

State of Karnataka Vs. Ravi and Another

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Court : Karnataka

Decided On : Jan-16-1998

Reported in : 1998(2)ALT(Cri)195; 1998(3)KarLJ274

Judge : M.F. Saldanha and;B.N. Mallikarjuna, JJ.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 378(1), (3) and 482;
[Indian Penal Code \(IPC\), 1860](#) - Sections 326

Appeal No. : Criminal Appeal No. 996 of 1997

Appellant : State of Karnataka

Respondent : Ravi and Another

Advocate for Pet/Ap. : Sri B.N. Nanjundaiah, State Public Prosecutor

Judgement :

M.F. Saldanha, J.

1. We have heard the learned State Public Prosecutor at some length in this matter because it represents what we would like to categorize as a very unfortunate and sorry state of affairs. The offence is a relatively serious one since the charge is under Section 326, Indian Penal Code and grievous injuries had been caused to the victims. Also, it appears from the little material that we have on record that the accused seem to be the rowdies from the area. In this background,

it is more than incumbent that when they have assaulted two persons and caused such injuries that the law must bring them to book. They were apprehended, they were arrested by the Police and a charge-sheet put up before the Court being C.C. No. 6154 of 1991. The case was not disposed of for a long period of six years and the order dated 9th-April, 1997 passed by the learned III Addl. C.M.M., Bangalore City, records the fact that initially, summons were issued for production of the witnesses, thereafter warrants were issued and then non-bailable warrants were issued despite which no witnesses were produced by the prosecution. Significantly enough there is not a word of explanation as to why not a single witness was produced. The Court was left with no option at this stage particularly since this process had been routed even through the concerned A.C.P. and the concerned D.C.P. despite which nothing happened. The Court has also recorded that a last chance was given to the prosecution and thereafter one more last chance and ultimately the accused had to be acquitted for want of evidence.

2. The solitary ground which the learned State Public Prosecutor could argue was that even if there was some delay or default on the part of the prosecuting authority in the production of the evidence, that the acquittal of the accused has virtually resulted in a failure of justice and that therefore, the Court should set aside the order and direct that the trial be proceeded with. Normally, this Court would have passed an order to that effect, but having regard to the age of the case and the fact that even at this point of time nothing has been stated on behalf of the prosecuting authorities that they will produce the evidence, and in this background directing the trial to proceed would be a total waste of time.

3. We do not however propose to condone what has happened. This Court, while disposing of Criminal Appeal No. 995 of 1997 on 15-1-1998, had occasion to make elaborate observations dealing with precisely this state of affairs and specific directions have been issued both to the investigating authorities and to the subordinate Courts. It would be incumbent and absolutely necessary that the levels of negligence that are being displayed and which are obvious even in this case and which give rise to grave suspicion that all this is being done in order to benefit the accused, will have to be put a final stop to as otherwise, this Court would be left with no option except to recommend individual disciplinary action

against the entire set of persons responsible for such situations in these cases. The head of the Police Department will have to see to it that the views of this Court and the observations of this Court are very widely publicized as far as the department is concerned and that they are communicated to and serious note is taken by every member of the Police Force in the State. The levels of laxity, levels of negligence and the malpractices that are responsible for this state of affairs will have to be curtailed forthwith. This is the second time in two days that this Court is required to make strong observations and it would be appropriate that the incidents of the present type are not allowed to pass, that they are seriously looked into, suitable warnings and if necessary appropriate action be ordered to rectify this unholy state of affairs.

4. Had the Trial Court been unduly impatient or had the Trial Court disposed of the case without giving reasonable and more than reasonable time to the prosecution, we would have certainly upheld the request made by the learned State Public Prosecutor, but on the facts of this case, we find that no useful purpose will be served by doing this. In the ultimate analysis it has resulted in a total failure of justice for which nobody, other than the Investigating Agencies and the Police Department are responsible. As soon as they realise this and stop behaving in this fashion, it would be better for the law and order situation in the State.

5. A copy of this order be communicated to the Secretary to Government, Home Department as also to the Secretary to Government, Law Department with a request that they kindly take serious note of this state of affairs and order immediate corrective steps.

6. In view of the aforesaid situation, and with a degree of considerable regret, we are required to dismiss the appeal in question which has been done on merits.