

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF SEPTEMBER, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.361 OF 2025 (A)

R

BETWEEN:

SRI GNANASHEKAR M.
S/O. MADESH P.
AGED ABOUT 50 YEARS
RESIDING AT NO.412, 1ST MAIN
10TH CROSS, OM SHAKTI TEMPLE
KEREANGALA, KAMAKSHIPALYA
P O BASAVESHWARANAGAR
BENGALURU-560 079

...APPELLANT

(BY SRI PUTTARAJU B., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY KAMAKSHIPALYA P. S.
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
HIGH COURT BUILDING
BENGALURU-560 001
2. SRI MUNIRAJU P. N.
S/O. S. S. NARAYANASWAMY
AGED ABOUT 46 YEARS
3. SMT. VEENA
W/O. SRI MUNIRAJU P. N.
AGED ABOUT 38 YEARS



RESPONDENT NOS.2 AND 3 ARE
R/AT NO.105, 4TH CROSS
MARUTHI NAGAR
KAMAKASHIPALYA

...RESPONDENTS

(BY SRI SUHAS GOWDA M., H.C.G.P. FOR R-1)

THIS CRL.A. IS FILED U/S.372 OF CR.P.C BY THE ADVOCATE FOR THE APPELLANT PRAYING TO CALL FOR THE RECORDS IN SPL.C.C.NO.1271/2019 ON THE FILE OF THE L ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, CHILDREN'S COURT (SPECIAL) BENGALURU (CCH-51) AND TO SET ASIDE THE JUDGMENT DATED 07.01.2025 IN SPL.C.C.NO.1271/2019 PASSED BY THE L ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, CHILDREN'S COURT (SPECIAL) BENGALURU (CCH-51) ACQUITTING THE RESPONDENT NOS.2 AND 3/ACCUSED, FOR THE OFFENCE PUNISHABLE UNDER SECTION 305 READ WITH SECTION 34 AND TO CONVICT RESPONDENT NOS.2 AND 3/ACCUSED AS PRAYED IN THE COMPLAINT BY ALLOWING THIS APPEAL.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 02.09.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE B.PRAMOD

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE B.PRAMOD)

The complainant has presented an appeal challenging the judgment of acquittal dated 07.01.2025 passed in Spl. CC No. 1271 of 2019 by the Additional City Civil and Sessions Judge, Children's Court (Special), Bengaluru (CCH-51), for the offence punishable under Sections 305 read with Section 34 of the IPC and prayed to convict and sentence the accused/respondents Nos.2 and 3.

2. Heard Sri Puttaraju R., learned counsel for the appellant-deceased complainant, and Sri.Suhas Gowda M., learned HCGP for respondent No.1/State.

3. The factual matrix of the case of prosecution is that on 01.02.2019 at about 06:30 p.m., the son of the complainant, Master Kiran, was playing volleyball in front of his house. At the same time, the said ball accidentally fell into the shop of the accused and broke the glass. When the deceased went and requested to give back his ball, the accused refused to hand over the ball, and they both scolded him, stating that this is not a playground, we

will inform your father, and will teach you a lesson. After scolding the deceased, accused No. 2 dragged him from the shop till his house. Due to the said acts of the accused, in knocking the ball and scolding him with threatening words, the deceased child mentally suffered and, getting upset with the situation, after going inside the house, he committed suicide by hanging to the window with the help of a thread.

3.1. Thereafter, a charge sheet came to be filed against the accused persons, and they were secured before the Trial Court. They pleaded not guilty and claimed to be tried. The prosecution, in support of its case, examined 20 witnesses as PW. 1 to PW.20 and got marked Exhibit P.1 to P.22(a) and also got marked material objects as MO.1 to MO.3. The accused persons were examined under Section 313 of the Code of Criminal Procedure and they denied all the incriminating evidence appeared in the evidence of prosecution. On behalf of the defense, accused No. 1 got examined himself as DW.1.

