

(2007) 06 KAR CK 0010
In the Karnataka High Court
Case No : Criminal Appeal No. 610 of 2004

Puttaswamy @ Ikkal Rangaiah

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 25-06-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Penal Code, 1860 (IPC) — Section 302

Citation : (2008) 2 KarLJ 624 : (2007) 4 KCCR 378 SN

Hon'ble Judges : V.G. Sabhahit, J;C.R. Kumaraswamy, J

Bench : Division Bench

Advocate : R.S. Ravi, for the Appellant; N. Rudramani, Addl. SPP., for the Respondent

Final Decision : Dismissed

Judgement

1. This appeal by the accused is directed against the judgment of conviction and sentence passed by the Fast Track (Sessions) Judge-III, Bangalore, dated 20.03.2004 in S.C. No. 418/2002, wherein the appellant-accused has been found guilty of having committed the offence punishable u/s 302 IPC,, and sentenced to undergo imprisonment for life and to pay a fine of Rs. 5,000/- and in default of payment of fine, to undergo further imprisonment for a period of six months.

The essential facts of the case leading up to this appeal with reference to the rank of the parties before the trial Court are as follows:

2. It is the case of the prosecution that Sakamma, daughter of Lakshmamma and Kariappa, PWs. 1 and 2 respectively and sister of PW3-Gowramma was married to the accused and they had two children a son and a daughter. It is the further case of the prosecution that on 27.09.2001, the accused informed PW1 that their daughter-in-law was not well and took them to Tumkur and they reached Tumkur at 9:00 a.m. The accused took them to various places in Tumkur and was not found in any Hospital till 5 p.m., and they searched for daughter-in-law of PW1 in Shimoga and thereafter, they went to Kithagganahalli Village and

saw their daughter-in-law, who was quite healthy, Thereafter, they returned to their village at 11:00 p.m. and when they got down from the Bus, the accused tried to assault Sakamma and PW 1, the mother of Sakamma tried to intervene and she was also assaulted by the accused and as a result, she sustained fracture of the bone in her left hand and thereafter, the accused went with his wife-Sakamma to his house and PW1 returned to her house and informed PW2 about the said assault. On the next day morning at about 5:30 a.m., Police had sent some person to their house and PWs. 1 and 2 went to the house of the accused and found the dead body of their daughter-Sakamma. There was a pillow and wooden club which were stained with blood near the dead body. PW 1 lodged a complaint before the Police, which was registered by PW 9 in Crime No. 419/2001 for the offence punishable u/s 302 IPC. Thereafter, inquest over the dead body was conducted and the dead body was sent for post mortem examination. PW10 conducted the post mortem examination on the dead body and issued the post mortem report as per Ex. P9 and after completing investigation, the charge-sheet was filed against the accused for the offence punishable u/s 302 IPC by PW12. The case was committed to the Sessions Court. The charge was framed against the accused of having committed the offence punishable u/s 302 IPC, The accused pleaded not guilty and claimed to be tried. The prosecution examined PWs. 1 to 12 and got marked the documents, Exs.P1 to P13 and M.O. Nos. 1 to 6. The statement of the accused u/s 313 Cr.P.C. was recorded. The defence of the accused is one of denial. The accused did not lead any defence evidence. The trial Court after considering the contentions of the Public Prosecutor and the learned Counsel appearing for the accused and appreciating the evidence adduced by the prosecution, held that the prosecution has proved beyond reasonable doubt that he has committed murder of Sakamma and thereby, committed the offence punishable u/s 302 IPC., and after hearing the accused and the counsel appearing for him, sentenced the accused to undergo imprisonment for life and to pay a fine of Rs. 5,000/- and in default of payment of fine, to undergo further imprisonment for a period of six months, by judgment dated 20.03.2004, Being aggrieved by the said judgment of conviction and sentence, the accused is before this Court in this appeal.

3. We have heard the learned Counsel appearing for the appellant and the learned Addl. State Public Prosecutor appearing for the State.

