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Chandrappa vs State of Karnataka

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Court : Karnataka

Decided On : Feb-01-2025

Judge : V Srishananda

Appeal No. : CRL.A/249/2021

Appellant : Chandrappa

Respondent : State of Karnataka

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF FEBRUARY, 2025 BEFORE THE HON'BLE MR JUSTICE V SRISHANANDA CRIMINAL APPEAL NO. 249 OF 2021 (C) BETWEEN: CHANDRAPPA S/O LATE NANJAIAH AGED ABOUT 50 YEARS R/AT MALLIGERE VILLAGE DUBBA HOLI, MANDYA TALUK PIN CODE-571 402 APPELLANT (BY SRI. DESHPANDE AMIT ANAND, ADVOCATE) AND: STATE OF KARNATAKA BY SHIVALLI POLICE STATION REP. BY STATE PUBLIC PROSECUTOR DR. AMBEDKAR VEEDHI

Digitally HIGH COURT UNITsigned by BANGALORE 560 001MALA

KC Location: (BY SRI. RAHUL RAI K, HCGP) HIGH COURT OF THIS CRL.A IS FILED U/S.374(2) CR.P.C PRAYING TO SET KARNATAKA ASIDE THE JUDGMENT OF CONVICTION DATED 28.06.2018 AND ORDER OF SENTENCE DATED 04.07.2018 PASSED BY THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, MANDYA IN S.C.NO.89/2017 - CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 307, 326 OF IPC. THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,

JUDGMENT WAS DELIVERED THEREIN AS UNDER:

-2- CORAM: HON'BLE MR JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri.Amit Anand Deshpande, learned counsel for the appellant and Sri.Rahul Rai.K, learned HCGP for State.

2. The present appeal is filed challenging the

validity of the judgment of conviction and order of sentence passed in S.C.No.89/2017 on the file of the IV Additional District and Sessions Judge, Mandya dated 28.06.2018.

3. At the outset, on the last date of hearing,

learned High Court Government Pleader filed certificate of imprisonment. As per the said certificate, the appellant has completed substantial sentence of 5 years for the offence under Sections 326 and 307 of IPC on 15.10.2021 and fine amount came to be filed on 16.10.2021 and thereafter he is released from the prison on 16.10.2021.

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4. Therefore, what remains to be considered in the

present appeal is only the validity of the conviction order

that too for the academic purposes.

5. Learned counsel for the appellant contended that the learned trial judge failed to consider the fact that accused was mentally unsound and therefore, entire trial stood vitiated.

6. In that regard, he contended that incident said to have taken place at 11.00 p.m. on 15.10.2015 and there was delay in lodging the complaint as complaint came to be lodged next day at 11.00 a.m.

7. He also tried to impress upon this Court that delay is not properly explained.

8. It is further contention of the learned counsel

for the appellant that Pw.1 admitted that Pw.2 is his brother and Pws.1, 2 and their father were all residing in the same house. He also contended that accused was doing the job of coolie and looking after the family by -4- providing necessary food, shelter and education to their children.

9. He also contended that Pw.1 admitted that

since 4 to 5 years accused was mentally unsound and whenever he used to discontinued medication, he used to pick up quarrel. He further brought to the notice of this Court that Pw.1 admitted that after the death of their mother, their father i.e., accused went in to depression and prior to the present incident, accused did not quarrel neither with Pw.1 nor with Pw.2. Therefore, this must be treated as isolated incident.

10. He further contended that Pw.2 being the injured, in his cross examination clearly admitted and so

also Pw.3 admitted the illness of their father and therefore, the action that was attributed to the accused should not have been treated as an offence as he was suffering from mental illness which aspect has not been considered by the learned trial judge while passing the impugned judgment. -5-

11. Therefore, even though the appellant has undergone the period of imprisonment, the stigma of conviction is to be removed by allowing the appeal.

12. Per contra, learned High Court Government

Pleader contended that mental illness was not even taken as a defence before the trial Court by the advocate who represented the appellant and if at all the appellant wanted to take such defence, he should have filed necessary application under Mental Health Act and having not done so and contested the matter on merits, the appellant cannot raise such grounds before this Court for the first time and sought for dismissal of the appeal.

13. Having heard the parties, this Court perused the materials on record meticulously.

14. In the case on hand, the accused has been

charge sheeted for the offence punishable under Sections 307 and 326 of IPC. Pw.2 is the injured and Pw.1 is his own brother and Pw.2 is his cousin brother. It is the -6- specific case of the prosecution that when they were all sleeping in the house of the accused at about 11.30 p.m., the accused with an intention to take away the life of Pws.1 and 2 suspecting that Pws.1 and 2 are not born to him, assaulted Pw.2 with machete whereby Pw.2 lost his left eye.

15. After thorough investigation, charge sheet came to be filed and accused stood for trial. Accused could not engage an advocate of his choice therefore, he sought for legal assistance.

16. Necessary legal assistance was provided by the District Legal Services Authority to represent the accused.

17. Learned sessions judge while framing the

charge, has conversed with the accused and since no application was filed pleading the mental illness of the appellant under the provisions of Mental Healthcare Act, the trial was conducted as accused did not plead guilty. -7-

18. No doubt in the cross examination of Pws.1 and

2 there are few suggestions that accused had mental illness for which the proper medication was prescribed and whenever he used to discontinue the medication, he used to go for depression and he used to behave improperly.

19. But that evidence itself would not be sufficient to hold that the action attributed to the accused has been committed when he was suffering from mental illness.

20. When exactly the medication was discontinued

and on the day of incident that the appellant did not have proper senses as to what he was committing and therefore, the act attributed to the accused should be exempted taking note of the alleged mental ill-health of the appellant cannot be countenanced in law, more so, when no application is filed to refer the appellant to medical examination under Mental Health Act.

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21. No other grounds are urged in the appeal memorandum so as to hold that the conviction order is improper.

22. Accordingly, the following:

ORDER

a) Appeal grounds sans merit. Accordingly, dismissed. b) Since the appellant has already undergone the imprisonment period and fine amount is also paid, no further orders are necessary. Sd/- (V SRISHANANDA) JUDGE NS List No.: 1 Sl No.: 14

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