

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

**CRIMINAL APPEAL NOS. 3012 of 2018, 3086 of 2018, 252 of 2020 and
323 of 2020.**

Between:

KALLA GOPI, N/O SUBBAVARAM ROAD, NEAR NOOKALAMMA TEMPLE,
KOTHAVALASA AND PRESENTLY RESIDING BEHIND RAJA COLONY,
JANACHAITANYA LAOYT, KOTHAVALASA, VIZIANAGARAM DISTRICT.

GANDREDDY MADHUSUDHAN, S/O LATE BANGARURAJU, AGED
ABOUT 29 YRS, T.KAPU CASTE, MANGALI STREET, SABBAVARAM
ROAD, KOTHAVALASA, VIZIANAGARAM DISTRICT.

CHUKKA PAVAN KUMAR, S/O. RAMANA RAO, BATHULA STREET,
KOTHAVALASA VILALGE, VIZIANAGARAM DISTRICT.

MODANDI MOHANRAJU, S/O. ARJUNARAJU (WRONGLY MENTIONED
AS LATE IN THE JUDGMENT), OCC - FRUIT VENDOR, CHAKALI
STREET, KOTHAVALASA VILLAGE AND MANDAL, VIZIANAGARAM
DISTRICT.

... Appellants

AND

The State of Andhra Pradesh,
Rep. by its Public Prosecutor,
High Court of A.P.,
Amaravati.

Respondent

Date of Judgment Pronounced : 24-06-2026

SUBMITTED FOR APPROVAL:

**THE HON'BLE SRI JUSTICE K.SURESH REDDY
AND
THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN**

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|----|--|--------|
| 1. | Whether Reporters of Local newspapers
may be allowed to see the judgment? | Yes/No |
| 2. | Whether the copy of judgment may
be marked to Law Reporters/Journals? | Yes/No |
| 3. | Whether Their Lordships wish to see the
fair copy of the judgment? | Yes/No |

K.SURESH REDDY, J.

CHALLA GUNARANJAN, J

***THE HON'BLE SRI JUSTICE K.SURESH REDDY**
AND

THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN

+ CRIMINAL APPEAL NOS. 3012 of 2018, 3086 of 2018, 252 of 2020 and
323 of 2020.

%Dated: 24-06-2026

KALLA GOPI, N/O SUBBAVARAM ROAD, NEAR NOOKALAMMA TEMPLE, KOTHAVALASA AND PRESENTLY RESIDING BEHIND RAJA COLONY, JANACHAITANYA LAOYT, KOTHAVALASA, VIZIANAGARAM DISTRICT.

GANDREDDY MADHUSUDHAN, S/O LATE BANGARURAJU, AGED ABOUT 29 YRS, T.KAPU CASTE, MANGALI STREET, SABBAVARAM ROAD, KOTHAVALASA, VIZIANAGARAM DISTRICT.

CHUKKA PAVAN KUMAR, S/O. RAMANA RAO, BATHULA STREET, KOTHAVALASA VILALGE, VIZIANAGARAM DISTRICT.

MODANDI MOHANRAJU, S/O. ARJUNARAJU (WRONGLY MENTIONED AS LATE IN THE JUDGMENT), OCC - FRUIT VENDOR, CHAKALI STREET, KOTHAVALASA VILLAGE AND MANDAL, VIZIANAGARAM DISTRICT.

... Appellants

AND

The State of Andhra Pradesh,
Rep. by its Public Prosecutor,
High Court of A.P.,
Amaravati.

