

: ITEM NO.104

COURT NO.7

SECTION

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). 1698 OF 2005

KRISHNAREDDY

Appellant (s)

VERSUS

STATE OF KARNATAKA

Respondent(s)

(With office report)

WITH APPEAL(CRL) NO. 872 of 2006

(With office report)

Date: 17/03/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Appellant(s)

Mr. Rajesh Mahale,Adv.

For Respondent(s)

Mr. V.N. Raghupathy,Adv.

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

With modification in the sentence
Crl.A.No.872/2006 is dismissed.

Crl.A.No. 1698/2005 is dismissed.

Krishnareddy is on bail, his bail bonds are
cancelled. He shall be taken into custody forthwith.

[SUMAN WADHWA]
COURT MASTER

[VINOD KULVI]
COURT MASTER

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1698

OF 2005

KRISHNAREDDY

.. APPELLANT(S)

vs.

STATE OF KARNATAKA

.. RESPONDENT(S)

WITH

CRIMINAL APPEAL NO. 872

OF 2006

O R D E R

This judgment will dispose of Criminal appeal No. 1698 of 2005 and Criminal appeal No. 872 of 2006. The lead case is Criminal Appeal No. 1698 of 2005.

We have heard the learned counsel for the appellant Mr. Rajesh Mahale and the learned counsel for the State of Karnataka, Mr. V.N.Raghupathy.

We see that the Trial Court by its judgment dated 23/1/1999 acquitted all the accused. The matter was thereafter taken in appeal to the High Court by the State of Karnataka and the High Court set aside the acquittal of the accused and had convicted Krishnareddy, the appellant herein, for an offence punishable under Section 302 of the IPC and sentenced him to imprisonment for life whereas the other three accused (who have filed Criminal Appeal No. 872/2006) were convicted for the offence under Section 326/34 of the IPC and awarded four years rigorous imprisonment.

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Mr. Rajesh Mahale, the learned counsel for the appellants has raised several arguments before us during the course of the hearing of these appeals. He has first pointed out that the dying declaration made by the deceased to the ASI which formed the basis of the FIR could not be believed for the simple reason that the deceased was in the precarious condition at the time when the dying declaration is said to have been recorded. He has further pointed out that the dying declaration though attested by the doctor did not contain an endorsement that the deceased was capable of making a statement. He has further pleaded that the oral dying declarations made to PW's. 6, 11 and 12 which has been relied on by the prosecution and accepted by the High Court could also not be believed as these witnesses had not made a reference to any dying declaration in their statements under Section 161 of the

Cr.P.C.. He has finally pointed out that the main eye-witness PW.5 having been declared hostile, the relevance of the other evidence and the other alleged witnesses was also to be ruled out of consideration.

Mr. V.N. Raghupathy, the learned counsel for the State has however supported the judgment of the High Court and has pleaded that the judgment of the Trial Court was full of glaring infirmities and was required to be reversed.

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We have gone through the record very carefully. We see that the dying declaration had been recorded by the ASI at about 6.00 p.m. on the 10th February, 1995. This has also been signed by the deceased as well as by the Doctor. The fact that the dying declaration had been recorded in the manner as per the words uttered by the deceased has been spelt out both by the Doctor and by the ASI. It is also clear from the evidence that in the cross-examination of both of the ASI and the doctor no question or doubt was raised as to the fitness of the deceased in making the dying declaration. Likewise we have gone through the statements of PW's.6, 11 and 12 with regard to the oral dying declaration made to them. We find that the omission made by them in this regard in their statements under Section 161 of the Cr.P.C. have not been put to them. In this view of the matter, it has to be taken that the statement they were witnesses to the oral dying declaration has to be accepted. Likewise we find no reason whatsoever to discard the evidence of PW.8. He was a young boy who had witnessed the incident and had also accompanied the deceased to the hospital.

We are therefore of the opinion that no interference whatsoever is called for insofar as the conviction of the appellant-Krishnareddy is concerned. We also feel that under the circumstances and keeping in view the nature of

injuries caused by Krishnareddy

no interference is called

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for in this matter with regard to the nature of the
offence as well. Appeal No. 1698/05 is accordingly
dismissed.

We however feel that in the circumstances some
reduction in the quantum of sentence is called in the case
of the appellants in Criminal Appeal No. 872/06. We
accordingly reduce the sentence of these appellants from
four years to two years. With this modification in their
sentence Criminal Appeal No. 872/2006 is dismissed.

Krishnareddy is on bail; his bail bonds are
cancelled. He shall be taken into custody forthwith.

.....J.
(HARJIT SINGH BEDI)

.....J.
(CHANDRAMAULI KR. PRASAD)

New Delhi,
March 17, 2011.