

SUPREME COURT OF INDIA

R. Seetharam

Vs.

State of Karnataka

Crl.A.No.250 of 2001

(M. B. Shah and S. N. Variava JJ.)

28.02.2001

JUDGEMENT

S. N. Variava, J.:-

1. Leave granted.
2. Heard parties.
3. This Appeal is against a judgment dated 8th June, 2000 by which the Criminal Appeal filed by the Appellants has been dismissed.
4. Briefly stated that facts are as follows:

“On the basis of a report a complaint for offences under Sections 143, 147, 148 and 307 read with Section 149, I.P.C. was lodged against the Appellants. After investigation a charge-sheet was filed against the Appellants. As the offences were exclusively triable by the Court of Session, the same was committed to the Court of Session. The 9th Additional Sessions Judge, Bangalore held the trial and convicted the 1st Appellant for offences punishable under Section 326 of the Indian Penal Code and sentenced him to a rigorous imprisonment for one year with a fine of Rs. 1,000/-. Appellants 2 to 4 were convicted under Section 324, I.P.C. and were sentenced to undergo simple imprisonment for three months. Against the said conviction the Appellants had preferred an Appeal. This has been dismissed by the impugned judgment.”

5. It is a case of the Prosecution that on 17th November, 1992 at about 8.20 p.m. PW-2 and her sons were watching T.V. in their house when they learnt that some people were taking photographs of their house. It is the case of the Prosecution that when PW 3 objected Appellant No. 1 stabbed him with a knife. Appellants 2 to 4 assaulted him with bamboo clubs and iron rod.

6. A report was immediately lodged at the Police Station. PW-3 was referred to the Victoria hospital where he was examined by Doctor, i.e. PW-7. Thereafter PW-3 was removed to Bangalore Nursing Home where he was examined by another Doctor, i.e. PW-4. The Prosecution examined the eye witnesses i.e. PWs-2 to 5. PW-3 was the injured witness. The Prosecution also examined Doctors i.e. PW-4 and PW-7 and proved the injuries. The Prosecution had also produced the weapons. The trial Court as well as the Appellate Court considered the entire evidence and have come to the conclusion that the guilt of the accused have been proved beyond a reasonable doubt.

7. It must also be mentioned that the Appellants had also filed a cross complaint against the prosecution witnesses. That complaint was also committed to the same Court and both the trials had taken place simultaneously. The trial Court had also delivered a judgment in this cross complaint by which the prosecution witnesses in this case were acquitted. Against that acquittal no appeal has been filed by anybody.

8. We have heard the parties. We have examined the evidence. We are of the opinion that the Prosecution has proved beyond a reasonable doubt that the Appellants had attacked and caused injuries to PW-3. In that view of the matter the conviction will have to be upheld.

9. However, it has been pointed out to us that Appellant No. 3 has already expired, Appellants 2 and 4 have already served out their sentence. Reliance has been placed upon medical Certificate from St. Martha's Hospital, Bangalore, which shows that Appellant No. 1 is suffering from Prolapsed Disc and has a degenerated and fragmented fibro-cartilagenous material which has resulted in 60% disability in both lower limbs. Appellant No. 1 is also a Diabetic and suffering from acute Bronchitis attacks. The Certificate show that he is unable to attend to his normal physiological activities. We have also seen that his wife has deserted him and he has two small children with an aged mother.

10. In our view it will be sufficient if the sentence of Appellant No. 1 is reduced to that already undergone by him. We therefore direct that the Appellant No. 1 be forthwith released unless he is required in some other case, if not already released.

Order accordingly.