Respondent

**!Counsel for the appellants : Sri V.Nitesh, Sri G Vijaya Saradhi,
Sri G.Venkata Subba Raju and Sri
P.S.P.Suresh Kumar.**

^Counsel for the respondent : Learned Public Prosecutor

<GIST:

>HEAD NOTE:

? Cases referred:

1. (1981)4 SCC 116

Date of reserved for orders : -----
 Date of pronouncement : 24.06.2026
 Date of uploading : 07.2026
 APHC010858602018



**IN THE HIGH COURT OF ANDHRA PRADESH
 AT AMARAVATI
 (Special Original Jurisdiction)**

[3578]

WEDNESDAY, THE 24th DAY OF JUNE 2026
PRESENT

**THE HONOURABLE SRI JUSTICE K SURESH REDDY
 THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN
CRIMINAL APPEAL NO: 3012/2018**

Between:

1. MODANDI MOHANRAJU, S/O. ARJUNARAJU (WRONGLY MENTIONED AS LATE IN THE JUDGMENT), OCC - FRUIT VENDOR, CHAKALI STREET, KOTHAVALASA VILLAGE AND MANDAL, VIZIANAGARAM DISTRICT.

...APPELLANT

AND

1. THE STATE OF A P, SHO, S. Kota Circle, Vizianagaram District, Rep by its Public Prosecutor, High Court of A.P., Hyderabad.

...RESPONDENT

Counsel for the Appellant:

1. V NITESH

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

CRIMINAL APPEAL NO: 3086/2018

Between:

1. KALLA GOPI, N/O SUBBAVARAM ROAD, NEAR NOOKALAMMA TEMPLE, KOTHAVALASA AND PRESENTLY RESIDING BEHIND RAJA COLONY, JANACHAITANYA LAOYT, KOTHAVALASA, VIZIANAGARAM DISTRICT.

...APPELLANT

AND

1. THE STATE OF ANDHRA PRADESH, Rep. by its Public Prosecutor, High Court of Judicature at Hyderabad For the State of Telangana and the State of Andhra Pradesh

...RESPONDENT

Counsel for the Appellant:

1. G VIJAYA SARADHI

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

CRIMINAL APPEAL NO: 252/2020**Between:**

1. GANDREDDY MADHUSUDHAN, S/O LATE
 BANGARURAJU, AGED ABOUT 29 YRS, T. KAPU
 CASTE, MANGALI STREET, SABBAVARAM
 ROAD, KOTHAVALASA, VIZIANAGARAM DISTRICT

...APPELLANT**AND**

1. THE STATE OF AP, Rep by its probulic Prosecutor, High Court of
 Andhra Pradesh, Amaravathi

...RESPONDENT**Counsel for the Appellant:**

1. G VENKATA SUBBA RAJU

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

CRIMINAL APPEAL NO: 323/2020**Between:**

1. CHUKKA PAVAN KUMAR, S/O. RAMANA RAO, BATHULA
 STREET, KOTHAVALASA VILALGE, VIZIANAGARAM
 DISTRICT

...APPELLANT**AND**

1. STATE OF ANDHRA PRADESH, Rep. by its public prosecutor,
 High court of Andhra pradesh, Amaravathi

...RESPONDENT**Counsel for the Appellant:**

1. P S P SURESH KUMAR

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

Whether the judgment is :

Speaking: Yes / Reasoned: Yes

Reportable: No / Non-Reportable: Yes

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

***WEDNESDAY, THIS THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND TWENTY SIX***

SPECIAL DIVISION BENCH

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

AND

THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN

**CRIMINAL APPEAL NOS. 3012 of 2018, 3086 of 2018, 252 of 2020
and 323 of 2020.**

COMMON JUDGMENT :- *(Per the Hon'ble Sri Justice K.Suresh Reddy)*

As all these four appeals arise out of Sessions Case No.108 of 2016 on the file of the learned Judge, Family Court-cum-III Additional Sessions Judge, Vizianagaram, they are heard together and are being disposed of by way of this common judgment.

2. Accused No.1 in the above Sessions Case filed CrI.A.No.3086 of 2018, A2 filed CrI.A.No.252 of 2020, A3 filed CrI.A.No.323 of 2020, whereas, A4 preferred CrI.A.No.3012 of 2018. All the four accused were tried by the learned Additional Sessions Judge under the following charges:

- 1) First charge was under Section 460 read with 34 IPC against A1 to A4.
- 2) Second charge was under Section 506(2) IPC against A4.

