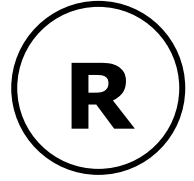


IN THE HIGH COURT OF KARNATAKA AT BENGALURU



DATED THIS THE 18th DAY OF JUNE, 2020

PRESENT

THE HON'BLE Mrs. JUSTICE B.V. NAGARATHNA

AND

THE HON'BLE Mr. JUSTICE E.S.INDIRESH

CRIMINAL APPEAL No.617 of 2015 [C]

BETWEEN:

RAVI @ P.RAMAKRISHNA,
S/O. PARAMESHWARA,
AGED ABOUT 38 YEARS,
RESIDING AT BATTEMALLAPPA,
ALAGERI MANDRI VILLAGE,
HOSANAGARA TALUK-103.

... APPELLANT

(BY SRI HASHMATH PASHA, SR. COUNSEL FOR
SRI. SANTOSH B., ADVOCATE)

AND:

STATE OF KARNATAKA,
BY HOSANAGARA POLICE,
SHIMOGA-103.
(REPRESENTED BY LEARNED
STATE PUBLIC PROSECUTOR)

... RESPONDENT

(BY SRI S.RACHAIAH, HCGP)

THIS APPEAL IS FILED UNDER SECTION 374(2) OF THE CODE OF CRIMINAL PROCEDURE, 1973 PRAYING THIS HON'BLE COURT TO CALL FOR THE RECORDS OF THE COURT BELOW AND SET ASIDE THE JUDGMENT AND ORDER OF CONVICTIONS AND SENTENCES DATED 30.12.2014 PASSED IN SPL.(A) CASE NO.50 OF 2013 ON THE FILE OF THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, SHIMOGA, AND CONSEQUENTLY, ACQUIT THE APPELLANT FROM THE CHARGES AND HE MAY BE SET AT LIBERTY, IN THE ENDS OF JUSTICE.

THIS APPEAL COMING ON FOR *HEARING* ON 01.06.2020 AND THE SAME HAVING BEEN HEARD AND RESERVED FOR PRONOUNCEMENT OF JUDGMENT, THIS DAY, **NAGARATHNA J.** PRONOUNCED THE FOLLOWING:

J U D G M E N T

This appeal is preferred by the accused, being aggrieved by his conviction by the judgment and sentence passed by the I Additional District and Sessions Judge, Shimoga, in Special (A) case No.50 of 2013 dated 30th December, 2014.

2. The appellant-accused was tried for the offences punishable under Sections 366A, 376 and 302 of the Indian Penal Code, 1860 (IPC) as well as Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act' for short).

3. It is the case of the prosecution that complainant—Hanumanthaiah is the father of Pratiksha, aged about sixteen (16) years, and she was residing at Battemallappa village with her grand-mother Durgamma, as his wife (mother of Pratiksha) had died. According to the complainant, Ravi and Nethravati (Netra) were residing

in a rented house opposite Durgamma's house. That on 22nd July, 2013 at about 06.00 p.m., Netra went near a well to commit suicide, but on being queried, Netra stated that her husband and Pratiksha were seen inside her house and on seeing her, they ran away through the back door of her house. According to the complainant, later the neighbours Smt.Lakshamma (CW-17) and others searched for Pratiksha, but in vain. That Pratiksha might have been kidnapped by the accused—Ravi. Hence, a complaint was lodged on 23rd July, 2013. On receiving the complaint, a case in Crime No.111 of 2013 was registered by the Hosanagar Police for the offence punishable under Section 366A IPC. The first information report was prepared and sent to the Court and the copies thereof were sent to the higher officers of the Police.

4. On the next day, i.e. on 24th July, 2013, a dead body was found near the tank bund at Battemallappa village. The dead body was of Pratiksha which was identified by her father—complainant. He alleged that Pratiksha had been murdered. That they belong to Scheduled Caste community and hence, offences under Sections 376 and 302 IPC as well as under Sections 3(xi)

and 3(xii) of the Act were incorporated. The Deputy Superintendent of Police carried out the investigation by conducting the inquest on the dead body, recorded the statement of witnesses and made arrangements for conducting the post-mortem examination. Thereafter, on 09th August, 2013, the accused was apprehended, arrested and remanded to the judicial custody. On the accused being traced and arrested, his voluntary statement was recorded. The accused led the mahazar witnesses to the place of the incident and a mahazar was drawn. Thereafter, the charge-sheet was filed against the accused for the offences punishable under Sections 366A, 376 and Section 302 IPC as well as for the offences punishable under Section 3(2)(v) of the Act by dropping Sections 3(xi) and 3(xii) of the Act.

5. Subsequently, the accused was summoned. He was provided a counsel and on hearing him, the charges had been framed. He pleaded not guilty and claimed to be tried. In order to prove its case, the prosecution let-in the evidence of PWs-1 to 15 and got marked Exs.P-1 to 29 and MOs-1 to 6. Subsequently, statement of the accused as per Section 313 of the Code

of Criminal Procedure, 1973 (Cr.P.C.) was recorded. The accused denied all incriminating circumstances against him in the prosecution case, but got marked Ex.D-1 which is a portion of the statement of PW.2. He had not led any other evidence. Thereafter, the trial court on an application and on hearing, framed the charges under Section 3(2)(v) of the Act and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). The accused was sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.25,000/- for the offence under Section 366A IPC and in default of payment of fine, the accused was to undergo imprisonment for six months. The accused was sentenced to undergo sentence for life and to pay a fine of Rs.50,000/- for the offence punishable under Section 302 IPC and in default of payment of fine, the accused was to undergo imprisonment for one year. Further, accused was sentenced to undergo imprisonment for life and to pay fine of Rs.50,000/- for the offence punishable under Section 3(2)(v) of the Act and in default of payment of fine, the accused was to undergo imprisonment for one year. All sentences were to run concurrently. The period of

detention of the accused in judicial custody was to be set off against the term of imprisonment imposed on him.

The aforesaid judgment which was delivered on 30th December, 2014 has been assailed by the accused in this appeal.

6. We have heard the learned senior counsel, Shri.Hashmath Pasha, for the appellant-accused and learned High Court Government Pleader, Shri.S.Rachaiah, for the State and perused the material on record as well as the original record.

