some galata from the Arrack shop near the house of the deceased. He also heard

the loud voice of the deceased Jayamma during the said galata, then he went to Arrack Shop. At that time street lights were burning near the

Arrack shop, he saw the accused hitting the deceased Jayamma with a chopper on her back and other parts of the body the accused dealt 3 to 4

blows, due to which she sustained injuries and fell on the ground. After assaulting, the accused ran away holding chopper. P Ws 2, 3 and 4 came

there running and took the deceased in an Autorickshaw to the Hospital. Next day morning he came to know that the deceased died in the

Hospital. He further stated that the incident took place in front of the Arrack shop and MO-3 is the chopper with which the accused assaulted the

deceased.

16. PW-13 - Manja @ Manjunatha, the owner of the Arrack shop has stated that on 11.10.2004 between 8.00 P.M. to 9.30 P.M. there was

galata in front of his Arrack shop. The deceased had a petty shop at a distance of 50 to 60 feet away from his shop. Since the galata is going on

near Arrack shop he did not drawn any attention to the same. At about 9.50 P.M. when he came out of the shop he saw the deceased Jayamma

fallen on the ground at some distance from the Arrack shop and he also saw the accused running away.

17. PW-14 - Auto driver has stated in his evidence that on 11.10.2004 midnight when he was moving auto in J.P. Nagar, Police stopped his auto

and took him to the Police Station and asked him to act as panch witness. The accused was also present at the Police Station at the time the police

seized one chopper stained with blood under panchanama, which is attested by him.

18. PW-16 - Inspector of Police has stated in his evidence that on 11.10.2004 at about 9.50 P.M. when he was at the house around at J.P.

Nagar 5th Phase, he received wireless message about the assault on Jayamma near Kamhithota, Puttenahalli and she was shifted to HIMHANS

Hospital for treatment. He immediately went to NIMHANS Hospital and came to know that injured Jayamma is dead. He received a Death

Memo. He recorded the statement of PW-2 and came to the Police Station along with the complaint and death memo and registered a case in

Crime No. 228/2004 for the offence u/s 302 of I.P.C. against the accused.

19. PW-16 further stated in his evidence that at about 11.45 P.M. when he came P Ws 7 and 8 attached to J.P. Nagar Police Station have

produced the accused along with MO-3 chopper, arrested him and secured Ex.P1 report along with MO-3 chopper. MO-8 blood stained shirt

and drawn panchanama. He has also stated that PW-7 - Ramakrishna produced the accused along with Ex.P5 report. Thereafter, he visited the

scene of offence and took the written report - Ex.P3 and subjected the blood stained clothes and chopper to the FSL examination. On

20.04.2005 he secured Ex.P4 - FSL report.

20. The learned HCGP appearing for the State submitted that P Ws 2, 3, 4, 12 who had witnessed the assault by the accused on the deceased

with MO-3 -chopper have supported the case of prosecution. The learned Trial Judge has not properly appreciated the evidence of eye witnesses

namely PW2 to PW4 and PW12. Therefore, the judgment of acquittal passed by the trial Judge is illegal and erroneous. It is further submitted that

in view of the evidence of P Ws 2 to 4, 7, 8 and 12, the accused is liable for conviction for an offence punishable u/s 302 of I.P.C.

21. On the other hand, the learned Counsel for the Respondent - accused contended that P Ws 2 to 4 are the interested witnesses as they being

the sons and husband of the deceased and their evidence shows that they rushed to the spot only after the incident. It is further submitted that the

evidence of P Ws 7 and 8 is not consistent. The evidence of PW 12 is not reliable as he went to the scene of offence only after the incident and

therefore, there are no grounds to interfere with the impugned judgment.

22. The learned Advocate for the accused further submitted that the prosecution has failed to examine Shanappa and his wife Renamma who were

allegedly quarrelling with each other which is the root cause for the incident as the deceased Jayamma had advised the accused when he interfered

in the quarrel between Shanappa and his wife Renamma. Admittedly, the prosecution failed to examine the Shanappa though his wife Renamma

was cited as CW-7 in the charge sheet. The prosecution could not examine her on the ground that her presence could not be secured. Merely

because Shanappa or Renamma are not examined it is not a fatal to the prosecution case because after the quarrel between Shanappa and

Renamma the accused went away and he was advised by the deceased and again came near the shop of the deceased and attacked her.

Therefore, Shanappa or his wife Renamma are not material witnesses with regard to the assault by the accused on the deceased subsequently, at

about 9.30 P.M. on the same day.

23. It is further submitted that Shanappa and his wife Renamma are the best persons to identify the accused. Admittedly, as per the evidence of

PW-2 to PW-4 the accused was residing in a room behind the house of the deceased and all of them i.e. the deceased and her family knew the

accused, as he was staying in a room about 15 feet behind the arrack shop. Therefore, the question of identification of accused only by

examination of Shanappa and his wife Renamma did not arise as the accused was known to the deceased and P Ws 2 to 4.

