
(2012) 08 KAR CK 0096

In the Karnataka High Court

Case No : Criminal Revision Petition No. 1278 of 2010

Mohammed Aslam Pasha and Another

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 29-08-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 34, 504, 506

Citation : (2013) 1 Crimes 657 : (2013) 1 KarLJ 159

Hon'ble Judges : A.N. Venugopala Gowda, J

Bench : Single Bench

Advocate : Y.S. Shiva Prasad, for the Appellant; Vijayakumar Majage, High Court Government Pleader, for the Respondent

Judgement

A.N. Venugopala Gowda, J.—Challenge in this revision petition is to the judgments of the Courts below holding the petitioners guilty of the offences u/s 506 read with Section 34 Indian Penal Code, 1860 and the consequential sentence passed. The alleged incident took place on 3-3-2008. P.W. 1 filed complaint on 18-3-2008. Ex. P.1 is the complaint. Case was registered in Crime No. 31 of 2008 for the offences under Sections 504 and 506 read with Section 34 of IPC and FIR-Ex. P.3 was sent to the Court. After investigation, charge-sheet was filed against the accused. Accused having appeared in response to the summons, pleaded not guilty and claimed trial. Prosecution, in order to establish its case, examined complainant as P.W. 1, two neighbours-P.Ws. 2 and 3 and the I.Os.-P.Ws. 4 and 5. Ex. P.2 is the spot mahazar. Exs. P.4 and P.5 are the reports submitted by the police constable. Learned Trial Judge, considering the record of the case with reference to the rival contentions, acquitted the accused of the offence u/s 504 read with Section 34 of IPC. However, accused were convicted for the offence u/s 506 read with Section 34 of IPC. Accused were sentenced to undergo simple imprisonment for one year and pay fine of Rs. 500/- each and in default, to undergo S.I. for two months.

2. Criminal appeal filed before the Sessions Court was assigned to Fast Track

Court. Learned Fast Track Judge has dismissed the appeal. Feeling aggrieved, accused have filed this criminal revision petition.

3. Heard Sri Y.S. Shiva Prasad, learned Advocate for the petitioners and Sri Vijayakumar Majage, learned High Court Government Pleader for the respondent and perused the record.

4. Point for consideration is, whether, the impugned judgment passed by the Appellate Court is perverse and illegal?

5. A perusal of the impugned judgment passed by the learned Appellate Judge shows that it has been passed casually. It is a bundle of confusion. All the observations are based on surmises and conjectures. The conclusion reached by the Appellate Judge to dismiss the appeal is not based on analysis of the material forming part of the record. The Sessions Court being the Court of appeal, on facts and law, is required to go into the evidence, advert to the same and also to the arguments of learned Counsel appearing for the parties and then pass a considered order. The impugned judgment does not indicate that it was passed with application of mind to the contentions raised on behalf of the appellants and upon perusal of the record of the case. The learned Appellate Judge has decided the appeal in a casual manner. Hence, I have no other option than to set aside the judgment and remand the case to the Appellate Court for deciding the appeal keeping in view the observation made supra and in accordance with law.

In the result, petition is disposed of as follows.-

Judgment dated 18-9-2010 passed in CrI. A. No. 55 of 2010 by the FTC-Tumkur, is hereby set aside.

Matter is remanded to the Appellate Court with a direction to decide the appeal, keeping in view the observations made supra, expeditiously, within a period of three months from the date of first appearance of the parties.

Petitioners/appellants through their learned Advocate are directed to appear before the Appellate Court on 15-9-2012 and receive orders.