7. While drawing our attention to the facts of the case and the evidence on record, learned senior counsel for the appellant contended that the trial court was not right in convicting the accused under Sections 366A and 302 IPC as well as under Section 3(2)(v) of the Act. He contended that the prosecution has failed to prove any of the offences alleged against the accused. Elaborating his submissions, learned senior counsel drew our attention to the evidence of PW-2—Nethravati (wife of the accused) and particularly to the examination-in-chief wherein she has categorically stated that on the date of the incident,

she had gone for coolie work and returned from work at about 04.30 or 05.00 p.m. She tapped the front door of her house and found that it was bolted from inside. The accused did not respond nor did he open the door. So, she went to the backside of the house and entered the house from the backdoor which was open. At that time, Pratiksha came out of the room by wearing her clothes. She found that her husband-accused was inside the room. Pratiksha was terrified on seeing her and she ran inside the room and stood by the side of the accused. Later Pratiksha ran outside and Netra chased her. Pratiksha and the accused entered a bushy area and the accused came to the house through the front door. That the accused, who went out from the backdoor, came through the front door. The accused abused Netra and thereafter, went away and he did not return home that day. Therefore, the offence under Section 366A has not been made out at all. This is because PW-2 in her cross-examination has categorically admitted that the accused and Pratiksha did not go out of the house together.

8. Learned senior counsel next submitted that two days after the incident, a dead body was found in the

water tank of the village. The decomposed body was identified as that of Pratiksha. The death of Pratiksha is suicidal and not homicidal as the accused had no role whatsoever in the death of Pratiksha. In the instant case, the prosecution has let-in the evidence of PWs-3 and 4 to prove the murder of Pratiksha by the accused but in vain, as the said witnesses turned hostile and nothing incriminating was elicited by the prosecution in their cross-examination. Thus, the offence under Section 302 IPC is construed against the accused on the basis of the circumstantial evidence which is very weak in nature. He submitted that the accused could not have been convicted for the offence under Section 302 of I.P.C.

9. Learned senior counsel for the appellant further submitted that the offence under Section 3(2)(v) of the Act is also not made out and in support of the same, he relied upon the decisions in ***Ramdas vs. State of Maharashtra [2007] 2 SCC 170***, (*Ramdas*), and ***Dinesh Alias Buddha vs. State of Rajasthan [(2006) 3 SCC 771]***, (*Dinesh Alias Buddha*).

10. Learned senior counsel for the appellant placed heavy reliance on ***Sharad Birdhichand Sarda vs. State of Maharashtra [(1984) 4 SCC 116]***, (*Sharad Birdhichand Sarda*) to contend that if the case against the accused is sought to be on the basis of circumstantial evidence, then the same has not been proved by the accused as the various links in the chain of circumstances are incomplete and the prosecution has failed to prove the case against the accused. In this regard, he placed reliance on ***Hanumant vs. State of Madhya Pradesh [AIR 1952 SC 343]***, (*Hanumant*). Drawing our attention to the specific portions of the depositions of the witnesses, learned senior counsel contended that the trial court, on acquitting the accused of the offence punishable under Section 376 IPC read with Section 4 of the POCSO Act, has in a very casual manner convicted the accused under Sections 366A and 302 IPC and under Section 3(2)(v) of the Act without assigning cogent reasons. He submitted that the accused is innocent and the impugned judgment and sentence may be set aside and the appeal may be allowed.

11. *Per contra*, learned HCGP, appearing for the respondent-State, supported the impugned judgment and sentence and contended that in the instant case, Section 366A of I.P.C. is attracted. That the evidence of PW-2 is categorical in that regard. That there were two complaints: one as per Ex.P-1 and thereafter, the statement as per Ex.P-19, after the dead body of Pratiksha was traced from the tank bund; that Pratiksha and the accused were last seen together by PW-2 and hence, an offence under Section 366A IPC was proved. In this case, the conduct of the accused is also of significance as he absconded soon after the dead body of Pratiksha was traced and he was apprehended only on 09th August, 2013.

12. Further, learned HCGP fairly conceded that Section 3(2)(v) of the Act is not attracted in the instant case and therefore, the accused could not have been convicted for the aforesaid offence. Drawing our attention to the evidence on record, learned HCGP submitted that the evidence of PW-2-the wife of the accused supports the case of the prosecution. That PW-9—the head master of the school where Pratiksha was studying clearly proves

that Pratiksha was a minor girl and a case under Section 366A IPC has also been made out.

13. Learned HCGP also relied upon Section 106 of the Evidence Act, 1870 to contend that the accused had specific knowledge of the facts and he ought to have let-in his evidence and in the absence of the same, adverse inferences could be raised against him.

14. By way of reply, learned senior counsel for the appellant reiterated his submissions and relied upon the judgment of the Hon'ble Supreme Court in the case of ***N.S.Vishwanatha Shetty vs. K.R. Shivaswamy and others, [(2005) 11 SCC 130]***, to contend that Section 106 of the Evidence Act is not attracted to the instant case as the prosecution has relied upon the eye-witnesses. He reiterated that the impugned judgment may be set aside and the accused may be acquitted of all charges against him.

15. Having heard learned senior counsel for the accused and learned HCGP for the respondent-State and on perusal of the material on record as well as the original

record, the following points would arise for our consideration:

- “1. Whether the trial court was right in convicting the appellant-accused for the offences punishable under Sections 366A and 302 IPC, and 3(2)(v) of the Act and sentencing him accordingly?
2. What order? ”

16. At the outset, we note that the State has not preferred any appeal against the acquittal of the accused for the offences punishable under Section 376 IPC read with Section 4 of the POCSO Act. Therefore, our attention in this appeal is only with regard to correctness or otherwise of the judgment of conviction and order of sentence passed by the trial court under Sections 366A and 302 IPC and Section 3(2)(v) of the Act.

