

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.564 OF 1999

SANGANAGOUDA A. VEERANAGOUDA & ORS.

...

APPELLANTS

VERSUS

STATE OF KARNATAKA

...

RESPONDENT

J U D G M E N T

SEMA, J.

Heard the parties.

Six accused all police personnel, A1 Sanganagouda Ayyanagouda Veeranagouda, Sub-Inspector of Police and A2 Chandrappa Basappa Komara, A3 Basavaraj Kadiyappa Aramani, A4 Kalakappa Gulappa Hosamani, A5 Eswarappa Ramappa Gowari, A6 Virupakshappa Shidramappa Narthi, Constables were put to trial before the trial court for the offence under Sections 330/348/201 IPC. The trial court after concluding the trial acquitted all the accused. On appeal being preferred by the State, the High Court acquitted one of the accused and convicted the five appellants before us under Section 330 and sentenced them to six months RI. The

High Court also found all of them guilty under Section 348 IPC and sentenced them

three months RI. Both the sentences were directed to run concurrently. A
aggrieved

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thereby, this appeal has been preferred by special leave.

The prosecution case in brief is that in connection with FIR case Crime

No.168 of 1988 for an offence under Section 302 IPC the deceased Guddappa
was

arrested on 19.10.1988 on the direction of A1 by A2 to A5 and deceased expired
by

hanging in the Police Station on 20.10.1988. He was taken to hospital and died on the

way. An enquiry was conducted by SDM with regard to the cause of death
of the

deceased and the report was submitted on 31.10.1988. Pursuant to the report an FIR

was lodged on 6.11.1988 where all the accused were named. Thereafter, charge
was

framed against the appellants under Sections 330/348/201 as aforesaid. Pw.17
Dr.

Devadas P.K. conducted the postmortem and found the following injuries :

1. There is an oblique ligature mark present on the neck over front
at the

level of Adams apple 0.5 cms below the upper border, measuring 19 cms in

length and 2 cms in width. Situated 10 cms below the chin. The right end of

the ligature mark is situated 5.5 cms below the right ear lobe and the
left

end of the ligature mark is situated 5 cms. below the left angle of lower jaw.

Edges are not abraded, no echmosis is present.

2. Abrasion measuring 2.5 cms X 1 cm. present over the right side
of

forehead situated 4 cms. above the middle of right eye brow, reddish in colour.

3. Abrasion measuring 0.5 cms. X 0.5 cms. present over left alae of nose reddish in colour.

4. Abrasion measuring 0.5 cms. X 0.3 cms, present over upper lip 0.5 cms.

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below the left alae of nose reddish in colour.

5. Abrasion measuring 4 cms X 1.5 cms. present over the top of right shoulder at the root of neck reddish in colour.

6. Abrasion measuring 2.5 cms. X 0.5 cms, present over the front of right shoulder over outer third of clavicle reddish brown in colour.

7. Oblique linear abrasion two in number 0.5 cms. apart measuring 1 cms. X 0.2 cms. and 8 cms. X 0.2 cms. respectively present over the left side front of chest situated 4 cms. below the left nipple and 12 cms. above the umbilicus reddish in colour.

8. Abrasion measuring 5 cms. X 3 cms. present over inner side of right abdomen 5 cms. above the base of sacrum measuring 14 cms. X 11 cms. X 1 cm. bluish in colour.

9. Contusion present over upper lumbar region over the back of the abdomen 5 cms. above the base of sacrum measuring 14 cms X 11 cms. X 1 cm bluish in colour.

10. Abrasion measuring 12 cms. X 4 cms. present over left side of abdomen situated 5 cms. coastal margin reddish in colour.

11. Contusion measuring 7 cms. X 2 cms. X 1 cm. situated 15 cms. below the iliac crest over the left buttock bluish in colour.

12. Contusion measuring 12 cms. X 6 cms. X 3 cms. present over the right

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buttock at its centre bluish in colour.

