

SUPREME COURT OF INDIA

Narasappa

Vs.

State of Karnataka

Crl.A.No. 951 of 2002

(B.N. Agrawal, C.J. Tarun Chatterjee and V.S. Sirpurkar, JJ.)

08.08.2007

ORDER

B.N. Agrawal, C.J.

1. Heard learned counsel appearing on behalf of both the parties.
2. The appellant, along with accused Poojappa, was tried and as during trial, accused Poojappa died, the proceeding in relation to him abated and the trial proceeded in relation to the appellant alone, upon conclusion of which, the trial court convicted the appellant under Section 302 of the Penal Code and sentenced to undergo imprisonment for life. On appeal being preferred, the High Court upheld the conviction. Hence, this appeal by special leave.
3. In the present case, it appears that the only evidence against the appellant is that of PW 2 (Govinda Nayaka), who is nobody else than the son of the deceased. This witness is not an eyewitness. He stated in his evidence that since his father did not return home, he along with PW 1 (Roopla Nayaka) and PW 3 (Chandra Nayaka) rushed towards the temple with a torchlight and on the road near the temple they saw the cycle, can, lungi and muffler of his father lying on the floor. He further stated that the witnesses heard the sound of movement of some people near the temple and saw that the accused persons were dragging his father in the land of one Muniyappa. These witnesses screamed and reached towards the accused persons whereupon they left the deceased Krishna Nayaka on the ground and fled away. This shows that the accused persons were carrying the dead body. This may at the highest raise strong suspicion against the appellant to show his complicity with the crime, but the suspicion, howsoever strong it may be, cannot take the place of proof. In the absence of any other evidence to connect the appellant with the crime, we are of the view that the prosecution has failed to prove its case beyond reasonable doubt and the High Court was not justified in upholding conviction of the appellant.

4. Accordingly, the appeal is allowed, conviction and sentence of the appellant are set aside and he is acquitted of the charge. The appellant, who is on bail, is discharged from the liability of bail bonds. ^