17. We have perused the complaint-Ex.P-1 filed by PW-1 Hanumanthaiah/father of Pratiksha on 23rd July, 2013. According to the said complaint, his daughter Pratiksha, who was about sixteen years old, was residing with Durgamma—his mother-in-law. That on 22nd July,

2013 at about 06.00 p.m., Netra (PW-2—wife of the accused) went near the well in order to commit suicide. When she was asked the reason, she stated that her husband—Ravi and Durgamma's grand-daughter Pratiksha were in her house and when she returned from coolie work, she found them together and both of them ran away from the backdoor of the house. That during the whole night on 22nd July 2013, the complainant, his neighbour—Smt.Lakshmamma and others searched for his daughter Pratiksha, but she was not found. That the accused had kidnapped Pratiksha. The said complaint as per Ex.P-1 was lodged before Hosanagar Police Station on 23rd July, 2013 and the first information report (Ex.P-2) in Crime No.111 of 2013 for the offence punishable under Section 366A IPC was registered. On the next day i.e., on 24th July, 2013 at about 07.00 a.m., a person by name Raghu had noticed a dead body in the water tank and it was identified by the complainant as that of his daughter Pratiksha and a second report was made by adding Sections 302 and 376 IPC read with Section 3(2)(v) of the Act. Thereafter, inquest was conducted on the dead body of Pratiksha followed by an autopsy conducted by PW-

13/Dr.Vrunda Bhat and the opinion of the doctor as to the cause of death was due to drowning.

It is in the above factual background, we shall discuss the evidence of the witnesses.

18. PW-1-Hanumanthaiah is the father of Pratiksha, who has stated that his deceased daughter, Pratiksha, was residing with his mother-in-law, Durgamma on the demise of his wife. That on 22nd July, 2013, Pratiksha was absent from the house of Durgamma, when he went to the house of Durgamma after his work; Durgamma had told him that Pratiksha was missing and there were a group of people assembled there. That CW-17 Lakshamma told him that the accused had taken away Pratiksha to his house and he went to the house of the accused but Pratiksha was absent. Also the wife of the accused had told him that on her return from coolie work, she had found Pratiksha and her husband-the accused in her house and they ran away from the house. That on the next day, the dead body of Pratiksha was found at the tank bund and he identified the same on the basis of the clothes that she was wearing. That a Mahazar was conducted and

he had signed the Mahazar Ex.P-3 at Ex.P-3a. The clothes of Pratiksha were identified as MOs-1 and 2.

In his cross-examination, he has stated that on the date of the incident, Netra—wife of the accused did not tell him anything about Pratiksha and the accused. She did not tell him that she has seen the accused and Pratiksha in her house and the said fact was also not stated to the police while giving the complaint about missing of Pratiksha.

19. The wife of accused—Netra was examined as PW-2. In her examination in chief, she has stated that she and the accused were residing at Battemallappa village and they were doing coolie work and the accused and PW-1 (father of Pratiksha) were doing coolie work together. That she knew Pratiksha-the deceased. That PW-1 had once brought Pratiksha to her home on a festival day, but she had admonished PW-1 and Pratiksha and advised her not to come to her house. That on the day of the incident, when she returned from coolie work at about 04.30 to 05.00 p.m., after speaking to CW-8 who had given permission to her and the accused to stay in the house,

she tapped the front door of the house, as it was bolted from inside. The accused did not respond, nor was the door opened. She went to the backside of the house and entered the house from the backdoor which was opened. At that time, Pratiksha came out of the room wearing her clothes. Her husband-the accused was inside the room. Pratiksha was terrified on seeing her. Pratiksha went inside the room and stood by the side of the accused. PW.2 went to catch hold of Pratiksha but the accused laid his hands on her Mangalya (chain), broke it and pushed her aside and ran away with Pratiksha. Looking at them, she felt that they had physical contact. PW-2 has stated that she chased Pratiksha. Pratiksha and the accused entered a bushy area and later the accused came to the front door of the house by taking a round of the house. The accused abused PW-2 and went away. That PW-2 tripped and fell while chasing Pratiksha. The neighbours asked PW-2 as to what happened and she told them about the incident. That her husband—the accused did not return home on that day. Two days later, the villagers informed her that the dead body of Pratiksha was found in the water tank of the village and it had decomposed. The

Police came to her house for investigation. She showed the place where she had seen the accused and Pratiksha together and she signed the Mahazar Ex.P-4 and Ex.P-4(a) is her signature. She does not know whether the accused knew Pratiksha's caste or not.

In her cross-examination, she had stated that when she saw her husband/accused and Pratiksha, her husband was wearing clothes, but Pratiksha was not. That she had not told the Police that the accused had broken her Mangalya (chain) and ran away from the back-door. That portion of the statement as read over to her was marked as Ex.D-1. That when the dead body of Pratiksha was traced, she had given a statement to the Police and on the next day, a Mahazar was drawn in her house. She has denied the suggestion that her husband had no physical contact with Pratiksha.

20. PWs-3 and 4 are two witnesses who were treated as hostile and cross-examined by the prosecution.

21. In his examination-in-chief, PW-3 stated that people told him that Pratiksha's body was found in the water tank of the village, but, he does not know the name

of the tank. That the police asked him to sign and he signed. He had not seen the accused with Pratiksha. He was treated hostile and in his cross-examination by the Public Prosecutor, he stated as not true that three months prior to 30th October, 2013, at about 05.30 to 06.00 p.m., he had seen the accused with the girl running from the side of his house and the accused pushed the girl to the tank and ran further. He also denied the suggestion that he went to the said place to see and Sundar who was searching for his cattle also came there, but they did not see anything in the tank. He further admitted that the dead body of Pratiksha was found in the water tank of the village. He also denied a portion of the statement made by him at Ex.P-5.

22. PW-4 in his examination-in-chief categorically stated that he does not know as to how Pratiksha fell to the water tank. He also denied that he had given any statement to the police or that he had heard Netra talking loudly behind her house. This witness was also treated as hostile and he was cross-examined by the prosecution. In his cross-examination, he denied that three months prior to 30th October, 2013, he was proceeding to his house on

Katina Jeddu water tank from a canteen and at that time, he saw the accused coming with a girl running from the side of his house and he pushed the girl to the water tank. While denying further suggestions, he admitted that the dead body of Pratiksha was found in the water tank of the village. He has also denied a portion of the statement made to the police which was marked as Ex.P-6.

