

C. Narasimhamurthy Vs. the State of Karnataka and anr.

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Court : Karnataka

Decided On : Jul-15-1997

Reported in : ILR1997KAR2476

Judge : G. Patri Basavana Goud, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 452; [Hindu Succession Act, 1956](#)

Appeal No. : Cr.A. No. 927/1996

Appellant : C. Narasimhamurthy

Respondent : The State of Karnataka and anr.

Advocate for Def. : Srinivasa Reddy, SPP for R-1

Advocate for Pet/Ap. : S.V. Tilgul, Adv.

Disposition : Appeal allowed

Judgement :

G. Patri Basavana Goud, J.

1. The present appellant Narasimhamurthy is the father of deceased Parijatha. The said Parijatha had been married to second respondent herein, Chandrashekar. Chandrashekar was tried in S.C.45/83 on the file of the learned

Additional Sessions Judge, Bangalore. Rural District, for an offence under Section 302 I PC on the charge of having committed the murder of his wife Parijatha as also the child of himself and of Parijatha. The learned Sessions Judge had convicted R-2 of the said offence and had sentenced him to imprisonment for life. In appeal, however, this Court acquitted R-2.

2. M.O's-1 to 4 marked during the trial of the sessions case concerned, belonged to deceased Parijatha, and when the learned Sessions Judge convicted R-2, he directed the said M.O's-1 to 4 to be returned to the heirs of Parijatha, Parijatha's father, the present appellant, sought for return of the said M.O's-1 to 4, which prayer came to be negated by the learned Sessions Judge by the order dated 27.4.1996 impugned herein.

3. The learned High Court Government Pleader Sri Srinivasa Reddy urges that, as rightly pointed out by the learned Sessions Judge, in terms of [Hindu Succession Act, 1956](#), it is R-2 Chandrashekar who came to be called the person entitled to claim possession of M.O's-1 to 4 belonging to his wife, and that the claim of Parijatha's father-the appellant herein, would arise only thereafter. There could be no disputing this position of law. But, what Section 452 Cr.P.C. contemplates is the delivery of the articles concerned to a person claiming to be entitled to possession thereof. Though R-2 has come to be acquitted by this Court, the fact nevertheless remains that he had been accused of having committed the murder of his wife and child, and had been sentenced to imprisonment for life. It is not the case of R-1 State that R-2 has, at any time, approached the learned Sessions Judge for return of the said M.O's-1 to 4. In the circumstances, there is no possibility of R-2 approaching the learned Sessions Judge claiming return of M.O's-1 to 4 belonging to his deceased wife, he himself having been accused of committing her murder though he has come to be acquitted of the said charge. In the circumstances of this case, therefore, notwithstanding the provisions of [Hindu Succession Act, 1956](#), it is the father of the deceased Parijatha viz., the appellant, who could be called a person claiming to be entitled to possession of M.O's-1 to 4 within the meaning of Section 452 Cr.P.C.

4. Appeal is allowed, impugned order is set aside. M.O's-1 to 4 in S.C.No. 45/83 on the file of the learned Additional Sessions Judge, Bangalore Rural District, Bangalore, are directed to be returned to the appellant-Narasimhamurthy, father of deceased Parijatha.

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