

(1996) 06 KAR CK 0011
In the Karnataka High Court
Case No : Cr.A. No's. 289 and 844 of 1995

Padamanna Hanamant Hadagali @ Pujari and Another
Vs

APPELLANT

State of Karnataka

RESPONDENT

Date of Decision : 27-06-1996

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Penal Code, 1860 (IPC) — Section 143, 147, 148, 149, 302

Citation : (1996) 2 ALT(Cri) 873 : (1996) ILR (Kar) 2622 : (1996) 3 KarLJ 732

Hon'ble Judges : M.P. Chinnappa, J;J. Eswara Prasad, J

Bench : Division Bench

Advocate : Ashok R. Kalyanashetty, in Cr.A. 298/95 and M. Rajagopal, HCGP in Cr.A.844/1995, for the Appellant; Ashok R. Kalyanashetty in Cr.A. 844/1995 and M. Rajagopal, HCGP in Cr.A. 289/95, for the Respondent

Judgement

M.P. Chinnappa, J.—As many as 8 accused persons stood their trial before the II Additional Sessions Judge, Bijapur, in S.C.No. 178/93 for the alleged offences Under Sections 143, 147, 148, 302, 324 r/w 149 IPC. in connection with an incident alleged to have taken place at 8.30 P.M. on 27.8.93 in Hattalli village near the house of Shivanna Jiddi 10 Kms. away from Chadachana Police Station resulting in the death of one Dundappa Devendrappa Poojari and injuring the complainant P.W.1.

2. After the trial, the learned Sessions Judge convicted A-1 and A-2 for the offence u/s 302 r/w. Section 34 IPC. and sentenced them to undergo life imprisonment. However, A-3 to A-8 were held not guilty and they were acquitted. As against the conviction A-1 and A-2 preferred appeal in Cr.A. 289/95 and the State has preferred Cr.A. 844/95 against the order passed by the learned Sessions Judge acquitting A-3 to A-8 for the aforesaid offences. Since these two appeals are arising out of a single judgment, both the appeals were clubbed and heard together and hence a common judgment is passed. Retain a copy of this order in Cr.A. 844/95.

3. Heard the learned Counsel for the appellant & the learned S.P.P. for the State.
4. For the sake of convenience, the parties will be hereinafter referred to as the prosecution and the accused persons as arrayed before the learned Sessions Judge.
5. The brief facts of the prosecution case are:

That P.W.1 appeared before the P.S.I. Chadachana Police Station at 2.00 A.M. on 28.8.93 and orally complained that when himself and his brother were returning to their house, from the house of one carpenter on 27.8.93 at 8.30 P.M. in Hattalli village near the house of Sri. Shivanna Jiddi, the accused persons started pelting stones at them. One of the stones struck the stomach of the Complainant and immediately he went near the wall and leaned against it. Immediately thereafter, A-1 to A-8 came there. A-2 to A-8 held his brother Dundappa Devendrappa Poojari and A-1 assaulted him on his head and neck with a "jambia" causing his instantaneous death. Immediately thereafter, all the accused persons ran away and P.W.1 having informed the wife of the deceased and others went to the police station which is about 10 Kms. away from the place of incident and informed the police. On the basis of this information as per Ex.P-1 P.W.18 Vijayakumar Bisanalli, P.S.I, registered a case in Cr.No. 65/93 of his police station against the appellants and 6 others for the offences under Sections 143, 147, 148, 302, 324 r/w Section 149 IPC. Immediately after registering the case, he prepared the FIR as per Ex.P-5 and despatched the same at 3.00 A.M. and the same was received by the JMFC. Indi on 28.8.93. He went to the spot and prepared the inquest mahazar and sent the dead body for post mortem examination and recorded the statements of witnesses. On the same day at about 5.30 A.M. he arrested A-2 in the hospital of Dr. Ketwate and during the course of investigation that is on 10.9.93 A-1 was arrested. After completing the investigation the Investigating Officer filed the charge sheet against A-1 to A-8 in C.C.No. 836/93 on the file of the JMFC., Indi. As the offences alleged against them were excursively triable by the Court of Sessions, the case was committed to the Court of Prl. Sessions Judge, Bijapur, and later the case was assigned to the II Additional Sessions Judge, in S.C.No. 178/1993 on his file. After framing the charges against these accused persons, the II Additional Sessions Judge tried all these accused persons for the aforesaid offences.