23. The brother-in-law of the accused testified as PW-5. He stated that he does not know as to how Pratiksha fell into the water tank. That the police had gone to his house stating that the accused had given his address. That the accused had gone to his house and told him that he had quarreled with his wife and went away. This witness was also treated as hostile and was cross-examined. He has stated that about five months prior to the date of deposition, accused had gone to his house. That even the wife of the accused had visited him. He denied that the accused had told him that he was in the house with Pratiksha and his wife tapped the front door and she came inside the house from the back door and on seeing her, Pratiksha tried to wear her clothes and the wife of accused created a scene and the accused escaped with

Pratiksha and pushed her to the water tank in order to save himself. He also denied that accused did the said act in order to escape from being defamed in the village. He has further admitted that two days' later, the body of Pratiksha was traced in the water tank of the village. He denied that he had made any statement before the Police about the aforesaid facts. He denied a portion of the statement marked as Ex.P-7.

24. The Mahazar witness for Ex.P-8 is PW-6 who admitted that he had signed Ex.P-8 and another Mahazar Ex.P-3 near the water tank when the dead body of Pratiksha was found. He also admitted that the accused was present when he signed the Mahazar.

25. Another Mahazar witness is PW-7, who has admitted that he had signed Ex.P-4 at the house of the accused, but he does not know what was examined by the Police and what was recorded and that he had signed the Mahazar without knowing the contents of the same and he signed it as suggested by the Police.

26. PW-8 is also a signatory of Ex.P-8 / Mahazar. He stated that he had seen her dead body in the tank and

police recorded the Mahazar on the dead body and he had signed another Mahazar in the house of the accused at Ex.P-9. The police had taken photographs at the house of the accused, which he identified as Ex.P-9. That accused had shown the place where the accused and Pratiksha had slept. The police had seized the clothes of the accused and a rug. The rug was identified as MO-3; the shirt as MO-4; pants of the accused as MO-5 and underwear as MO-6. He has also stated that the accused had taken them to the water tank of the village and he showed the place where he had pushed Pratiksha into the tank and the Mahazar was signed by him as per Ex.P-9.

27. In his cross-examination, PW-8 has stated that the dead body of Pratiksha was found on 24th July, 2013 and the Police had visited the village with the accused fifteen days later and then they visited the house of the accused and sent words for him. He went to the house of the accused which was about 100 meters from the tank. He has stated that sometimes he visits the police station to help the villagers.

28. Ex.P-11 is a Certificate which was signed and issued by PW-9/the Head Master of the Higher Primary School where the deceased Pratiksha was studying. As per Ex.P-11, the date of birth of Pratiksha was 12th May, 1997. He stated that he issued the certificate on the basis of the Admission Register of the school. Apart from that, he stated that he did not know the personal details of Pratiksha and he had also not seen her.

29. Dr.Veeresh is the Associate Professor and Head of the Department of Forensic Medicine, SIMS, Shivamogga who deposed as PW-10. He stated that on 10th August, 2013 at about 06.45 p.m., the accused was produced before him by the police for examination with history of committing rape. He examined the accused and replied to six questions raised by the investigating officer. That he had issued certificate under his signature as per Ex.P-18. PW-10 is not cross-examined by the accused.

30. The Station House Officer who received the complaint and registered the same in Crime No.111 of 2013 was examined as PW-11. He identified his signature on Ex.P-1. He did not visit the place of incident but only

handed over the case for further investigation to the Police Sub-Inspector. There is no cross-examination of this witness.

31. PW-12 is the Police Sub-Inspector of Hosanagar Police Station, Hosanagar, who took up further investigation of the case from PW-11. He has stated that he received a phone call at 10.00 a.m. on 24th July, 2013 informing him that there was a dead body at the tank of Battemallappa village and he went to the said place; the dead body was removed from the tank; the informant-Hanumanthaiah (father of the deceased) identified the dead body and stated that the accused had sexual access to Pratiksha and she was murdered by the accused. He had given a complaint in writing and certain other offences were incorporated. The signature on the complaint was identified as Ex.P-19(a) along with the direction issued by the witness to the Station House Officer. He handed over the case for further investigation to Deputy Superintendent of Police and arrested the accused on 09th August, 2013 and produced the accused before the Deputy Superintendent Police (Dy.S.P.). His report is at Ex.P-20. In his cross-examination, he denied the suggestion that

Hanumanthaiah had not given any complaint and that he had created the same.

32. Dr.Vrunda Bhat, who examined the deceased Pratiksha and had submitted the Autopsy report, was examined as PW-13. She stated that on 24th July, 2013, she was requested to conduct autopsy on Pratiksha's body and she stated that Pratiksha was approximately 16-17 years of age. She has stated that Pratiksha's death was on account of drowning. She had answered five questions posed to her by the Police and she had referred the viscera and swabs from the genitals to the Forensic Science Laboratory (FSL). She stated that even though there were no seminal stains detected on the swabs and clothes collected, she opined that recent sexual act on the deceased could not be completely ruled out. The autopsy report was marked as Ex.P-23 and the Regional FSL reports as Exs.P-24 and 25. She also stated that if after the sexual act, the girl was drowned in the water, there was a possibility of seminal stains being washed out. That the contusions that she observed could be caused if the victim was held tightly by hand and pushed into the water tank. In her cross-examination, she admitted that if the

deceased had come into contact with a hard object like a stone, there may be such contusions being caused while jumping into the water, as suggested. That there were no injuries on the genitals of the victim and the FSL report was negative.

33. The Deputy Superintendent of Police was examined as PW-14. He stated that on 17th October, 2013, he took up further investigation of the case and on 18th October, 2013, he requested the doctor to furnish the final opinion and on 30th October, 2013, he recorded the statement of CW-3 to CW-5 and thereafter, he laid the charge-sheet. Ex.P-26 is the FSL report. PWs-3 to 5 had stated before him as per Exs.P-5 to 7. He denied the suggestion that PWs-3 to 5 had not stated before him as per Exs.P-5 to 7 or that had laid a false charge-sheet.