- 3) Third Charge was under Section 397 IPC against A1 and A4.
- 4) Fourth Charge was under Section 352 read with 34 IPC against A1 and A2.
- 5) Fifth Charge was under Section 302 IPC against A1.
- 6) Last charge was under Section 302 read with 34 IPC against A2 to A4.

3. Substance of the charge is that, on 11.05.2015, at about 7:00 p.m., all the accused, in furtherance of their common intention, criminally trespassed into the Electrical Traction Office situated at Kothavalasa to commit theft of scrap copper and, in the course of the said transaction, Accused No.4 criminally intimidated P.W.1, while all the accused committed theft of M.Os.1 to 5, namely, the gold ornaments belonging to P.W.1, and by beating P.W.1 as well as one Swathi (hereinafter referred to as "the deceased") with bamboo sticks causing the death of the deceased, thereby committed offences punishable under Sections 302, 460, 397, 506 Part II and 352 read with Section 34 of the Indian Penal Code.

4. After completion of trial, the learned Additional Sessions Judge, Vizianagaram, convicted Accused No.1 under Section 302 IPC and sentenced him to undergo Rigorous Imprisonment for '**LIFE**' and also to pay a fine of Rs.50,000/-, in default to suffer Simple Imprisonment for a period of six (6) months. Out of fine amount, an amount of Rs.40,000/- is directed to be paid to the husband of the deceased

(P.W.3) towards compensation. Learned Additional Sessions Judge further convicted A1 under Section 460 read with 34 IPC and sentenced him to suffer Rigorous Imprisonment for a period of ten years and also to pay a fine of Rs.5,000/- in default to undergo Simple imprisonment for a period of three months. Out of the fine amount, an amount of Rs.4,000/- is directed to be paid to the husband of the deceased (P.W.3). Learned Additional Sessions Judge further convicted A1 under Section 397 IPC and sentenced him to suffer Rigorous Imprisonment for a period of seven years. Learned Additional Sessions Judge also convicted A1 under Section 352 read with 34 IPC and sentenced him to pay a fine of Rs.500/- in default to suffer Simple Imprisonment for a period of two months. Learned Additional Sessions Judge convicted A2 to A4 under Section 302 read with 34 IPC and sentenced each one of them to undergo Rigorous Imprisonment for '**LIFE**' and also to pay fine of Rs.5,000/- each in default to suffer Simple Imprisonment for a period of three (3) months. Out of the fine amount, an amount of Rs.4,000/- is directed to be paid to the husband of the deceased (P.W.3). Learned Additional Sessions Judge convicted A2 to A4 under Section 460 read with 34 IPC and sentenced them to suffer Rigorous Imprisonment for a period of ten years and also to pay fine of Rs.2,000/- in default to undergo simple imprisonment for a period of three months. Out of the fine amount, an amount of Rs.1,000/- is directed to be paid to the husband of the

deceased (P.W.3). Learned Additional Sessions Judge convicted A2 under Section 352 read with 34 IPC and sentenced him to pay a fine of Rs.500/-. Learned Additional Sessions Judge convicted A4 under Section 506(2) IPC and sentenced him to pay fine of Rs.2,000/- in default to suffer Simple Imprisonment for a period of three months. Learned Additional Sessions Judge also convicted A4 under Section 397 IPC and sentenced him to suffer Rigorous Imprisonment for a period of seven years. All the substantive sentences imposed against A1 to A4 were directed to be run concurrently.

5. Case of the prosecution, as emanated from the evidence of prosecution witnesses, briefly, is as follows:

All the accused and the material prosecution witnesses are residents of Kothavalasa Village and are closely acquainted with each other. The deceased was also resident of the same village. A1 was working as a Khalasi Helper at the Power Supply Installation, East Coast Railway, Srungavarapukota (S.Kota). The deceased and P.W.1 were also working in the East Coast Railway at S.Kota. Subsequently, A1 was promoted as Technician Grade III on 21.04.2015. Thereafter, A1 submitted an application-Ex.P6, dated 25.04.2015, to the Divisional Electrical Engineer (D.E.E.), Waltair Division, requesting him to post at S.Kota in view of his family problems. However, he was informed that it was not feasible to retain him at S.Kota. It is alleged that being aggrieved by the rejection of his request for posting at S.Kota, A1

conceived a plan to secure such posting by eliminating the deceased, who was then working as a Technician at the Railway Electric Traction Sub-Station, S.Kota. It is the specific allegation of the prosecution that the removal of the deceased from service would result in a vacancy at S.Kota, thereby enabling A1 to secure the posting sought by him.