4. Learned Counsel for the appellant submitted that the prosecution has failed to prove beyond reasonable doubt that it is the accused who caused the death of Sakamma. Learned Counsel farther submitted that burden is upon the prosecution to prove beyond reasonable doubt by adducing evidence before the Court the guilt of the accused. PWs. 4 to 6, according to the prosecution were eye-witnesses to the incident and they have not supported the case of the prosecution and they were treated as hostile and permitted to be cross-examined by the public prosecutor and nothing has been elicited in their cross-examination to support the case of the prosecution. PWs. 1 and 2, mother and father of Sakamma are not eyewitnesses to the incident and PW1 does not know the

motive for which the accused caused murder of his wife-Sakamma and M.O. Nos. 1 and 2 i.e., wooden club and the pillow, which according to the prosecution were seized from the spot, though sent for chemical examination regarding the blood stains found on the said articles, the report of the chemical examiner is not produced and wherefore, the case of the prosecution is rendered highly doubtful. Learned Counsel further submitted that the statement of the accused u/s 313 Cr.P.C., is not properly recorded as it is not put to the accused as to who caused the death of his wife. In support of his contention, he has relied upon title decisions of the Hon"ble Supreme Court in Jaspal Singh Vs. State of Punjab, , Nachhittar Singh Vs. The State of Punjab, , Tarseem Kumar Vs. The Delhi Administration, , Padala Veera Reddy Vs. State of Andhra Pradesh and others, . Learned Counsel further submitted that in the absence of the evidence of the eyewitnesses, who have turned hostile to the prosecution, the prosecution is relying upon the circumstantial evidence alone, which is not proved by the prosecution in the present case and wherefore, the trial Court ought to have given benefit of doubt to the accused and the judgment of conviction and sentence passed by the trial Court is liable to be set aside.

5. On the other hand, the learned Addl. State Public Prosecutor submitted that the evidence of PW1 shows that the accused made a false statement and took PW1 to Tumkur saying that her daughter-in-law was not well, however, her daughter-in-law was found to be healthy. The accused tried to assault Sakamma and when PW1 intervened, he assaulted her and the prosecution has proved that the accused went to his house with his wife and presence of the accused in the house with his wife is not disputed as there is no suggestion made to PWs. 1 and 2 nor in the statement made by the accused while answering question framed u/s 313 Cr.P.C., that he was not present in the house during the night of 27th and 28th September 2001 and wherefore, the onus was upon the accused, who had personal knowledge of the incident as to under what circumstances his wife suffered homicidal death and in the absence of the explanation offered by the accused as to the circumstances under which death of his wife took place, the said circumstance alone is sufficient to bring home the guilt of the accused and the decisions relied upon by the learned Counsel for the appellant are not helpful to him in the present case, Learned Addl. State Public Prosecutor has relied upon the decision of the Hon"ble Supreme Court in 2006 AIR SCW 5300 (Trimukh Maroti Kirkan v. State of Maharashtra) in support of his contention that the accused is having personal knowledge of the circumstances under which the offence has taken place.

6. Having regard to the contentions urged by the learned Counsel appearing for the appellant and the learned Addl. State Public Prosecutor, the points that arise for consideration in this appeal are:

1. Whether the finding of the trial Court that the prosecution has proved beyond reasonable doubt that the accused has committed the offence punishable u/s 302 IPC., is justified or calls for interference in this appeal?

2. Whether the sentence imposed upon the accused by the trial Court calls for interference in this appeal ?

We answer the above points for determination as follows:

POINT No. 1: The judgment of conviction passed by the trial Court holding that the prosecution has proved beyond reasonable doubt that the accused has committed the offence punishable u/s 302 IPC., is justified and does not call for interference in this appeal.

POINT No. 2: in the negative for the following:

REASONS

7. We have been taken through the evidence of PWs. 1 to 12 and the contents of the documents got marked by the prosecution. The prosecution has proved beyond reasonable doubt that Sakamma suffered homicidal death as the evidence of PW10 and the post mortem report given by him as per Ex.P9 would clearly show that Sakamma had sustained the following injuries:

1. Lacerated wound over left side top of the forehead, 4 Cms., above the eye-brow, horizontally placed, inner end is situate 3 1/2 Cms., from midline and measures 6 Cms., x 1 Cm x bone deep. Blood effused at wound site.
2. Lacerated wound over right side of head, 5 Cms., and behind the ear measuring 2 Cms. x 1 Cm x bone deep placed. Blood effused at wound site.
3. Abrasion over right side face situate 4 Cms., in front of Ear measuring 4 x 3 Cms.
4. Contusion over right angle of jaw measuring 3 x 3 Cms.,
5. Contusion over the bridge of nose measuring 3 x 2 Cms.
6. Contusion over the Chin measuring 3 x 1 1/2 Cms.
7. Contusion over back of Neck at its middle measuring 4 x 3 Cms.
8. Contused abrasion over front and sides of Neck measuring 16 Cms. x 10 Cms., situate 4 Cms., below the chin, 4 1/2 Cms., below the right angle of jaw and 3 1/2 Cms., below left angle of jaw.

