

NON-REPORTABLEIN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTIONCRIMINAL APPEAL NO. 176 OF 2009

K.RAVICHANDRA & ORS.

...APPELLANT(S)

VERSUS

STATE OF KARNATAKA

...RESPONDENT(S)

J U D G M E N TR. BANUMATHI, J.

1. This appeal arises out of the judgment dated 02.07.2008 in CrI.A. No. 136 of 2002 passed by the High Court of Karnataka at Bangalore in and by which the High Court of Karnataka has reversed the order of acquittal and convicted the appellants-accused under Section 304 (II), IPC and also for other offences and sentenced them to undergo imprisonment for three years.

2. Appellant No. 1 - accused no. 1 sent a Deepavali greeting to PW-16 (daughter of PW-1) expressing his passionate love for her and PW-16 showed the greetings to her father. When appellant No. 1 visited the village, PW-1 along with PW-7 (H.C. Jayaramegowda) went near the canteen belonging to one Lingaraju to question accused no. 1 about his conduct. During the talks, appellant nos. 1 to 4 wielded clubs and attacked PW-1, PW-3 and PW-17 and also the deceased -Ramu. Deceased - Ramu sustained injuries on his on his scalp, parietal bone, his right thumb and

forearm and also sustained injuries on the leg and succumbed to injuries.

3. Upon consideration of the evidence, the Trial Court acquitted all the appellants holding that the prosecution has failed to prove the motive and also the intention of the accused and that the prosecution has not satisfactorily explained the injuries on the accused persons. The trial court also held that the evidence of PW-1 and other witnesses are inconsistent with each other and that the prosecution has failed to prove the guilt of accused beyond reasonable doubt. On those findings, the trial Court acquitted all the appellants.

4. The High Court in appeal set aside the order of acquittal and convicted all the appellants as aforesaid under Section 304 II IPC read with Section 149.

5. We have heard Mr. Mahesh Thakur, learned counsel appearing for the appellants as well as Mr. V. N. Raghupathy, learned counsel appearing for the State of Karnataka and perused the impugned judgment and materials on record.

6. The evidence of injured witnesses PW-1 - complainant, PW-3 (wife of the deceased) and PW-18 (brother of PW-1) is consistent and corroborating each other on various aspects like....., (1) which accused assaulted whom (2) the weapon wielded by the accused and (3) on which part of the body of the witnesses the

injuries were caused. The evidence of these injured witnesses and also eye witness PW-7 is corroborated by the medical evidence also. The prosecution established that the appellants are responsible for causing injuries to the witnesses and the death of the deceased - Ramu.

7. Learned counsel for the appellants submitted that admittedly witnesses PW-1 and PW-7 went to one Lingaraju's canteen for panchayat to enquire the first accused regarding his conduct for sending the letter to PW-16. Drawing our attention to the injuries sustained by the accused, learned counsel submitted that the prosecution has not explained the injuries on the person of the accused and the trial Court had rightly held that the complainant party are the aggressors and rightly acquitted the accused and the High Court erred in reversing the same.

8. Admittedly the accused persons also sustained injuries as seen from the evidence adduced by the accused party (Exs. D-8 to D-10). It is fairly well settled that it is not always incumbent upon the prosecution to explain the injuries of the accused persons. The prosecution is obligated to explain the injuries of the accused persons only if the injuries sustained by the accused are grievous in nature. In the present case, there is no evidence to show that the injuries on the accused persons are grievous in nature. As pointed out earlier, the complainant party

went near the canteen of one Lingaraju only for panchayat and they were unarmed. That being so, during the talks there was no reason for the accused party to wield clubs and attack the complainant party, on whose side at least three of them were injured apart from the death of deceased - Ramu. When appreciation of evidence by the trial court suffered from perversity, the High Court being the Appellate Court rightly reversed the order of acquittal and convicted the appellants under Section 304 (II) IPC and also for other offence for the death of deceased. The High Court, in our view, has shown leniency to the appellants by sentencing them to undergo imprisonment only for a period of three years. In view of above, we are not inclined to interfere with the impugned order.

9. The appeal is dismissed.

10. The appellants shall surrender within a period of four weeks from today to serve out the remaining sentence failing which they shall be taken into custody.

.....J.
[R. BANUMATHI]

.....J.
[INDIRA BANERJEE]

NEW DELHI
6TH SEPTEMBER, 2018