ii) It is alleged that, since A1 had become a financial defaulter and was in dire financial constraints due to mounting debts, he, with the assistance of A2 to A4, used to steal copper scrap from the Railway godown and sell the same to scrap dealers. The prosecution further alleged that A1, in conspiracy with A2 to A4, decided to eliminate the deceased and rob her of the gold jewellery in her possession.

iii) While so, on 11.05.2015, at about 6:30 p.m., A1 informed A2 to A4 that they should be ready near the petrol bunk at the RTC Complex, Kothavalasa, and that he would join them there with gunny bags and bamboo sticks.

iv) At about 9:30 p.m., all the accused entered the Sub-Station by slithering underneath the locked second gate adjacent to the railway track and found the deceased entering her room for dinner. After dinner, while the deceased and P.W.1 were conversing, the accused trespassed into the office chamber carrying two bamboo sticks and two

gunny bags. A4 covered the head of P.W.1 with a gunny bag and dragged her out of the office chamber by clutching her neck.

V) When P.W.1 raised cries, A4 threatened to kill her. P.W.1 requested him not to kill her and offered to hand over her gold chain weighing about three tulas. A4 warned P.W.1 not to raise any cries and threatened her with dire consequences. Meanwhile, the deceased also raised cries and attempted to make a phone call from the landline. A3 snatched away the telephone and attempted to cover the deceased's head with a gunny bag, while A2 dealt a blow on her head with a bamboo stick. On the instructions of A1, A2 and A3 dragged the deceased out of the office room. Thereafter, A4 entered the office chamber, and A2 covered the deceased's head with a gunny bag and brought her out. The deceased removed the gunny bag, identified A1, and warned him. Thereupon, A1 indiscriminately beat the deceased on her head with a bamboo stick, as a result she fell down and breathed her last. A1 snatched the gold chain from the neck of the deceased and the mobile phone belonging to P.W.1. After removing all the gold ornaments, i.e., M.Os.1 to 5, all the accused left the scene of offence.

vi) Immediately, P.W.1 went to the office room and searched for the phone, but could not find it. She then used a tab and informed the brother-in-law of the deceased about the incident. On receiving the information, the husband of the deceased (P.W.3), along with the watchman (P.W.4), proceeded to the office and found the dead body of

the deceased lying outside the office room in a pool of blood, with multiple injuries on her head and face.

vii) Immediately, P.W.3 informed the police and 108 Ambulance service. On the same day, at about 10:15 p.m., P.W.29, the Sub-Inspector of Police, S.Kota Police Station, received information regarding the incident at Railway Electric Sub-Station, S.Kota. Immediately, he, along with his staff, proceeded to the scene of offence and found the dead body of the deceased lying in a pool of blood. He deputed a police constable to guard the scene of offence.

viii) At about 1:30 a.m. on 12.05.2015, on receipt of the report, Ex.P1, P.W.29 registered a case in Crime No.114 of 2015 for the offences punishable under Sections 460, 352, 506(2), 397 and 302 read with Section 34 of the Indian Penal Code. He issued copies of FIR to all the concerned. FIR is marked as Ex.P16. At the same time, P.W.30, the photographer attached to the Clues Team, accompanied by another photographer, a videographer, and fingerprint experts, visited the scene of offence and photographed the scene. The photographs were marked as Ex.P17.

ix) On receipt of information from P.W.29, P.W.33, the Inspector of Police, S.Kota, collected copy of FIR, took up investigation, and proceeded to the scene of offence. At the scene of offence, he prepared an observation report, marked as Ex.P2, in the presence of P.W.9 and another mediator. During the course of scene observation,

he seized M.Os.6, 7, 9, and 10 to 15 under the cover of Ex.P2. He also prepared rough sketch of the scene of offence, which was marked as Ex.P19. Clues Team developed two chance fingerprints from the material objects found near the scene of offence. P.W.13, photographer attached to the Clues Team, photographed the scene of offence, and photographs were marked as Ex.P17.