Evidence of PW10 and the contents of Ex.P9 would further prove that the injuries were ante-mortem and fresh and contusions and abrasions are red in colour and time since the death was fixed at 6-12 hours prior to conducting postmortem examination and death was due to asphyxia as a result of pressure over neck. Nothing has been elicited in the cross-examination of PW10 to disbelieve his evidence that Sakamma suffered homicidal death, It is elicited in the cross-examination of PW10 that injuries 1 to 3 might be caused if a person falls down while climbing stairs and injuries 4 to 6 could be caused when a person assaults with hand and injuries must have been caused between 11:15 p.m. and 11:15

a.m. and there is possibility that blood might have fallen on the ground on account of the said injuries. Apart from the above said facts elicited in the cross-examination of PW1, nothing has been elicited in the cross-examination of PW10 to discredit his evidence or the contents of Ex.P9 issued by him and wherefore, the prosecution has proved beyond reasonable doubt that Sakamma suffered homicidal death. The prosecution in the present case has relied upon the evidence of the eyewitness and the circumstantial evidence. However, PWs.4 to 6, who have been examined as eye-witnesses to the incident have not supported the case of the prosecution and they were treated as hostile and permitted to be cross-examined by the public prosecutor and nothing has been elicited in their cross-examination to support the case of the prosecution and wherefore, the prosecution is left with circumstantial evidence alone. The circumstances upon which the prosecution is relying upon to bring home the guilt of the accused in the present case are:

1. The accused went to the house with his wife and apart from the accused and his wife, nobody else was present in the house.
2. Wife of the accused was found dead during the night of 27/28.09.2001 and no explanation is given by the accused as to how Sakamma suffered homicidal death.
3. The accused was quarrelling with his wife as stated by PWs. 1 to 3.
4. The accused was absconding and was unavailable when PWs. 1 and 2 went to the house of the accused and he was apprehended on 28.09.2001 at 5:30 p.m. as per the report near R.B.I. colony by PW7 and the report given by him as per Ex. P7.
5. The accused has not given any explanation as to how his wife suffered homicidal death.
8. It is clear from the decisions relied upon by the learned Counsel appearing for the appellant-accused that when the prosecution is relying upon circumstantial evidence, the prosecution has to prove the circumstances beyond reasonable doubt and the said circumstances should unerringly point to the guilt of the accused and chain of circumstances should be completed and there should not be any doubt in the case of the prosecution. Learned Counsel has relied upon the decision reported in Tarseem Kumar Vs. The Delhi Administration, wherein the Hon''ble Supreme Court has held that when the prosecution is relying upon the circumstantial evidence to prove the guilt of murder, motive assumes greater importance and in the absence of motive, other material including the ballistic report on record will have to be carefully scrutinized, Learned Counsel has relied upon the decision of the Hon''ble Supreme Court in Nachhittar Singh Vs. The State of Punjab, , wherein the Hon''ble Supreme Court has laid down that the failure of the prosecution to establish the motive for the crime committed by the accused does not has to be thrown over-board and it only casts a duty on the Court to scrutinize the other evidence, particularly of the eyewitnesses. Learned

Counsel has relied upon the decision of the Hon''ble Supreme Court in Padala Veera Reddy Vs. State of Andhra Pradesh and others, , therein the Hon''ble Supreme Court has held that when the guilt of murder is based upon the circumstantial evidence, the prosecution has to prove the guilt of the accused beyond reasonable doubt and in the absence of direct evidence, strong suspicion against the accused cannot take place of legal proof and accused is entitled to acquittal. Learned Counsel has also relied upon the decision of the Hon''ble Supreme Court in Jaspal Singh Vs. State of Punjab, in support of his contention that when M.O. Nos. 1 and 2 were sent for chemical examination and the report was not received, in the absence of proof of the fact that blood stains found on M.O. Nos. 1 and 2 matched with the blood of the accused and in the absence of any finger print impression collected by the prosecution, the prosecution case is rendered doubtful and in the said case, the Hon''ble Supreme Court has laid down that science of identifying thumb impression is an exact science and does not admit of any mistake or doubt and wherefore, assumes importance.

