
(2003) 06 KAR CK 0007
In the Karnataka High Court
Case No : Criminal Appeal No. 1435 of 2002

State	Vs	APPELLANT
Sadiq Pasha alias Syed Pasha alias Sajid		RESPONDENT

Date of Decision : 18-06-2003

Acts Referred:

Citation : (2003) 5 KarLJ 160 : (2003) 3 KCCR 2231

Hon'ble Judges : M.S. Rajendra Prasad, J;M.F. Saldanha, J

Bench : Division Bench

Advocate : B.A. Belliappa, High Court Government Pleader, for the Appellant;

Final Decision : Dismissed

Judgement

M.F. Saldanha, J.—We have heard the learned Government Advocate on merits only with a view to ascertain as to whether any useful purpose will be served by retaining this appeal on file.

2. More than one year has passed since the notice was issued and we must say to the credit of the office of the learned Government Advocate and the concerned Police, that as many as nine attempts have been made to trace out the accused and to serve the notice on him. The efforts indicate that the accused is a known anti-social element, the Police have used the word "vagabond" and that he has no fixed place of residence, that despite diligent enquiries, the Police were not able to trace him and that it does appear from the investigations that he has left Bangalore and gone to Bombay. Efforts were made through their counterpart but the Bombay Police have not been able to either apprehend the accused or serve notice on him. Under these circumstances, no useful purpose will be served by retaining the appeal on file.

3. The more important reason why we have taken this decision is because after a careful reappraisal of the case, we find that the acquittal order on merits does not deserve to be disturbed. The principal reasons for these are that at the earliest point of time the injured had not named the accused or implicated him.

The complainant contends that he was unconscious for one full week after the incident and in the meanwhile, Ex. P. 1 statement has been recorded by attributing the assault to unknown persons. Apart from this, having regard to the nature of the injuries, even assuming that the accused was convicted, the sentence that would have been awarded to him would have been lesser than the sentence undergone by him in custody as he was set at liberty only after the order of acquittal as he was not released on bail earlier. Cumulatively therefore, there is no ground on which any further orders are called for in this appeal. The Law Department ought to have applied its mind to this last, but important aspect, and not directed an appeal.

The appeal fails on merits and stands dismissed