x) Thereafter, P.W.33 shifted the dead body of the deceased to the Community Health Centre. He conducted inquest over the dead body at the Community Health Centre in the presence of P.W.31 and another. Inquest report was marked as Ex.P3. During the inquest, he recorded statements of P.Ws.1 to 4 and others. Thereafter, he sent the dead body for post-mortem examination.

xi) P.W.27, the Civil Assistant Surgeon attached to the Community Health Centre, S.Kota, conducted autopsy over the dead body of the deceased and opined the cause of death was due to head injury. He issued post-mortem certificate, which was marked as Ex.P14. Ex.P12 is preliminary post-mortem certificate. P.W.33 collected the clothes of the deceased, which were marked as M.Os.31 to 34. During the course of investigation, P.W.33 made enquiries at the petrol bunk situated between Kothavalasa and S.Kota and recorded statement of P.W.5, who was working therein as a cashier. He also conducted enquiries at the nearby bar and restaurant as well as at the wine shops. In that connection, he secured the presence of P.W.7, the

Manager of Sai Wines, S.Kota, and recorded his statement. On 13.05.2015, P.W.33 examined P.W.8, who was working at the North Cabin situated near the scene of offence, and recorded his statement. He thereafter inspected the surrounding areas and noticed four Kingfisher beer bottles lying under a palmyra tree on the eastern side of the scene of offence. The said beer bottles were seized under the cover of panchanama, marked as Ex.P4. He also obtained the particulars of the motor bikes bearing Registration Nos. AP 35 R 3843 and AP 31 VV 7164 from the Third Eye Station Computer and enquired about the ownership of the said vehicles.

xii) On 02.06.2015, P.W.33 forwarded the material objects to the A.P. Forensic Science Laboratory (APFSL) for examination. On 16.06.2015, on credible information, P.W.33, along with his staff, apprehended all the four accused near Lakshmi Ganapathi Sai Temple, S.Kota. At about 9:00 p.m., while the accused were proceeding on two motor bikes, they were intercepted and, upon interrogation, confessed about the commission of the offence. Thereafter, P.W.33 recorded confessional statements of each of the four accused separately.

xiii) P.W.33 seized M.Os.1, 16, and 36 from the possession of A1 in the presence of P.W.24. He also seized M.Os.2, 19, and 20 from the possession of A2 in the presence of P.W.24. Further, he seized the gold ornaments marked as M.Os.5 and 21 from A3. He also seized

gold ornaments from the possession of A4, along with the mobile phone belonging to P.W.1.

xiv) On the confession made by the accused, P.W.33 recovered three bamboo sticks, marked as M.Os.24 to 26, on 17.06.2015 at about 7:00 a.m. from a place situated near Andhra Phosphate Company, in the presence of mediators, namely P.W.24 and another, under Ex.P9. Pursuant to the confessional statements of the accused, P.W.33 also recovered the blood-stained clothes of the accused in the presence of P.W.28 and another. The blood-stained clothes of the accused were marked as M.Os.27 to 30. Thereafter, P.W.33 brought A1 and A4 to S.Kota Police Station and obtained their fingerprints and produced them before the learned Judicial Magistrate of First Class, S.Kota, who remanded them to judicial custody. P.W.33 also submitted a requisition to the learned Judicial Magistrate of First Class, S.Kota, for conducting Test Identification Parade of the accused. Accordingly, P.W.34, the learned Judicial Magistrate of First Class, S.Kota, conducted Test Identification Parade in respect of A1 and A4, and the proceedings were marked as Ex.P30.

xv) P.W.33 submitted a requisition for conducting Test Identification Parade of M.Os.1 to 5. Pursuant thereto, P.W.26 conducted Test Identification Parade in respect of M.Os.1 to 5, during which P.Ws.1 and 3 identified the said material objects. The

proceedings of the Test Identification Parade relating to M.Os.1 to 5 were marked as Ex.P11.