34. PW-15 had arrested the accused. He was in-charge Deputy Superintendent of Police, Thirthahalli who took up the further investigation of the case from the PSI/PW-12. He had gone to the place of the incident where the informant Hanumanthaiah was present, which was a water tank of Katina Jeddu village. The dead body of

Pratiksha was removed from the water tank and a Mahazar as per Ex.P-3 was drawn, a rough sketch was prepared as per Ex.P-27. He also conducted inquest on the dead body as per Ex.P-8 and recorded the statements of witnesses and arranged for conducting the post-mortem examination of the dead body at SIMS, Shivamogga and he recorded the statement of the witnesses. That on 09th August, 2013, when he was in Hosanagara Police Station, PW-12 brought the accused before him with a report as per Ex.P-20 and he recorded voluntary statement of the accused. The admissible portion is marked as Ex.P-28. The accused was detained at the police station and he later led them to his house where MO-3 to MO-6 were identified, photograph as per Ex.P-10 was taken and Ex.P-9 Mahazar was drawn. The Medical Certificate of the accused as per Ex.P-18 was collected; the caste certificates as per Exs.P-12 and 13, and the school certificate of deceased Pratiksha were marked as Ex.P-11. The documents of the house of the accused are as per Exs.P-21 and 22 and the sketch from PWD authorities as per Ex.P-15 were received and Ex.P-25 / RFSL report was also received. Ex.P-4 is the Mahazar drawn in the house of the accused wherein he had also

prepared a hand-sketch of the house as per Ex.P-29. PW-3 had stated before him as per Ex.P-5 and the statements of PWs-4 and 5 are as per Exs.P-6 and 7. He denied the suggestions made to him in the cross-examination and stated that he had conducted investigation on the voluntary statement given by the accused and recorded the Mahazar accordingly.

35. On a cumulative appreciation of the evidence discussed above, it is clear from the evidence of PW-13/Doctor who had conducted the autopsy on the body of Pratiksha that the cause of her death was due to drowning. In her cross-examination, the Doctor has stated that while jumping into the water, if the deceased had come into contact with a hard object like a stone, then there was a possibility of a contusion. She has also stated that there were no injuries on the genitals of the victim-Pratiksha. From the evidence of PW-13, it is clear that Pratiksha had died on account of drowning.

36. As far as the age of Pratiksha is concerned, the Head Master of the Primary School/PW-9 has stated that Pratiksha was born on 12th May, 1997 and Ex.P-11

Certificate was issued by him on the basis of the Admission Register of the School. The Head Master had not seen Pratiksha nor the Admission Register of the school was produced in the evidence. According to the prosecution, Pratiksha was aged little above sixteen years as on the date of her death. It is noted that initially, PW-1—complainant and father of deceased Pratiksha—gave a complaint on 23rd July, 2013 as per Ex.P-1 to the effect that Pratiksha and the accused had together run away from the house of the accused and on seeing this, his wife had proceeded towards a well as she had found Pratiksha and her husband/the accused in her house. Hence, Ex.P-1 complaint was only to that effect and the first information report in Crime No.111 of 2013 was for the offence under Section 366A IPC only. On the next day, i.e., on 24th July 2013, the body of Pratiksha was found floating in the water tank in the village. The said body was identified by PW-1—her father. He gave a subsequent statement to the police and the complaint for the offence under Sections 302 and 376 IPC read with Section 4 of the POCSO Act and Section 3(2)(v) of the Act were also included.

37. PW-1 in his cross-examination has stated that on 22nd July, 2013, CW-17/Lakshmamma had told him that the accused had taken Pratiksha to his house. That he went to the house of the accused but Pratiksha and the accused were absent. He learnt from PW-2 that when she had returned from her coolie work, she found Pratiksha and accused in their house and that on seeing her, Pratiksha and accused ran away from the house. But, in his cross-examination he has stated that on the date of the incident, Nethravati (PW-2) did not tell him anything about Pratiksha and the accused. She also did not tell him that she had seen accused and Pratiksha inside their house. That he had also not given such statements to the police while giving a complaint about the missing of Pratiksha. Thus, the initial complaint as per Ex.P-1 is only with regard to the accused kidnapping his minor daughter Pratiksha and hence, the complaint was for the offence punishable under Section 366A IPC only. Later, on the discovery of Pratiksha's dead body in the water tank, another statement was made to the Police by PW-1.

38. CW-17 Lakshmama who had informed PW-1 that the accused had taken away Pratiksha to his house has not been examined by the prosecution.

39. Nethravati—PW-2, wife of the accused—in her examination-in-chief has stated that on 22nd July, 2013, when she returned from work, she found the front door of her house was bolted from inside and the accused did not respond. Therefore, she went to the back of the house and entered the house from the back door which was open. She found that Pratiksha was coming out of the room, wearing her clothes and her husband was inside the room. On seeing her, Pratiksha ran inside the room and stood by the side of the accused. She felt that they had physical contact. Later, Pratiksha ran and PW-2 chased her. According to PW-2, the accused also went out from the back door, took a round of the house and returned through the front door. PW-2 has also stated that accused and Pratiksha entered bushy area, but the accused came to the front door of the house from that place after taking a round of the house. He abused PW-2 and went away. It is two days later that the dead body of Pratiksha was found in the water tank of the village. But, in the cross-

examination, PW-2 has categorically admitted that the accused and Pratiksha did not go out of the house together and that she had also not told the Police that both of them pushed her aside and ran away from the back door.

40. The evidence of PW-2 clearly indicates that no case under Section 366A IPC has been made out. This is because, there is no evidence to the effect that the accused accompanied by Pratiksha ran out of the house of the accused and PW-2. According to this witness, Pratiksha ran out of her house and she chased her. The accused also went out of the house towards a bushy area but he returned to the house. Therefore, we find that the evidence of PW-2 is of no assistance so as to make out a case under Section 366A of I.P.C. Hence, the trial court was not right in convicting the accused under Section 366A IPC.

41. This takes us to the next aspect of the matter namely with regard to the cause of death of Pratiksha. According to the prosecution, the accused had pushed Pratiksha into the water tank in the village and even as per the medical evidence of PW-13, the cause of death was on

account of drowning. The same could be either a suicidal act or a homicidal act. However, it is the case of the prosecution that the accused had pushed Pratiksha to the water tank and an attempt has been made to prove the case as one being a homicidal death.

