
(2008) 12 SC CK 0043

In the Supreme Court Of India

Case No : Criminal Appeal No. 2015 of 2008 (Arising out of Special Leave
Petition (Criminal) No. 4483 of 2008)

Puttaswamy

APPELLANT

Vs

State of Karnataka and Another

RESPONDENT

Date of Decision : 11-12-2008

Acts Referred:

Constitution of India, 1950 — Article 142
Criminal Procedure Code, 1973 (CrPC) — Section 320
Penal Code, 1860 (IPC) — Section 279, 304A, 320, 324, 325, 326

Citation : (2009) ACJ 578 : (2009) 1 ACR 897 : (2009) AIRSCW 1744 : (2009)
CLT 370 : (2008) 12 JT 561 : (2009) 1 LW(Cri) 579 : (2009) OLR 370 : (2009) 1
PLJR 218 : (2008) 15 SCALE 483 : (2009) 1 SCC 711

Hon'ble Judges : Markandey Katju, J;Altamas Kabir, J

Bench : Division Bench

Advocate : Shekhar G. Devasa and Dinesh Kumar Garg, for the Appellant;
Anitha Shenoy, for the Respondent

Final Decision : Disposed Of

Judgement

Altamas Kabir, J.—Leave granted.

2. The appellant in this appeal was convicted for an offence punishable under Sections 279 and 304A of the Indian Penal Code for causing the death of a seven year old girl on account of his rash and negligent driving of his tractor. The appeal from the said order and conviction and sentence having been dismissed by the learned Sessions Judge, the appellant moved in revision before the High Court. In revision, the Karnataka High Court, while confirming the conviction, set aside the sentence in respect of the offence punishable u/s 279 of the Indian Penal Code but maintained the conviction and sentence in respect of the offence u/s 304A of the Indian Penal Code, whereby the appellant was sentenced to undergo simple imprisonment for 6 months and to pay a fine of Rs. 2,000/-, and in default of such payment, to undergo further simple imprisonment for three months and also to pay a fine of Rs. 600/- for the offence punishable u/s 279

I.P.C. and in default of such payment to undergo simple imprisonment for a month.

3. In this appeal the appellant has challenged the order of conviction and sentence passed by the Additional Civil Judge (Jr.Division) and Judicial Magistrate First Class, II Court, Hassan, and the subsequent orders passed by the Sessions Court and the High Court maintaining the conviction under Sections 279 and 304A and the sentence in respect of the conviction u/s 304A, I.P.C.

4. During the hearing of this appeal, at the admission stage, learned Counsel for the appellant informed the Court that the matter had been settled between the parties and a compromise petition had been executed between the appellant and the complainant. On such submission, the complainant was impleaded as a party to the present proceedings and the short point which ultimately arose during the hearing is whether the offence u/s 304A could at all be compounded since the same is not covered by the provisions of Section 320 I.P.C.

5. The aforesaid question has troubled this Court on different occasions, not only in connection with compounding of offences punishable under the criminal justice system, but also in respect of civil matters, and in respect of matrimonial matters in particular, where the Court had to strike a balance between the rigidity of the law and doing substantial justice to the parties. In order to meet certain unusual situations, this Court has from time to time taken recourse to innovations and the powers vested in it under Article 142 of the Constitution, in order to give a quietus to a litigation demanding a pragmatic solution. It has also been consistently held by this Court that when an offence did not come within the ambit of Section 320 of Criminal Procedure Code but the proceedings taken on the basis thereof deserved to be terminated, a sentence could always be reduced while maintaining the conviction and in most cases the sentence was reduced to the period of the sentence already undergone. In other cases, where circumstances so warranted, even the sentence was altered which at times brought the proceedings within the scope of Section 320 of Criminal Procedure Code and the offence was allowed to be compounded.

6. In this connection regard may be had to the decision of this Court in the case of Surendra Nath Mohanty and Anr Vs. State of Orissa, , which was disposed of by a Three-Judge Bench, wherein in respect of a conviction u/s 326 I.P.C. the sentence was reduced to the period already undergone together with fine. Of course, as mentioned hereinbefore, the said decision was rendered in the facts of the said case.

7. Reference was also made to two other decisions of this Court in i) Ram Lal and Another Vs. State of Jammu and Kashmir, and ii) 2000(10) SCC 313 , wherein the same formula was applied.

8. As far as the other proposition is concerned, reference may be made to the decision of this Court in the case of Avinash Shetty v. State of Karnataka and Anr. 2004 (13) SCC 375 where the conviction was altered from Section 324 to 326

I.P.C. and the offence was permitted to be compounded. There is yet another decision in the case of Y. Suresh Babu Vs. State of A.P. and Another, which deals directly with a conviction u/s 326 IPC. This Court allowed the parties to compound the case in the special facts and circumstances of the case, but also directed that the same was not to be treated as a precedent.

9. What emerges from all these decisions is that even if an offence is not compoundable within the scope of Section 320 of Code of Criminal Procedure the Court may, in view of the compromise arrived at between the parties, reduce the sentence imposed while maintaining the conviction. In the present case, the appellant has been convicted under Sections 279 and 304A of the Indian Penal Code and has been sentenced to undergo simple imprisonment for a period of 6 months and to pay a fine of Rs. 2,000/-. The sentence as far as conviction u/s 279 I.P.C. is concerned has been set aside by the High Court. What remains after the judgment of the High Court is the conviction under Sections 279 and 304A I.P.C. wherein the appellant was sentenced to undergo six months simple imprisonment along with a fine of Rs. 2,000/-. In our view, this is one of those cases where instead of confining the appellant in prison, the interest of justice will be better served if he is made to compensate the family of the deceased on account of the loss suffered by them.

10. Accordingly, while maintaining the appellant's conviction under Sections 279 and 304A I.P.C., notwithstanding the agreement arrived at between the parties, we increase the amount of fine from Rs. 2,000/- to Rs. 20,000/- to be paid by the appellant to the parents of the deceased and reduce the sentence to the period already undergone, subject to payment of the fine. The aforesaid amount is to be deposited by the appellant in the Trial Court within three weeks from date, and on such deposit, the said amount shall be made over to the parents of the deceased and the appellant shall be released forthwith. In default of such deposit, this order shall remain in abeyance for a period of four weeks and if still no deposit is made within the said period the appeal will stand dismissed.

11. The appeal is disposed of accordingly.