xvi) On 25.06.2015, P.W.33 examined P.Ws.16 to 18 and recorded their statements. He also seized a gold chain from P.W.18 under the cover of panchanama, marked as Ex.P10, and thereafter recorded statements of P.Ws.20 and 21. On 05.07.2015, he forwarded the material objects to the Forensic Science Laboratory, Hyderabad, for examination. He also sent four Kingfisher beer bottles for comparison of fingerprints. P.W.32, the Fingerprint Expert, issued the fingerprint examination certificate, which was marked as Ex.P18.

6. After receiving all the documents and after completion of investigation, P.W.33 filed charge sheet.

7. In support of its case, the prosecution examined PWs.1 to 34 and marked Exs.P1 to P30 and exhibited MOs.1 to 38. On behalf of defence, Ex.D1- portion of Section 161 Cr.P.C. statement of P.W.5 was marked.

8. When the accused were examined under Section 313 Cr.P.C., they denied the incriminating evidence appearing against them. Accepting the evidence of prosecution witnesses, the learned Additional Sessions Judge convicted all the Appellants as aforesaid.

9. Heard Sri V.Nitesh, Sri G Vijaya Saradhi, Sri G.Venkata Subba Raju and Sri P.S.P.Suresh Kumar, learned counsel for the appellants

and Sri Marri Venkata Ramana, learned Additional Public Prosecutor for the respondent/State.

10. We have carefully scrutinized the entire evidence on record.

11. As seen from the material on record, there are no eyewitnesses to the occurrence and the prosecution case rests entirely on circumstantial evidence. The first circumstance relied on by the prosecution is that the death of the deceased was homicidal in nature. The second circumstance relied on by the prosecution is motive for A1 to commit the murder of the deceased. The third circumstance relied on is the recovery of M.Os.1 to 3, 5 and 24 to 30, namely, the gold ornaments, the weapons of offence and the blood-stained clothes of the accused, pursuant to the confessional statements made by the accused, in terms of Section 27 of the Indian Evidence Act.

12. Insofar as the first circumstance is concerned, namely, that the deceased met with a homicidal death at the scene of offence, the same is a question of fact. There is no dispute, either before the trial Court or before this Court, that the death of the deceased was a homicidal death at the scene of offence. In view of the absence of any controversy in this regard, it is unnecessary to dwell upon the said circumstance any further.

13. Insofar as the second circumstance, namely, motive, is concerned, the prosecution has alleged that A1 intended to secure a posting as Technician Grade-III at S.Kota. According to the

prosecution, as there was no vacancy in the said post and the deceased was already working at S.Kota, A1 thought it necessary to eliminate the deceased in order to secure the said posting. However, the evidence of P.W.19, who was working as the Assistant Personnel Officer in the D.R.M. Office, Dondaparthy, Visakhapatnam, does not lend support to the prosecution case with regard to the alleged motive. The evidence on record discloses that the deceased had been working at S.Kota as Technician Grade-II since 26.02.2015. P.W.19, in his evidence stated that he issued transfer order to A1 on 13.05.2015, whereby A1 was promoted as Technician Grade-III. Significantly, there is no material on record to establish that A1 intended to occupy the post held by the deceased. On the contrary, P.W.19 categorically deposed that A1 had never submitted any requisition requesting that he be posted at S.Kota. Though the prosecution sought to rely on Ex.P6, a requisition letter said to have been submitted by A1 to the Senior D.E.E., Waltair Division, the said document was marked through P.W.15. P.W.15 was not the competent authority in the matter of postings, whereas P.W.19 was the authority vested with the power to post A1 at S.Kota. Admittedly, no such requisition was ever submitted by A1 to P.W.19. That apart, the deceased was working as Technician Grade-II, whereas A1 was promoted as Technician Grade-III. Therefore, even assuming that the deceased had been eliminated, A1 could not have occupied the post held by the deceased, as the two

posts were borne in different grades. In the absence of any cogent evidence establishing that A1 intended to secure the post held by the deceased, the motive attributed to A1 becomes wholly untenable. Consequently, this Court is of the considered view that the prosecution has failed to establish the motive for A1 to eliminate the deceased with a view to securing her post at S.Kota.

