STATE OF KARNATAKA

v.

K. YARAPPA REDDY

OCTOBER 5, 1999

[K.T. THOMAS AND A.P. MISRA, JJ.]

Penal Code, 1860—Sec. 302—Murder inside a house—Testimony of eye witness, an inmate of that house—Surrender of chopper by accused—Conviction and sentence by trial court—On appeal, High Court disbelieving the eye witness and holding that injuries on the deceased could not have been caused by chopper, acquitting the accused—Validity of—Held, the eye witness was most natural and probable witness stating the exclusive involvement of the accused in the murder—High Court not justified in disbelieving the eye witness on flimsy ground—Conviction and sentence awarded by trial court restored.

Evidence Act, 1872 :

Sec.153—Examination of a witness to impeach the credibility of another witness—Scope and requirement of.

Sec. 159—Refreshing the memory of a witness—Investigating officer—Examination—Unable to depose without referring to the records—Permissibility of.

Witness—Murder—Post event conduct of witnesses—Held, different persons witnessing an incident react differently—No set reaction from any eye witness can be expected.

Criminal Trial :

Investigation—Illegal and suspicious conduct of—Effect—Held Investigation is not the solitary area of judicial scrutiny in a criminal trial—Rest of evidence must be scrutinised independently—Criminal justice should not become the casuality for the wrongs committed by the investigating officer.

Respondent was prosecuted for an offence under Section 302 of IPC. The prosecution case was that respondent-accused, a milk trader and 'R' had a love affair. When 'R's father came to know about the affair, he took objection and got a promise from 'R' that she will not marry against the

A wishes of parents. Consequently 'R' expressed her disinclination to marry the accused. On the fateful day, accused went to the office of 'R' and took her on his motorcycle to the house of a family friend, PW-11. Accused introduced 'R' as his would be bride. PW-11 after supplying coffee to the guests went inside leaving the couple undisturbed. Respondent whipped out a chopper from his bag and inflicted murderous blows on 'R'. On B hearing her cry PW-11 rushed to the spot and found 'R' lying down bleeding. Respondent fell on the feet of PW-11 with the blood oozing chopper and prayed to pardon him for killing 'R'. Accused then left the house with the chopper. Later he went to the local police station and surrendered the blood stained chopper to PW-15. His statement was C recorded by PW-15, who then took him back to the house of PW-11 for showing the dead body. Post mortem was conducted by PW-4. The trial court relying upon the evidence of PW-11, convicted and sentenced the accused. However, on appeal, Division Bench of High Court disbelieving the testimony of PW-11 and holding that the injuries on the deceased D could not have been caused by M.O. 16 chopper acquitted the respondent. Hence the present appeal.

Allowing the appeal, this Court

HELD : 1. On appreciation of evidence there is no doubt that the E accused was murderer of 'R'. Thus, High Court erred in upsetting the conviction and sentence awarded by trial court. [372-E]

2.1. PW-11, the most natural and probable witness to the occurrence has stated about the role played by the accused in the murder of 'R' as far as she has witnessed it. Her evidence admits of no other hypothesis F except the exclusive involvement of the accused in the murder. The Division Bench of High Court disbelieved her on the flimsy ground that no neighbour has rushed to the scene after the ghastly murder. Whether the killer of 'R' was the accused or anybody else, when the fact is admitted that murder of 'R' took place inside the house of PW-11 and if no G neighbour had rushed to the scene that cannot be a reason to think that the murder would have been committed by somebody else.

[371-F; 369-B-E]

2.2. High Court also erred in disbelieving the evidence of PW-11 on the ground that if she had seen the murder she would have cried out or H shouted. Criminal courts should not expect a set reaction from any eye

witness on seeing an incident like murder. If five persons witness one incident there could be five different types of reactions from each of them. It is neither a tutored impact nor a structured reaction which the eye witness can make. It is fallacious to suggest that PW-11 would have done this or that on seeing the incident. Unless the reaction demonstrated by an eye witness is so improbable or so inconceivable from any human being pitted in such a situation it is unfair to dub his reactions as unnatural. [369-F; 370-A-B]

Rana Pratap v. *State of Haryana*, AIR (1983) SC 680 and *Appabhai* v. *State of Gujarat*, AIR (1988) SC 696, referred to.

