



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO.1971 OF 2018

BETWEEN:

THE STATE BY SUB-INSPECTOR OF POLICE
MANGALURU SOUTH POLICE STATION
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001.

...APPELLANT

(BY SMT. RASHMI PATEL, H.C.G.P.)

AND:

PRASHANTH N. @ PRASHANTH NATARAJ
AGED 39 YEARS
S/O. LATE R. NATARAJ
RESIDENT OF MANJUNATHA SADANA NANDIGUDDE
1ST CROSS ROAD, JEPPU
BAPPAL
MANGALURU-575 001.

...RESPONDENT

(BY SMT. P.V. KALPANA, *AMICUS CURIAE*)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) OF THE CR.P.C. PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 22-11-2017 PASSED BY THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K., MANGALURU, IN SESSIONS CASE NO.151 OF 2013, ACQUITTING THE RESPONDENT-ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 325, 341 AND 302 OF IPC.

THIS CRIMINAL APPEAL IS COMING ON FOR FURTHER HEARING THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:





CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

1. Heard Smt. Rashmi Patel, learned High Court Government Pleader appearing for the appellant-State, Smt. P.V. Kalpana, learned Amicus Curiae appearing for the respondent-accused and perused the material on record.

2. This appeal is filed against the judgment of acquittal passed by the I Additional District and Sessions Judge, D.K., Mangaluru, in Sessions Case No.151 of 2013, for the offences punishable under Sections 325, 341 and 302 of the Indian Penal Code, 1860 (for short, 'IPC').

3. The factual matrix of the case of the prosecution is that on 06.08.2013 at 9.00 p.m., within the limits of Mangaluru South Police Station, at Wenlock District Government Hospital, Special Ward 21-24D, Ward No.24D, Bed No.3, the accused was taking treatment as in-patient. Sri Kantappa, Attender of the accused, passed faeces (motion) in between bed Nos.2 and 3. Hence, the accused got angry and assaulted Kantappa



(hereinafter referred to as the 'deceased') by his hands and legs over his chest and abdomen, at that time, PW1-Subramanya, Security Guard, intervened and the accused also assaulted him with his hands and caused bodily pain. When the deceased managed to escape from the hands of the accused, the accused chased him, caught hold him and assaulted him, as a result, the deceased suffered fracture of ribs and succumbed to the injuries at 11.30 p.m. and thereafter, the law was set in motion.

4. Based on the complaint-Ex.P1 given by PW1 on 07.08.2013, the Station House Officer of Pandesdhwara Police Station registered a case, investigated the matter and filed the charge-sheet against the accused. The accused did not plead guilty and claims trial. Hence, the prosecution relied on the evidence of PW1 to PW14 and got marked Exs.P1 to P21. On closure of the evidence of the prosecution witnesses, the statement of the accused was recorded under Section 313 of the Code of Criminal Procedure, 1973, (for short, 'Cr.P.C') and he did not lead any defence evidence. The portion of the statement of PW1 was confronted and marked as Ex.D1.



5. The Trial Court having considering the explanation given by the accused, which is extracted at Paragraph No.29 of its judgment, and also appreciating the evidence of PWs.1, 2, 4, 5, 6 and 11 at Paragraph Nos.32 to 37 in detail, doubted the case of the prosecution and extended the benefit of doubt considering the material inconsistency in the evidence of the prosecution witnesses and there was also a delay in lodging the complaint. The Trial Court also taken note of the incident was taken place on 06.08.2013, but complaint was lodged on next day 07.08.2013 at 12:30 p.m., and also the accused was arrested in the night at 2:30 p.m., since he was taking treatment and taken note of the fact that accused was subjected to surgery for chronic urinary tract infection on that day and also taking into note of medical evidence of ribs fracture and the injuries are severe in nature extended the benefit in favour of the accused. The Trial Court also taken note of evidence of P.W.5 who treated the deceased at casualty and issued wound certificate of the deceased as per Ex.P.9 also opined that if a person fell down on the stairs forcefully by



facing down while running on the stairs may suffer injuries referred in Ex.P.9, considering the admission on the part of P.W.5 and also the post mortem evidence, comes to the conclusion that the material not point out to the accused and hence, acquitted the accused.