9. The circumstances relied upon by the prosecution has to be considered in the light of the principles laid down by the Hon''ble Supreme Court in the above said decisions relied upon by the learned Counsel appearing for the appellant

10. PW1. the mother of Sakamma has stated in her evidence that the accused is her son-in-law and her daughter-Sakamma was married to him about 10 years next before the date of her examination (31.01.2004). Accused and Sakamma had a son and a daughter, PW1 has further deposed that she was going to the house of the accused and Sakamma was also coming to her house and Sakamma was not speaking about her family affairs and she was also not enquiring about the same. The accused was doing business in Biscuits and he owned land and house and the documents pertaining to the land and house had been kept in their house. PW1 has stated that her daughter was doing household work and about two years next before her date of examination at about 6:00 a.m., the accused came and informed her that her daughter-in-law was not well and they thought of visiting her and again, the accused went to his house and brought his wife and children and left them in her house and thereafter, herself, her husband, accused, her daughter and her brother went to Tumkur and they reached there at about 9 a.m. and they searched for her daughter-in-law till evening and thereafter, she and her daughter went to the village of her daughter-in-law - Kithagganalli in an auto rickshaw and the accused came thereafter and they found that her daughter-in-law was healthy and when she enquired as to why the accused told that her daughter-in-law was not well, Sakamma said that it was a drama played by the accused and thereafter, they returned to their village at 11 p.m. and after getting down from the Bus, the accused tried to assault Sakamma and at that time, she intervened and the accused pushed her and as a result, she sustained fracture in the bone of her left hand and the accused went with her daughter - Sakamma to his house and she returned to her house and narrated the incident to her husband (PW2). PW1 has further stated that on the next day morning at 5:30 a.m., Police had sent some person to their house and

they went and saw the dead body of their daughter and there was a pillow and a wooden churner (wooden club), which had blood stains and there were injuries on the face and head of her daughter and the accused was not present when they went to his house and she does not know the reason for which the accused murdered his wife. PW1 has further deposed that she was present when M.O. Nos. 1 and 2 were seized from the spot and she has also identified M.O. Nos. 3 to 6 as the clothes which her daughter was wearing on the date of her death and she did not make enquiry about the cause of the murder of her daughter and her daughter and son-in-law were the only persons living in the house and nobody else was residing in the said house. It is elicited in the cross-examination of PW1 that Police have not recorded her statement and they have taken her signature and she has not stated in the complaint that the accused was coming to their house and she was going to the house of the accused. She has identified M.O. No. 1 as the wooden club which was found near the dead body of her daughter-Sakamma. She has denied the suggestion that M.O. Nos. 1 and 2 were not near the dead body of her daughter and M.O. Nos. 3 and 4 are not the clothes of Sakamma. It is further elicited in the cross-examination of PW1 that Sakamma was doing chit business and she does not know as to whether she was doing money lending and she does not know the name of the person sent by Police and it was 8:30 a.m., when her signature was taken.

11. PW2 is the father of Sakamma and he has stated in his evidence that PW1 is his wife and CWs.3 and 4 are his children and his daughter - Sakamma was married to the accused and they had two children. The accused had got his house and about two months next before the death of his daughter, documents pertaining to the land and site had been kept in his house and the accused was doing business in Biscuits and he was quarrelling with his daughter and had assaulted her about 11/2 months next before the death of his daughter and he had learnt about the same from his grand children and when he went and made enquiry, he was informed that he was also assaulting his children and he used to come to the house late and was picking up quarrel with his wife -Sakamma and assaulting his wife and children, PW2 has further deposed that his daughter had come to his house about one month next before her death and told them that the accused was demanding money and assaulting her and he was informed by PW1 about the incident of the accused taking PW1 and his daughter-Sakamma to Tumkur by making a false statement that his daughter-in-law was not well PW2 has further stated that on receiving the information, they went and saw the dead body of his daughter-Sakamma and there were injuries on the dead body of his daughter and the accused might have murdered his daughter-Sakamma and M.O. Nos. 1 to 6 were seized in his presence and because of the quarrel, his daughter died. Nothing has been elicited in the cross-examination of this witness to disbelieve his evidence as the only suggestion made to this witness is that Police have not recorded his statement and all that he has stated before the Court is false and M.O. Nos. 1 to 6 were not seized in his presence and the said suggestion is denied.