3.1. The High Court made a fatuous exercise for concluding that MO 16 chopper (as it is in the present shape) could not have caused the incised injuries described in the post- mortem certificate. The curve now found on the tip of the chopper (which made that portion look blunt) seems to have persuaded the High Court in harping on such an exercise. It was quite possible that the chopper could have become curved either when its sharp tip made a forcible entry into the sternum (injury no. 1 in the post-mortem report involved perforation of the sternum) or when it hit on the ribs. The tip of the chopper could as well have been curved if the weapon had struck the floor when the assailant fell on the feet of PW-11 with the weapon in his hands. If the said chopper remained in its original condition when the strikes were inflicted by the assailants there is no room for any doubt that all the injuries sustained by the deceased would have been caused by it. Of course, another endeavour was made to show that a single edged weapon could not result in spindle shaped incised injury. PW-4, a Senior Professor in Forensic Medicine has repudiated the said suggestion. It is thus not a correct proposition that such a shape of injury is not possible if the weapon used is single edged. [366-D-H]

3.2. M.O. 16(chopper) was surrendered by the accused to the police. PW-5 and PW-13 are the witnesses who were present when the accused surrendered the chopper which was smeared with blood. Both witnesses have put their signature on Ext. P-6 Panchanama drawn up then. When M.O. 16 knife was subjected to serological examination it was found containing blood of B-Group. The significance of the above circumstance is that when two bed-sheets (on which the dead body was lying) were subjected to serological test they too contained blood of B-Group. [372-C-D]

A 4.1. The general rule of evidence is that no witness shall be cited to contradict another witness if the evidence is intended only to shake the credit of another witness. The basic requirement for adducing such contradictory evidence is that the witness, whose impartiality is sought to be contradicted with the help of such evidence, should have been asked about it and he should have denied it. Without adopting such a preliminary B recourse it would be meaningless, if not unfair, to bring in a new witness to speak something fresh about a witness already examined. [370-E; 371-B; C]

Vijayan v. *State*, [1999] 4 SCC 36, relied on.

C 4.2. In the instant case DW-3 was examined to say that accused's father and PW-11's husband had a long transaction on which they later fell out. The said evidence was let in, presumably to show that PW-11 had some ire towards the accused. In other words, it was intended to impeach the impartiality of PW-11. However, the basic premise has not been laid down by asking PW-11 about the alleged loan transaction between her D husband and accused's father and hence it is not permissible to cite a witness like DW-3 to say about any such transaction. [370-C; D; 371-E]

5. Investigation is not the solitary area for judicial scrutiny in a criminal trial. The conclusion of the Court in the case cannot be allowed to depend solely on the probity of investigation. It is well nigh settled that even E if the investigation is illegal or even suspicious the rest of the evidence must be scrutinized independently of the impact of it. Otherwise criminal trial will plummet to the level of the investigating officers ruling the roost. The court must have predominance and pre-eminence in criminal trials over the action taken by investigating officers. Criminal justice should not be made F the casualty for the wrongs committed by the investigating officers in the case. If the court is convinced that the testimony of a witness to the occurrence is true that the court is free to act on it albeit investigating officer's suspicious role in the case. [367-F; G; H; 368-A]

G 6. An investigating officer can refer to the records for refreshing his memories while giving evidence. The objection of the defence counsel when investigating officer wanted to reply by referring to the records of investigation is, untenable and unjustified. Trial Court cannot overlook the reality that an investigating officer comes to the court for giving evidence after conducting investigation in many other cases also in the H meanwhile. Evidence giving process should not bog down to memory tests

of witnesses. An investigating officer must answer the questions in court, as far as possible, only with reference to what he had recorded during investigation. Such records are the contemporaneous entries made by him and hence for refreshing his memory it is always advisable that he looks into those records before answering any question. [368-B; D; E; H]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 263 of 1994.

From the Judgment and Order dated 14.9.87 of the Karnataka High Court in Crl. A. No. 248 of 1986.

M. Veerappa for the Appellant.

S.B. Sanyal, Naresh Kaushik and Mrs. Lalita Kaushik for the Respondent.

