

^

CrI.A.No. 1165 OF 2003
ITEM No.101

Court No. 10

SECTION II

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

CrI. Appeal No. 1165 of 2003

Muniyellappa
...
Appellant (s)

VERSUS

State of Karnataka
...
Respondent (s)

Date : 23/03/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N.AGRawal
HON'BLE DR. JUSTICE AR.LAKSHMANAN

For Appellant (s) Mr. A.T.M.Sampath, Adv.
Mrs. T.S.Shanthi, Adv.
Ms. Arthi Radhakrishna, Adv.
Mr. V.Balaji, Adv.
Mr. P.N.Ramalingam, Adv.

For Respondent (s) Mr. Sanjay R.Hegde, Adv.

UPON hearing counsel the Court made the following
O R D E R

The appeal is allowed. The appellant who is in custody is directed to be released forthwith if not required in connection in any other case.

(Shashi Sareen)
Court Master

(Gyan Bhatia)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1165 OF 2003

MUNIYELLAPPA
...
Appellant (s)

Versus

STATE OF KARNATAKA

...

Respondent (s)

O R D E R

Heard the parties. The sole appellant was charged for offence under Section 302 I.P.C. and by an order of acquittal rendered by the trial court he was acquitted of the charge. On appeal being preferred before the High Court of Karnataka, the order of acquittal has been set aside and the appellant has been convicted under Section 304-II, I.P.C. and sentenced to undergo imprisonment for a period of five years and to pay a fine of Rs. 1,000/-, in default to undergo further rigorous imprisonment for a period of two months. Hence this appeal by special leave.

In the present case according to the prosecution PW 6 was solitary eye-witness who has not supported the prosecution case, as such declared hostile. Thus there is no direct evidence to connect the appellant with the crime and it remains a case of circumstantial evidence. The only circumstance which has been proved against the appellant is that he had motive to commit murder of the deceased.

In our view this circumstance alone cannot form the basis of conviction as it is well settled that in a case of circumstantial evidence there should be chain of circumstances unerringly leading to only one hypothesis which is incompatible with innocence of the accused and the chain must be complete. There being no chain of circumstances, the trial court was fully justified in acquitting the appellant of the charge and the view taken by it was reasonable and the possible view which cannot be said to be perverse in any manner. This being the position the High Court was not justified in reversing the acquittal.

Accordingly the appeal is allowed, the impugned judgment rendered by the High Court is set aside and the order of acquittal recorded by the trial court is restored. The appellant who is in custody is directed to be released forthwith if not required in connection with any other case.

.....J.

(B.N.AGRAWAL)

.....J.

(DR.AR. LAKSHMANAN)

New Delhi,
MARCH 23, 2004.