42. In order to bring home the guilt of the accused for the offence punishable under Section 302 IPC, the prosecution has examined two witnesses, namely PW-3 and PW-4, who are stated to be the eye-witnesses. On perusal of their evidence, it is clear that both of them turned hostile and they were cross-examined by the prosecution. The suggestions made to them have been denied. In fact, a perusal of the evidence of PWs-3 and 4 would suggest that it is identical inasmuch as the suggestions are also identical, which have been denied by both the witnesses. They have only admitted that the dead body of Pratiksha was found in the water tank of the village. Both the witnesses have denied the suggestion that they had made a statement to the Police as per Exs.P-5 and 6 respectively. Therefore, they have resiled from what they had stated to the Police on 30th October, 2013 during the investigation. Hence, the evidence of the so

called eye-witnesses, namely PWs-3 and 4, is of no assistance to the Prosecution as they have not supported the case of the prosecution.

43. PW-5 is the brother of the wife of the accused who also denied the suggestion that the accused had told him about himself and Pratiksha being in his house and his wife accosted them, which created a scene and he escaped with Pratiksha and later, he pushed her into the water tank in order to save himself and murdered Pratiksha, thereafter, sought money from him which he refused and he advised the accused to surrender before the Police. The evidence of PW-5 in no way supports the case of the prosecution. In fact, in his cross-examination he has also denied that he had made any statement to the Police on 30th October, 2013 as per Ex.P-7.

44. Therefore, there is no direct evidence to prove that the accused had pushed Pratiksha to the water tank in the village. In the absence of there being any such evidence, what has to be seen is, as to, whether, even if the witnesses turn hostile, when their evidence is read

with the evidence of others, the guilt of the accused could be established or not.

45. In this regard, we find that PW-6 is the Mahazar witness who has signed the Mahazar after the dead body of Pratiksha was removed from the water tank and when the inquest was conducted and he is a signatory to Ex.P-8 and Ex.P-13. PW-8 has signed Ex.P-8/Mahazar of the dead body and Ex.P-9/Mahazar at the house of the accused. The above evidence also does not prove the case of the prosecution being that the accused had pushed Pratiksha to the water tank.

46. PW-10 is the doctor who examined the accused while PW-13 is the doctor who conducted the autopsy of the dead body of Pratiksha. She has stated that the death of Pratiksha was on account of drowning. As far as contusions on the dead body of Pratiksha are concerned, the doctor has stated in her examination-in-chief that it could be caused if the victim had been held tightly by the hands and pushed into the water tank. But, in the cross-examination, she has clearly stated that if the deceased had come in contact with a hard object, like a stone of the

dimension of the contusion, such a contusion could be caused while jumping into the water tank. The evidence of PW-13 is only relevant for the purpose of proving the cause of death, namely due to drowning but cannot prove the fact that the accused had caused the death of Pratiksha.

47. The other official witnesses are those who conducted recoveries during the investigation and conducted further investigation in the matter and laid the charge-sheet. The Mahazars also in no way would indicate that the accused was responsible for the drowning of Pratiksha.

48. In ***Govindaraju alias Govinda vs. State by Srirampuram Police Station and another, [(2012) 4 SCC 722]***, (*Govindaraju*) it has been held that it is not always necessary that wherever the witness turned hostile, the prosecution case must fail. Firstly, the part of the statement of such hostile witnesses that supports the case of the prosecution can always be taken into consideration. Secondly, where the sole witness is an eye-witness who can give a graphic account of the events which he had

witnessed, with some precision cogently and if such a statement is corroborated by other evidence, documentary or otherwise, then such statement in face of the hostile witness can still be a ground for holding the accused guilty of the crime that was committed. But, the Court has to act with greater caution and accept such evidence with greater degree of care in order to ensure that justice alone is done. Also, the evidence so considered should unequivocally point towards the guilt of the accused.

49. The evidence of a hostile witness would not be totally rejected if spoken in favour of the prosecution or the accused, but it can be subjected to close scrutiny and that portion of the evidence which is consistent with the case of the prosecution or defence may be accepted. The fact that the hostile witnesses having given the statements about the facts within their special knowledge under Section 161 Cr.P.C. recorded during investigation, have resiled from correctness of the versions in the statements without giving any reason as to why the investigating officer could record statements contrary to what they had disclosed shows that they had no regard for truth; they fabricated the evidence in their cross-examination to help

the accused which did not find place in their Section 161 statements.

50. But, in the instant case, PWs-3, 4 and 5 have not only categorically denied almost the entire portion of the statement made to the Police as per Exs.P-5, 6 and 7 respectively but also the case of the prosecution. In the circumstances, they were treated as hostile witnesses and were cross-examined, but nothing incriminating has been elicited from them in the cross-examination. In fact, almost the entire statement made by PWs-3, 4 and 5 has been resiled by them. In the circumstances, their statements made to the Police under Section 161 of Cr.P.C. have no evidentiary value in the instant case as, in their evidence also there is nothing spoken which is consistent with Ex.P-5, 6 and 7 which in any case have not been adhered to by the witnesses.

51. In this regard, it is necessary to refer to ***State of U.P. vs. Ramesh Prasad Misra and Another, [(1996) 10 SCC 360]***, (*Ramesh Prasad Misra*), wherein it has been held that even if material witnesses do not speak the truth, the circumstantial evidence should be scanned

having regard to the ordinary human conduct and probabilities. Even after extending doubts in favour of the accused, circumstantial evidence can conclusively establish the commission of offence by the accused.

52. Thus, the evidence of PWs-1 to 4 suffers from improbabilities and is not free from doubt. It is not corroborated by other witnesses or evidence adduced. The statement of PW-1 lack credence and reliability. Therefore, while considering the evidence let-in by the prosecution thread bare, we do not find that the guilt of the accused under Section 302 IPC has been brought home by the prosecution. Nevertheless, we shall also consider the case in the light of the judgments of the Hon'ble Supreme Court from the point of view of circumstantial evidence and as to whether the circumstances are such in the instant case that the conclusion of guilt could be drawn against the accused.

53. In this regard, it is the duty of the prosecution to establish all the circumstances conclusively to hold that the accused alone had committed the offence and further, it is the duty of the Court to carefully scan through the

evidence on the anvil of the human conduct, probabilities and attending circumstances, extending of doubts in favour of the accused.