6. Being aggrieved by the acquittal judgment, present appeal is filed before this Court. The main contention of the learned High Court Government Pleader appearing for the appellant/State before this Court is that Trial Court not considered the prosecution evidence in a proper perspective and Trial Court comes to the wrong conclusion that prosecution has not proved its case beyond reasonable doubt. Even though Trial Court held that death of the deceased was homicidal death and identity of the deceased was also proved by the prosecution as not at all considered the other corroborative evidence which clinching connect the accused is also not considered. The counsel would vehemently contend that the evidence of P.W.1 who is the injured eye witness in the said incident



who was working as a security guard at Wenlock Hospital and he has narrated about the incident. The Trial Court failed to consider the evidence of P.W.1 in proper perspective. The learned High Court Government Pleader appearing for the appellant-State, Smt. Rashmi Patel also would submits that the evidence of P.W.2, P.W.4, P.W.5 and P.W.6 is very clear with regard to the incident is concerned and also providing treatment to the deceased. The Trial Court given undue importance to the minor contradictions and fails to consider the evidence that P.W.1 when he received the information, immediately went to spot. The Doctor evidence -P.W.5 is very clear that he has treated the injured at 10:00 p.m., and injured died at 11:40 p.m., and P.W.2 is the nurse who was in the ward witnessed the incident and P.W.4 also supported the case of prosecution who was working as a group 'D' employee in the Wenlock hospital and he is an eye witness. The counsel also brought to notice of this Court Ex.P.10 wound certificate of P.W.1 which clearly discloses



that assailant name is mentioned at 10:00 p.m., on 06.08.2013 when the P.W.1 was taken treatment in the hospital and hence, it requires interference of this Court.

7. Per contra the counsel appearing for the respondent/accused i.e., amicus curiae who is appointed by this Court to assist the Court would vehemently contend that even though when a cognizable offence of assault and death was taken place at 11:40 itself, no complaint was given on that day and complaint was given on the next day at 12:30 noon on 07.08.2013. The counsel brought to notice of this Court that in the complaint, not stated about genesis of the incident and for what purpose the incident was taken place between the deceased and accused. The counsel would submits that P.W.1 only makes his improvement in the oral evidence before the Court and complaint Ex.P.1 doesn't disclose anything about how an incident was taken place. The fact that P.W.1 came to the spot on receiving the information from the staff of the Wenlock hospital and he was also



aware of the same for what reason incident was taken place and it is a case of allegation of deceased defecated in the bed of the hospital. The counsel would vehemently contend that explanation was given by the accused in the statement recorded under Section 313 of Cr.P.C, and there was a delay in giving the intimation also, though P.W.5 says that intimation was given, nothing is placed on record for having given the intimation of injury as well as death. The counsel would submit that Trial Court while considering the material available on record, rightly comes to the conclusion that prosecution case and theory is not established and detailed reasons are given while discussing the same and hence, no case is made out.

8. Having heard the learned High Court Government Pleader appearing for appellant/State and also the learned counsel for the respondent/accused - Amicus curie and also considering the evidence available before the Court that is evidence of P.W.1 to P.W.14, the



point that would arise for the consideration of this Court are:

- i) Whether the Trial Court committed an error in acquitting the accused for the charges levelled against him and whether it requires interference of this Court?
- ii) What order?