6. In support of its case, the prosecution examined 20 witnesses viz. P.Ws. 1 to 20 and Exs.P-1 - P-8 and M.Os. 1 to 11 were marked. After hearing both parties, the learned Sessions Judge was pleased to convict A-1 and A-2 for the offences u/s 302 r/w Section 34 IPC and A-3 to A-8 were acquitted.

7. The learned Counsel for the accused has vehemently argued that the learned Sessions Judge has not assessed the evidence of these witnesses in the proper perspective. On the other hand, the learned Sessions Judge decided the case on the presumption that the accused have set up a plea of self-defense. Therefore, the burden shifts on the accused persons to establish that the deceased was

stabbed by A-1 in his self-defense as also of A-4. The prosecution has not given any explanation regarding the two injuries sustained by A-2. He also submitted that the evidence of P.Ws. 1 to 7 is most unreliable as they have not come out with truth. On the other hand, they have been suggested falsehood. Therefore, he submitted that there is no evidence whatsoever to convict A-1 and A-2 in this case. Alternatively, he submitted that in the event this Court comes to the conclusion that the evidence is credit-worthy and acceptable, still the evidence would only show that A-1 apprehended that the deceased would attack him and also A-2 and in that course of transaction, he assaulted the deceased. Therefore, in any event, the accused have not committed any offence, much less as alleged by the prosecution. Therefore, he submitted that both the accused persons are entitled to be acquitted.

8. Per contra, the learned S.P.P. strenuously argued that P.Ws. 1 to 8 are rustic persons, illiterates and they have not conducted anything in this case. On the other hand, their evidence is acceptable. There is nothing to indicate that A-1 apprehended that deceased would cause danger either to his life or to the life of A-2 promoting him to attack the deceased. He also submitted that the injury said to have been caused by A2 is very minor and it is not necessary for the prosecution to explain the minor injuries sustained by the accused persons. Therefore, no adverse inference can be drawn on that ground. He also submitted that there is no preponderance of probability to hold that A-1 had stabbed the deceased in apprehension of danger to his life or to the life of A-2. The case of the defence is not only inconsistent but also unbelievable which also can be taken note of by the Court, while considering the evidence of the prosecution. On that ground he submitted that there is absolutely no material whatsoever nor is it brought out in the cross-examination of any of the witnesses that these accused persons have acted in their self-defense. Therefore, he submitted that the learned Sessions Judge has rightly come to the conclusion that accused persons are guilty u/s 302 r/w Section 34 IPC.

9. In regarding appeal No. 844/95 he submitted that the learned Court below having accepted the evidence of these witnesses should not have rejected their evidence to the effect that A-3 to A-8 were instigating these accused persons in committing the offence u/s 302 IPC. There was a meeting of mind which constituted unlawful assembly to commit this crime. There was a strong motive for these accused persons to commit the murder of A-1. Under these circumstances, he submitted that the order passed by the Sessions Judge acquitting the accused persons calls for interference.

10. However, the learned Counsel for the accused in Cr.A. 844/ 1995 submitted that there are material contradictions between the statements made before the police by P.Ws. 1 to 8 and the deposition recorded by the Court in regard to the involvement of A-3 to A-8 and there is absolutely no evidenced as far as these accused persons are concerned. For the foregoing reasons he submitted that the order passed by the learned Sessions Judge acquitting these accused persons

does not call for interference.

11. From the evidence of P.Ws. 1 to 8 it is dear that on 27.8.93 at about 8.30 A.M. Dundappa met with a homicidal death. This is further corroborated by the evidence of doctor P.W. 14 Dr.R.G. Daivadnya. The P.M. report Ex.P-10 and also the evidence of P.W. 11 Pandit Chalawdi -HC, who carried the dead body to the hospital and P.W. 19 B.P. Sirnadagouda - CPI who has conducted the inquest over the dead body clearly reveals that Dundappa met with a homicidal death due to the injuries sustained by him on the neck and head. The doctor P.W. 14 has clearly stated that the injuries sustained by the deceased are sufficient in the ordinary course to cause the death. The accused persons also have not denied the fact that Dundappa met with a homicidal death on 27,8.93 at 8.30 P.M. in the Mahakali lane of Hattalli Village.