24. PW-2 - Dilip Kumar son of the deceased has clearly stated about the earlier incident that occurred at about 7.30 P.M. in which the deceased

Jayamma advised the accused Suresh not to interfere with the matters of others and that the accused went away from the said place. His evidence

shows that on the same day at about 9.00 P.M. when he was at his house, the deceased went near the Arrack shop and when he heard his mother

cried and called him, immediately on hearing the cries of his mother he rushed towards arrack shop and saw the accused Suresh assaulting on the

left arm of his mother with a chopper and accused running away holding the chopper.

25. FW-3 - Raja, elder brother of PW-2 has deposed about the accused assaulting on deceased Jayamma. His evidence shows that at about 9.30

P.M. he returned to home along with his wife from the hospital. He found PW-2 running towards Arrack shop and he too ran towards Arrack

shop and found his mother had fallen down on the ground having sustained severe bleeding injuries on her head and left hand arm. He saw the

accused running away from the place holding the chopper saying that "Jayamma died". He further stated that he tried to catch hold the accused,

due to fear they did not proceed further as the accused threatened them by showing the chopper.

26. PW-4 - Munegowda, husband of the deceased also supported the prosecution case. According to PW-4. he heard the galata at about 9.45

or 9.50 P.M. and the cries of his wife. Immediately himself and his two sons went there and he saw the accused assaulting the deceased with

chopper on the left arm and also saw accused running away from the said place. It is therefore, clear from the evidence that by the time he saw the

incident of accused assaulting on the left arm of the deceased.

27. PW-12 - Laxmana, an independent witness residing near the house of the deceased, has supported the prosecution case about the earlier

incident at about 8.30 P.M. According to him, when he was passing near the residence of the deceased after closing his shop he saw some galata

was going on between the accused and the deceased Jayamma near the shop of Jayamma and some people also gathered there. Himself and some

other persons consoled the accused and the deceased and asked them not to make any galata. Thereafter, the accused went away. He also

supported the prosecution case about the second incident which occurred at 9.00 P.M. His evidence shows that on the same day at about 9.00

P.M. he again heard galata from the arrack shop which is situate near the house of the deceased. He also heard loud voice of the deceased

Jayamma and on hearing the galata he went near the arrack shop and a petromax was burning at the arrack shop and he saw the accused hitting on

the head and other parts of the body of the deceased with a chopper. His evidence shows that the accused dealt 3 to 4 blows on the deceased

with chopper due to which, the deceased sustained severe injuries and fell on the ground. He also stated that after assaulting the accused ran away

holding the chopper.

28. PW-13 - Manja @. Manjunatha, owner of the Arrack shop supported the prosecution case to some extent. His evidence shows that on the

date of incident he went to the Arrack shop and noticed some galata at about 9.30 P.M. At that time when he came out of the shop and saw the

deceased Jayamma who had fallen on the ground at some distance near his arrack shop and also saw the accused running on the pathway and

some people were chasing the accused. Thus, P Ws 12 and 13 who are independent witnesses have also supported the prosecution case about

the accused committing the offence.

29. Now we will refer to the evidence of P Ws.7 and 8 -Police Constables who were on beat duty on 11.10.2004 till 8.00 A.M. on 12.10.2004.

They have deposed that at about 11.15 P.M. they saw the accused coming towards them holding a chopper, he was being chased by a group of

people. Both of them clearly stated that the chopper, which the accused was holding was stained with blood. The accused confessed that he had

committed the murder of Jayamma near Arrack shop at. Kambithota at about 9.50 P.M. by hitting her with the said chopper. Both P Ws 7 and 8

have stated in their evidence that they have produced the accused before the Inspector along with MO-3 - chopper which was seized under the

cover of a mahazar Ex.P6.

30. The evidence of P Ws 2 to 4, 12 and 13 proves the attack by the accused on the deceased with a chopper and the accused running away by

holding blood stained chopper. Their evidence is supported by evidence of P Ws 7 and 8 who apprehended the accused along with MO-3 -

chopper and with whom the accused made extra-judicial confession about the commission of the offence. The testimonies of P Ws 7 and 8 -

Police Constables (not police officers) to whom the extrajudicial confession was made by the accused about the commission of the offence was

natural and reliable and there was nothing on record to infer that the witnesses P Ws 7 and 8 had any grudge against the accused. The statement

made by the accused would demonstrate his conduct after the commission of offence. The other-evidence adduced by the prosecution that is the

evidence of P Ws 2 to 4, 12 and 13 who have supported the prosecution case about the involvement of the accused in the crime. In *Vadivelu*

Thevar Vs. The State of Madras, the Hon^{ble} Supreme Court has held that oral testimony may be classified into three categories:

