

SUDHEER SINGH @ SUDHEER

v.

STATE OF A.P.

(Criminal Appeal No. 88 of 2002)

OCTOBER 22, 2008

**[DR. ARIJIT PASAYAT, C.K. THAKKER AND
LOKESHWAR SINGH PANTA, JJ.]**

Penal Code, 1860 – ss. 302/34 and 394 – Prosecution under – Conviction by trial court – High Court convicting the accused u/s. 394 while acquitting him u/s. 302/34 – On appeal, held: Order of the High Court being sketchy, unreasoned and without analysis of evidence, matter remitted to High Court – Since Order of acquittal not challenged by prosecution, not interfered with.

Appellant-accused 1 was prosecuted u/ss. 394 and 302/34 IPC, alongwith four other accused persons. He was convicted for all the above charges by trial court. High Court confirmed the conviction of the appellant u/s. 394 IPC and acquitted him u/s. 302/34 IPC. Hence the present appeal.

Disposing of the appeal and remitting the matter to High Court, the Court

HELD: 1. The order of the High Court is absolutely sketchy and practically unreasoned. By an abrupt conclusion the High Court upheld the judgment of the trial court and maintained the conviction. The manner in which the appeal was disposed of, leaves much to be desired. The High Court even did not make an attempt to analyse the evidence of the witnesses. The matter is remitted to the High Court to deal with the appeal so far as it relates to A-1. [Para 4] [311-D, E, F]

- A 2. A-1 was acquitted of the charge under Section 302 read with 34 IPC and the conviction was restricted to Section 394 IPC. As the prosecution has not questioned the acquittal of the appellant, so far as it relates to Section 302 read with 34 IPC is concerned, that part of the judgment shall remain unaltered. [Para 5] [312-A, B]
- B

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 88 of 2002.

- C From the final Judgment and Order dated 12.10.2000 of the High Court of Judicature of Andhra Pradesh at Hyderabad in Criminal Appeal No. 582 of 1999.

R. Santhan Krishnan, K. Radha Rani, P. Vijaya Kumar and D. Mahesh Babu for the Appellant.

- D I. Venkatanarayana, D. Bharathi Reddy, and Altaf Fatima for the Respondent.

The Judgment of the Court was delivered by

- E **DR. ARIJIT PASAYAT, J.** 1. Heard learned counsel for the parties.

- F 2. Challenge in this appeal is to the judgment of the Division Bench of the High Court of Judicature, Andhra Pradesh at Hyderabad dismissing the appeal filed by the present appellant-A1 and A-2 and A-3 before the High Court. Out of the five persons, who faced trial, appellants were found guilty of offence punishable under Section 394 of the Indian Penal Code, 1860 (for short 'IPC'). Each was sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.5,000/- with default stipulation. A-2 was further charged for an offence punishable under Section 395 read with Section 397 IPC. The learned trial judge found him not guilty and acquitted him of the said charge. The 3rd charge against all the accused persons was under Section 302 read
- G
- H

with Section 34 IPC. The learned trial judge found A-1 to A-3 guilty under the aforesaid charge and convicted each one of them to suffer rigorous imprisonment for life and a fine of Rs.5,000/- with default stipulation. The 4th charge against A-1 to A-5 was under Section 307 read with Section 34 IPC and the learned trial judge convicted each of the aforesaid accused persons and sentenced each one of them to three years rigorous imprisonment and a fine of Rs.2,000/- with default stipulation.

3. According to the prosecution, on 10.7.1992 at about 9.30 p.m. at Muslimgunj bridge all the accused persons caused the death of one Govindlal (hereinafter referred to as 'the deceased'). It was further alleged that they caused injuries to P.W.1. The accused, allegedly, had stolen Rs.1,50,000/- and the scooter belonging to P.W.-1 bearing R.T.O. Registration No. AP-12-1090.

4. It is not necessary to deal with the factual position in detail, in view of the fact that the order of the High Court is absolutely sketchy and practically unreasoned. Out of the 12 pages of the judgment appearing in the paper book, upto para 10, the factual position has been elaborated. Thereafter, by an abrupt conclusion the High Court upheld the judgment of the trial court and maintained the conviction. The manner in which the appeal was disposed of, leaves much to be desired. The High Court even did not make an attempt to analyse the evidence of the witnesses. What would have happened had that exercise being undertaken cannot be decided in these proceedings. The impugned judgment of the High Court is, therefore, set aside. The matter is remitted to the High Court to deal with the appeal so far as it relates to A-1 is concerned.

5. It is to be noted that the appeal filed by A-2 and A-3 was allowed and the conviction and the sentence imposed were set aside. Since the prosecution has not challenged the order of the High Court, so far it relates to directing the acquittal of

- A A-2 and A-3 is concerned, the same remains unaltered. We have interfered in the matter because the judgment of the High Court is practically unreasoned and the evidence has not been analysed in detail. As a matter of fact, A-1 was also acquitted of the charge of Section 302 read with 34 IPC and the conviction
- B was restricted to Section 394 IPC. As the prosecution has not questioned the acquittal of the appellant, so far as it relates to Section 302 read with 34 IPC is concerned, that part of the judgment shall remain unaltered.
- C 6. The appeal is disposed of accordingly.

K.K.T.

Appeal disposed of.