4. The Trial Court noted that there were two complaints lodged: one by the father PW.1 as per Exhibit P.1 and the other complaint by the mother PW.2 as per Exhibit P.11. Though first information was lodged on two different occasions, there are no eyewitnesses to the incident. The Trial Court, in paragraph 15 has noted that, PW.1 had admitted that he came to know about the conversation that took place between the accused and deceased after four days from the date of the incident. PW.2, mother of the deceased and wife of the complainant, deposed in the same line as PW.1. In paragraph 61, the Trial Court had noted that PW.2, Jyothi, in her evidence, has admitted that she does not know the contents of Exhibit P.11/complaint and she affixed her signature only on the say of the police. She was not in a clear conscious state and has admitted:

"ದಿ: 02.02.2019 ರಂದು ಸಲ್ಲಿಸಿದ ದೂರನ್ನು ನಾನು ಬರೆಸಿರುವುದಿಲ್ಲ ಕಾರಣ ನನಗೆ ಅಷ್ಟಾಗಿ ಪ್ರಜ್ಞೆ ಇರಲಿಲ್ಲ, ನನಗೆ ಲೋ ಬಿ.ಪಿ ಇರುವುದರಿಂದ ನನ್ನ ಬಳಿ ಯಾವುದೇ ವಿಚಾರವನ್ನು ಬೇರೆಯವರು ತಿಳಿಸಿರುವುದಿಲ್ಲ. ನಿ.ಪಿ-11 ರಲ್ಲಿ ಬರೆದ ವಿಷಯ ನನಗೆ ಗೊತ್ತಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಪೊಲೀಸರು ಸಹಿ ಮಾಡಲು ಹೇಳಿದ ಕಾರಣ ನಾನು ಸಹಿ ಮಾಡಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿ. ನ್ಯಾಯಾಲಯದಲ್ಲಿ

ಸಲ್ಲಿಸಲಾದ ಸಿ.ಸಿ ಟಿವಿಯಲ್ಲಿ ನನ್ನ ಮಗನಿಗೂ ಮತ್ತು ಆರೋಪಿತರಿಗೂ ಏನೂ ಸಂಭಾಷಣೆ ನಡೆಯಿತು ಎಂಬುದು ಕೇಳಿಸಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ."

5. The Trial Court has noted that PW.1 and PW.2 are hearsay witnesses. It has also noted that the witnesses PW.4, PW.5, PW.8 and PW.9, who are the neighbours', have stated that except that the child was crying, they did not notice what led him to commit suicide. PW.3, the mahazar witness, has turned hostile in respect of recovery of MO.1 to MO.3 articles and has denied the drawing of mahazar in the shop of the accused and also denied recovery of CC TV footage from the DVR to DVD as per Exhibit P.10.

6. The Trial Court has noted that for the offence punishable under Section 305 of the IPC, the prosecution has to prove the ingredients of Section 107 of the IPC. In the present case, the prosecution has failed to establish that the accused have done any positive act and have driven the child to commit suicide leaving with no other alternative but to put an end to his life. Mere allegations of harassment and cruelty are not sufficient to hold that the

accused is guilty of abetting the commission of suicide. The ingredients of *mens rea* cannot be assumed to be present; they have to be vital and conspicuous.

7. The Learned Counsel for the appellant contends that the prosecution had proved the case against the accused by leading the oral evidence of PW.1 to PW.20 as well as documentary evidence of Exhibit P.1 to Exhibit P.20 and that there is CC TV footage. The Trial Court ought not to have ignored the same. The evidence of PW.4, PW.5, PW.7, and PW.8 has not been appreciated properly. Learned HCGP for State also supports the contentions raised by the learned counsel for the appellant. On consideration of the contentions, the following points would arise for consideration of this Court:

"(i) Whether the Trial Court has committed an error in acquitting the accused persons for the offence punishable under Section 305 read with Section 34 of the IPC and whether it requires interference of this Court to convict the accused/respondents by reversing the judgment of acquittal?"

(ii) What Order?"

Regarding Point No. (i):

8. For the offence punishable under Section 305 of the IPC, the prosecution has to first prove the ingredients of Section 107 of the IPC. PW.7 has admitted in his evidence:

"ಆರೋಪಿತರು ಬಾಲಕನ ಜೊತೆ ಸಂಭಾಷಣೆ ಮಾಡುವಾಗ, ನಿಮ್ಮ ತಂದೆಯನ್ನು ಕರೆದುಕೊಂಡು ಬಂದರೆ ಮಾತ್ರ ಬಾಲ್ ಕೊಡುತ್ತೇನೆ ಎಂದು ಹೇಳಿದ್ದನ್ನು ಹೊರತುಪಡಿಸಿ, ಬೇರೆ ಏನೂ ಬಾಲಕನಿಗೆ ಹೇಳಿರುವುದಿಲ್ಲ ಎಂದರೆ, ಸಾಕ್ಷಿ ಏನು ಬೈದಿರುತ್ತಾರೆ ಎಂದು ನನಗೆ ಗೊತ್ತಿಲ್ಲ, ಆದರೆ ಬಾಲಕ ಅಳುತ್ತಿದ್ದ ಎಂದು ಹೇಳುತ್ತಾರೆ.....ಆರೋಪಿಗಳೂ ಮೃತ ಬಾಲಕನಿಗೆ ಯಾವುದೇ ರೀತಿ ಬೈದಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸಾಕ್ಷಿ, ಅವರು ಏನು ಬೈದಿರುತ್ತಾರೆ ಎಂದು ನನಗೆ ಗೊತ್ತಿಲ್ಲ ಎಂದು ಹೇಳುತ್ತಾರೆ."