14. Coming to the other motive suggested by the prosecution, it is alleged that the accused were in the habit of committing theft of scrap and copper wires from the godown at the S.Kota Railway Traction Sub-Station. However, the prosecution has not placed any material on record to establish that the accused were involved in any such theft of scrap or copper wires. Admittedly, no scrap material or copper wires were recovered from the possession of the accused. In the absence of any evidence substantiating the said allegation, the prosecution has failed to establish the said motive.

15. The prosecution has suggested yet another motive, namely, that the accused were facing financial difficulties and, with the intention of committing theft of the gold jewellery worn by the deceased, eliminated her. According to the prosecution, A1 entered into a conspiracy with A2 to A4 to commit the murder of the deceased and thereafter commit theft of her gold ornaments. However, the prosecution has not adduced any evidence whatsoever to establish the alleged conspiracy.

Significantly, no charge under Section 120-B of the Indian Penal Code was framed against any of the accused.

16. Having carefully analysed the evidence relating to motive, it is evident that the prosecution has put forth divergent and mutually inconsistent versions without establishing any definite motive for the commission of the offence. At one stage, it was alleged that A1 eliminated the deceased with the assistance of A2 to A4 in order to secure a posting at S.Kota by occupying the post allegedly held by the deceased. At another stage, the prosecution alleged that the accused, who were purportedly engaged in the theft of scrap and copper wires from the Railway Traction Sub-Station, and who were facing financial constraints, committed the murder of the deceased with the object of committing theft of her gold ornaments. Thus, the prosecution has advanced inconsistent theories with regard to the motive for the accused to commit the offence. In the absence of cogent and convincing evidence supporting any one of the alleged motive, this Court is of the considered view that the prosecution has failed to establish the circumstance of motive.

17. Coming to the last circumstance, namely, the recovery of MOs.1 to 3, 5 and 24 to 30, the prosecution seeks to rely upon the evidence of P.W.33, the Investigating Officer, who deposed that the said material objects were recovered pursuant to the disclosure statements allegedly made by the accused under Section 27 of the Indian Evidence Act.

18. Insofar as MOs.1 to 3 and 5 are concerned, the prosecution case is that the said gold ornaments were recovered from the possession of A1 to A4 on 16.06.2015. Admittedly, the incident took place on 11.05.2015. Thus, the recovery was effected after a lapse of more than one month from the date of incident. The prosecution has not adduced any evidence to establish the circumstances under which the accused continued to retain the stolen ornaments for such a considerable period. Be that as it may, mere recovery of stolen property after the lapse of time, in the absence of any other incriminating circumstance, is by itself insufficient to establish that the accused were the perpetrators of the offences punishable under Sections 302, 397 or 460 IPC. At the most, such recovery establishes that the accused were found in conscious possession of the stolen property, thereby attracting the offence punishable under Section 411 IPC.

19. Insofar as MOs.24 to 30 are concerned, the evidence of P.W.33 discloses that the said articles were recovered from an open place accessible to the public. The prosecution has failed to establish that the place of recovery was within the exclusive knowledge or exclusive control of the accused. Consequently, the alleged recovery of MOs.24 to 30 does not constitute an incriminating circumstance capable of connecting the appellants with the commission of the offences alleged.

20. The learned trial Judge also committed an error in treating the statement made by the accused before P.W.33 as an extra-judicial

confession. It is a settled principle of law that a confession made before a police officer is inadmissible under Sections 25 and 26 of the Indian Evidence Act, except to the limited extent permissible under Section 27. Therefore, the said statement could not have been relied upon as substantive evidence against the accused.

21. Equally, the conviction recorded under Section 460 read with Section 34 IPC is legally unsustainable. The prosecution has failed to establish the essential ingredients of the said offence by adducing cogent and convincing evidence. In the absence of proof of the foundational facts necessary to attract Section 460 IPC, the conviction recorded thereunder cannot be sustained.

