
(2002) 06 KAR CK 0080
In the Karnataka High Court
Case No : Criminal Appeal No. 1562 of 2001

State of Karnataka

APPELLANT

Vs

Mahadev Yamanappa Gudasi

RESPONDENT

Date of Decision : 15-06-2002

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 325

Citation : (2002) 3 KCCR 1666

Hon'ble Judges : N.K. Patil, J;M.F. Saldanha, J

Bench : Division Bench

Advocate : Mohan Shanthanagouder, State Public Prosecutor, for the Appellant;
Jagadish Patil, for the Respondent

Judgement

M.F. Saldanha, J.—We have heard the learned Advocates on both sides on merits. We have also perused the record of the case. While the learned State Public Prosecutor appears to be right when he points out that the evidence of the two injured persons P Ws. 2 and 7 is fully corroborated by the medical evidence and that it is conclusively established that it was the accused who is known to them who had assaulted both these persons and caused two fractures to PW2 and simple injuries to PW7, the submission is that it is very necessary that this Court must come down heavily on the wrong practice followed by the trial Courts in case after case wherein the accused are acquitted on the ground that independent evidence is not available for purposes of corroboration. In this case, two witnesses were produced as the so-called independent witnesses but they have turned hostile and therefore, that evidence is of no consequence. Regardless of this, the learned State Public Prosecutor submits that the existing evidence is sufficient to sustain a conviction.

2. Mr. Jagadish Patil, learned Advocate who represents the Respondent accused points out to us that both the parties are agriculturists and that admittedly there was a violent quarrel between them in relation to the cutting of the jawar crop. His submission is that in this background and the background of hostility that the

trial Court was right in holding that the rule of prudence would require that before a conviction could result that some reliable independent evidence must be before the Court. Secondly, what he submits is that the injuries that have been complained of could easily have been sustained as a result of a violent fall or any other accident that could occur in the course of agricultural activities and that the benefit of doubt has rightly been extended to the accused.

3. In the first instance, what we need to point out is that as far as the large number of incidents that take place such as the present one where as a result of an assault injuries occur, whether it is in the house or on a crowded street or in a field or anywhere else, the certainty of other persons being around cannot be taken for granted but even if the presence of other persons such as the neighbours is established, the Court needs to take cognizance of the fact that these minor disputes have their own type of fallout and that consequently when the case ultimately comes up for hearing, the witnesses either deny their statement or feign lapse of memory purely in order to avoid any hostile reaction from the accused side if as a result of their evidence an adverse order would result. Apart from this, this Court has times without number deprecated the other attendant malpractices that are common in criminal cases where the witnesses are either intimidated or won-over and having regard to all of these there is no doubt about the fact that there will rarely be situations where independent corroboration from outsiders is genuinely forthcoming.

4. Undoubtedly, when an assault takes place there will be some background of hostility but the Court address itself to the question as to why would an injured person falsely implicate the accused if someone else has been involved in the assault and exonerate the guilty person in order to falsely implicate the innocent. Simple citizens such as the villagers, agriculturists and others are not seasoned litigants nor do they have the cunningness to falsely implicate and give false evidence on oath and generally, irrespective of some blemishes which are understandable because of their status, the long time delay, etc; their evidence is by and large acceptable to the Court barring instances where the defence can establish that the evidence is false or motivated. The real test comes from the fact that the injuries corroborate the evidence and that medical evidence also is almost a foolproof corroboration and consequently, even in the absence of independent or outside evidence the Courts would be justified, provided the evidence is generally creditworthy, in basing a conviction on this material.

5. Having regard to the aforesaid position, we set aside the order of acquittal recorded by the trial Court. The accused is convicted of the offence punishable under Sections 325 and 323 Indian Penal Code and it is directed, that he shall undergo RI for the period undergone and pay a fine quantified at Rs. 2,000/- and Rs. 500/- respectively aggregating in all Rs. 2,500/-. The fine amount to be deposited in the trial Court within a period of 12 weeks failing which the trial Court to recover the same. After recovery, the trial Court to issue notice to P Ws. 2 and 7 and to pay over a sum of Rs. 2,000/- to PW-2 and a sum of Rs. 500/- to

PW-7 as and by way of compensation.

6. We have had occasion to make certain significant observations with regard to the aspect of delay in our order dated 17.4.2002. A copy of that order to be annexed to this judgment and, the Registrar General to ensure that a copy of this judgment is circulated to all the Principal Sessions Judges in the State with instructions to bring the same to the notice of the learned Judges and Magistrates hearing criminal cases.

7. The appeal which partially succeeds on merits to stand disposed off.