9. Having re-assessed both oral and documentary evidence, we have given anxious consideration and appreciation to the evidence of the prosecution. Having perused the material available on record, law was set in motion based on the complaint given by P.W.1 and complaint was given on the next day of incident at 12:30 p.m., on 07.08.2013 and timings of the complaint is also mentioned in the complaint - Ex.P.1 and case was registered for the offence punishable under Section 302 and 323 of IPC and having perused the complaint averment, it is stated that he heard the scuffle sound in special ward No.21-24D and the same came to his



knowledge through hospital staff and immediately, he rushed to the spot and found that accused was beating the victim and injured was escaped from the clutches of the accused and he ran away and accused chased him and assaulted with his hands and he fell down and accused kicked him on his chest 2 to 3 times and he tried to pacify him and he was also assaulted and with the help of other staff he was sent to the particular ward and he took treatment in the hospital and came to know that victim was passed away at 11:30 p.m., and also given the reason for cause of death. In the cross examination, question was put to the P.W.1 and he categorically says that he did not mention that victim escaped from the clutches of the accused and he ran away towards the ground floor and same is marked as Ex.D.1 and hence, it is clear that victim did not escape from the clutches of the accused and ran towards the ground floor and there is an inordinate delay in lodging the complaint and complaint was lodged on next day at 12:30 noon. But, P.W.4 who is the peon of the very



same hospital and in his evidence, he says that accused was taking treatment and inflicted injuries with his hands, at that time, security person and also the P.W.2 went to pacify the galata and accused assaulted P.W.1. During the cross-examination, this witness also admits that he was subjected to surgery on the very same day and he was in ward No.24, but he also admits that person who came along with P.W.1 held the accused, but people who have gathered did not catch him. However, categorically admits that there is a outpost police station in the hospital itself and also categorically admits that outpost police came to ward at 9:30 p.m., and incident was taken place at 9:00 p.m., and duty Doctor admits that ward supervisor came and police who came to the spot enquired P.W.1 and P.W.2, but though admits that the accused was not in a position to move and the same was admitted, but the fact is that police came to the spot at around 9:30 p.m., in the night itself. It is not in dispute that victim passed away on 11:40 p.m., in the night itself and outpost police have not



taken any action immediately when the cognizable offence was taken place in the hospital itself. Apart from that complaint was given at 12:.30 noon on the next day wherein an accusation is made against the accused.

10. It is also important to note that on perusal of Ex.P.1- complaint, for what reason the assault was made by the accused is not stated as pointed out by the counsel appearing for the respondent/amicus curiae and the same is also discussed by the Trial Court. Having considered the evidence of P.W.4, it is very clear that P.W.1 and P.W.2 came and enquired at the spot and P.W.1 was aware of the genesis of the assault, but not mentioned the same in the complaint which was given on the next day at 12:30 noon. It is also important to note that there was a delay in lodging the complaint and it appears after thought complaint was given on the next day at 12:30 noon on 07.08.2013. It is important to note that there is an improvement in the evidence of P.W.1. Having perused the evidence of P.W.1, though he says that he witnessed the



incident of assault made by the accused on the victim and he also sustained injuries and with regard to the sustaining of injury, document of Ex.P.10 - wound certificate is produced and no doubt the name of the assailant is mentioned in the wound certificate and except wound certificate, no medical records are placed before the Court and it has to be noted that treatment was given in the very same hospital and Court has to take note of the said fact into consideration.

11. It is important to note that in the cross examination of P.W.1 categorically says that deceased passed the motion in the bed No.2 and even pointed out and shown the bed to the police and police have not seized the same and categorically admitted by P.W.1 that only inpatient will be provided with bed, but P.W.1 says that it was vacant and hence, he was sleeping and also categorically admits that they used to give pass and only after checking the pass, they will allow the person to enter inside the ward, but he claims that injured was not a



patient and also he says that there was no pass for special ward, but other staff of the hospital also noticed defecating of the injured on the bed in the hospital and he came to know about the incident through 'D' group employee i.e., Smt. Saraswathi and he was at that time in ward No.21 and when he came to know about the incident, he was in ward No.16, then he rushed to the spot and also admits that Superintendent and Doctors are there in the hospital, but both of them have not visited the spot when he went to the spot, but he denies the very surgery was made to the accused on the particular date and also he categorically admits that he did not try to catch hold the victim. Having considered the Ex.D.1 which was confronted to the P.W.1 and it appears to be the very presence is disputed and also the Court has to take note of the document Ex.P.10 that no doubt that he had sustained the injuries, but document was came into existence in the very same hospital.