The Judgment of the Court was delivered by

THOMAS, J. A love affair got swerved to the wrong side and sank into tragedy. The female partner in the affair, as it often happens, became the victim of the tragedy. Rekha, a working woman and Yarappa Reddy, the respondent - a milk trader - were the participants in the ill-fated romantic adventure. Rekha was badly mauled to death on the morning of the Martyrs Day (30th January) of 1982 for which the respondent Yarappa Reddy was indicted by the Police. Sessions Court convicted him, but the High Court acquitted him. Thus the present appeal at the instance of the State by special leave.

Rekha was put up in a college hostel at Bangalore while she was doing her B.A. As she failed in the final examinations her father put her up in the house of a relative for prosecuting her studies. That relative's daughter Anitha (PW-8) became her friend. Respondent Yarappa Reddy was living a few yards away from the house of PW-8. Respondent developed a fascination for Rekha which in due course snowballed into a love affair. They exchanged love letters between each other. In the meantime Rekha got a job as Receptionist in a company called "Acad Coach Builders". She was later promoted as Cashier.

The love affair initially was on cloud nine, but as days passed it did not sail smooth. One of the love letters happened to reach Rekha's father.

A He took his daughter to task and wangled a promise from her that she would not do coquetry towards respondent and that she would not marry any one against the wishes of her parents.

But respondent was not prepared to softpedal the affair. He continued to frequent Rekha to her chagrin and persisted with his plan to
B marry her. She told him of the hubbubs which took place after one of the love letters mis-reached and she expressed her disinclination to marry him. This recusancy was beyond his limit of forbearance. He determined either to repossess her or to finish her off.

C Now, comes the disputed part of the story. On the day of occurrence Rekha, as usual, went to the Coach Factory by 10 A.M. Respondent went there on a motorcycle and talked to Rekha and persuaded her to go along with him to another place for continued parleys over their affair. The unsuspected lady went with him. He decoyed her to the house of PW-11
D (Sharadamma) who was a family friend. Rekha was introduced to her as his would be bride. PW-11 Sharadamma presumably welcomed the choice and showed her hospitality by supplying coffee to her guests. She withdrew to her kitchen for affording the young couple undisturbed forum to carry on their chat, without knowing that a cauldron of rancour was fuming in his mind, and a blood craving chopper was twitching in his bag.

E

How the conversation turned violent is not known to anyone else except the two. At one point of time respondent whipped out a chopper from his bag and inflicted murderous blows on Rekha. She yelled out "Amma". PW-11 Sharadamma overhearing the cry rushed to the drawing
F room and saw Rekha lying down bleeding. Respondent suddenly turned towards PW-11 and fell on her feet with the blood-oozing chopper and prayed for pardon as he killed his fiancee. The stunned housewife remained transfixed and dump- founded. Accused then left the house with the chopper and rode away on his motorcycle.

G

Accused went to the local police station and surrendered the blood-stained chopper to PW-15 Thimmaiah, the Sub-Inspector of police who was then the Station House Officer. He gave a statement which was used as first information statement. PW-15 took the respondent back to the house of PW-11 as he offered to show the house where the dead body was
H lying. PW-16 Circle Inspector later arrived and held the inquest.

Post-mortem examination was conducted by Dr. H.A. Somaiah (PW-4) on the body of Rekha. He noted 9 ante-mortem injuries of which 4 were stab wounds and the remaining were scratches. The injury which became fatal has the following description : "An incised stab wound over the middle of the chest at the level of nipples, vertical spindle shaped, measuring 5 cms. x 8.5 cms. with tailing downwards for 3 cms." On dissection of the injury the doctor noted that it had gone down, cut the cartilages of the 3rd and 4th ribs of the left side and passed through the pericardium and further went down and perforated the right ventricle. The wound on the right ventricle measured 2 cms. x 0.5 cms. The lower end of the wound was sharp and upper end blunt.

PW-11 Sharadamma is the star witness of the prosecution. She stood by the prosecution version and narrated further that when she rushed to the drawing room on hearing the cry she saw the accused standing in the drawing room with a blood-stained chopper. Prosecution examined, among others, PW-11's aged mother Nanjamma as PW-12. But as she was short of hearing her evidence is not of much probative utility.

Respondent adopted a defence of total denial of his involvement in the murder of Rekha. However, he suggested, as his defence, that Rekha would have been killed by one of the sons of PW-11 who would have tried to ravish her. According to the respondent, he was dragged into this case by PW-15 Sub-Inspector only for extricating the real murderer out.

