

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.422 OF 2006

SATTEPPA DUNDAPPA LAVATE

Appellant (s)

VERSUS

STATE OF KARNATAKA

Respondent(s)

ORDER

The appellant herein was the second accused in a criminal case tried by the II Addl.Sessions Judge, Bijapur, Karnataka. The allegation against the appellant was that he, along with Accused nos.1 and 3, went to the house of Kashibai-deceased, wife of the complainant-PW 1; and that he and accused no.3 dragged her out of the house and accused no.3 inflicted injuries with kudugol (sickle), causing her death . All the accused were acquitted by the Trial Court.

On appeal preferred by the State, the High Court reversed the acquittal and all the accused were found guilty for the offence punishable under Section 302 read with Section 34 IPC. The first accused had preferred Criminal Appeal bearing No.956/2003 before this Court and his appeal was allowed by a judgment of this Court on 25.1.2005.

The second accused contends in this appeal that there is no evidence against him and he is also entitled to be acquitted by giving benefit of doubt as in the case of the

first accused and the High Court should not have placed reliance on the evidence of

PWs.1 to 3, who were respectively, the husband, minor son and minor daughter of the deceased, in view of the material inconsistencies in their evidence and as the other alleged eye-witnesses (PWs 4 to 8) had turned hostile, denied having witnessed the incident and did not support the prosecution case. PW 1 deposed that accused 1 and 2 are his brothers and accused no.3 is his cousin; that all the accused came together, that A1 and A2 held the hands of the deceased and A3 inflicted injuries on the deceased with kudugol, whereas the evidence of PW 2 was to the effect that the second and third accused dragged the deceased from the house and the third accused inflicted injuries with kudugol. PW 2 has not spoken to the effect that the appellant (second accused) held the hands of the deceased, when accused no.3 inflicted the injuries. PW 3, who is also a child witness, did not speak anything about any part played by the present appellant, but merely stated that the third accused caused injuries to the deceased. Though all three witnesses spoke about the presence of all three accused, PW 1 attributes roles to all three accused, PW 2 refers to only accused 2 and 3 and PW 3 refers to only PW 3. Even as between PW 1 and PW 2 there is inconsistency about the role played by the

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appellant. Apparently, there is some inconsistency in the version of the

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three witnesses. The overt act attributed to the appellant is that he held the hands of the deceased while the third accused inflicted injuries. As regards this fact, there is material difference and the trial court found the appellant as not guilty and the High Court reversed the acquittal. In an appeal against acquittal, the High Court, in our opinion, ought not have reversed the acquittal unless there was strong evidence to have a contrary view.

Having regard to the entire facts and circumstances of the case, we are of the view that the present appellant-second accused is also entitled to get the benefit of doubt. He is accordingly acquitted of the charge under Section 302 read with Section 34 IPC. He is directed to be released forthwith, if not required in any other case.

The appeal is allowed accordingly.

.....CJI.
(K.G. BALAKRISHNAN)

.....J.
(R.V. RAVEENDRAN)

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NEW DELHI;
5TH DECEMBER, 2007.

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ITEM NO.107

COURT NO.1

SECTION II

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 422 OF 2006

SATTEPPA DUNDAPPA LAVATE

Appellant (s)

VERSUS

STATE OF KARNATAKA
(With appln(s) for bail and office report)

Respondent(s)

Date: 05/12/2007 This Appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE R.V. RAVEENDRAN