12. It is also important to note that on verifying a bag of victim, kanthappa, he was an outpatient earlier and earlier he took the treatment as an outpatient and hence, he came to know about the name of the victim. This Court also taken note of evidence of P.W.2 who is a staff nurse. She also says that accused took the treatment and he was subjected to surgery of circumcision and assault made by the accused and hence, the victim ran towards outside and near the steps, accused was stamping him and thereafter dragged him on the steps and also accused assaulted P.W.1 on his cheek. But, in the cross-examination of P.W.2, she says that the victim has not defecated on the bed and he was not in the bed and also admits that accused was subjected to surgery on the very same day. This witness also admits that there is a police outpost in the hospital itself and even aware of the phone number, but even informed the superintendent about this incident and they informed the police, but police came to the spot after one hour, but cannot say at what time



superintendent informed the police about the incident and also categorically admits that other attendants of the inpatient were also there at the spot and they did not make any attempt to confine the accused in the ward, but only when suggestion was made that while running from the place, victim fell down and the same was denied, but says when the accused held him, he fell down. The suggestion was made that victim was not the attendant of the accused and the same was denied. It is admitted that if an inpatient was there and the same will be recorded in the hospital records and also he did not see how the victim fell down. It is suggested that accused not inflicted any injury and also not stamped and the same was denied.

13. The other witness is P.W.5 who is the treated Doctor to the injured and found the crushed injury on the right side of chest which extends to 12 x 10 cms, on the waist there was an incised injury to an extent of 6 x 3 cm and also upper side on the right thigh incised injuries are found to an extent of 5 x 2 cm and deposed that he was



serious and he passed away at 11:40 pm., and this type of injury could be caused if assaulted with hands and if he is dragged on the steps, but not given any reason of if such injuries could be caused if he was stamped. But, in the cross-examination, this witness also categorically admits that in the Wenlock hospital there is a police outpost. He categorically admits that in the wound certificate, he did not mention that he was inflicted injury with hands and also kicked him and witness categorically admits that if any person fell down on the steps, these type of injuries could be caused. Having considered the nature of evidence given by P.W.5, it is very clear that these type of injuries could be caused if any person falls on the steps facing towards the steps, this type of injury could be caused. Apart from that in the wound certificate not mentioned that these types of injuries could be caused if fisted with hands and also kicked him. But, in chief evidence, not stated with regard to if kicked him those type of injuries could be caused. Apart from that Court has to take note of



in the PM report - Ex.P.18, there were several injuries are mentioned, particularly external injuries over the body and fracture of number of ribs that is multiple bilateral fracture of the ribs can be sustained when the deceased has been assaulted forcefully by stamping over the chest or when the deceased has been forcibly dragged down the stairs by the accused and this opinion given by the Doctor is marked as Ex.P.20, further opinion was taken and cause of death as per Ex.P.18, died due to bilateral Hemothorax due to multiple fractures of ribs on either side secondary to blunt force trauma to the chest. But, he categorically says that twice or thrice only kicked, but having considered the nature of injuries of multiple fractures of ribs, there is no proper evidence before the Trial Court to cause of multiple fracture of ribs.