54. In ***Sharad Birdhichand Sarda vs. State of Maharashtra***, at paragraphs 153 and 154, it has been observed as under:

"**153.** A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

- (1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned 'must or should' and not 'may be' established. There is not only a grammatical but a legal distinction between 'may be proved' and "must be or should be proved" as was held by this Court in *Shivaji Sahabrao Bobade v. State of Maharashtra* [(1973) 2 SCC 793 : 1973 SCC (Cri) 1033 : 1973 CrL LJ 1783] where the following observations were made: [SCC para 19, p. 807: SCC (Cri) p. 1047]

"Certainly, it is a primary principle that the accused *must* be and not merely *may* be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."

- (2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,
- (3) the circumstances should be of a conclusive nature and tendency,
- (4) they should exclude every possible hypothesis except the one to be proved, and
- (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

154. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence."

55. In fact, in the aforesaid case, there is a detailed discussion of judicial precedent on the nature, character and essential proof required in a criminal case which rests on circumstantial evidence alone. Reference has been made to ***Hanumant vs. State of Madhya Pradesh***, which is a *locus classicus* and which has been followed uniformly and applied in a large number of later decisions. In *Hanumant*, it has been observed by Mahajan J. as under:

“It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show

that within all human probability the act must have been done by the accused.”

56. Reliance could also be placed on ***King vs. Horry [1952 NZLR 111]***, wherein it has been observed that before a person could be convicted, the fact of death should be proved by such circumstances as render the commission of the crime morally certain and leave no ground for reasonable doubt. The circumstantial evidence should be so cogent and compelling as to convince that upon no rational hypothesis other than murder can the facts be accounted for. In fact the expression “morally certain” has been substituted by Lord Goddard by “such circumstances as render the commission of the crime certain”. *Horry’s* case has been approved by the Hon’ble Supreme Court in ***Anant Chintaman Lagu vs. State of Bombay [(AIR 1960 SC 500)]***, (*Anant Chintaman Lagu*).

57. Further, *Hanumant’s* case has not been expressly noticed in some other decisions but the same principles have been expounded and reiterated in ***Naseem Ahmed vs. Delhi Administration [(1974) 3 SCC 668]***; ***Mohan Lal vs. State of U.P [AIR 1974 SC 1144]***; ***Shankarlal Gyarsilal Dixit vs. State of Maharashtra***

[(1981) 2 SCC 35]; and **M.G. Agarwal vs. State of Maharashtra [AIR 1963 SC 200]** which is a five Judge Bench decision. In the aforesaid case, it has been observed that if the circumstances proved in the case are consistent either with the innocence of the accused or with his guilt, the accused is entitled to benefit of doubt.

58. On a consideration of the evidence in the above perspective, we find that PW-1—the father of the deceased Pratiksha, in his cross-examination has clearly stated that Netra / wife of the accused did not tell him anything about Pratiksha being in her house and they ran away from the back door of her house to a bushy area. His evidence also do not point to any circumstance which can relate to the accused being the person responsible or proximate cause for drowning of Pratiksha in the water tank. PW-2 has categorically stated that the accused (her husband) returned from the bushy area to the front of the house and abused her and went away. No further circumstance can be gathered from the evidence of PW-2 to the effect that Pratiksha and the accused went together from the bushy area and on return of the accused to his house, later had pushed Pratiksha into the water tank. On

the other hand, the evidence is to the contrary inasmuch as PW-2 has categorically stated in her cross-examination that the accused and Pratiksha did not go out of the house together from the backdoor and in the examination-in-chief, she had stated that the accused returned to the house from the front door. Thus, there is no circumstantial evidence whatsoever to link the accused with the death of Pratiksha inasmuch as it is not known as to what Pratiksha did after she went near a bushy area, while the evidence of PW-2 is, the accused returned to the house from the bushy area.

59. In ***Vijay Shankar vs. State of Haryana [(2015) 12 SCC 644]***, it has been held that in a case based on circumstantial evidence, the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established; that these circumstances should be of a definite tendency, unerringly pointing towards the guilt of the accused; that the circumstances taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability, the crime was committed by the accused and they should be incapable of explanation of

any hypothesis other than that of the guilt of the accused and inconsistent with their innocence. The aforesaid observations are based on the judgment in ***Sharad Birdhichand Sarda*** (*supra*) and the same view was reiterated in ***Bablu vs. State of Rajasthan, [(2006) 13 SCC 116]***.

60. In the instant case, learned HCGP mainly focused on the "last seen theory", by contending that the accused and the deceased were last seen together by PW-2. But, as we have already noted, even from the evidence of PW-2, it is clear that the accused and the deceased who ran out from the house of the accused though not together, towards a bushy area, they did not proceed elsewhere together from the bushy area. On the other hand, PW-2 has categorically stated that the accused returned to the house from the bushy area. Therefore, not much emphasis can be given on the aspect of the accused and the deceased being last seen together by PW-2.

61. Further, Section 106 of the Evidence Act, emphasized by learned HCGP, does not apply in the instant case. In fact, in ***Nizam and another vs. State of***

Rajasthan, [(2016) 1 SCC 550 : (2016) 1 SCC (Cri) 386], it has been held that though "last seen theory" is an important link in the chain of circumstances that would point towards the guilt of the accused with some certainty and to shift the burden of proof of the accused and the accused to offer a reasonable explanation as to the cause of death of the deceased, but it is not prudent to base the conviction solely on "last seen theory". The "last seen theory" should be applied taking into consideration the case of the prosecution in its entirety and keeping in mind the circumstances that precede and follow the point of being so last seen.

62. In the context of the 'last seen theory', Section 106 of the Evidence Act states that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Thus, if a person is last seen with the deceased, he must offer an explanation as to how and when he parted company. If he does so, he should be held to have discharged his burden. In a case based on circumstantial evidence, if the accused fails to offer a reasonable explanation in discharge of the burden placed on him, that itself provides an additional link in the

chain of circumstances proved against him. But, Section 106 of the Evidence Act does not shift the burden of proof in a criminal trial on the accused as it is always on the prosecution. But, the Court can consider the failure of the accused to adduce any explanation of facts which are especially within his knowledge, as an additional link which completes the chain.

