

RAMESH KUMAR

v.

RAM KUMAR & ORS.

April 26, 1984

[O. CHINNAPPA REDDY, A.P. SEN AND E.S. VENKATARAMIAH, JJ.]

Indian Penal Code—S. 302 read with S. 34—Accused convicted and sentenced u/s. 302/34—Accused made gift of land to widow for loss of life of her husband—High Court acquitted one accused and converted conviction of other to one under s. 304. High Court Judgment—Whether correct—Held no.

The two respondents were convicted under s. 302 read with s. 34 of the Indian Penal Code and sentenced to life imprisonment by the sessions Judge. On appeal, the High Court was informed that both the parties were closely related and they had come to some sort of arrangement under which one accused had made a gift of some land to the widow as compensation for the loss of life of her husband. The High Court acquitted one of the accused and converted the conviction of the other from one under s. 302 to one under s. 304 and reduced the sentence to two years. The so called arrangement between the parties was the only reason for what the High Court did.

Setting aside the judgment of the High Court and remanding the matter for rehearing, this Court,

HELD : The entire system of administration of Criminal justice is reduced to a mockery by the judgment of the High Court. If it is upheld, it is as if a person who can afford to make gifts of land or money to the heirs of the victim may get away even with a charge of murder. Courts are to dispense justice, not to dispense with justice. And, justice to be dispensed is not palm-tree justice or idiosyncratic justice. The judgment of the High Court cannot stand a second's scrutiny. [641 H; 642 A—B]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal Nos. 1012 of 1984.

(Appeals by Special leave from the Judgment and Order dated the 1st September, 1983 of the Punjab and Haryana High Court in Crl. Appeal No. 291 DB of 1983, 511 DB of 1983 & Crl. Rev. No. 627 of 1983.)

Gopal Subramaniam and S.K. Sabarwal for the Appellant.

Kawaljit Kochar and J.D. Jain for the Respondent No. 1.

Miss Lily Thomas, for Respondent No. 2.

The Judgment of the Court was delivered by

CHINNAPPA REDDY, J. We are very unhappy about the judgment of the High Court. Both the respondents were convicted by the learned First Additional Sessions Judge of Kurukshetra under s. 302 read with s. 34 of the Indian Penal Code and each of them was sentenced to undergo imprisonment for life. On appeal, for very strange reasons, the High Court acquitted the first respondent and converted the conviction of the second respondent to one under s. 304-A I. P. C. and reduced the sentence to two years' rigorous imprisonment. What the High Court said speaks for itself. This is what the High Court said :

"However, we are told by the learned counsel for the parties that they being closely related some members of the village have intervened and have brought about some sort of arrangement under which Ram Kumar appellant has already made a gift of three acres of land in favour of Smt. Maya Devi widow of Chander Shekhar as compensation on account of the loss of life of her husband. Though this is not a matter which can be taken notice of by this Court, yet it has always been our desire to see that enmity between close relations should be encouraged to come to an end. Since the father of Ramesh Kumar (P.W. 6) had lost his life, he could possibly have indulged in some exaggeration to magnify the nature of the offence. In the circumstances, we give benefit of doubt to Ram Kumar appellant and acquit him. We convert the conviction of Ratna appellant from one under section 302 to one under section 304-A, Indian Penal Code and Sentence him to undergo to years rigorous imprisonment Ram Kumar appellant is on bail. His bail bond shall stand discharged."

We can only say that the judgment of the High Court has left us shocked and perplexed. We are at a total loss to understand it. The entire system of administration of Criminal justice is reduced to a mockery. If the judgment of the High Court is upheld, it is as if a person who can afford to make gifts of land or money to the heirs of the victim may get away even with a charge of murder.

- A Courts are to dispense justice, not to dispense with justice. And, justice to be dispensed is not palm-tree justice or idiosyncratic justice. The judgment can not stand a second's scrutiny. It is accordingly set aside and the matter is remanded to the High Court so that the Criminal appeals and revision may be reheard. On behalf of the accused a very curious request was made, that the
- B land gifted by the father of the accused to the widow of the deceased may be directed to be returned to the father of the accused. We take no notice of the gift and we reject the request.

H.S.K.

Appeals allowed.