13. Contusion measuring 7 cms. X 8 cms. X 2 cms. present over the right

buttock at its centre bluish in colour.

14. Abrasion measuring 4 cms. X 3 cms. present over upper part of right

buttock 3 cms. below the iliac crest reddish in colour.

15. Contusion present over the outer side of left thigh 15 cms. below the

greater trochanter measuring 9 cms. X 6 cms. X 2 cms. bluish in colour.

16. Contusion present over the front of left thigh measuring 9 cms. X 4 cms.

X 3 cms. situated 5 cms. above the left patella bone (knee cap) bluish colour.

17. Contusion present over outer side of right thigh 6 cms. below the greater

trochanter measuring 6 cms. X 5 cms. X 2 cms. bluish in colour.

18. Abrasion measuring 1 cm. X 0.5 cm. present 1 cm. below the left patella

bone (knee cap) reddish in colour."

On the basis of the complaint lodged an FIR Cr.No.181/1988 was registered in which all the accused were named.

The High Court on re-appraisal of the evidence on record and particularly after examining the evidence of PW.13 the Police Driver and of the eye-witness PW.1 Parasappa @ Parasurama came to the conclusion that the prosecution case against the appellants was found well established and convicted the appellants as

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aforesaid.

Mr. K.N. Bhat, learned senior counsel contended that the Investigating

Officer in connection with FIR case Crime No.168/1988 under Section 302 I PC was

one Circle Police Inspector, M.K. Patil and there is no case diary or record which

would disclose that the Circle Police Inspector authorised the appellant to arrest the

accused since deceased. He further contended that the evidence established that the

arrest has been made on 19.10.1988 and the deceased is said to have been expired by

hanging on 20.10.1988 and, therefore, no wrongful confinement is established against the appellant in terms of Section 348 IPC, inasmuch as it was bounden duty of the

Circle Police Inspector as an Investigating Officer to produce the accused before the Magistrate without unnecessary delay exceeding 24 hours excluding the time necessary for the transportation from the place of arrest to the Magistrate Court.

Learned counsel also contended that from the evidence of PW.1 it appears that he

lodged a complaint before the Assistant Commissioner but the complaint has not been

brought on record. We are not at all impressed by the contention of the learned

counsel for the appellants.

In this case the High Court relied upon the evidence of PW.13 and the

evidence of PW.1 who is an eye-witness. PW.13 is the Police Driver. He has

categorically stated that at the relevant period of incident appellant No.1 was acting as

the PSI, Ranebennur Police Station and the appellants Nos.2 to 5 were acting as the

Police Constables under appellant No.1 at the said Police Station. He has also stated

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that on the direction of appellant No.1 the Police Constables went along with PW.13 in

a jeep driven by PW.13 and arrested the deceased. He has specifically stated that the

appellants who were directed by accused No.1, are the Police Constables A2 to A5

went along with jeep driven by PW.13 to bring the deceased Guddappa in the jeep to

the Police Station. He further stated that the appellants/Constables there after got

down from the jeep and after about 15 minutes they brought the deceased Guddappa

along with them and put him in the jeep and after that he brought the deceased

Guddappa and above-said Constables to the Police Station in the jeep driven by him

at 9.30 a.m. He categorically stated that when he brought the deceased accused to the

Police Station at about 9.30 a.m. accused No.1 was working as PSI in the town Police

Station at Ranebennur. He further stated that later about 2.00 p.m. the PSI took him

to Devargudda in the jeep and when they returned from Devaragudda at 5.30 p.m. he

saw deceased being brought by the Police Constable by name Patil from the Hospital

to the Police Station in the auto rickshaw.

The undisputed fact remains that at the relevant time A1 was in-charge

of Police Station. A2 to A5 were acting as Police Constables in the said Police Station.

The injuries sustained by deceased Guddappa leading to his death were caused in the

said Police Station.

