

SUPREME COURT OF INDIA

State of Karnataka

Vs.

Ramanjanappa

(A.S.Anand, R.C.Lahoti and Ashok Bhan JJ.)

11.09.2001

JUDGMENT

Dr.A.S.Anand, J.

1. This judgment will dispose of Criminal Appeal Nos. 794-796 of 1996, filed by the State of Karnataka, by special leave, as also Criminal Appeal No. 2045 of 1996, filed by A-20 (Raja @ Venkataraja) and A-33 (Hanumanthaiah @ Hanumaiah) against their conviction and sentence.

2. For the murder of Chennappa and Honna Nanjaiah, which occurred on 16th February, 1987, as many as 37 persons were charged for committing various offences and sent up for trial before the learned sessions court. The trial court, vide judgment dated 30th March, 1992 acquitted 18 persons out of the accused party, 16 persons were convicted for various offences out of which A-1, A-2, A-20, A-30 and A-33 were convicted for substantive offences under Section 302/149 IPC besides other offences. 13 of the accused persons were convicted for various offences including offences under Section 326/149 IPC. A-27, A-26 and A-29, three ladies, were convicted for an offence under Section 323 IPC but given the benefit of Probation of Offenders Act.

3. Both the convicts, as well as the State, filed appeals in the High Court. Whereas the convicts filed appeals against their conviction and sentence, State filed the appeal against acquittal of accused, other than A-1, A-2, A-20, A-30 and A-33. On 16th March, 1994, a Division Bench of the High Court, after a very detailed discussion of the evidence on the record, found that the prosecution had been unable to establish, by trustworthy, reliable and cogent evidences, that all the 37 accused, who had been charged for committing the murders of Chennappa and Honna Nanjaiah, had actually participated in the occurrence. After analysing the evidence of PW-1, PW-2, PW-7, three ace witnesses of the prosecution, the High Court came to the conclusion that their evidence, which implicates all the accused persons, is of a partisan nature; bristles in most parts with unnaturalness and embellishments and that deliberate attempts have been made by the prosecution witnesses to implicate persons who were nowhere near the occurrence and that there has been a deliberate attempt to implicate innocent persons along with some of the guilty ones. The High Court noticed the infirmities in the evidence of the eye witnesses and taking note of the medical evidence

found that the burn injuries found on the deceased, being post mortem, gave a direct lie to the evidence of the eye witnesses to the effect that after causing injuries to the two deceased the accused party set them on fire while they were still alive by pouring kerosine oil on them and (SIC) their bodies with a match stick. The High Court also noticed the different versions given by different witnesses of the prosecution with regard to the accused who were alleged to have poured kerosene oil on the two deceased before setting them on fire. After analysis of the evidence, the Division Bench of the High Court came to the conclusion that only five of the accused persons, namely, A-1, A-2, A-20, A-30 and A-33 were guilty of the offence of rioting under Section 147 IPC and they were accordingly convicted for the said offence and sentenced to six months R1. The above five convicts were also found guilty of an offence under Section 148 IPC and sentenced to undergo one year R1. All the above five convicts were found guilty under Section 326/149 IPC for having caused grievous hurt to deceased Chennappa and were sentenced to undergo 7 years R1 and to pay a fine of Rs. 3000/- and in default to suffer R1 for one year. They were also found guilty of the offence under Section 326/149 IPC for causing grievous hurt to deceased Honna Nanjaiah and sentenced to 7 years R1 and to pay a fine of Rs. 3000/- and in default one year R1. Rest of the convicts were acquitted by the High Court and were directed to be set at liberty forthwith. Their conviction and sentence for an offence under Section 302/149 IPC was set aside. The State appeal against acquittal, being Criminal Appeal No. 230 of 1992, was also dismissed by the High Court.

4. Through Criminal Appeal No. 794-796 of 1996, the State of Karnataka has put in issue the acquittal of all the accused for an offence under Section 302/149 IPC and has also questioned the order of acquittal recorded by the trial court in respect of all other accused against which its appeal was dismissed by the High Court.

5. Mr. Sanjay R. Hegde, learned counsel appearing for the State of Karnataka has taken us through the judgment of the High Court as well as trial court and drawn our attention to relevant evidence of eye witnesses and medical witnesses. Our independent analysis of the evidence on the record shows that the view taken by the High Court cannot be said to be even unreasonable, let alone perverse. We are in agreement with the High Court about its findings regarding the prosecution evidence. We do not find any error to have been committed by the High Court in analysing and appreciating evidence by the prosecution.

6. Indeed it is sad that two persons, Chennappa and Honna Nanjaiah lost their lives due to rivalry, vengeance and enmity between two groups but it is a well settled proposition that graver the offence greater should be the care taken to see that neither an innocent person is convicted nor a guilty allowed to escape. Division Bench of the High Court was conscious of these settled principles and while carefully analysing the evidence found that it was only A-1, A-2, A-30 and A-33, against whom case had been established for commission of offences under Section 326/149 IPC etc. The High Court has given cogent reasons for coming to this conclusion and we are not persuaded to take a different view. Learned counsel appearing for A-20 and A-33, appellants in CrI.A, No. 2045 of 1996, does not press their appeals against their conviction and sentence and in our opinion, rightly so in view of the over-whelming

evidence regarding their participating in the crime and the commission of offences for which they have been convicted.

7. After giving our careful consideration to the record and the submissions made at the Bar we are of the opinion that the impugned order of the High Court is sound and does not call for any interference. The State appeals, as also the appeal filed by A-20 and A-33, are, accordingly, dismissed.