12. However, the accused have denied their responsibility in the homicidal death of the deceased person. It is no doubt true that when these accused were examined u/s 313 Cr.P.C,, all of them except A-2 have stated that they are falsely implicated in this crime. A-2 Jakkappa Yallappa Majjagyagol stated that deceased Dundappa gave a knife blow on his chest and he fell down. In view of this, the learned Sessions Judge has proceeded under the assumption that the accused persons have admitted the incident and also their presence. Therefore, he proceeded on the basis that the accused persons have set up a plea of self-defense and the burden shifts on them to prove the same.

13. The learned Counsel for the accused has vehemently argued that it is for the prosecution to prove their case beyond all reasonable doubt and if there are circumstances indicating that what they have deposed before the Court is true, then only the Court will have to consider as to whether the plea of self-defense is more probable or not. While elaborating his argument he submitted that the prosecution witnesses viz. P.Ws. 1 to 3 and P.Ws. 6 to 7 have not come out with the truth. On the other hand, they have suppressed the truth. In view of this, the question is whether the evidence of the prosecution can be accepted, or not.

14. According to the case of the prosecution, P.W. 1 and the deceased are brothers. They were returning to their house at 8,30 P.M. from the house of carpenter where they had been to give a plank for repair which is used for sowing seeds. While they were so returning, the accused persons attacked them. P.W. 1 further stated that as the accused persons threw a stone at his stomach, he was leaning against the wall and standing there. At that time all the accused persons came and A-2 to A-8 held the deceased and A-1 stabbed him on his neck and head. This is what he has stated before the police in Ex.P-1. But when he was examined before Court, his evidence is to the effect that he was hit by a stone and he was leaning against the wall. A-2 held the deceased and A-1 stabbed him with a "jambia" and the deceased succumbed to the injury instantaneously. He then further says that A-3 to A-8 were instigating these accused persons.

15. RWs. 2 & 3 are the sons of P.W. 5 P.Ws.2 and 3 have stated that while they

were taking their supper, they heard a sound and came running to the spot and saw A-2 holding the deceased and A-1 assaulting him.

16. P.W. 5 who is the mother of PWs. 2 & 3 has deposed before the Court that on that particular day, she was serving food to her children - P.Ws. 2 & 3. She heard some cries. Her sons P.Ws. 2 & 3 went ahead & she went to the spot following them. She also saw the 2nd accused Jakkappa holding the deceased and A-1 Padamanna assaulting him with a "jambia". Immediately he fell down. According to her the other accused persons were present there. But P.W.2 has stated that accused persons were instigating them saying not to leave him but to assault him.

17. P.W. 3 has stated that other accused persons were standing there, but he does not say as to whether these accused persons were instigating them.

18. However, P.W. 4 turned hostile. She is an independent witness. According to the prosecution case, she was also an eyewitness to the incident, but before Court she has stated that by the time she reached the spot, the dead body was lying fallen on the ground and thereafter she went to her house.

19. According to the evidence of P.W. 6, he was returning from his land and going towards his house. When he reached Mahakali lane the 2nd accused was holding the deceased and first accused stabbed him with a "jambia" on his neck. Immediately, the deceased fell down. Other accused persons were instigating them to assault and not to leave him.

20. Similarly P.W. 7 is none other than the wife of the deceased. She came to know only after she was informed by her brother-in-law about the death and she went to the spot.

21. P.W. 8 came to know when he was informed about the murder by A-1 and A-2 and he went to the spot. From this it is dear that P.W. 1 was present with the deceased all through and he is none other than the brother of the deceased. As stated above, there is material contradiction as far as this witness is concerned. Similarly, the other witnesses also have changed their version. But they have restricted their evidence only to the effect that A-1 assaulted on the neck of the deceased while A-2 was holding the deceased.

22. P.W. 14 Dr. Rajendra has stated that he examined the body of Dundappa which was sent through P.C. No. 1582 at 11.15 A.M. on 28.8.93. On the same day at 1.40 P.M. he examined A-2 who was brought by P.C.No. 1582. A-2 has also given the information that on the previous night at about 9.00 P.M. either the deceased Dundappa or his brother Siddappa assaulted him with a knife on his chest and also the hand when he tried to intervene to separate the deceased and the A-1 who were quarreling, and he has issued Ex.D-1. Before he was examined by this doctor, the accused was examined by another doctor when he was taken to his private nursing home by the relatives of the accused and on the next day early morning, he was arrested by the police.

