

ITEM NO.1

COURT NO.9

SECTION II

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). 2500 OF 2009

CHIKKEGOWDA & ORS.

Appellant (s)

VERSUS

STATE BY K.R.PET POLICE STATION.

Respondent(s)

(With appln(s) for stay and office report )  
(For final disposal)

Date: 10/02/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY  
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Appellant(s)

Mr. Shantha Kumar Mahale, adv.  
Mr. S.R. Harisha, Adv.  
Mr. Rajesh Mahale, Adv.

For Respondent(s)

Mr. Sanjay R. Hegde, Adv.  
Mr. A. Rohen Singh, Adv.  
Mr. Vikrant Yadav, Adv.  
Mr. Ramesh Kumar Mishra, Adv.  
Mr. Ramesh S. Jadhav, Adv.

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

This appeal is allowed in terms of the signed  
order.

(Sukhbir Paul Kaur)  
Court Master

(Vijay Dhawan)  
Court Master

(Signed Order is placed on the file)  
IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2500 OF 2009

CHIKKEGOWDA & ORS.

Appellant(s)

Versus

STATE BY K.R.PET POLICE STATION

Respondent(s)

O R D E R

Heard learned counsel for the parties.

This appeal is directed against the judgment  
and order dated 22nd July, 2008 in Criminal appeal

No.751 of 2002 passed by the High Court of Karnataka at Bangalore, whereby the High Court reversed the order of acquittal dated 24.11.2001 passed by the J.M.F.C. in CC No.658 of 1996 acquitting the appellants for the offence punishable under Sections 143, 144, 147, 148, 326, 324, 323 and 506 read with Section 149 of the Indian Penal Code (in short 'the IPC).

The High Court having set aside the order of acquittal convicted all the appellants herein for the offence punishable under Section 326 IPC, however, directed their release on probation on each one of them executing a bond in the sum of Rs.50,000/- with one surety in the like sum. The appellant were further directed to pay compensation in a sum of Rs.5,000/-

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each. Out of the fine amount, a sum of Rs.30,000/- was directed to be paid to PW.1 - the injured.

Learned counsel for the appellant submitted that the High Court without recording any reasons whatsoever, in a cryptic manner and even without noticing that there was no charge against the appellants under Section 326 IPC, set aside the order passed by the Trial Court and convicted the appellants under Section 326 IPC.

We find merit in this appeal since it is an admitted fact that the charge framed against the appellants under Section 326 IPC has been dropped by the Trial Court. It is difficult to appreciate as to how the High Court could have convicted the appellants herein for the offence punishable under Section 326 IPC in the absence of any charge against them. The High Court failed to notice that the charge under Section 326 IPC has been dropped against the appellants.

For the aforesaid reasons, we find it

difficult to sustain the impugned order convicting the appellants for the offence punishable under Section 326 IPC. The order of acquittal passed by the Trial Court is restored and the impugned order is accordingly, set aside. The appellants are not required to deposit any

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fine amount. The bail bonds executed by them for their release on probation shall accordingly, stand cancelled.

This appeal is accordingly, allowed.

.....J.  
(B.SUDERSHAN REDDY)

.....J.  
(SURINDER SINGH NIJJAR)

New Delhi,  
February 10, 2010