9. That apart, PW.8 has admitted in his evidence:

"ಘಟನೆಯ ದಿನದಂದು, ಆರೋಪಿತರು ಬಾಲಕನ ಜೊತೆ ಸಂಭಾಷಣೆ ಮಾಡುವಾಗ, ನೀನು ಪದೆ ಪದೆ ಬಾಲ್ ಅನ್ನು ನಮ್ಮ ಅಂಗಡಿಗೆ ಹಾಕುತ್ತಿದ್ದು, ಗ್ಲಾಸ್ ಹೊಡೆದಿರುತ್ತದೆ. ನಿಮ್ಮ ತಂದೆಯನ್ನು ಕರೆದುಕೊಂಡು ಬಂದರೆ ಮಾತ್ರ ಬಾಲ್ ಕೊಡುತ್ತೇನೆ ಎಂದು ಆರೋಪಿತರು ಬಾಲಕನಿಗೆ ಹೇಳಿದ್ದನ್ನು ಹೊರತುಪಡಿಸಿ, ಬೇರೆ ಏನೂ ಬಾಲಕನಿಗೆ ಹೇಳಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ. ನಾನು ನೋಡಿದ ಸಿ.ಸಿ ಟಿವಿ ದೃಶ್ಯದಲ್ಲಿಯೂ ಸಹಾ ಆರೋಪಿತರು ಬಾಲಕನಿಗೆ ನಿಮ್ಮ ತಂದೆಯನ್ನು ಕರೆದುಕೊಂಡು ಬಾ, ಆನಂತರ ಬಾಲ್ ಕೊಡುತ್ತೇನೆ ಎಂದು ಹೇಳಿದ್ದನ್ನು ಬಿಟ್ಟರೇ, ಬೇರೆ ಯಾವುದೇ ಜಗಳ ಆಗಿಲ್ಲ ಎಂದರೆ ಸರಿ."

10. In the present case, the prosecution has failed to establish that the accused have done any positive act and have driven the child to commit suicide leaving with no other alternative but to put an end to his life. Not only is the said positive action in close proximity to the time of occurrence absent, but there is also no evidence of any continuous physical or mental torture meted to the deceased by the accused. The Trial Court has also noted that there is no enmity between the families of PW.1 and PW.2 and the accused, and they did not quarrel prior to the incident on any issues.

11. P.W.2-mother has admitted that the accused did not abet her son to commit suicide and relevant portion is extracted below:

"ಆರೋಪಿ-1 ಮುನಿರಾಜುರವರು ಗದರಿದ ಕಾರಣ ನನ್ನ ಮಗ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುತ್ತಾನೆ ಎಂದು ನಾನು ಪೊಲೀಸರಿಗೆ ಹೇಳಿಕೆ ನೀಡಿದ್ದೇ ಎಂದರೆ ಸರಿ. ನನ್ನ ಮಗ ಬಾಲ್ ಕೊಡಲಿಲ್ಲ ಎಂದು ಮನ ನೊಂದು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುತ್ತಾನೆ ಎಂದು ನಾನು ಹೇಳಿಕೆ ನೀಡಿದ್ದೆ ಎಂದರೆ ಸರಿ. ಆರೋಪಿಗಳು ನನ್ನ ಮಗನನ್ನು ಸಾಯುವಂತೆ ಪ್ರೇರೇಪಿಸಿದ್ದರು ಎಂದು ನಾನು ಪೊಲೀಸರಿಗೆ ಹೇಳಿಕೆ ನೀಡಿಲ್ಲ ಮತ್ತು ಈ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಸಾಕ್ಷಿ ಕೊಟ್ಟಿಲ್ಲ ಎಂದರೆ ಸರಿ."