22. Thus, the prosecution has failed to establish the last circumstance so as to complete the chain of circumstances connecting the appellants with the offences punishable under Sections 302, 397 and 460 IPC. However, the recovery of MOs.1 to 3 and 5 from the conscious possession of the accused, coupled with the absence of any satisfactory explanation regarding such possession, satisfactorily establishes the offence punishable under Section 411 IPC.

23. If the accused really intended to commit the offence for the sake of money, they ought to have disposed of MOs.1 to 3 and 5. It is highly improbable to accept that the accused kept MOs.1 to 3 and 5 with them for a period of more than one month without disposing them. However,

as PWs.1 and 3 identified MOs.1 to 3 and 5 as belonging to the deceased, the accused can be convicted under Section 411 IPC.

24. In this connection, it is trite that the Hon'ble Apex Court in a catena of judgments including the decision in ***Sharad Birdhichand Sarda v. State of Maharashtra***¹, has laid down five (5) golden principles, which govern a case based only on circumstantial evidence:

- “(1) The circumstances from which the conclusion of guilt is to be drawn should be fully established.*
- (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 followed, 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.”*

25. In the case on hand, apart from the recovery of MOs.1 to 3 and 5 from the possession of the accused, the prosecution has failed to establish any other incriminating circumstance connecting the

¹ (1981) 4 SCC 116

appellants with the commission of the alleged offences. Consequently, the chain of circumstances sought to be relied upon by the prosecution remains incomplete and falls short of the standard required to sustain the conviction of the accused for the offences charged against them. However, having regard to the recovery of MOs.1 to 3 and 5 from the possession of the accused and the identification of the said articles by P.Ws.1 and 3 as belonging to the deceased, the evidence on record is sufficient to convict the accused for the offence punishable under Section 411 IPC.

26. In view of the aforesaid facts and circumstances, the convictions and sentences recorded against the appellants/Accused Nos.1 to 4 by the learned Judge, Family Court-cum-III Additional Sessions Judge, Vizianagaram, in Sessions Case No.108 of 2016, dated 18.09.2018, for the offences punishable under Sections 302, 460, 352 read with 34 IPC, 397 IPC and 506 (2) IPC, are hereby set aside. Accordingly, appellants/Accused Nos.1 to 4 can be convicted under Section 411 IPC, as MOs.1 to 3 and 5 stolen ornaments were recovered from their possession.

27. In the result, all the Criminal Appeals are allowed in part. The convictions and sentences recorded against the appellants/Accused Nos.1 to 4 by the learned Judge, Family Court-cum-III Additional Sessions Judge, Vizianagaram, in Sessions Case No.108 of 2016, dated 18.09.2018, for the offences punishable under Sections 302,

460, 352 read with 34 IPC, 397 IPC and 506 (2) IPC, are hereby set aside. Consequently, the appellants/Accused Nos.1 to 4 are acquitted of the said charges. However, having regard to the evidence available on record, the appellants/Accused Nos.1 to 4 are found guilty of the offence punishable under Section 411 IPC and are accordingly convicted thereunder and sentenced them to undergo Rigorous Imprisonment for a period of three (3) years. Since the appellants have already undergone more than three years of imprisonment, they shall be released forthwith, if their detention is not required in connection with any other case or crime. The fine amount, if any, paid by the appellants pursuant to the judgment of the trial Court shall be refunded to them.

28. As a sequel, the appellants/Accused Nos.1 to 4 shall be set at liberty forthwith, if they are not required in any other case.

Consequently, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE K.SURESH REDDY

JUSTICE CHALLA GUNARANJAN

Dt.24.06.2026

Note: L.R. copy to be marked.

B/O ASR

**THE HON'BLE SRI JUSTICE K.SURESH REDDY
AND
THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN**

JUDGMENT

CRIMINAL APPEAL NOs. 3012 of 2018, 3086 of 2018, 252 of 2020

and 323 of 2020.

(per Hon'ble Sri Justice K.Suresh Reddy)

Date: 24.06.2026
ASR