Generally speaking oral testimony in this context may be classified into three categories, namely (1) wholly reliable (2) wholly unreliable and (3)

neither wholly reliable nor wholly unreliable. In the first category of proof the Court should have no difficulty in coming to its conclusion either way

- it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence

or subornation. In the second category, the Court equally has no difficulty in coming to its conclusion. It is in the third category of cases, that the

Court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial. There is

another danger in insisting on plurality of witnesses. Irrespective of the quality of the oral evidence of a single witness, if Courts were to insist on

plurality of witnesses in proof of any fact, they will be indirectly encouraging subornation of witnesses. Situations may arise and do arise where only

a single person is available to give evidence in support of a disputed fact. The Court naturally has to weigh carefully such a testimony and if it is

satisfied that the evidence is reliable and free from all taints which tend to render oral testimony open to suspicion, it becomes its duty to act upon

such testimony.

In *Prahalad Patel Vs. State of Madhya Pradesh*, :

In the above case the witnesses are brothers of the deceased. Their evidence fully corroborates with the evidence of eye-witnesses about the

manner of occurrence. The Hon^{ble} Supreme Court held: "Relationship is not a factor to affect credibility of said witnesses".

The Hon^{ble} Supreme Court in another decision *Ranjit Singh and Others Vs. State of Madhya Pradesh*, held:

When witnesses are closely related to the deceased, the law requires Court to examine their evidence with care and caution. Such close relatives

injured witnesses would definitely not shield, real culprit of crime and name somebody else because of enmity.

31. In the instant case though P Ws 3 and 4 have partly supported the prosecution case about the assault by the accused on the deceased with

chopper, there is evidence of PW-2 who had witnessed both the incidents and his evidence is corroborated by the independent witness PW-12.

PW-13 also supported the prosecution case to some extent and found the accused was running away in the pathway and he was chased by some

people immediately after the incident.

32. The presence of P Ws 2 to 4, 12 and 13 at the place of occurrence was natural and their evidence is reliable and trustworthy. The evidence of

PW-12 proves that a petromax was burning at the time of incident near the arrack shop which was shedding light on the place where the

occurrence took place which was sufficient to the witnesses to identify the accused at the time of commission of the offence. Even otherwise,

accused was known to PW2 to PW4, it was suggested to PW2 that he was inimical towards accused. Therefore, evidence of identification of

accused cannot be suspected. There is nothing on record to suggest that the accused was falsely implicated in the crime. In the cross-examination it

was suggested to PW-2 that by the reason of enmity between himself and the accused in the job he was deposing falsely against the accused. In

the cross-examination of P Ws 3 and 4 also it was suggested that they were deposing falsely at the instance of PW-2. P Ws 2 to 4 have denied the

same.

33. During the examination u/s 313 of Code of Criminal Procedure, the accused has not stated anything about the alleged enmity between himself

and PW-2 with regard to the job as was suggested to P Ws 2 to 4. P Ws 2 to 4 being the sons and husband of the deceased who are staying very

close to the scene of offence, it is natural for them to rush to the scene of offence on hearing the cries of the deceased Jayamma. Though PW-2 has

stated about the accused assaulting his mother on the back side, head and left arm P Ws 3 and 4 have stated that by the time they went to the

scene of occurrence they found the accused assaulting on the left arm. Their evidence is therefore natural and worthy of acceptance since by the

time they rushed to the scene of occurrence the accused must have dealt a blow on the back side of the head of the deceased Jayamma and that

they have seen the incident of attacking on the left arm of the deceased Jayamma.

34. PW-12, who is an independent eye witness has clearly stated in the evidence that accused assaulted on the head and left arm of the deceased

with chopper by giving 3 to 4 blows and ran away along with MO-3 -chopper which is used for the commission of the offence. Chopper - MO-3

was identified by all the eye witnesses and their evidence is amply supported by the medical evidence. The Medical Officer has also dearily stated

the injuries found on the person of the deceased may be caused with chopper like MO-3. The prosecution thus, has established the charge u/s 302

of I.P.C. against the accused. The learned Trial Judge without bearing in mind the settled principles of law regarding appreciation of evidence came

to the erroneous conclusion that the prosecution failed to prove" the guilt of the accused beyond reasonable doubt. On re-appreciation of entire

evidence on record, we are of the view that prosecution has proved the charge against the accused for an offence u/s 302 of I.P.C. for causing the

death of deceased Jayamma with MO-3 - chopper.

35. In the result, the appeal filed by the State is hereby allowed. The order of acquittal recorded by the Trail Court is set aside. The accused is

held guilty of an offence punishable u/s 302 of I.P.C. The accused is therefore convicted u/s 235(2) of Code of Criminal Procedure for the offence

u/s 302 of I.P.C. and he is sentenced to undergo imprisonment for life and to pay fine of Rs. 10,000/-, in default to undergo S.I. for three months.

The period of detention if any undergone by the accused is given set off as provided u/s 428 Code of Criminal Procedure