

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 667 OF 2016
(Arising out of SLP(Crl.) No. 4968 of 2011)

STATE OF KARNATAKA

PETITIONER(S)

VERSUS

PARAMESHWAR NINGAPPA BANNASODE

RESPONDENT(S)

O R D E R

Delay condoned.

Leave granted.

The only respondent who is presently concerned in this case is A-2. It is stated that A-1, during the pendency of the proceedings, passed away, therefore, his acquittal is not challenged by the prosecution.

Our attention was drawn to the evidence and finding recorded by the Division Bench of the High Court of Karnataka Circuit Bench. The Division Bench, at paragraph 17 of the impugned judgment and order, recorded a finding with reference to the cross-examination of PW-1 and PW-2, which is reproduced hereinbelow:

"A further revelation in the course of cross-examination of PW-1 & 2 which was of significance, as pointed out by the trial Court, and which fact was not stated either in the complaint or in their examination-in-chief, is that Chandramappa, the father of the complainant and Chanagoud the elder brother of the complainant, were also the accused in the murder case of Chandrashya, the elder brother of A-1, who was done to death about 8 years prior to the present incident - though the two were acquitted of the charges - the trial Court has held that this connection, made PW-1 & PW-2 partisan witnesses, interested in supporting the case against the accused in the present case."

Having regard to aforesaid observation in the impugned judgment and order, the peculiar facts and circumstances of the case, material available on record, the rival legal submissions advanced by learned counsel for the parties, particularly the fact that examination of witnesses PW-1 & PW-2 by the prosecution has not been accepted by the High Court without assigning any valid and cogent reasons, and the approach of the High Court is not only perverse but also unacceptable. We are of the considered opinion that the impugned judgment and order is liable to be set aside and the same is set aside accordingly. The appeal is allowed and the matter is remanded back to the High Court for reconsideration and to pass an appropriate order in accordance with law after taking into consideration all the relevant aspects involved in the matter.

The appeal is allowed in the aforesaid terms.

Pending application(s), if any, stands disposed of.

.....J.
(V. GOPALA GOWDA)

.....J.
(ADARSH KUMAR GOEL)

NEW DELHI,
JULY 19, 2016

ITEM NO.5

COURT NO.9

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

Petition(s) for Special Leave to Appeal (Crl.) No(s). 4968/2011

(Arising out of impugned final judgment and order dated 22/04/2009 in CRLA No. 636/2004 passed by the High Court of Karnataka at Bangalore)

STATE OF KARNATAKA

Petitioner(s)

VERSUS

PARAMESHWAR NINGAPPA BANNASODE

Respondent(s)

(With application(s) for c/delay in filing SLP, permission to file additional documents and office report)

Date : 19/07/2016 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE V. GOPALA GOWDA
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Petitioner(s) Ms. Anitha Shenoy, Adv.

For Respondent(s) Mr. Kashi Vishweshwar, Adv.
Ms. A. Sumathi, Adv.UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

Criminal Appeal is allowed in terms of the Signed Order.

Pending application(s), if any, stands disposed of.

(RASHI GUPTA)
SR. P.A.(SUMAN JAIN)
COURT MASTER

[SINGED ORDER IS PLACED ON THE FILE]