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PART-HEARD  
ITEM NO.102

COURT NO.8

SECTION IIB

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

CRIMINAL APPEAL NO.752 OF 2006

VASANTH Appellant (s)

VERSUS

STATE OF KARNATAKA Respondent(s)

Date: 25/02/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. PATNAIK  
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Appellant(s) Mr. Surya Kant, Adv. (A.C.)  
Ms. Purnima Jauhari, Adv.

For Respondent(s) Mr. K. Parameshwar, Adv.  
Mr. V.N. Raghupathy, Adv.

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

The appeal is allowed and the appellant is directed to be  
forthwith set at liberty, unless he is required in some other case.

A fee of Rs.7000/- to be paid to the Amicus Curiae.

[ Alka Dudeja ]  
A.R.-cum-P.S.

[ Sharda Kapoor ]  
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.752 OF 2006

Vasanth

...Appellant(s)

Versus

State of Karnataka

...Respondent(s)

O R D E R

This is an appeal against judgment dated 28th January, 2005, of the Karnataka High Court in Criminal Appeal No.1382 of 2002. By the said judgment, the High Court has maintained the conviction of the appellant under Sections 498A, 302 and 201 of the Indian Penal Code [for short, 'I.P.C.'] and sentenced him to undergo rigorous imprisonment for one year, imprisonment for life and rigorous imprisonment for one year respectively under the aforesaid Sections of the I.P.C. All the sentences to run concurrently.

The prosecution case briefly is that on 6th March, 2001, when the deceased along with the son, P.W.3, returned from her parental house to the house of the accused in the afternoon, there was some quarrel between the accused and the deceased and thereafter the deceased was not seen alive. On the next day when people of the village, including the relatives, started searching, they ultimately found the dead body floating in the well nearby the house. Immediately P.W.1, brother of the deceased, and P.W.2, sister of the deceased, were intimidated and they came back and found that a sari was

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- 2 -

tied around the neck of the deceased. On the next day, i.e., on 7th March, 2001, at about 3.00 p.m., P.W.1 went to Manki Police Station and lodged the complaint. The police registered a case under Sections 498A and 306 I.P.C. and undertook investigation and a charge sheet was filed against the appellant under Sections 498A, 302 and 201 I.P.C. The appellant denied the charges and the trial took place.

The Trial Court convicted the appellant of the aforesaid charges and sentenced him under the aforesaid Sections. Aggrieved, the appellant filed Criminal Appeal No.1382 of 2002 but by the impugned judgment, the High Court has held that the only evidence, cogent and consistent, available before the Court is that it was the appellant who alone had some grudge towards the deceased and although what exactly happened on the fateful day (6th March, 2001) is not put forth in the form of evidence, there is a possibility of the appellant being the culprit who has the strongest motive. It will be clear from what the High Court has held in the impugned judgment that there was absolutely no evidence to link the appellant with the offences and the only ground on which the High Court has maintained the conviction of the appellant is that there was some grudge that the appellant had towards the deceased and this was the motive for the appellant to eliminate the deceased.

On repeated queries made by the Court to the learned counsel for the State as to what evidence, circumstantial or direct, was available against the appellant, learned counsel for the State submitted that the first circumstance is that the appellant had a motive to eliminate the deceased; the second circumstance is that the body of the deceased was

recovered from the well; the third circumstance is that it is

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- 3 -

the appellant who asked P.W.7 to search for the body of the deceased in the well; and the fourth circumstance is that the medical evidence established that it was not a case of suicide but a case of strangulation caused by someone else i.e., a homicidal death.

We have perused the evidence in this regard and we find from the evidence of P.W.3 that when P.W.3, who is the son of the deceased as well as the appellant, questioned the appellant about the whereabouts of his mother, the appellant told that she has gone to her mother's house and on the next day morning, the appellant himself began to search for his mother and he told P.W.7-Sujatha to search for the deceased in the well in Gaddebail. From the fact that the appellant told P.W.7 to look for the deceased in the well, one cannot come to a definite conclusion that the appellant had killed the deceased by strangulation and dumped her inside the well. At best, one could have the suspicion of the appellant having done so, but suspicion cannot take the place of proof of guilt.

The other two circumstances: the body was recovered from the well and the deceased had not committed suicide but had died due to strangulation as per medical evidence do not link the appellant with the offences and, therefore, these are not circumstances to establish the guilt of the appellant. The only other circumstance that remains is the motive of the appellant. The motive, as had been indicated by the High Court, is that he had a grudge against the deceased. The grudge is hardly any proof of motive for the offence. In any case, even if we take the grudge as proof of the motive, this Court has held in State of Punjab vs. Sucha Singh and Others, reported in 2003 (3) SCC 153 that where the basic foundation of the prosecution case crumbles down, the motive becomes

....4/-

- 4 -

inconsequential and suspicion cannot take place of proof of guilt.

We, therefore, allow this appeal and set aside the judgments of the Trial Court and the High Court and direct that the appellant shall be forthwith set at liberty, unless he is required in some other case.

A fee of Rs.7000/- to be paid to the Amicus Curiae.

.....J.  
[A.K. PATNAIK]

.....J.  
[SUDHANSU JYOTI MUKHOPADHAYA]

New Delhi,  
February 25, 2013.