

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No. 1659/2009

SUBBARAYAPPA & ORS.

Appellants

VERSUS

STATE OF KARNATAKA & ANR.

Respondents

O R D E R

The appellants faced charges for the offences punishable under Sections 498A, 323, 324, 326 and 109 of the Indian Penal Code (for short, the IPC) alongwith Sections 3 and 4 of the Dowry Prohibition Act, 1961. The learned Judicial Magistrate, First Class, who tried the criminal case, acquitted the appellants on the foundation that there are material contradictions and the evidence brought on record was absolutely inadequate to warrant conviction.

Assailing the said judgment and order, the State preferred an appeal by leave under Section 378(1) and (3) of the Code of Criminal Procedure (for short, the Cr.P.C.). The High Court by an extremely cryptic judgment and order, upset the judgment of acquittal and convicted the appellants for the offences punishable under Sections 324 and 498A of the IPC.

It is well settled in law that when a plausible view has been taken by the trial Court, the High Court is

expected not to interfere with the same. As we find from the judgment and order of the High Court, it has reversed the judgment of acquittal, without ascribing proper reasons. It can be appreciated if there would have been non-appreciation of the material evidence on record or a perverse appreciation. That is not the case here.

In view of the aforesaid, we are inclined to set aside the judgment of conviction. Be it noted, the High Court after finding the appellants guilty, directed them to be released on probation by executing the bond of Rs.50,000/- (Rupees fifty thousand only) each and to pay a compensation of Rs.10,000/- (Rupees ten thousand only) each. We have been apprised that each of the appellants had paid the amount of compensation. In view of the same, though we are inclined to set aside the conviction, we think it appropriate that the amount of compensation that has been paid to the complainant, shall not be refunded.

At this juncture, we may note with profit that during the pendency of the appeal, the husband and wife had jointly preferred an application under Section 13-B of the Hindu Marriage Act, 1955, and a decree for divorce has been passed by the competent Court and permanent alimony has already been paid.

In view of the aforesaid, we allow the appeal, set aside the judgment of conviction and order of sentence directing the appellants to execute the bond for probation.

They be discharged of their bonds. The compensation as has been directed, is not to be refunded as the learned counsel for the appellants submitted that the money has gone to the complainant-wife and hence, the money need not be refunded. We may hasten to clarify that as this is an acquittal on merits, the same shall not be taken aid of for any other charges as far as the appellants are concerned.

.....CJI.
[Dipak Misra]

.....J.
[Dr. D.Y. Chandrachud]

New Delhi;
September 13, 2018.

ITEM NO.101

COURT NO.1

SECTION II-C

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

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VERSUS

STATE OF KARNATAKA & ANR.

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Date : 13-09-2018 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Appellants

Mr. S.N. Bhat, AOR
Mr. D.P. Chaturvedi, Adv.
Mr. Ravi Panwar, Adv.

For Respondents

Mr. V.N. Raghupathy, AOR
Mr. Md. Apzal Ansari, Adv.

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

The appeal is allowed in terms of the signed order.

Pending interlocutory applications, if any, shall stand disposed of.

(Deepak Guglani)
Court Master

(H.S. Parasher)
Assistant Registrar
(signed order is placed on the file)