63. In the instant case, Section 106 of the Indian Evidence Act is also not applicable as the evidence of PW-2 could be again reiterated to observe that PW-2 has stated that the accused returned to his house from the bushy area and there is no evidence whatsoever as to what Pratiksha did thereafter. Therefore, the last seen theory also is not applicable to the present case and it does not provide any link to complete the chain of circumstances. Thus, Section 106 of the Evidence Act is also not applicable in the instant case.

64. Hence, we find that the parameters as set out by the Hon'ble Supreme Court in the cases of *Hanumant* and *Sharad Birdhichand Sarda* are not met in the instant case inasmuch as the chain of circumstances is not

complete so as to link the accused to the death of Pratiksha by drowning. Hence, it is held that the deceased Pratiksha though died on account of drowning in the water tank, it was not on account of the accused pushing her into the water tank. This conclusion is inevitable as PWs-3 and 4 have also not supported the case of the prosecution.

65. The following conclusions of the trial court are not correct as per the aforesaid discussion and for the following reasons:

(i) The trial court, has held that the prosecution had proved that the deceased Pratiksha and the accused were seen together in the house of the accused by the wife of the accused, who was examined as PW-2.

Even though Pratiksha and the accused were seen together in the house while PW-2, that by itself would not make out a case under Section 366A IPC.

(ii) According to the trial court, the accused and Pratiksha ran away from the house together.

This is not true as seen from the evidence of PW-2, as she has categorically stated that Pratiksha ran away from her house and she chased her and the accused who also went out of the house returned to their house after taking a round of the house from the front door.

(iii) The accused had not given any explanation as to the death of Pratiksha. Therefore, the silence of the accused would prove that he had committed the murder Pratiksha. The motive being to hide his misdeeds.

This is an erroneous reasoning on the part of the trial court as the silence of the accused would not amount to proof beyond reasonable doubt by the prosecution. It is not for the accused to prove the case of the prosecution, but rather the other way round. Even otherwise, the accused had the right against self-incrimination vide Article 20(3) of the Constitution.

Therefore, the accused could not have been convicted for the offence punishable under Section 302 IPC by the trial court.

66. We find that the aforesaid reasoning of the trial court is very casual with scant regard to the principles of appreciation of evidence in a criminal case and also is against the principle of proof beyond reasonable doubt. Thus, the trial court was not right in convicting the accused under Section 302 IPC in the face of evidence being conspicuous by its absence or total lack of evidence.

67. This takes us to another aspect of the matter, which is with regard to the conviction of the accused under Section 3(2)(v) of the Act. In that regard, it is the case of the prosecution that Pratiksha belonging to a Scheduled Caste was a fact which led the accused to dominate her, elope with her and ultimately murder her by pushing her into the water tank. Even though the victim belonged to the Scheduled Caste, that by itself would not clinch the issues under Section 3(2)(v) of the Act. What has to be proved is, the offence must have been committed against a person on the ground that such a person is a member of

Scheduled Caste and there is evidence to that effect. In the instant case, there is no such evidence against the accused.

68. PW-1/the father of the deceased Pratiksha has stated that the accused knew to which caste himself and his daughter belonged to. But, he has not stated that it was on account of the fact that Pratiksha belonged to the Scheduled Caste that the accused committed the offences against her. Under Section 3(2)(v) of the Act, it is categorically stated that whoever, not being a member of Scheduled Caste or a Scheduled Tribe, commits any offence under the Indian Penal Code punishable with imprisonment for a term of ten year or more against a person knowing that such person is a member of Scheduled Caste or a Scheduled Tribe shall be punishable with imprisonment for life and with fine. The key words are "*knowing that such person is a member of Scheduled Caste or a Scheduled Tribe*". Although PW-1 has stated in his examination-in-chief that the accused knew to which caste Pratiksha belong to, there is no corroborative evidence in that regard. In fact, PW-2 in her cross-

examination has stated that she does not know whether the accused knew Pratiksha's caste or not.

69. In **Ramdas** (*supra*) it has been observed that mere fact that the victim happened to be a girl belonging to a Scheduled Caste does not *per se* attract the provisions of the Act. In such a case, conviction under Section 3(2)(v) of the Act is not correct. To the same effect are the observations of the Hon'ble Supreme Court in the case of **Dinesh Alias Buddha** (*supra*). Therein it has been observed that a *sine qua non* for application of Section 3(2)(v) of the Act is that an offence must have been committed against a person on the ground that such a person is a member of the Scheduled Castes or the Scheduled Tribes and evidence to that effect must be let-in. Otherwise Section 3(2)(v) would have no application and any sentence on that basis would be improper. In both the aforesaid cases, the sentence imposed under Section 3(2)(v) of the Act were modified.

70. We are of the view that the conviction of the accused under Section 3(2)(v) must fall to the ground on that score. That apart, we have also held that the

prosecution has failed to prove the case against the accused under Section 366A and Section 302 IPC. Such being the position in the instant case, Section 3(2)(v) of the Act would not apply at all.

71. For the foregoing reasons, the appeal preferred by the accused deserves to be allowed. Hence, we proceed to pass the following order:

ORDER

- (i) The appeal is ***allowed***;
- (ii) The judgment of conviction and order of sentence dated 30th December, 2014 passed by the I Additional District and Sessions Judge, Shimoga in Spl.(A) Case No.50 of 2013, is hereby set aside, by reversing the findings;
- (iii) Consequently, the appellant/accused is acquitted of the charges for the offences punishable under Sections 366A and 302 IPC, and Section 3(2)(v) of the Act;
- (iv) The appellant/accused is set at liberty forthwith, if he is not required in any other case;

- (v) Registry is directed to communicate the operative portion of this judgment to the concerned jail authorities to release the accused, if he is not required in any other case;
- (vi) Registry is also hereby directed to send back the records to the trial court along with a copy of this judgment;
- (vii) If the appellant/accused has deposited any fine amount, the same is ordered to be refunded, on proper identification and acknowledgement.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

RK/-

CrI.A. No.617 OF 2015 [C]

BVNJ & ESIJ:
18th June 2020

ORDER

After the pronouncement of the judgment, learned senior counsel appearing for the appellant stated that the appellant/accused is lodged in Central Prison, Dharwad and therefore, the Registry may issue a communication to the said Jail Authorities through e-mail.

Ordered accordingly.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

RK/-