
(2013) 02 KAR CK 0087
In the Karnataka High Court
Case No : Criminal Appeal No. 1784 of 2007

State	Vs	APPELLANT
N. Prakash and Others		RESPONDENT

Date of Decision : 04-02-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 143, 147, 148, 149, 504

Citation : (2013) 02 KAR CK 0087

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : S.S. Aspalli, Government Pleader, for the Appellant; Veershetty B. Kondampally, Advocate for Respondents 1 to 14, 17, 19 to 21 and 25, for the Respondent

Final Decision : Dismissed

Judgement

Anand Byrareddy, J.—Heard the learned Government Pleader for the appellant and the learned counsel for the respondents. The State is in appeal, questioning the acquittal of the accused in the following circumstances:

It is alleged that on 29.08.2002 at about 9.00 AM, there was a complaint by one Mallikarjun who was said to be the administrator of a factory known as Swastik Drugs, situated in an industrial area at Kolar village, Bidar District. It was alleged that on the said day at about 8.00 AM about 20 to 25 persons formed themselves into an unlawful assembly and were restraining the workers from entering the factory premises and that they were scolding them in filthy language and holding out threats to their life and limb. It is alleged that one Shohil, the Vice President of the union, N.K. Prakash who was the Joint Secretary, Dastagir and the treasurer were standing about 10 feet away from the factory gate and were intimidating the other persons and preventing them from entering the factory premises and they were instigating them to create a ruckus. There were 29 other persons who had continued to restrain the workers from entering into the factory premises. On the complaint, a case had been registered

against the named accused and the accused were thereafter arrested and produced before the Court and later released on bail. The allegations against the accused were in respect of offences punishable under Sections 143, 147, 148, 504, 341, 506 read with Section 149 of the Indian Penal Code, 1860 (Hereinafter referred to as the "IPC, for brevity). After further proceedings, charges having been framed, the accused had pleaded not guilty and claimed to be tried. The prosecution had examined 5 witnesses PW-1 to PW-5 and marked Exs.P-1 to P-3. The Court had thus framed the following points for consideration:

- 1) Whether the prosecution proves that on 29.08.2002 at about 8 am., Kolar-K industrial area, near Swastik Drugs Factory gate accused no. 1 to 29 in furtherance of common object formed themselves into unlawful assembly and as such committed the offence punishable under sec. 143 r/w sec. 149 of IPC, beyond all the reasonable doubt?
- 2) Whether the prosecution further proves that on the above said date, time and place accused no. 1 to 29 in furtherance of common object formed themselves into unlawful assembly committed the offence of rioting and as such committed the offence punishable under sec. 147 r/w sec. 149 of IPC, beyond all the reasonable doubt?
- 3) Whether the prosecution further proves that on the above said date, time and place accused no. 1 to 29 in furtherance of common object formed themselves into unlawful assembly committed the offence of rioting armed with deadly weapons like stones, sticks and as such committed the offence punishable under sec. 148 r/w sec. 149 of IPC, beyond all the reasonable doubt?
- 4) Whether the prosecution further proves that on the above said date, time and place in furtherance of common object formed themselves into unlawful assembly, A.1 to A.29 have picked up the quarrel with CW.1 Mallikarjun, CW.4, CW.5 and C.W.6 intentionally insulted to them by abusing in filthy language as Bhosadi Magne, and thereby gave provocation intending that such provocation would cause them to break public peace and thereby committed the offence punishable under sec. 504 r/w sec. 149 of IPC, beyond all the reasonable doubt?
- 5) Whether the prosecution further proves that on the above said date, time and place in furtherance of common object formed themselves into unlawful assembly accused no. 1 to 29 have wrongfully restrained CW.1 Mallikarjun, CW.4 Madana Mohanreddy, CW.5 Nagireddy and CW.6 Shivsharnappa in such a manner as to prevent him circumscribing limits and as such committed the offence punishable under sec. 341 r/w sec. 149 of IPC, beyond all reasonable doubt?
- 6) Whether the prosecution further proves that on the above said date, time and place in furtherance of common object formed themselves into unlawful assembly accused no. 1 to 29 have committed criminal intimidation by threatening the CW.1, CW.4, CW.5 and CW.6 with an intention to cause alarm to them and as such committed the offence punishable under sec. 506 r/w sec. 149 of IPC, beyond all the reasonable doubt?

7) What order?

And answered point Nos. 1 to 6 in the negative and acquitted the accused. It is that, which is under challenge in the present appeal.

2. The learned Government Pleader was heard at length and the record was perused. The Court below has by a summary judgment, acquitted the accused, as it had found that the evidence was paltry and inconsistent. It has noticed that in so far as PW-1 is concerned, he was the complainant. According to the complainant he was accustomed to coming to the factory from his residence in a factory bus from Bidar, usually at 8.30 AM. On the other hand, the said witness having in his complaint alleged that he was at the factory gate at 8.00 AM is inconsistent with his further statement that he was coming on a daily basis at 8.30 AM to the factory premises. Therefore, the Court has disbelieved the veracity of the said witness. PW-2 was the security guard, who has admitted that he did not know the Kannada language. Therefore, the Court has surmised that he would not have been able to understand the language that was used by the accused. His further statement that there were 30 to 35 persons along with certain other named accused, was inconsistent with the complaint, in which it is mentioned as 20 to 25 persons and also the statement of the said witness to the effect that he was inside the factory gate, which was like a "iron curtain" and therefore he could not really see outside the gate, to state as to the manner in which the accused were intimidating the other workers or physically restraining them from entering the factory premises. PW-3 had admitted in his cross-examination that Gopal Reddy was not an employee of Swastik Drugs and that CW-5 Nagreddy was also not an employee of Swastik Drugs and that he had not given any instructions to the Police Constable who drew up the panchanama and the mahazar. PW-4 had turned hostile and he was one of the alleged victims who had been threatened and scolded not to enter the factory premises. PW-5 is also one of the alleged victims, who had stated inconsistently with his earlier statement that CW-1, CW-3 and CW-7, Mallikarjun were working inside the factory and he did not know where CW-7 and CW-8 working and he was also not sure about who were being restrained by the accused etc. It is on the basis of this sketchy and inconsistent evidence that the prosecution sought to rest its case and the Court below has rejected the case of the prosecution as it was not cohesive and did not establish the case beyond all reasonable doubt.

Though the learned Government Pleader makes a serious endeavor to sustain the allegations and the circumstance that the prosecution had proved its case beyond all reasonable doubt, as pointed out by the Trial Court there is no cohesion in the testimony of the witnesses for the prosecution and consequently the Court having rejected the same, it cannot be faulted. Hence, no case is made out for interference. The appeal is dismissed.