

(2014) 08 SC CK 0059

In the Supreme Court Of India

Case No : Criminal Appeal No. 1630 of 2014 (Arising out of Special Leave
Petition (Crl.) No. 1769 of 2014)

Siddaiah

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 05-08-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 143, 147, 148, 149, 307

Citation : (2015) 2 AJR 147 : (2015) 1 KCCR 801 : (2015) 1 RCR(Criminal) 739

Hon'ble Judges : Ranjana Prakash Desai, J;N.V. Ramana, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Leave granted.

2. In this appeal by special leave the Appellants have challenged the judgment and order dated 2/12/2013 passed by the High Court of Karnataka in Criminal Appeal No. 2759 of 2006.

3. The Appellants are original accused Nos. 1, 2 and 5 respectively ("A1, A2 and A5," for convenience). They were tried along with three others ("A3, A4 and A6"), by the Fast Track Court-III at Mysore for offences punishable Under Sections 143, 147, 148, 323, 324, 307 read with Section 149 of the Indian Penal Code ("the Indian Penal Code") in Sessions Case No. 334 of 1999.

4. By order dated 15/12/2006, the trial court convicted A1 to A6 for the offences punishable u/s 143 read with Section 149 of the Indian Penal Code and sentenced each one of them to pay fine of Rs. 500/- each, in default, to undergo S.I. for two months each. A1 to A6 were also convicted for offences punishable u/s 147 read with Section 149 of the Indian Penal Code and sentenced to pay fine of Rs. 1000/- each, in default, to undergo S.I. for four months each. A1 to A6 were also convicted for offences punishable u/s 148 read with Section 149 of the Indian Penal Code and sentenced to pay fine of Rs. 1,000/- each, in default, to

undergo S.I. for four months each. A1 to A6 were also convicted for offences punishable u/s 324 read with Section 149 of the Indian Penal Code and sentenced to undergo R.I. for six months each. A1 to A6 were also convicted for offence punishable u/s 326 read with Section 149 of the Indian Penal Code and sentenced to undergo RI for two years each and to pay fine of Rs. 500/- each, in default, to undergo S.I. for two months each. The sentences were ordered to run concurrently.

5. Appeal was carried by the accused to the High Court. By the impugned judgment and order, the High Court acquitted A3, A4 and A6 of the offences punishable Under Sections 143, 147, 148, 324 and Section 326 read with Section 149 of the Indian Penal Code. A1, A2 and A5 were acquitted of offences punishable Under Sections 143, 147, 148 read with Section 149 of the Indian Penal Code. A1 and A5 were acquitted of offences punishable u/s 326 read with Section 149 of the Indian Penal Code. A2 was acquitted of offence punishable u/s 324 of the Indian Penal Code. A2 was convicted for offence punishable u/s 326 of the Indian Penal Code. He was sentenced to undergo S.I. for one year and to pay fine of Rs. 50,000/-, in default, to undergo S.I. for six months for the offence punishable u/s 326 of the Indian Penal Code. A1 and A5 were convicted for offence punishable u/s 324 of the Indian Penal Code and sentenced to undergo S.I. for three months each and pay fine of Rs. 20,000/- each, in default, to undergo S.I. for one month. Out of the fine amount deposited by A1, A2 and A5, a sum of Rs. 30,000/- was directed to be paid as compensation to PW-2 Venkatesha and a sum of Rs. 10,000/- each was directed to be paid as compensation to PW-3 Srinivasa Shetty, PW-4 Murthy @ Srinivasa Murthy and PW-5 Manjunath. Being aggrieved by the said judgment and order, the Appellants have filed the present appeal. We are informed that A1 and A5 have already undergone the three months' imprisonment and they have been released from jail. A2 is in jail. He has undergone about 6 months and 24 days imprisonment as on 1/8/2014.

6. On 24/02/2014, liberty was granted to the Appellants to add the complainant as party-Respondent. This Court directed that notice be issued to the complainant to find out whether more compensation could be paid to the victim. We are informed that Venkatesha s/o. complainant late Lakshmana Shetty has been served. However, none is appearing for him nor is he appearing in person. On 4/4/2014, this Court directed the Appellants to deposit a sum of Rs. 50,000/- as litigation expenses in the Fast Track Court-I, Mysore within one week. We are informed that, accordingly, the amount has been deposited.

