

SUPREME COURT OF INDIA

State of Karnataka

Vs.

Yenkareddy

Crl.A.No.144 of 2009

(R.Banumathi and Indira Banerjee,JJ.,)

06.09.2018

JUDGMENT

R.Banumathi,J.,

1.This appeal arises out of judgment dated 12th August, 2003 in Criminal Appeal No.1301 of 2000 by which the High Court set aside the conviction of accused No(s).4 and 5 giving them the benefit of doubt; conviction of accused No(s).1, 2, 3 & 7 was modified from the offence under Section 302 I.P.C. to one under Section 304 Part-II and sentencing them to undergo imprisonment for a period of five years and accused No(s).2, 3 & 7 were given set off for the period already undergone by them and as accused no(s).1 has already undergone the sentence he was set at liberty.

2. The case in nutshell is as follows. On 29th January, 1995 the deceased-Siddaramreddy went to his field along with his wife, Annapoornama (PW-3), and daughter, Tayamma (PW-4) for keeping watch over the harvested crops. The respondents, accused no.1 to 8, are said to have formed an unlawful assembly and attacked Siddaramreddy by beating him with clubs.

3. Upon appreciation of evidence, the trial court found accused No.1 guilty for the offence punishable under Section 302 I.P.C. and accused No(s).2 to 5 and 7 were found guilty for the offence punishable under Section 302 I.P.C. read with Section 149 I.P.C. In the appeal, the conviction of accused No(s).4 and 5 was set aside and they were on the ground that no specific act was attributed to them. So far as the other accused, the conviction of accused No(s).1, 2, 3 and 7 was modified into Section 304 Part-II read with Section 149 I.P.C. as aforesaid.

4. Being aggrieved by the acquittal of accused No(s).4 and 5 and also the modification of the conviction as well as the reduction of sentence of imprisonment in respect of other accused, the State is before us.

5. The respondents though initially entered appearance through a counsel but by the time when the matter was taken up for hearing learned counsel appearing for the respondents had

become the standing counsel of the State of Karnataka. Therefore, the respondents-accused were remained unrepresented. We have heard Mr. Joseph Aristotle S., learned counsel appearing for the appellant-State, who has taken us through the impugned order. We have also perused the materials on record.

6. So far as acquittal of accused No(s).4 and 5 are concerned, the High Court has held that even though Annapoornama (PW-3) has mentioned the names of all the accused in the complaint, she has not attributed any overt act to accused No(s).4 and 5 and the High Court observed that in the absence of any specific overt act attributed to accused no.4 and 5 they cannot be held guilty under Section 302 I.P.C. which in our considered view cannot be said to be unreasonable warranting interference by this Court. Insofar as the modification of the conviction from Section 302 I.P.C. to Section 304 Part-II I.P.C. and the reduction of the sentence of imprisonment in respect of other accused are concerned, the High Court has recorded its reasoning in para '15' of the order. The High Court has observed that accused No.1 alone had previous enmity with the deceased-Siddaramreddy and the other accused appeared to have joined accused no.1 only to help him. Considering the weapons used, namely, sticks and the nature of the injuries, the High Court thought it fit to modify the sentence of imprisonment under Section 302 I.P.C. to Section 304 Part-II I.P.C. Occurrence was of the year 1995 and at this distant point of time and also in view of the findings by the High Court in para "55", we are not inclined to interfere with the impugned order.

7. In the result, the appeal is dismissed.