12. PW3 is the elder sister of Sakamma and she has stated in her evidence that Sakamma was informing her that the accused was assaulting her and PW1 informed about the death of Sakamma, She has identified M.O. Nos. 1 and 2 as the wooden club and pillow which were found near the dead body of Sakamma and she has stated that the accused might have murdered Sakamma as he was quarrelling with her. It is elicited in the cross-examination of PW3 that there is no telephone in their house and it is not true to suggest that Police have not recorded her statement and that her sister-in-law was doing chit business and no complaint was lodged regarding the quarrel between the accused and Sakamma. It is true that she has not identified M.O. Nos. 1 and 2 before the Police, It is not true to suggest that she is deposing falsely at the instance of her parents.

13. When the above said evidence of PWs. 1 to 3 is appreciated in the light of the principles laid down by the Hon"ble Supreme Court in the decisions cited by the learned Counsel for the appellant it is clear that PWs. 1 to 3 are not eye-witnesses to the incident and they are examined by the prosecution only to prove the circumstance that the accused was in the habit of assaulting his wife and was quarrelling with her and that during the night of 27.09.2001, the accused went to his house with his wife. The evidence of PW1 clearly proves beyond reasonable doubt that the accused had taken PW1 and Sakamma to Tumkur by making a false statement that her daughter-in-law was not well and when they found that her daughter-in-law was healthy, they returned to their village at 11 p.m. and the accused went to his house with his wife. There is no suggestion made to PW1 that the accused did not take PW1 and Sakamma to Tumkur as stated in the examination-in-chief of PW1 and that he did not take his wife to his house and that he was not present in the house during the night of 27.09.2001. The evidence of PW2 would only show that the accused was quarrelling with his wife and the documents pertaining to the land and house of the accused were kept in the house of PWs. 1 and 2 and the accused was assaulting his wife and children and nothing has been elicited in the cross-examination of PW2 to disbelieve his evidence. Evidence of PW3 would also show that the accused was quarrelling with his wife and all the witnesses i.e., PWs. 1 to 3 have stated that M.O. Nos. 1 and 2 were near the dead body of Sakamma and they were seized by the Police and wherefore, the evidence of PWs.1 to 3 would prove that the accused, who is the husband of Sakamma was assaulting her and during the night of 27.09.2001, he went to his house with his wife and apart from the accused and his wife, nobody else was present in the house.

14. The next circumstance relied upon by the prosecution is the circumstance that the accused was alone with his wife on the date of the incident and nobody else was present in the house and there is no explanation given by the accused as to how Sakamma died during the night of 27/28.09.2001. Learned Addl. State Public Prosecutor has relied upon the decision of the Hon"ble Supreme Court in AIR 2006 SCW 5300 (Trimukh Maroti Kirkan v. State of Maharashtra), wherein the Hon"ble Supreme Court has held that in view of the provisions of Section 106 of the Evidence Act, when no explanation is given by the accused as to how his

