

State of Karnataka Vs. Venugopal Alias Gopi and Another

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Court : Karnataka

Decided On : Jun-14-2001

Reported in : 2001CriLJ4354; I(2002)DMC9; ILR2001KAR4850; 2001(5)KarLJ495

Judge : M.F. Saldanha and ;K.R. Prasad Rao, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 300 and 498-A; [Dowry Prohibition Act, 1961](#) - Sections 3 and 4; [Evidence Act, 1872](#) - Sections 113-A and 113-B

Appeal No. : Criminal Appeal No. 537 of 2001

Appellant : State of Karnataka

Respondent : Venugopal Alias Gopi and Another

Advocate for Pet/Ap. : Sri N.P. Singri, State Public Prosecutor

Disposition : Appeal dismissed

Judgement :

M.F. Saldanha, J.

1. We have heard the learned Additional State Public Prosecutor on merits.

2. The charge against the two accused was that they had ill-treated the newly married wife Baghyalakshmi by demanding additional dowry and that she had

been ruthlessly assaulted and in order to make it look like a suicide that the body had been hung. The evidence in this regard has been discussed by the learned Judge, who finds that the charges under the Dowry Prohibition Act are wholly unsustainable, insofar as, there is virtually no reliable evidence either of demand or of receipt as far as the main charges are concerned. Also, the crucial evidence with regard to cruelty or ill-treatment is lacking. Also how and under what circumstances the deceased died is virtually left to conjecture. The Doctor has opined that the death was due to asphyxia and strangulation which supports the 'suicide theory'. We have reappreciated the evidence on record and we find that there is insufficient evidence to sustain a conviction. It is submitted by the defence Counsel that the manner in which the trial has been conducted, the F.I.R. was not being produced, the inquest papers not being marked and the most important aspect that even the Investigating Officer has not been examined. This is not the first time that we have come across instances where the acquittal has been facilitated by the Prosecutor and the irony of the situation is that instead of taking corrective action, the State has filed an appeal against acquittal. Where a serious criminal trial is virtually sabotaged, internally it is high time that even one in the profession set-up and take note of what is happening. The appeal is totally devoid of substance virtually rendering this Court powerless. There is no ground on which this Court can interfere with the order of acquittal which stands confirmed. The appeal is accordingly dismissed on merits.

3. Even though, with a degree of regularity acquittals result due to so called lapses and defaults, we see a similar pattern in this game which gives one to grave suspicion and we are therefore not prepared to either condone these instances as mere mistakes. There is no place for such defaults to occur in trials of such seriousness and if this happens, the remedy lies in ensuring that it is never repeated because it has resulted in miscarriage of justice in the grossest form. Where the crucial evidence is withheld by the prosecution either by design or otherwise, an appeal Court is powerless in the face of such a record and mechanically filing an appeal is a totally futile exercise and it is ironical that this has happened despite this Court having repeatedly pointed out that no correctives are forthcoming. Recently, this Court had occasion to recommend the setting up of special investigation cells to deal with this class of offences that are a blemish to

society and we need to record that it would be equally essential if the cases are to be well investigated, that they should be conducted by specially hand-picked professionals.

4. The time has now come for us in the profession to do some serious introspection and take a good hard look at our performance and ask ourselves the all pertinent questions as to whether this state of affairs is conscionable? Is it not a blot on the justice dispensation system that such atrocities go unpunished sending out the wrong signals to like-minded others? Society will not condone these lapses, the laws have been promulgated to eradicate these atrocities and it is upto every member of the legal profession to responsibly contribute to the implementation process.

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