

SUPREME COURT OF INDIA

Sri Uppa @ Manjunatha

Vs.

State of Karnataka

Crl.A.No. 640 of 2013

(and Ranjana Prakash Desai JJ.)

26.04.2013

ORDER

G.S. Singhvi,J.

1. Leave granted.

2. The appellant-Sri Uppa @ Manjunatha (A5) was tried along with six others i.e. Rama, Padma, Thimma and Lokesh (A1 to A4 respectively) Ramakrishna and Narayanaswamy (A6 and A7 respectively) in the court of Xth Additional City Sessions Judge, Bangalore in Sessions Case NO. 461/04 for offences punishable under Sections 143, 147, 148, 120-B of the IPC, Section 341 read with Section 149 of the IPC and Section 302 read with Section 149 of the IPC. Vide order dated 05/01/2006 learned Sessions Judge acquitted A6 and A7 of all the offences. He acquitted A1 to A7 of the offence punishable under Section 120-B of the IPC. He, however, held A1 to A5 guilty of the offences punishable under Sections 143, 147, 148 of the IPC, Section 341 read with Section 149 of the IPC and Section 302 read with Section 149 of the IPC. For the offence punishable under Section 302 read with Section 149 of the IPC A1 to A5 were sentenced to suffer imprisonment for life and to pay a fine of Rs.2,000/-, in default to undergo six months simple imprisonment. For the offence punishable under Section 143 of the IPC they were sentenced to undergo rigorous imprisonment for a period of two months. For the offence punishable under Section 147 of the IPC they were sentenced to undergo rigorous imprisonment for a period of four months. For the offence punishable under Section 148 of the IPC they were sentenced to undergo rigorous imprisonment for a period of six months and for the offence punishable under Section 341 read with Section 149 of the IPC they were sentenced to undergo rigorous imprisonment for a period of one month. Substantive sentences were ordered to run concurrently.

3. Being aggrieved by the said judgment and order, the appellant-A5 preferred an appeal in the High Court of Karnataka being Criminal Appeal No. 1341/2006. By the impugned order the High Court dismissed the appeal. Being aggrieved by the said judgment the instant appeal is filed.

4. The primary submission of learned counsel for the appellant is that the High Court dismissed the appeal in a summary manner without dealing with any of the points urged before it. Counsel submitted that the cryptic order passed by the High Court sans any systematic assessment of evidence and without giving any proper reasons for the dismissal of the appeal deserves to be set aside. Counsel wanted to assail the impugned order on merits. However, since his first submission appeared to us to be sound, we did not call upon him to make further submissions. In fact, on 03/01/2013 after considering the fact that the High Court has disposed of the appeal by a very brief order, this Court had issued notice as to why the matter may not be remitted to the High Court for considering the appellant's appeal in a proper way. This Court had expressed that the High Court's order does not show a proper consideration of all the materials on record.

5. The prosecution case appears to be that on 22/03/2004 deceased- Rama@Rami the son of the complainant (PW1-Yashodamma) was at home. The appellant along with other accused came to his house at 10.30 p.m. and asked Rama@Rami (the deceased) to accompany them. The deceased left the house with them. The complainant-PW1 and her daughter PW2-Latha saw the deceased going along with A1-Rama, A2-Padma, A3-Thimma and others. PW1- Yashodamma and PW2-Latha followed them. When they went to 10th Cross, Bovipalya, A1-Rama quarrelled with the deceased. It is the case of the prosecution that all the accused attacked the deceased with weapons and ran away. The deceased succumbed to the injuries. The murder was stated to have been committed because when A1-Rama was in jail the deceased did not visit him in jail. In support of its case, the prosecution examined 16 witnesses. The post-mortem notes were produced, which indicated that the deceased had suffered several stab injuries, chop injuries, cut injuries, incised wounds and abrasions. Cause of death was stated to be shock and hemorrhage, which was the cumulative effect of the injuries suffered by the deceased.

6. The impugned order of the High Court contains just four paragraphs. When an accused is held guilty of an offence and sentenced to imprisonment his personal liberty is curtailed. While confirming the sentence awarded by the trial court the High Court must consider whether the trial court has correctly evaluated the evidence. The confirmation of sentence awarded by the trial court must be justified by the High Court by giving sound reasons upon an analysis of material evidence. The impugned order does not reflect such consideration. The submissions advanced by the appellant's counsel have not even been discussed. On this ground we feel that the appeal needs to be remanded to the High Court for proper consideration of the evidence on record and the arguments of both sides. However, our order remanding the appeal to the High Court should not be construed to mean that we have,

in any way, expressed any opinion on the merits of the case because we have not heard the counsel on merits of the case. Needless to say that the High Court will evaluate the evidence, consider the submissions of the counsel and arrive at its conclusions independently and in accordance with law. In the peculiar facts of the case, we request the High Court to dispose of the appeal in light of our observations as expeditiously as possible. In the circumstances the appeal is allowed, the impugned judgment is set aside and the matter is remitted to the High Court for fresh disposal of Criminal Appeal No. 1341 of 2006.

7. We also direct that during the pendency of the appeal before the High Court, the sentence awarded to the appellant by the trial court which was confirmed by the High Court shall remain suspended and the appellant be released on bail till fresh disposal of the appeal by the High Court subject to his furnishing bail bonds in a sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the trial court.