14. The Doctor who conducted the post mortem who is P.W.14 says he conducted the post mortem from 5:00 p.m., to 6:30 p.m., on 13.08.2013 and found injuries in the THORAX that is walls, ribs and cartilage: Traverse



fracture of body of sternum corresponding to 5th – 6th Intercostal space associated with retrosternal contusions. Fracture of right 3rd to 9th ribs along midclavicular and anterior axillary plane. Fracture of left 2nd to 4th and 7th to 9th ribs along anterior axillary plane associated with diffuse intercostal muscle contusion. When the eyewitness speaks about fisted with hands and kicked him and no specific evidence with regard to the causing of these multiple fractures of right 3rd to 9th ribs when 2 to 3 times kicked him and no such evidence before the Court particularly causing of such nature of injuries.

15. The other witnesses are police witnesses and P.W.3 who has turned hostile. Having perused the material available on record, only hospital employees i.e., security guard, nurse and D-group before the Court deposes that they have witnessed the incident. Having taken note of there was an inordinate delay in lodging the complaint, it is clear that law was set in motion after thought. The evidence of P.W.1, P.W.2, P.W.5, P.W.4 and P.W.5, it is



very clear that when the incident was taken place and the same was come to the notice of the outpost police and police came within half an hour and incident was taken place at 9:00 p.m., and police came to the place of incident at 9:30 p.m., as per the evidence of P.W.4 and so also P.W.2 says that within one hour of incident, police came to the spot, but complaint was lodged on the next day at 12:30 noon as per Ex.P.1 that too at the instance of P.W.1. But while assaulting the victim, P.W.1 was not present according to his own admissions that he was in ward No.21 and also ward No.16, but this incident was taken place in between a special ward of 24D and though he says that injured escaped from the clutches of the accused, but when the document of Ex.D.1 was confronted, he categorically admits that he has not given the statement as per Ex.D.1 and hence, the very evidence of P.W.1 cannot be accepted. He came to the spot only after receipt of information. Hence, he was very much present cannot be accepted, but the fact is that P.W.2 and



P.W.4 claims that they were at the spot and witnessed the same, but having considering the inconsistent evidence of P.W.2 and P.W.4 that the victim was not an inpatient and also categorically admitted that he was defecated on bed, but no provision was made to allow any outpatient to come and stay, even sleep on the bed and apart from that prosecution has not collected any material before the Court that deceased was an attendant of the accused. Even if he is an attendant, the details will be there and even police have not collected any material as he was attendant. But, statement recorded under Section 313 of Cr.P.C of the accused is very clear that when he went out, at that time, he met the victim, but victim came inside. The admission on the part of P.W.2 is also very clear that other attendant of the inpatient were also present, but they have not been examined before the Court and P.W.3 was examined, but he turned hostile. Even though other witnesses have been cited and not examined and only interested witnesses have been examined before the



Court, the Trial Court taken note of all these factors into consideration, particularly in paragraph number 29, taken note of 313 statement of the accused which was given in his explanation and so also considering the evidence of the witnesses P.W.1 and P.W.2 and they have categorically admits that bed of the hospital will be given only for patients and not for others. However, P.W.1 and P.W.2 says that deceased defecated on the bed and other witnesses also re-iterates the same and no explanation as how the victim used the bed prescribed for the inpatients in the hospital which also leads to the suspicion regarding the case of the prosecution. The P.W.1 also admits in the cross-examination with regard to the same, but not seized the bed which was defecated according to the witness of prosecution. The Trial Court also taken note of delay in lodging the complaint and P.W.1 in his complaint did not mention anything regarding the defecation made by victim in the said complaint and no doubt the complaint should not disclose everything, but the fact that witnesses



categorically deposes that they have stated the genesis of the assault to the P.W.1 and he was having the knowledge about the same, but not stated anything in the complaint. The Trial Court also having taken note of admissions on the part of P.W.1, P.W.2, P.W.4, P.W.5 and P.W.6 and deceased was not his attender and he was not an inpatient in the hospital. The hospital authorities abused and assaulted the victim for having defecated in the ward and also specific defence was also taken that while moving towards the steps, he fell down and sustained the injuries and in order to overcome their fault and to avoid themselves from their severe consequences that may be caused due to the incident, an observation is made that false complaint was given on the next day and also the statement of 313 of Cr.P.C is in the same manner which corroborates with his defence.

