

State of Karnataka Vs. Basavaraj and ors.

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Court : Karnataka

Decided On : Jul-27-1999

Reported in : 1999CriLJ4750

Judge : M.F. Saldanha and ;N.S. Veerbhadraiah, JJ.

Appeal No. : Cri. Appeal Nos. 472 c/w 473 of 1999

Appellant : State of Karnataka

Respondent : Basavaraj and ors.

Advocate for Pet/Ap. : B.R. Nanjundaiah, SPP

Disposition : Appeal dismissed

Judgement :

M.F. Saldanha, J.

1. We have heard the learned State Public Prosecutor on merits. Since these are connected appeals, we have directed the office to list both the appeals together so that this Court could consider them. While doing so, we have taken note of the fact that whereas this Court can hear both the appeals, that, the Division Bench appeal cannot go before the learned single Judge.

2. The learned State Public Prosecutor laid considerable emphasis on the fact that A-1 and A-2 have been convicted by the trial Court and his, submission is that, the decision is legally incorrect because the Court have recorded an adverse finding against A-1 and A-2 ought not to have made any distinction between them and the remaining accused who have been acquitted. We have perused the judgment carefully and find that valid reasons have been given for making this distinction in so far as the evidence brings home the charges against A-1 and A-2 only whereas it does not establish them vis-a-vis the remaining accused. In this view of the case, we do not propose to interfere with the order of acquittal recorded in favour of A-3 to A-9. The Cr. A. No. 472/99 accordingly fails and stands dismissed on merits.

3. In so far as Cr. A. No. 473/99, is concerned, we have heard the learned State Public Prosecutor on merits. The principal submission canvassed by him is that having regard to the seriousness of the injuries that were inflicted, that the fine of Rs. 1,000/- each and in default, simple imprisonment for one month imposed by the trial Court on A-1 and A-2 is inadequate and that the punishment requires to be stepped up. The learned State Public Prosecutor relied on the well settled principle of law that the sentence awarded must bear a clear nexus to the gravity of the offence and he submitted that leniency of this sort, even though the period of 26 days in custody has been considered, would create a wrong precedent. While the principle cannot be called into question, what we need to record is that in cases of this type, all the relevant aspects need to be taken into consideration and we have taken note of the fact that the learned trial Judge has done so. He has considered the fact that the accused are agriculturists and not regular or hardened criminals. He has also taken note of the fact their economic status and as such that the imposition of a fine of Rs. 1,000/- would relatively work out to a very heavy punishment. The trial Court having examined these aspects; and having exercised judicial discretion, unless it is demonstrated to us that the Order is absolutely perverse, it would not be correct for us to interfere with the exercise of that discretion. Where discretion is rightly exercised for valid reasons on a given set of facts, no wrong precedents are created as the case is confined to these facts only. We do not share the view that the decision requires any interference with. The appeal accordingly fails and stands dismissed on merits.