In support of his version he examined three witnesses. DW-1 Dr. Gopalkrishnan was a surgeon having special knowledge in forensic medicine. He gave his opinion that the injuries noted on the dead body of the deceased would not have been inflicted with M.O. 16 chopper as its tip is not sharp but curved and blunt. DW-2 Gopi merely said that he saw Rekha on one or two occasions talking over the telephone from a nearby shop. DW-3 Venkatesh is the brother-in-law of PW-11. We will refer to his evidence later.

The trial court relied on the evidence of PW-11 and found the other circumstances narrated by the prosecution as proved in this case and hence concluded that Rekha was put to death by the respondent and accordingly convicted him under Section 302 of the IPC and sentenced him to imprisonment for life.

A On appeal a Division Bench of the High Court disbelieved the testimony of PW-11 and launched a scathing criticism against the investigation. Learned Judges accepted the defence contention that the injuries on the deceased could not have been caused by M.O. 16 chopper.

B Sri M. Veerappa, learned counsel for the State contended that the reasoning of the High Court for disbelieving the testimony of PW-11 is too fragile. According to the counsel, every word of what PW- 11 said in the court was nothing but true. He also contended that the defence version that police favoured a rapist murderer of Rekha (son of PW-11) and for rescuing him this innocent respondent was substituted, as absurd and most C far-fetched.

The Division Bench of the High Court made a fatuous exercise for concluding that MO-16 chopper (as it is in the present shape) could not have caused the incised injuries described in the post- mortem certificate. D The curve now found on the tip of the chopper (which made that portion look blunt) seems to have persuaded the High Court in harping on such an exercise. True, the defence counsel in the trial court had taken much strain to establish that MO-16 chopper, as it now remains, could not cause the injuries indicated by the doctor who conducted the autopsy. It was E quite possible that the chopper could have become curved either when its sharp tip made a forcible entry into the sternum (injury no. 1 in the post-mortem report involves perforation of the sternum) or when it hit on the ribs. The tip of the chopper could as well have been curved if the weapon had struck the floor when the assailant fell on the feet of PW-11 with the weapon in his hands. We are, therefore, not interested, in this case, F to probe into the possibilities of a blunt tipped weapon causing incised injuries.

If the said chopper remained in its original condition when the strikes were inflicted by the assailant there is no room for any doubt that all the G injuries sustained by the deceased would have been caused by it. Of course, another endeavour was made to show that a single edged weapon could not result in spindle shaped incised injury. PW-4 Dr. Somaiah, a Senior Professor in Forensic Medicine has repudiated the said suggestion. It is not a correct proposition that such a shape of injury is not possible if the H weapon used is single edged.

Regarding the incriminating conduct of the accused that he surrendered before the police station at 11.20 am, the Division Bench of the High Court made a frontal attack on the evidence of PW-15 (Sub-Inspector Thimaiah). Learned Judges scrutinized the Station House Diary and noted that two sheets therefrom had been torn off and in that place another sheet has been pasted. The newly pasted sheet is marked as Ex.D7. The following observation made by the High Court on that aspect cannot be ignored :

> "Therefore, the so called entry in Ex.D.7 on the basis of which the Police Sub-Inspector claims to have registered a case is, in our opinion, highly suspicious and appears to be manufactured and cooked up one. Therefore, the version of the Police Sub-Inspector that on the basis of the information given by the accused he registered a case looks rather unnatural and unacceptable."

We too have scrutinised the aforesaid Station House Diary and felt that the Division Bench of the High Court is justified in making that observation. As the entries on the particular sheet related to the events on 30.1.1982 we concur with the finding that no credence can be given to the police version that accused gave First Information Statement to the police. No doubt it vitiates the testimony of PW-15 (Sub-Inspector). Even otherwise the First Information Statement given by an accused at the Police Station, so long as it contains inculpative statements, would stand excluded from evidence.

But can the above finding (that the Station House Diary is not genuine) have any inevitable bearing on the other evidence in this case? If the other evidence, on scrutiny, is found credible and acceptable, should the court be influenced by the machinations demonstrated by the Investigating Officer in conducting investigation or in preparing the records so unscrupulously. It can be a guiding principle that as investigation is not the solitary area for judicial scrutiny in a criminal trial, the conclusion of the court in the case cannot be allowed to depend solely on the probity of investigation. It is well nigh settled that even if the investigation is illegal or even suspicious the rest of evidence must be scrutinized independently of the impact of it. Otherwise criminal trial will plummet to that level of the investigating officers ruling the roost. The Court must have predominance and pre-eminence in criminal trials over the action taken by

A investigating officers. Criminal justice should not be made the casualty for the wrongs committed by the investigating officers in the case. In other words, if the court is convinced that the testimony of a witness to the occurrence is true the court is free to act on it albeit investigating officer's suspicious role in the case.

