

STATE OF KARNATAKA

A

v.

SRINIVASA

(Criminal Appeal No. 1496 of 2013)

AUGUST 14, 2018

B

[R. BANUMATHI AND VINEET SARAN, JJ.]

Penal Code, 1860: s.302 – Death caused by hanging – Prosecution case was that the accused-husband and deceased-wife used to have altercation on account of illicit relationship of accused-husband with accused no.2 – On the fateful day, deceased was found hanging with telephone wire – Trial court convicted the accused-husband under s.302 – High Court acquitted the accused relying on the evidence of the doctor to the effect that it was a case of suicide as the ligature marks were not found on the neck – State’s appeal against acquittal – Scope of interference with the order of the High Court – Held: High Court accepted the evidence of the doctor – High Court appreciated oral and medical evidence and acquitted the accused – The view of High Court was plausible one – No reason to interfere with the order of High Court.

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Dismissing the appeal, the Court

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HELD: When the doctor gave opinion that the suicide cannot be ruled out and the death of the deceased could have been due to suicide which was accepted by the High Court; when the High Court has a view which is a plausible view, there is no ground to take a different view. There is no compelling reason or substantial ground to interfere with the order of acquittal. [Para 6] [921-C-D]

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No.1496 of 2013

From the Judgment and Order dated 02.04.2007 of the High Court of Karnataka at Bangalore in Criminal Appeal No. 1198 of 2004 c/w Criminal Appeal No. 1200 of 2004.

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V. N. Raghupathy, Adv. for the Appellant.

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A Tomy Sebastian, Sr. Adv., S. J. Amith, Dr. (Mrs.) Vipin Gupta,
Adv. for the Respondent.

The Judgment of the Court was delivered by

B **R. BANUMATHI, J.** 1. The appeal by the State of Karnataka
is against the acquittal of respondent-accused under section 302 IPC.

C 2. Case of the prosecution is that A-1 was allegedly having illicit
relationship with second accused (since dead). On account of which
there was altercation between A-1 (respondent) and the deceased
Rajashree (wife) and the accused no. 1 is alleged to have strangled
the deceased to death. Relying upon the medical evidence (PW-7) and
the evidence of PW-8 (father of the deceased), the trial Court convicted
respondent no.1 under section 302 IPC and also sentenced him to undergo
life imprisonment.

D 3. Insofar as the second accused, the trial court convicted her
under Section 201 IPC and sentenced her to undergo three years
imprisonment. (Since accused no. 2 – Padmavathi is dead, Criminal
Appeal No. 1497 of 2013 of accused no. 2 – Padmavathi has already
been abated vide Court's order dated 03.05.2016).

E 4. A-1 was running a power loom on the ground floor of his house
and the first floor was used for his residence. The second accused was
employed in the power loom and was residing in the second floor. PW-
8 and PW-9 (father and mother of the deceased) have spoken about
illicit relationship of A-1 and A-2 and that illicit relationship led to frequent
quarrel between A-1 and the deceased- Rajashree. PW-5 opened the
door and found that the deceased hanging with the telephone cable wire.
F On the date of occurrence – 05.01.2001 at about 4.30 p.m. the informant-
P.W-8 (father of the deceased) got the information that the deceased
committed suicide. On the date of occurrence 05.01.2001 the deceased
was found dead by hanging. Based on the medical evidence and the
evidence adduced by the prosecution, the trial court convicted the
accused.

G 5. The High Court acquitted the accused mainly on the basis of
evidence of PW-7 (Doctor) who conducted the post-mortem. In the
cross examination, PW-7 (Doctor) has stated that it could be a case of
suicide as the ligature mark was not found on the neck. The High Court
in extenso referred to the evidence of PW-7 who stated that the ligature

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mark is anti-mortem in nature and that if the death is caused by strangulation and the body if put in hanging posture there is every possibility of another ligature mark around the neck. The P.M. report does not disclose the presence of ligature mark around the neck. Based on the evidence of PW-7 (Doctor), the High Court arrived at conclusion that the “medical evidence does not conclusively establish that it is a case of homicidal death” and that the accused is entitled to benefit of doubt.

6. Learned counsel appearing for the State of Karnataka though made elaborate submissions on the evidence of PW-8 and PW-9 -parents of the deceased and also the medical evidence, we are unable to countenance the submissions. When the doctor has given opinion that the suicide cannot be ruled out and the death of the deceased could have been due to suicide which was accepted by the High Court; when the High Court has a view which is a plausible view, we find no good ground to take a different view. After appreciating the oral evidence and medical evidence, the High Court acquitted the accused. In view of above, we do not find any compelling reason or substantial ground to interfere with the order of acquittal.

7. The appeal is, accordingly, dismissed.