

SUPREME COURT OF INDIA

Bangarayya

Vs.

State of Karnataka

Crl.A.No.1964 of 2010

(Aftab Alam and R.M.Lodha JJ.)

08.10.2010

JUDGEMENT

Aftab Alam, J.

1. Heard counsel for the parties.

2. Leave granted.

3. This appeal is directed against the judgment and order, dated August 27, 2009 passed by a learned single judge of the Rajasthan High Court in the appellant's appeal (Criminal Appeal No.1139 of 2006) from the judgment and order of conviction and sentence passed against him by the trial court.

4. The Special Court, Kota, specified under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, by its judgment and order dated October 16, 2006 in Sessions Case no.89 of 2006, convicted the appellant under sections 307, 326 and 324 of the Penal Code and sentenced him to rigorous imprisonment for 7 years and a fine of Rs.500 (in default 1 month's simple imprisonment) under section 307, imprisonment for 5 years and a fine of Rs.500 (in default 1 month's simple imprisonment) under section 326 and imprisonment for one year under section 324 of the Penal Code. All the sentences were to run concurrently.

5. The High Court disposed of the appeal by a brief order that runs into no more than four pages and a few lines in the paper book. On the first half page the High Court stated the sections under which the appellant was convicted and the sentences awarded to him for the respective offences. Next, it very briefly stated about the prosecution case and the charge sheet submitted by the police. It then, restated the sections under which the appellant was convicted and the respective sentences given to him under those sections by the trial court. In the next paragraph, it vaguely stated the submissions made by the counsel for the appellant

and in the two lines thereafter, the submissions made by the public prosecutor. Then comes the consideration of the matter by the court, which is as under all of six lines:

“I, after hearing the arguments of Learned Advocates of both the sides and perusing the facts and circumstances of this case, while confirming the order of conviction of the appellant and while keeping in the view the facts that this is his first offence and that he is not habitual offender, I think it justified to order 6 years' rigorous imprisonment in place of 7 years' rigorous imprisonment while maintaining rest of the judgment as it was.”

6. After the above, the judgment concludes with the direction to the jail officials that the appellant should be given the benefit of section 432 of the Code keeping in view his conduct in the jail.

7. We feel sorry in reminding the High Court that an appeal under section 374 of the Criminal Procedure Code is both on facts and law, and the High Court hearing the appeal is the last court of facts. To put it mildly, the High Court was rather cavalier in disposing of the appellant's appeal in the manner as seen above.

8. We may note here that even though no appeal against the High Court judgment is preferred by the State, Mr. Irshad Ahmad, counsel appearing for the State of Rajasthan was equally critical of the way the High Court did not take into account the material evidences against the appellant.

9. For the aforesaid reasons, we are constrained to interfere in the matter. The order of the High Court is set aside and the appellant's appeal before the High Court (single judge Criminal Appeal no.1139 of 2006) is restored to its file for a fresh hearing and decision in accordance with law.

10. It is hoped and expected that the High Court will finally hear and dispose of the appeal without any undue delay and preferably by the end of this year. In case for any reason, the appeal is not disposed of by the end of the year, it will be open to the appellant to make a prayer for bail before the High Court.

11. In the result the appeal is allowed but with no order as to costs.