
(2015) 03 KAR CK 0022
In the Karnataka High Court
Case No : Criminal Appeal No. 1317/2011

State	Vs	APPELLANT
Mahadevanaika and Others		RESPONDENT

Date of Decision : 25-03-2015

Acts Referred:

Penal Code, 1860 (IPC) — Section 324, 326, 341

Citation : (2015) 03 KAR CK 0022

Hon'ble Judges : P.D. Waingankar, J.; Mohan M. Shantana Goudar, J.

Bench : Division Bench

Advocate : Narayana Reddy, S.P.P., for the Appellant; R.D. Renukaradhya for P. Nataraju, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

Mohan M. Shantana Goudar, J.—Heard the learned Advocates on merits with their consent. Perused the records produced by the learned SPP.

The respondents are convicted by the Trial Court in C.C. No. 864/2006 for the offence under Section 326 of IPC apart from other offences and sentenced to undergo imprisonment for two years and to pay a fine of Rs. 2,000/- for the offence under Section 326 of IPC. For other offences with which the respondents are convicted i.e., for the offences under Sections 341 and 324 of IPC, the accused are also sentenced to a lesser extent.

The convicted accused preferred Criminal Appeal No. 60/2011 before the III Additional Sessions Court, Mysore, which came to be allowed in part by the judgment and order dated 22.08.2011. The First appellate Court allowed the appeal in part and acquitted accused Nos. 3 and 4 and the order of conviction passed against accused Nos. 1 and 2 for the offence under Section 326 of IPC stood confirmed. However, the sentence is reduced to one month for the offence under Section 326 of IPC. All the accused are acquitted for the offences under Sections 324 and 341 of IPC. The convicted accused Nos. 1 and 2 have not filed

appeal. However, the State has filed this appeal questioning inadequacy of sentence imposed on convicted accused Nos. 1 and 2.

2. The case of the prosecution in brief is that all the four accused with the common intention restrained P.W. 2 and assaulted her with club and coconut godamotte, consequent upon which P.W. 2 sustained fracture of metacarpal bone and phalange. The case of the prosecution is supported by the evidence of P.Ws. 1 and 2, who are eye witnesses to the incident. Among them, P.W. 2 is the injured eye witness. P.Ws. 5 and 6 are also eye witnesses to the incident in question. We find that both the Court below are justified in concluding that the evidence of P.Ws. 1, 2, 5 and 6 is consistent, cogent and reliable. The evidence of eye witnesses is supported by the version of doctor-P.W. 8 who has issued wound certificate as per Exs. P4 and 7. The doctor has also deposed that P.W. 2 has sustained fracture of metacarpal bone and phalange.

3. Both the Courts below have concurrently and rightly concluded that accused Nos. 1 and 2 have committed offence under Section 326 of IPC. Even otherwise, the convicted accused having not filed appeal and therefore we need not go on merits of the matter any further.

4. The learned SPP contends that the order of the Trial Court sentencing accused Nos. 1 and 2 for two years may be restored. The said submission is opposed by the learned Advocate for respondents.

5. We find from the evidence that the incident has taken place in a petty quarrel between the parties. Injured as well as accused are villagers and residing nearby houses. The incident has also taken place on a spur of the moment. It is not a premeditated act. Accused Nos. 1 and 2 had retained the axe of P.W. 2 for their agricultural purposes. However, the said axe was not returned by the accused. Thus, P.W. 2 had asked accused Nos. 1 and 2 to return the axe and in that context the incident has taken place in front of the house of P.W. 2, that too when accused Nos. 1 and 2 were proceeding in front of house of P.W. 2.

6. Since the incident is the result of petty quarrel between the two agriculturists, in our considered opinion, it may not be necessary to sentence accused Nos. 1 and 2 imposing further imprisonment. However, ends of justice will be met if accused Nos. 1 and 2 are sentenced to pay more fine in order to compensate the injured-P.W. 2. Accordingly, the following order is made.

ORDER

"A) The judgment and order passed by the Sessions Court sentencing accused Nos. 1 and 2 to undergo imprisonment for one month is retained. However, accused Nos. 1 and 2 are sentenced to pay a fine of Rs. 30,000/- each. Fine, if any already paid by the accused Nos. 1 and 2 shall be deducted while paying rest of the fine amount.

B) In default of payment of fine, accused Nos. 1 and 2 shall undergo further imprisonment for three months. In case of recovery of fine, Rs. 40,000/- shall be

paid to the injured-P.W. 2 as compensation. Remaining amount shall vest with the State."

The appeal is allowed in part accordingly.