B PW-15 (Sub-Inspector) was asked during examination-in-chief about what happened on 30.1.1982, and he wanted to check up his records as he could not remember without refreshing his memory. But then the defence counsel seriously objected and wanted the court to disallow him from looking into such records. It is not clear whether the said objection was C upheld or whether PW-15 was allowed to check up with the records of investigation.

Trial court cannot overlook the reality that an investigating officer comes to the court for giving evidence after conducting investigation in many other cases also in the meanwhile. Evidence giving process should D not bog down to memory tests of witnesses. An investigating officer must answer the questions in court, as far as possible, only with reference to what he had recorded during investigation. Such records are the contemporaneous entries made by him and hence for refreshing his memory it is always advisable that he looks into those records before E answering any question.

Section 159 of the Evidence Act is couched in a language recognising the aforesaid necessity. The section reads thus :

> "*159. Refreshing memory* :– A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction concerning which he is questioned, or so soon afterwards that the Court considers it likely that the transaction was at that time fresh in his memory.
>
> The witness may also refer to any such writing made by any other person, and read by the witness within the time aforesaid, if when he read it he knew it to be correct."

The objection of the defence counsel when investigating officer wanted to reply by referring to the records of investigation is, therefore, untenable H and unjustified. The trial court should repel such objections.

The most important witness in this case is PW-11 Sharadamma. Since it is undisputed that the murder of Rekha took place in the house of PW-11 no court can possibly ignore the importance of the evidence of the inmates of that house. In that way PW-11 is the most natural and the most probable witness to speak about the murder of Rekha. What the witness has deposed in court is apparently in consonance with the narration of the prosecution story. The Sessions Judge before whom PW-11 gave evidence was so impressed by her testimony that he placed absolute reliance on it. But the Division Bench of the High Court has advanced a very feeble reason to sidestep the testimony of such an important witness. The first reasoning is this :

> "Admittedly Sharadamma P.W. No. 11 and Nanjamma P.W. No. 12 are living in the ground floor. Murthy and some others are living in the first floor of the house. Admittedly there are innumerable houses roundabout the house of Sharadamma and within the hearing distance of her house. That Murthy and others have been living in the first story, has been admitted by Nanjama P.W. No. 12 herself. If such a ghastly murder had taken place would it not attract the attention of the persons living in the first floor."

Whether the killer of Rekha was the accused or anybody else, when the fact is admitted that murder of Rekha took place inside the house of PW-11 and if no neighbour had rushed to the scene, how can that be a reason to think that the murder would have been committed by somebody else? So the said reasoning is a flimsy premise.

The other reason to disbelieve her evidence is that if PW-11 had seen the murder she would have cried out or shouted. This is what the High Court had said about that aspect :

> "She claims to have remained calm like a stone in the house. This unnatural conduct of Sharadamma makes her evidence highly suspect and incredible. Would she not have atleast told the neighbours that a girl had been murdered in a room of her house and that the accused, if he really had done so, had murdered the girl in the room. This passive conduct of hers makes her evidence highly suspect."

A Criminal Courts should not expect a set reaction from any eye witness on seeing an incident like murder. If five persons witness one incident there could be five different types of reactions from each of them. It is neither a tutored impact nor a structured reaction which the eye witness can make. It is fallacious to suggest that PW-11 would have done this or that on seeing the incident. Unless the reaction demonstrated by an B eye witness is so improbable or so inconceivable from any human being pitted in such a situation it is unfair to dub his reactions as unnatural, *Rana Pratap* v. *State of Haryana*, AIR (1983) SC 680, *Appabhai* v. *State of Gujarat*, AIR (1988) SC 696.