12. This Court would like to rely upon the judgment of the Apex Court in **AIR (2022) SC 4994** in case of **Mariano Anto Bruno and another Vs. Inspector of Police**, wherein the Hon'ble Apex Court held that:

"There must be proof of direct or indirect acts of incitement to commission of suicide. Merely on allegation of harassment without there being any positive action proximate to time of occurrence on part of accused which led or compelled person to commit suicide and thereby conviction was set aside".

13. This Court would like to rely upon the judgment of this Court in **2019(4) KCCR SN 383** between **Ramesh Vs. State of Karnataka**, wherein it is held that:

"To sustain conviction under Section 305 or under Section 306 of IPC, the ingredients of Section 107 of IPC have to be proved beyond reasonable doubt"

14. This Court also would like to rely upon the judgment of the Hon'ble Apex Court reported in **2019(1) KCCR SN 26 (SC)-M.ARJUNAN v. STATE**, wherein it has held that:

"The essential ingredients of the offence under Section 306 of IPC are (i) the abetment (ii) the intention of the accused to aid or instigate or abet

the deceased to commit suicide. The act of the accused however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 of IPC".

15. The ingredients of mens rea cannot be assumed to be present; they have to be vital and conspicuous. Merely because the accused refused to give back his ball and directed him to bring his father cannot be taken as an abetment to commit suicide. PW.2, the mother, has admitted that the accused did not abet her son to commit suicide. She has also admitted that in Exhibit P.11, the complaint, she affixed her signature on the say of the police. PW.1 and PW.2 have failed to substantiate the allegations made in Exhibit P.1 and Exhibit P.11. The CC TV footage does not contain a conversation between the accused and the deceased. None of the prosecution witnesses in the present case have deposed specifically about the words uttered by the accused. The evidence of PW.1 and PW.2 not inspires the confidence of the Court.

There is no proximity to cause of death and there must be consistent evidence to convict the accused and the same is missing in considering the evidence of PW.1 and PW.2. The charges levelled against the accused must be proved beyond reasonable doubt in a criminal prosecution.

16. Even the mahazar witness PW.3 has turned hostile in respect of MO.1 to MO.3. The prosecution has failed to prove the case, and the witnesses have not supported the prosecution. The Trial Court, in paragraph 68, it is noticed that the supportive evidence of PW.1, PW. 2, PW.4, PW.5, PW.7, and PW.8, the prosecution has only proved that the accused have only refused to give the ball to the deceased and they have asked him to bring his father and then to take the ball.

17. In the present case, the prosecution has failed to prove the ingredients of Section 107 of the IPC as to convict the person under Section 305 of the IPC. The ingredients of Section 107 have to be proved, and in the present case, the prosecution has failed to prove the mens

rea. Merely because the accused might have refused to give back the victim's ball and directed him to bring his father cannot be taken as an abetment to commit suicide. The prosecution has failed to prove the case, and the Trial Court has considered the evidence and material available on record and has acquitted the accused.

18. The Apex Court has consistently held that in criminal cases, particularly those relying on circumstantial evidence or where the prosecution case contains material inconsistencies, the benefit of the doubt must be given to the accused. Even when two views are possible that which leans to the accused should be followed. The burden of proving guilt beyond reasonable doubt rests entirely on the prosecution, and this burden is never displaced merely because the Court feels that the accused might be guilty. Only where the evidence is cogent, convincing, and free from reasonable doubt can an acquittal be reversed. In this regard principles of the Apex Court in the **MALLAPPA AND OTHERS v. STATE OF KARNATAKA** reported in **2024 (3) SCC 544** is noted wherein it is held that while

reversing the judgment of acquittal into conviction, there must be cogent and convincing evidence and only if perversity is found, the Court can reverse the same.

19. The Trial Court, by considering the ocular and documentary evidence, has rightly come to the conclusion that the evidence of the prosecution witnesses does not corroborate with each other and there are inconsistencies in the evidence of the prosecution witnesses and contradictions. When such a reasoned order is given by the Trial Court, and in view of the upshot of above discussion, we do not find any ground to interfere with the findings of the Trial Court, and the same does not come within the principles laid down by the Apex Court. While reversing the judgment of acquittal into conviction, there must be cogent and convincing evidence, and only if perversity is found can the Court reverse the same. Present case does not warrant admission. Hence, we answer Point No. (i) in the negative.

Regarding Point No. (ii):

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

ORDER

The appeal is ***dismissed***.

**Sd/-
(H.P.SANDESH)
JUDGE**

**Sd/-
(B.PRAMOD)
JUDGE**

MKM