

# SUPREME COURT OF INDIA

Ramu

Vs.

State of Karnataka

Crl.A.No.837 of 2003

(Doraiswamy Raju and Arijit Pasayat JJ.)

20.04.2004

## JUDGMENT

1. Heard Mr. K. Ramamoorthy, learned senior counsel for the appellant and Mr. Sidharth Dave, learned counsel for the respondent-State.

2. The appellant questions the legality of judgment rendered by a Division Bench of the High Court of Karnataka which upset the judgment of acquittal rendered by learned Trial Judge and held the appellant-accused to be guilty of offence punishable under Section 302 of the *Indian Penal Code, 1860* (in short 'IPC'). The accused was tried for allegedly causing homicidal death of one Savitha (hereinafter referred to as 'the deceased') being unsuccessful in his love for her. P.Ws. 1, 3 and 5 were examined claiming that they were eye-witnesses who had witnessed the occurrence of stabbing. P.Ws.2, 4 and 6 were also stated to be persons before whom the accused admitted to have inflicted the injuries on the deceased. It is to be noted that the prosecution version itself is to the effect that after inflicting injuries on the deceased, the appellant-accused stabbed himself. The Trial Court found the evidence of P.Ws.1, 3 and 5 to be not believable and recorded acquittal. The State of Karnataka preferred an appeal before the High Court of Karnataka which, as noted above, found the judgment of Trial Court to be not in order, set aside the acquittal, recorded conviction under Section 302 IPC and sentenced the appellant to undergo imprisonment for life.

3. In support of the appeal, it has been pointed out that the view taken by the learned Trial Judge was a possible view and since the judgment of acquittal was challenged before the High Court, the same should not have been reversed without clinching material to show that appellant-accused was the author of the crime. It was submitted that several inconsistencies and contradictions were noticed by the trial Court to record acquittal. In response, learned counsel for the respondent-State submitted that the analysis made by the Trial Court was clearly erroneous and the conclusions were contrary to evidence on record and, therefore, the High Court, after analysing the evidence, came to hold that the conclusions of the Trial Court were erroneous.

4. We have gone through the judgments of the courts below and the evidence. We find that

the evidence clearly shows that the appellant-accused was responsible for the death of Savitha. The only question which remains is about the applicability of Section 302 IPC. Taking note of the circumstances and the description of the scenario, as done by the witnesses, we feel that appropriate conviction would be under Section 304 (Part-I) IPC and not under Section 302 IPC. Custodial sentence of ten years' would meet the ends of justice.

5. We notice that the High Court had directed payment of compensation under Section 357 of the *Code of Criminal Procedure, 1973* (in short 'the Cr.P.C.'). The records do not reveal that the accused was heard before the compensation was imposed. In view of a decision of this Court in *Mangilal Vs. State of Madhya Pradesh* , the compensation could not have been awarded without hearing the accused on the question of grant of compensation. In the present case, the direction was that the compensation was to be paid to PW-11, who is not a party in the present appeal. We remit the matter back to the High Court to hear the accused and PW-11 on the question of grant of compensation, if any. We make it clear that we have not expressed any opinion on the question as to whether compensation is to be awarded or not and the matter is remitted for this limited purpose only.

The appeal is allowed to the aforesaid extent.