23. Dr. I.S. Katawati P.W. 16 has observed that one cut injury 2" x 1" x 1/2" on the right side chest, age of injury is within 12 hours and caused by a sharp substance. From this it is clear that A-2 also sustained injury & P.W. 14 has further stated that injury was sutured and he has stated that if the injury was not treated, it would have turned serious. He also observed one more injury on the right index finger measuring 2 cm x 0.5 cm x 0.5 cms - an incised wound, and according to him, these injuries were caused by a sharp edged weapon.

24. The learned Counsel for the accused submitted that the injury sustained by A-2 has not been explained by the prosecution. On that ground he submitted, if the injury sustained by the accused is not explained by the prosecution, it is evident that the prosecution witness are suppressing the truth with a view to suggest falsehood. In support of this argument, he placed reliance on a decision reported in Lakshmi Singh and Others Vs. State of Bihar, wherein Their Lordships have held:

"In a murder case, the non-explanation of the injuries sustained by the accused at about the time of the occurrence or in the course of altercation is a very important circumstance from which the Court can draw the following inferences:

- (1) that the prosecution has suppressed the genesis and the origin of the occurrence and has thus not presented the true version;
- (2) that the witnesses who have denied the presence of the injuries on the person of the accused are lying on a most material point and therefore their evidence is unreliable;
- (3) that in case there is a defence version which explains the injuries on the person of the accused it is rendered probable so as to throw doubt on the prosecution case. Mohar Rai and Bharath Rai Vs. The State of Bihar, and Puran Singh and Others Vs. The State of Punjab, Rel. on.

The omission on the part of the prosecution to explain the injuries on the person of the accused assumes much greater importance where the evidence consists of interested or inimical witnesses or where the defence gives a version which competes in probability with that of the prosecution one.

There may be cases where the non-explanation of the injuries by the prosecution may not affect the prosecution case. This principle would obviously apply to cases where the injuries sustained by the accused."

With this principle in mind, it is now necessary to consider the evidence let in by the prosecution. According to the prosecution, A-1 was not in good terms with the deceased on two counts. It is alleged that on Yugadi day there was a cart race. In that connection both the A-1 and the deceased competed and there was a quarrel between the A-1 & the deceased and that the matter was amicably settled. It is also the case of the prosecution that the deceased and A-4 were doing business in selling of sheep and goats and there was a misunderstanding between them and a quarrel ensued and that matter also was settled. It is

further the case of the prosecution that A-4 invited the wife of the deceased for illegal intercourse and offered Rs. 100/-. In that connection also there was ill-feeling and that also was settled by the head of the village. These are the alleged motives for the accused persons to attack the deceased. From this it is dear that all the disputes were settled and it has also come in the evidence that for settlement of disputes in the village, A-1 used to be invited and he is treated to be a good man. Such being the case, motive cannot be given much importance in this case as against A-1. But as far as A-4 is concerned, it is stated by the wife of the deceased and P.W. 1 & other witnesses that this matter was settled. If at all the wife of the deceased was invited by A-4, it is the deceased who was humiliated and not A-4. Be that as it may, the question is whether the prosecution witnesses have come out with the truth. From the evidence of the doctor as stated above, the injury sustained by A-2 is a serious injury and it appears to be a stab injury on the vital part of his body. None of the witnesses have spoken as to how the 2 injuries sustained by A-2 were caused. Therefore, to that extent, the evidence of P.Ws. 1 to 3 & 5 cannot be believed. P.Ws. 2, 3 & 5 came to the spot after hearing the cries. P.W. 1 has not stated as to whether he or the deceased raised a hue and cry. So they could come to the spot only subsequently.

