

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 143 OF 2004

MALLAPPA HANUMANTHAPPA MALLAPPANNAVAR
AND ANR.

APPELLANT(S)

VERSUS

STATE OF KARNATAKA

RESPONDENT(S)

O R D E R

Heard learned counsel for the parties.

The correctness of the judgment and order dated 5.03.2002 passed in Criminal Appeal No. 128 of 1997 by the Division Bench of the High Court of Karnataka at Bangalore, partly reversing the judgment and order of acquittal dated 18.09.1996 passed by the II Additional Sessions Judge, Dharwad acquitting the appellants herein, by allowing the appeal of the respondent-State, the appellants are before this Court seeking for setting aside the same, urging certain grounds.

The ground urged by the learned counsel for the appellants is that the High Court in exercise of its appellate jurisdiction, without discussing the evidence of the Prosecution Witnesses in detail with reference to the evidence given against the appellants before the trial court in relation to the charge against the appellants, the Division Bench of the High

Court after adverting to certain facts at para 5 of the impugned judgment without adverting to the evidence deposed by P.Ws. 1, 3, 4 and 5 have arrived at the conclusion that their evidence conclusively establishes that the appellants have been responsible for the assault on the victim P.W.-1 on that particular day and further at para 8, the Division Bench of the High Court has taken judicial notice of the fact that incidents of this type are very much on the increase and that they are a serious affront to the concept of dignity of women. Having said so, the Division Bench of the High Court in exercise of its appellate jurisdiction has reversed the finding of acquittal and partly allowed the appeal by convicting the appellants for the charge under Section 354 read with Section 34 IPC and sentenced them to undergo rigorous imprisonment for a period of two years with fine.

We are not impressed by the findings and reasons recorded in the impugned judgment by the Division Bench of the High Court. The Division Bench of the High Court arrived at the conclusion without adverting to the evidence of the prosecution witnesses in detail to record a finding of guilt on the charge against the accused/appellants. Regard being had to the fact that the trial court had acquitted the appellants of the charge, in our considered opinion, the impugned judgment and order passed by the Division Bench of the

High Court is vitiated for the reason of not discussing the evidence elaborately evaluating the same and recording the valid and cogent reasons in reversing the finding of acquittal of the appellants on the charge by the trial court. Therefore, the impugned judgment and order passed by the Division Bench of the High Court is liable to be set aside and, hereby set aside. Since the matter requires reconsideration of the High Court, for this purpose, we remand the matter to the High Court for de novo consideration for passing a reasoned order on merits and in accordance with law after hearing both the parties.

In the result, the appeal is allowed and the impugned judgment and order is set aside and the matter is remitted back to the High Court for its reconsideration in accordance with law.

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

.....J.
(ARUN MISHRA)

NEW DELHI,
MARCH 30, 2016

ITEM NO.101

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

Criminal Appeal No(s). 143/2004

MALLAPPA HANUMANTHAPPA MALLAPPANNAVAR AND ANR.

Appellant(s)

VERSUS

STATE OF KARNATAKA

Respondent(s)

Date : 30/03/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA
HON'BLE MR. JUSTICE ARUN MISHRAFor Appellant(s) Mr. R.S. Hegde, Adv.
Mr. Farhat Jahan Rehmani, Adv.
Mr. Rajeev Singh, Adv.

For Respondent(s) Mr. V. N. Raghupathy, 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.

(S. K. RAKHEJA)
COURT MASTER(CHANDER BALA)
COURT MASTER

(Signed order is placed on the file)