16. It is also important to note that when the victim died at 11:40 p.m., no MLC was made and no intimation was given either to the outpost police or to the



jurisdictional police and after thought only after lapse of almost 13 hours, the complaint was lodged and all these factors were taken note of by the Trial Court. Even P.W.5 who treated the deceased at casualty and issued wound certificate of the deceased as per Ex.P.9 also opined that if a person fell down on staircase forcefully while facing down while running on the stairs may suffer injuries referred to in Ex.P.9-wound certificate. This Court also, while considering the evidence of P.W.5, taken note of in the wound certificate, not stated the fisting and also kicking the victim by the accused and also taking into note of medical evidence as well as delay and also the evidence of P.W.1, P.W.2 and P.W.4 who are the witnesses of the very same hospital wherein incident was taken place and no other independent witnesses were examined and nothing is placed on record and hence, Trial Court rightly comes to the conclusion that not a case for convicting the accused in view of evidence of prosecution witnesses is not consistent.



17. Having re-assessed the material available on record and also on re-appreciation of both oral and documentary evidence, we do not find any ground to come to a different conclusion and benefit of doubt goes in favour of the accused and particularly the victim was not either the relative or any employee and even prosecution also not collected any material before the Court to that effect and considering overall evidence available on record, the trial judge appreciated both oral and documentary evidence from paragraph No.29 to paragraph No.37 and rightly comes to the conclusion that prosecution has not made out any case and hence, there is a force in the contention of the counsel appearing for the respondent-Amicus curiae that there was a delay in lodging the complaint and in Ex.P.1 not stated genesis of the assault and also there was an improvement in the evidence of P.W.1. This Court already comes to the conclusion that very presence at the time of assaulting of victim by the accused was doubtful and explanation was



given in 313 statement and Trial Court also considered all the material available on record.

18. This Court noticed that the District Surgeon and Superintendent of Zilla Wenlock hospital in his evidence says that he sought the information from the Doctor in terms of Ex.P.14 which discloses that this letter was sent on 28.08.2013, but in the cross-examination, categorically admits that there is a police outpost in the hospital and if any incident takes place in the hospital, they used to give information immediately to the police outpost in the hospital and P.W.5 who was working in the hospital gave the information, but no such intimation given to the Wenlock hospital and not produced any document. But P.W.11 categorically admits that he came to know about the incident through phone, but says immediately after receipt of an information, he went to the hospital, but police did not enquire him, but says that P.W.5 was incharge and not given the complaint and this answer given by P.W.11 and it is nothing but an escapism and



pointing out the role of P.W.5 and P.W.5 is only a Doctor on night duty, but this P.W.11 has not even instructed P.W.5 to lodge the complaint and even do not remember whether police have enquired her or not and having considered Section 39 of the Criminal Procedure Code, it is a legal duty (of a medical practitioner) to inform and consequently the head of the Institution to report the occurrence of an offence to the nearest police station immediately and even though P.W.11 admits that immediately rushed to the hospital after receipt of information, but not informed the same and Section 39 of Cr.P.C is very clear that every person aware of commission of or of the intention of any other person to commit any offence punishable under any of the circumstances as narrated in Section 39 of Cr.P.C including the offences under Section 302, 303 and 304 of IPC as under Section 39(v), no such intimation was given even asked the P.W.5 to lodge the complaint and there is a clear lapses on the part of P.W.11 being the District



Surgeon and Superintendent and Section 176 of IPC is also very clear that omission to give notice or information to public servant by person legally bound to give it as contemplated in the very proviso of Section 176 is very clear, it is nothing but an omission on the part of the Superintendent of the hospital being a public servant and also legal duty to intimate the same when the cognizable offence was taken place, but did not intimate the same and there is no such intimation given as per the records except the complaint got lodged through P.W.1 that too a security guard on the next day at 12:30 p.m., The provision of Section 202 of IPC is also very clear that intentional omission to give information of offence by person bound to inform is also clear that intentionally omit to give any information is nothing but an offence and when such material is found, it is appropriate to initiate the proceedings against P.W.11 who was working as District Surgeon and Superintendent of Wenlock Hospital at the



time of the incident and there is clear lapses on the part of P.W.11.