7. The facts, briefly stated, are as follows:

A1, A3 and A4 are the sons of A2; A5 is the younger brother of A2 and A6 is the son of A5. All the prosecution witnesses are related to each other. There are cases and counter-cases between the accused and prosecution witnesses. According to the prosecution witnesses, on the day of the incident viz. 15/7/1999, at about 7.00 a.m., when the granddaughter of PW-1 viz. CW-9

Shilpa had gone to collect water from the public tap, A1 scolded her. This incident of scolding was promptly reported by CW-9 Shilpa to PW-1. When PW-1 questioned A1 about the scolding, A1 slapped him. On seeing the incident of assault, the relatives of A1 and PW-1 came to the place of incident. It is further the case of the prosecution that the accused assaulted the prosecution witnesses with deadly weapons. On the other hand, the case of the accused is that PW-1 and his sons picked a quarrel with A1, A3 and A4 and assaulted them. They were treated in the Government Hospital, Nanjangud. Two cases were registered on the basis of the two different first information reports given by PW-1 and the accused. Both the cases were tried together. By his order dated 15/12/2006, the Presiding Officer, Fast Track Courts-III, Mysore convicted the Appellants and Ors. as stated aforesaid. It appears that in the counter-case filed against some of the prosecution witnesses, the Presiding Officer, Fast Track Courts-III, Mysore acquitted all of them of the offences alleged against them. Being aggrieved by the said order of conviction, the Appellants and Ors. approached the High Court. By the impugned judgment, the High Court partly allowed the appeal, however, convicted the Appellants as aforesaid. Hence, the present appeal is filed by the Appellants.

8. We have heard Mr. Sanjay Hegde, learned Counsel appearing for the Appellants and Ms. Anita Shenoy, learned Counsel for the Respondents.

9. Mr. Hegde, learned Counsel appearing for the Appellants submitted that the evidence on record shows that it is PW-1 Lakshmana Shetty, who picked the quarrel with the accused and assaulted them. The accused received injuries. In fact, A2 was in hospital for about 20 days. It is PW-1 Lakshmana Shetty, who was the aggressor. Counsel submitted that there was no intention to cause grievous hurt as the incident took place due to a sudden fight. Counsel pointed out that A2 is nearly 70 years of age and is suffering from various ailments. He is in jail for about 7 months. In the circumstances, the sentence already undergone by A2 may be treated as the sentence for the offence u/s 326 of the Indian Penal Code and he may be directed to be released. On the other hand, Ms. Shenoy, learned Counsel for the Respondent contended that the impugned order does not deserve any interference by this Court.

10. Insofar as Appellants-A1 and A5 are concerned, we are informed that they have already undergone their sentence and have been released from custody. In any case, their conviction and sentence appears to us to be proper. A2 is convicted for offence punishable u/s 326 of the Indian Penal Code and sentenced to undergo S.I. for one year. We are informed that he has already undergone about 6 months and 24 days imprisonment as on 1/8/2014. In this appeal, we are, therefore, basically concerned with the sentence of A2. It is a fact that the accused are closely related. The accused and the complainant stay in the same locality. In fact, they are neighbours. The incident happened way back in July, 1999. The incident arose out of a trivial issue i.e. a quarrel over a water tap. In a heat of passion, both sides attacked each other. Admittedly, the accused also

received injuries. It is pointed out to us that A2 was in fact in hospital for about 20 days. A2 is admittedly nearly 70 years of age. We are informed by Mr. Hegde that he is suffering from various ailments. In the peculiar facts and circumstances of the case, therefore, we are of the opinion that the sentence undergone by A2 should be treated as the sentence for the offence u/s 326 of the Indian Penal Code. Hence, the order of conviction of A2-Huchegowda for the offence u/s 326 of the Indian Penal Code is confirmed. However, the sentence imposed on A2-Huchegowda for the said offence is reduced to the sentence already undergone by him. A2-Huchegowda is directed to be released forthwith unless otherwise required in any other case provided the fine of Rs. 50,000/- imposed on him by the High Court is paid by him.

11. On 4/4/2014, we had directed the Appellants to deposit an amount of Rs. 50,000/- as litigation expenses in the Fast Track Court-I, Mysore. We are informed that on 16/4/2014, the said amount has been deposited with the District & Sessions Judge, Mysore in S.C. No. 334 of 1999. The complainant-PW-1 Lakshmana Shetty is stated to be dead. We direct that the said amount of Rs. 50,000/- be paid as compensation to Venkatesha s/o. complainant-late Lakshmana Shetty. The District & Sessions Judge, Mysore is directed to issue notice to Mr. Venkatesha s/o. late Lakshmana Shetty and inform him that he is entitled to receive the said amount of Rs. 50,000/- deposited with it without furnishing security.

12. The appeal is disposed of in the aforestated terms.