25. The learned Counsel for the accused submitted that the carpenter has not been examined in this case. It is a serious lacuna on the part of the prosecution. This will have to be considered in view of the fact that the incident occurred near the house of the accused persons. That house of the deceased and P.W. 1 is away from the spot of the incident and the incident has occurred at 8.30 P.M. it is the case of the prosecution that P.W. 1 and the deceased went to the house of carpenter carrying with them a wooden plank for repair and they were returning from there. P.W. 1 has specifically stated in his evidence that he had taken the Investigating Officer to the house of the carpenter and showed him the wooden plank which they had given and which was lying in the house of the carpenter. However, the Investigating Officer has denied that fact when his attention was specifically drawn to that circumstance. According to him P.W. 1 did not take him to the carpenter's house nor showed him the wooden plank which they carried. So it cannot be inferred that P.W. 1 and the deceased wanted to go to the house of the carpenter. This will have to be considered in the light of the misunderstanding the deceased had with A-1 and A-4 and the incident occurred very near to the house of these accused persons late in the night. As stated above, P.Ws. 2, 3, 5, 7 & 8 came to the spot subsequently after hearing the cries, so they were not in a position to say as to how the incident occurred before they reached the spot. They also do not know as to how A-2 sustained stab injury on his vital part. Therefore, their evidence cannot be taken as the gospel truth as far as this incident is concerned. Under those circumstances, the argument of the learned Counsel for the accused that the prosecution witnesses have not come out with truth has some force.

26. The learned S.P.P. submitted that the injuries sustained by A-2 appears to be

very minor and all the minor injuries need not be explained by the prosecution. Therefore, much credence cannot be attached to it and in support of this argument, he also placed reliance on a decision reported in KEMPANNA v. STATE OF KARNATAKA ILR 1994 Kar. 1079, Hare Krishna Singh and Others Vs. State of Bihar, , JAGAR SINGH Versus STATE OF PUNJAB 1994 SCC 1246. From all these decisions it is dear that when there is consistent version of the witness regarding the injuries sustained by the accused persons being simple in nature, in those circumstances the prosecution need not explain the injuries. As against it, in this case the injury sustained by A-2 is treated as "semi serious. There is no word found as "semiserious" or "semi simple" injuries. And taking into consideration the fact that sutures were put and it was on a vital part of the body, it has to be inferred that it is a serious injury and it is incumbent on the prosecution to explain the injuries sustained by A-2. For the foregoing reasons, it is rather difficult to rely on the evidence of P.Ws. 1 to 3, 5 to 7. Even if we take P.W. 7 as an independent witness - he suddenly emerged from the land on that particular way and he witnessed this incident, it may be true that his house is very near to the place of incident, but no other witness has stated that P.W. 7 came to the spot. At the cost of repetition it is necessary to state here that P.Ws. 2 & 3 have stated that other accused were instigating, whereas the other witnesses are silent about it. P.W. 1 has stated in Ex. P-1 that A-2 to A-8 had held the deceased and A-1 stabbed him. These are all material contradictions which are not properly explained by the prosecution.

27. In addition to that, P.W. 7 the wife of the deceased has categorically stated that the deceased & P.W. 1 went to the house of carpenter in a cart, It is also in the evidence that the cart could not go in that Mahakali lane as it is only 3 1/2" to 4" in width. When that was the case, it was not possible for them to drive their cart in that lane. Then what happened to the cart in which they carried this wooden plank to the carpenter's house is not explained. Therefore, if they had gone in the cart, they could not have come to the spot at that time. From those it is clear that there is suppression of truth and they have not come out with the facts which have transpired on that particular day.

28. It is no doubt true that the incident did occur, but it is necessary to establish beyond all reasonable doubt as to the actual manner in which the incident had taken place. Any doubt would go to the benefit of the accused persons.

29. The spot mahazar discloses that there was a cover of "jambia". There is not even an iota of evidence to show as to who is the owner of the "jambia". It is suggested to witnesses that A-1 used to carry the jambia with him. It is also averred by the prosecution witnesses that a "jambia" like MO 13 is available in the market. It is not even brought out whether the same "jambia" was used against the deceased and also A-2. Therefore, a reasonable doubt arises as to whether two weapons were used - one to cause injury to the A-2 and the other one over the deceased or whether the same "jambia" was used over both these persons.