19. It is also unfortunate that Police Circle Inspector who has been examined before the Court as P.W.12 also, deposes before the Court that on 07.08.2013, he came to know about the incident when the complaint was lodged by P.W.1 at 12:30 p.m., and thereafter case was registered and then he went to the hospital i.e., special ward and conducted the mahazar in terms of Ex.P.2 and Ex.P.3 and also other evidence given with regard to the conducting of the investigation. But in the cross examination P.W.12, he categorically admits that he has received the death intimation as per Ex.P.16, but he did not go to the hospital immediately and information was received from the station and even he did not send anyone to the hospital and categorically admits that there is a police outpost in the Wenlock hospital and people of Wenlock hospital will inform to police outpost if any incident occurred, but do not know whether such



information was received and also did not enquire the Superintendent of Police during the course of investigation and also not obtained any complaint from the duty Doctor and this admission on the part of P.W.12 is very clear that inspite of information was received, he did not go to the hospital and even did not send the SHO or any police personnel to the hospital also and even after receipt of information, he did not enquire into the matter immediately. When cognizable offence was taken place and also the evidence is very clear that P.W.1, P.W.2, P.W.4 and P.W.5 categorically says that when the outpost police rushed to the spot at 9:30 p.m., itself and when the death was taken place in the night itself at 11:40 p.m., that too when the cognizable offence was taken place, either the outpost of Wenlock Hospital shall taken any action or the P.W.12 has to take the action, but none of them have taken any action with regard to the cognizable offence immediately, but they have waited till receipt of written complaint by P.W.1 on the next day at 12:30 noon



and hence, there is a dereliction of duty on the part of P.W.12 and hence, the concerned Superintendent of Police of Dakshina Kannada is directed to initiate the proceedings against P.W.12-CPI on the lapses on the part of P.W.12 in not taking any action immediately when the cognizable offence was taken place within his jurisdiction and even not taking any action against the Wenlock outpost police who came to know about the incident at 9:30 p.m., on 06.08.2013 itself and also having noticed the death was occurred at 11:40 p.m., in the night itself and hence, it is appropriate issue directions in the matter.

20. It appears to be deceased is an unknown person and nobody claimed his body and hence, both of these Medical officer as well as the CPI omits to discharge their duties being a public servants who are responsible even if orphan or unknown died and to protect the rights of each of the citizens of this country and hence, we answer the point accordingly.



21. In view of the discussions made above, we pass the following:

ORDER

- i) Criminal appeal is ***dismissed***.
- ii) If any bail bond is executed and the same stands cancelled.
- iii) The Registry is directed to pay an amount of Rs.10,000/- to Amicus curiae for the able assistance provided by the Amicus curiae.
- iv) The Competent Authority that is Principal Secretary to the Health and Family Welfare Department and also the Home Secretary are directed to initiate the appropriate proceedings against both P.W.11-District Surgeon and Superintendent of Wenlock Hospital and P.W.12- Police Circle Inspector who is the investigating officer regarding their lapses as observed and submit the report to this Court within three months for having initiated the action against respective officers who are bound to intimate to the concerned.



- v) List this matter on **05.06.2026** to consider the report to be filed by the Home Secretary as well as Principal Secretary of Health and Family Welfare Department.
- vi) The Registry is directed to communicate this order to both of them forthwith.

Sd/-
(H.P.SANDESH)
JUDGE

Sd/-
(VENKATESH NAIK T)
JUDGE

KVK, RHS
List No.: 1 Sl No.: 13