The High Court also heavily relied upon the evidence of PW

.1

Parasappa @ Parasurama. PW.1 specifically stated that his brother was working as a

coolie in Guttal Bus-stand whereas he was working as hamali work. When
PW.1

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returned from working his wife told him that his brother had not come
back from

work and, therefore, he went to Guttal Bus-stand where he came to know
that the

police had taken away his brother and then next day that is on 19.10.1988 at about 12

noon he went to the Police Station but the police had not allowed him to enter in the

police station. The accused No.5 at that time was present in front of the police station and he had not allowed him to enter in the police station. While standing in front of the police station he saw the police were assaulting his brother in lockup room. He

named the Police Constables namely Aramani, Krishna, Hosamani and Madival and

accused No.1 Veeranagouda as assailants of his brothers with sticks. He further stated

that they were assaulting his brother all over the body. Later on he heard that his

brother had died. The witnesses were subjected to a lengthy cross-examination but

nothing could be elicited to discredit the creditworthiness of the statement in chief.

The substance with regard to the factum of the beating and arrest have remained

unimpeached. Further, the statement of PW.1 as referred above is well corroborated

by the medical evidence in material particular. Similarly, the contention of the

counsel for non-production of the complaint said to have been lodged by PW.1 is

inconsequential having regard the evidence of PW.1 and PW.13 as referred above.

We also do not find any substance in the argument of the learned counsel for the appellants that there was no wrongful confinement. In this case it is established

that the accused was arrested on 19.10.1988 at 9.30 a.m. and he expired at about 5.30

p.m. on the next day that is 20.10.1988. The argument of the counsel that it was the

duty of the Circle Police Inspector who was the Investigating Officer to have produced

the accused before the nearest Magistrate within 24 hours and since Al was not an

Investigating Officer the burden of producing accused before the Magistrate can not

be fastened on A1 and for that reason no case of wrongful confinement under Section

348 IPC has been established against him. In our view, this contention has also no

force. Section 56 of the Code of Criminal Procedure does not speak about the

Investigating Officer, it simply speaks about the Police Officer making an arrest

without warrant. As the evidence discloses that the arrest was made by appellant No.1

and, therefore, it was his bounden duty to produce the accused before the Magistrate

next day within 24 hours. The death of the deceased has since occurred beyond 24

hours it would amount to the wrongful confinement as contemplated under Section

348 IPC.

In the reasons afore-stated, we find no infirmity in the impugned order passed by the High Court. This appeal is, accordingly, failed and dismissed.

The appellants are on bail, their bail bond and sureties stand cancelled.

The appellants are directed to be taken into custody forthwith to serve the sentence as awarded by the High Court. Compliance within one month.

.....J.

(H.K. SEMA)

.....J.

(P.P. NAOLEKAR)

SEPTEMBER 29, 2005.

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ITEM NO.105

COURT NO.6

SECTION II

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 564 OF 1999

SANGANAGOUDA A. VEERANAGOUDA & ORS

Appellant (s)

VERSUS

STATE OF KARNATAKA

Respondent(s)

Date: 29/09/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE MR. JUSTICE P.P. NAOLEKAR

For Appellant(s)

Mr. K.N. Bhat, Sr.Adv.

Mr. Mohan V. Katarki, Adv.

Mr. Javed Mahmud Rao,Adv.

For Respondent(s)

Mr. Siddhartha Dave, Adv.

Mr. Sanjay R. Hegde,Adv.

UPON hearing counsel the Court made the following

O R D E R

arguments at 11.15 Mr. K.N. Bhat, learned senior counsel started his
a.m. and concluded at 12.10 p.m. Hearing concluded.

The appeal is, accordingly, failed and dismissed in terms of the signed
judgment.

The appellants are on bail, their bail bond and sureties stand cancelled.

The appellants are directed to be taken into custody forthwith to serve the sentence as awarded by the High Court. Compliance within one month.

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(PAWAN KUMAR)

COURT MASTER

(signed non-reportable judgment is placed on the file)

(PREM PRAKASH)

COURT MASTER