30. In *State of Punjab Vs. Sohan Singh*, . Their Lordships have held that propriety of the defence version has to be upheld when circumstances indicate that the case of the prosecution is otherwise not acceptable. The learned Sessions Judge in this case has held that the injuries sustained by A-2 is not of serious nature and as such nothing has to be explained by the prosecution. However, in a case of this nature when the defence has come out with a specific version and when the case of the prosecution is based upon the evidence of five eye witnesses, the injury sustained by A2 need not be explained by the prosecution. There he has held that A-1 and A-2 are not entitled to right of private defence. He has further held that on the totality of the evidence, the entire case of the prosecution is free from doubt. The defence case appears to be improbable. Therefore, relying upon the evidence of P.Ws. 1 to 6, supported by the medical evidence of P.W. 14 and strengthened by the Investigating Officer PW. 19, he formed an opinion that it is A-1 and A-2 who inflicted fatal injury on the neck and head of the deceased with "jambia". According to him, A-2 also actually participated in the crime by holding the deceased. When he comes to the evidence as against A-3 to A-8 for the offence u/s 143, 147, 148 IPC. he is of the opinion that the evidence of eyewitnesses P.Ws. 1 to 6 is stock evidence. He also stated that active participation of A-3 to A-8 is not deposed by any of the witnesses. According to him, they deposed that A-3 to A-8 instigated A-1 and A-2 but their overt acts are not deposed by the witnesses. Therefore, he treated their evidence as against A-3 to A-8 as stock evidence. From the evidence of the witnesses it is dear that A-3 to A-8 also participated in the crime by instigating them. At one stage the learned Sessions Judge has held that the evidence of these witnesses is trust-worthy & he attached much credence to their evidence. But at the same time he has brushed aside their evidence with much discussion as stock evidence. Under these circumstances and also from the materials available on record, two probabilities are possible -that A-2 held the deceased and A-1 stabbed him or that the deceased had raised a quarrel with A-1 and in that scuffle A-4 also sustained injury as narrated before P.W. 16. That means to say that the incident causing injuries must have occurred much prior to this witness arriving at the spot or during the course of this incident and that the witnesses are suppressing the truth. Therefore, it is well settled law that when two probabilities are possible, the one that is favourable to the accused have to be preferred. Therefore, the evidence of the prosecution witnesses as rightly pointed out by the learned Counsel for the accused is not a true and correct version but they have tried to suppress the truth with a view to state falsehood.

31. The learned Public Prosecutor submitted that the version of the defence that A-1 acted in self-defense to protect himself and also to protect A-2 is not supported by evidence. Therefore, the accused persons are rightly convicted by the Sessions Court. As stated above, A-2 has sustained grievous injury on his chest and also an injury on his index finger. That injury was not explained by the prosecution and it can never be treated as simple injury. It is also well settled law that the defence need not establish the plea of self-defense beyond all

reasonable doubt. If the accused persons are able to establish the preponderance of probabilities, they are entitled for the benefit of doubt. This is fully supported by the recent decision of the Supreme Court reported in Smt. Vidya Saran Sharma Vs. Sudarshan Lal alias Sudarshan Kumar, wherein their Lordships have held:

"Accused apprehending danger to his life inflicting only one injury on neck of deceased which proved fatal - acquittal on ground that accused acted in right of private defence - Proper -".

In this case also the deceased has sustained only one injury on his head band in those circumstances, the principles laid down in the aforesaid decision are squarely applicable to the facts of the case.

32. Their Lordships of the Supreme Court in decision reported in STATE OF PUNJAB v. GURBUX SINGH AND ORS. 1996 SCC 88 held that the accused not required to prove his case beyond all reasonable doubt. It is enough if preponderance of probabilities plea taken by accused becomes plausible. Death of one person in the accused party and failure of the prosecution to explain the injuries on the accused - it has held in the circumstances of the case that the accused could not be denied the right of self-defense nor could it be said that they exceeded the same.

33. It is no doubt true that the accused persons have not put forth their defence properly either while cross-examining the witnesses or examining them u/s 313 Cr.P.C. That itself is not a ground to reject the case of the defence if the materials on record probabilise the case as stated above. Under these circumstances, viewed from any angle the Judgment of the learned Sessions Judge holding A-1 and A-2 guilty u/s 302 IPC r/w Section 34 IPC. is unsustainable. However, the finding of the learned Sessions Judge that the accused Nos. 3 to 8 are not guilty of the offences charged against them does not call for interference.

34. In the result therefore, we proceed to pass the following order, after having given our thoughtful consideration on all the materials on record:

ORDER

(a) Cr.A. 289/95 is allowed setting aside the conviction and sentence imposed on A-1 Pademanna Hanamant Hada Ali @ Pujari and A-2 Jakkapaa Yallappa Majjagyagol, for the offences u/s 302 r/w 34 IPC. and as they are in custody, they shall be set at liberty forthwith.

(b) Cr. A.844/95 is dismissed holding that A-3 to A-8 i.e. the appellants herein are innocent of the charges levelled against them and the order of the learned Sessions Judge does not call for interference.