wife received injuries, the same would point towards the guilt of the accused. Learned Addl. State Public Prosecutor has also relied upon the decision of the Hon"ble Supreme Court in 1999 SCC 17 (State of Rajasthan v. Mahavir Alias Mahavir Prasad), wherein it is observed that circumstances establishing guilt of the accused i.e., death of a married woman caused by extensive burn injuries; husband and wife staying together and none else residing with them; broken pieces of bangles found in the verandah; dead body found lying in the centre of the Cot; delay in sending information of the incident to the father of the deceased; false plea of alibi taken by the accused and in the said circumstances of the case, chain of circumstances is complete and High Court was justified in reversing the order of acquittal passed by the trial Court in view of the provisions of Sections 11 and 106 of the Evidence Act, 1872 and Section 302 of the Penal Code, 1860. It is clear from the evidence of PW1, who has stated in her examination-in-chief that on 27.09.2001 at 11 p.m., the accused went to his house with his wife and she went to her house and there is no suggestion made to PW1 that the accused did not take his wife to his house or that he was not present in his house during the night of 27.09.2001. There is also no explanation given by the accused while his statement was recorded u/s 313 Cr.P.C., that he was not present in the house during the night of 27.09.2001 when Sakamma suffered homicidal death and the evidence of PW1 would clearly prove that during the night of 27.09.2001 at about 11 p.m., the accused went to his house and the accused was staying in the house and there was no body else in the house and when the accused and his wife - Sakamma were in the house and nobody else was present in the house, Sakamma was found to have suffered homicidal death during the said night. It was for the accused to explain as to under what circumstances his wife had suffered homicidal death and there is no explanation whatever in the present case as to how his wife suffered homicidal death during the night of 27.09.1991 and wherefore, the said circumstance that the accused and his wife were lying in the house and nobody else was present in the house and the accused has not given any explanation as to how his wife suffered homicidal death has been proved by the prosecution beyond reasonable doubt and this circumstance along with the circumstances spoken to by PW1, would complete the chain of circumstances and would unerringly point out only to the guilt of the accused and not to any other conclusion and there is no explanation whatever by the accused as to under what circumstances his wife suffered homicidal death during the night of 27.09.2001 when himself and his wife were in the house and there was nobody else in the house. Learned Counsel appearing for the accused-appellant submitted that the statement of the accused u/s 313 Cr.P.C., is not properly recorded. There is no merit in this contention as it is clear from the statement of the accused u/s 313 Cr.P.C., that the evidence of PW1 that at 11 p.m., during the night of 27.09.2001, the date on which Sakamma died, the accused had gone with his wife to his house and the said deposition given by PW1 is put to the accused in question No. 1 and it is denied as false. The decision relied upon by the learned Counsel appearing for the appellant-accused in Sharad Birdhichand Sarda Vs. State of Maharashtra, is not

helpful to the appellant in the present case as the learned Counsel appearing for the appellant-accused has not been able to point as to which incriminating material is not put to the accused and all the circumstances appearing in the evidence of the witness against the accused have been put to the accused in the present case and the defence of the accused is one of denial and wherefore, there is no merit in the contention of the learned Counsel appearing for the appellant that the statement of the accused u/s 313 Cr.P.C., has not been properly recorded. There is also no merit in the contention of the learned Counsel for the appellant that though M.O. Nos. 1 and 2 were sent for chemical examination, report is not produced and finger prints found on M.O. No. 1 has not been sent for the examination of the expert and in support of his contention, he has relied upon the decision of the Hon"ble Supreme Court and the decision relied upon by him in support of his contention is not helpful to him in the present case as it is clear that the circumstances proved by the prosecution that the accused took his wife to his house during the night of 27.09.2001 and when the accused and his wife were in the house and nobody else was in the house during the night of 27.09.2001, Sakamma suffered homicidal death and there is no explanation by the accused as to how Sakamma died and mere fact that chemical examiners report is not produced, would not in any way render the case of the prosecution doubtful as proved circumstances by the prosecution would clearly prove beyond reasonable doubt that it is the accused and the accused alone who must have caused homicidal death of Sakamma. Accordingly, we hold that the trial Court has rightly appreciated the evidence relied upon by the prosecution in the present case to prove the guilt of the accused for the offence punishable u/s 302 IPC., and on re-appreciation of the above said material on record, we hold that the finding of the trial Court that the prosecution has proved beyond reasonable doubt that the accused has committed the offence of under of his wife punishable u/s 302 IPC., is justified and does not call for interference in this appeal and accordingly, we answer point No. 1.

15. Point No. 2 : The offence u/s 302 IPC., is punishable with death or life imprisonment and the accused shall also be liable to fine. The trial Court has rightly held that this is not a fit case for imposing death sentence and sentenced the accused to undergo imprisonment for life and to pay a fine of Rs. 5,000/- and in default of payment of fine, to undergo further imprisonment for a period of six months and wherefore, the sentence imposed by the trial Court does not call for interference in this appeal and accordingly, we answer point No. 2 in the negative,

16. In view of our answer to point Nos. 1 and 2, we hold that there is no merit in this appeal and pass the following Order:

The appeal is dismissed. The judgment of conviction and sentence passed by the district and Sessions Judge, Fast Track Court -III. Bangalore City, dated 20.03.2004 in S.C. No. 418/2002 is confirmed.