

(2007) 12 KAR CK 0022
In the Karnataka High Court
Case No : Criminal Appeal No. 1656 of 2004

M. Saravana@ K.D. Saravana

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 04-12-2007

Acts Referred:

Citation : (2007) 12 KAR CK 0022

Hon'ble Judges : R.B. Naik, J;K. Sreedhar Rao, J

Bench : Division Bench

Advocate : G. Jairaj and Associates, for the Appellant; G. Bhavani Singh, S.P.P., for the Respondent

Final Decision : Dismissed

Judgement

R.B. Naik, J.—The appellant herein is challenging the Judgment of conviction dated 26.10.2004 passed by the Fast Track (Sessions) Judge-in, Bangalore city, in S.C. No. 342/2002 convicting the appellant/accused for the offence punishable U/S. 302 IPC and sentencing him to suffer rigorous imprisonment for life and to pay fine of Rs. 10,000/- and in default to suffer further rigorous imprisonment for a period of three and half years. The case of the prosecution in brief is that on the basis of the dying declaration (Ex. P.2) made by the deceased Kuppa on 14.02.2003 in the presence of the doctor (PW. 8) who has certified that patient was conscious and in a fit condition to make statement, a case came to be registered against accused on 14.02.2003 at about 11.30 p.m. in crime No. 53/2003 for an offence U/S. 307 IPC. Subsequently, after death of the injured Kuppa, second FIR., is submitted for an offence U/S. 302 IPC.

2. The dying declaration Ex. P.2 was recorded by PW. 2 (Head Constable) who went to the Victoria Hospital on receipt of information from the hospital and after ascertaining with the doctor as to whether the injured was in a position to give statement, he has recorded his statement as per Ex. P.2. PW. 3 who is an eye witness to the incident, in his evidence has stated that on the date of incident at about 7.15 p.m. himself and deceased Kuppa were going towards Lalbagh near

double road to have their food and when they were near M.P. store, the accused herein who had previous enmity with Kuppa, with an intention to do away with the life of Kuppa started assaulting Kuppa with knife (MO. 1) on his stomach, then thereafter, the accused took empty glass bottle and with the same, he assaulted on the head of Kuppa and then thereafter, the accused ran away from the scene of occurrence. PW. 5 who is the father of the deceased deposed that there were previous quarrels between accused and his son on 2-3 occasions and there was ill will between his son Kuppa and this accused; that on the date of incident, on receipt of information, he went to the hospital and saw his son Kuppa injured.

3. PW. 8 is the doctor who conducted post mortem examination over the dead body of Kuppa, he has issued post mortem report as per Ex. P.7 and has opined that death was due to shock and hemorrhage consequent to injuries sustained. He has also rendered opinion as per Ex. P.8 to the effect that the injuries found on the person of deceased Kuppa could be caused with the knife MO. 1. PW. 9 is the F.S.L. Officer who examined the weapon-knife (MO. 1) and has stated that it was stained with human blood and accordingly has issued his report as per Ex. P.9. On perusal of the material on record it is seen that when the deceased Kuppa was admitted to the hospital, the duty doctor (PW. 9) forwarded an intimation to the jurisdictional police, on the basis of which, the police (PW. 2) went to the hospital and recorded the dying declaration Ex. P.2 and the contents of the dying declaration clearly reveals that because of the earlier enmity, the accused-appellant had assaulted Kuppa with knife on his stomach and thereafter, he assaulted him with empty bottle on his head which resulted in severe bleeding injuries, due to which he succumbed to the injuries while undergoing treatment in the hospital. The trial Court, on appreciation of the material on record in proper perspective has arrived at a right conclusion and convicted the accused-appellant for the offence punishable U/S. 302 IPC and the Judgment of conviction passed by the trial Court is sound and proper. On re appreciation of the material on record, we do not find any reason to interfere with the finding arrived at by the trial Court and consequently, the appeal is liable to be dismissed. Hence we pass the following order.

ORDER

The appeal is dismissed. The judgment of conviction dated 26.10.2004 and order of sentence dated 28.10.2004 passed by the District and Sessions Judge, Fast Track Court-III, Bangalore City against the appellant-accused in S.C. No. 342/2002 convicting and sentencing the accused-appellant of having committed the offence punishable u/s 302 IPC., is confirmed.