C The evidence of PW-11 was sought to be attacked by Shri Naresh Kaushik, learned counsel for the respondent, on a ground which the High Court did not choose to countenance. DW-3 Venkatesh - brother of Laxminarayanan (husband of PW-11) was examined to say that accused's father and Laxminarayanan had a long transaction on which they later fell D out. The said evidence was let in, presumably, to show that PW-11 had some ire towards the accused. In other words, it was intended to impeach the impartiality of PW-11.

The general rule of evidence is that no witness shall be cited to contradict another witness if the evidence is intended only to shake the E credit of another witness. The said rule has been incorporated in Section 153 of the Evidence Act which reads thus :

> "*153. Exclusion of evidence to contradict answers to questions testing veracity.* — When a witness has been asked and has answered any F question which is relevant to the inquiry only in so far as it tends to shake his credit by injuring his character, no evidence shall be given to contradict him; but if he answers falsely, he may afterwards be charged with giving false evidence."

The said rule has only two exceptions. One is that if the witness G denies having been previously convicted then evidence can be adduced to prove that he was so convicted. The other exception is the following :

> "*Exception 2.* — If a witness is asked any question tending to impeach his impartiality, and answers it by denying the facts H suggested, he may be contradicted.".

Illustration (d) cited in Section 153 is to amplify the aforesaid exception no. 2. That illustration is extracted below :

> "(d) A is asked whether his family has not had a blood feud with the family of B against whom he gives evidence. He denies it. He may be contradicted on the ground that the question tends to impeach his impartiality."

The basic requirement for adducing such contradictory evidence is that the witness, whose impartiality is sought to be contradicted with the help of such evidence, should have been asked about it and he should have denied it. Without adopting such a preliminary recourse it would be meaningless, if not unfair, to bring in a new witness to speak something fresh about a witness already examined. In *Vijayan* v. *State*, [1999] 4 SCC 36 this Court has held that "the rule limiting the right to call evidence to contradict a witness on collateral issues excludes all evidence of facts which are incapable of affording any reasonable presumption or inference as to the principal matter in dispute."

As the general rule of evidence is one of prohibiting evidence on collateral issues and since it is only by way of exception that such evidence can be permitted, the court must guard that the defence evidence falls strictly within the exception.

In the present case the basic premise has not been laid by asking PW-11 about the alleged loan transaction between her husband and accused's father and hence it is not permissible to cite a witness like DW-3 to say about any such transaction.

PW-11 Sharadamma who is the most natural and probable witness to the occurrence in this case, has stated about the role which the accused had played in the murder of Rekha as far as she had witnessed it. Her evidence admits of no other hypothesis except the exclusive involvement of the accused in the murder. Learned counsel for the accused contended that if PW-11 had supplied coffee to the accused and deceased (as she claimed) the viscera of the stomach contents should have shown coffee. It is too puerile a contention, for, there is no finding by the doctor as to the precise food articles remained in the stomach of the dead body. No effort was made by the doctor to see whether there was coffee in the stomach, and there was no need to do so either. Perhaps the doctor would have

A chosen to ascertain that aspect if the death was suspected to be due to poisoning.

PW-6 Ankaiah had testified that at about 11.45 A.M. he saw the accused proceeding to the house of PW-11 escorted by police personnel. PW-6 has further said that it was the accused who pointed out the house B of PW-11 and that the dead body of the murdered lady was lying inside that house. PW-6 was one of the attestors of the inquest report and he is a resident of the same locality. His evidence lends credence to the version of PW-11.

M.O. 16 (chopper) was surrendered by the accused to the police C station. PW-5 and PW-13 are the witnesses who were present when the accused surrendered the chopper which was smeared with blood. Both witnesses have put their signatures on Ext. P-6 Panchanama drawn up then. When M.O. 16 knife was subjected to serological examination it was found containing blood of B-Group. The significance of the above circumstance D is that when two bed-sheets (on which the dead body was lying) were subjected to serological test they too contained blood of B-Group.

From the above evidence we have no speck of doubt that accused was the murderer of Rekha. The Sessions Judge who arrived at the above conclusion had rightly convicted the accused. The Division Bench of the E High Court erroneously upset such a well merited conclusion.

We, therefore, allow this appeal and set aside the impugned judgment. We restore the conviction and sentence passed by the trial court on the respondent. We direct the City Civil and Sessions Judge, Bangalore to take immediate and prompt steps to put the respondent back in jail for F undergoing the remaining portion of his sentence.

S.V.K. Appeal allowed.