

A

STATE OF KARNATAKA

v.

A. B. MAHESHA ETC.

(Criminal Appeal Nos. 1133-1135 of 2010)

B

AUGUST 14, 2018

[R. BANUMATHI AND VINEET SARAN, JJ.]

Appeal: State's appeal against acquittal – Trial court convicted respondents/accused for offence of murder on the basis of circumstantial evidence – High Court set aside conviction and acquitted all the accused – On State's appeal, held: The evidence of prosecution witnesses were totally contradictory to each other – There was material contradiction as to the recovery of material objects and also identification of those material objects by the father of the victim-deceased (PW-3) – There was inconsistent version between the I.O. and PW-3 which raised serious doubt about the alleged recovery and the case of prosecution – Based on these inconsistencies and contradictions, High Court had acquitted the accused – There is no serious infirmity in the judgment of the High Court warranting interference.

E

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal Nos. 1133-1135 of 2010

From the Judgment and Order dated 06.03.2007 of the High Court of Karnataka at Bangalore in Criminal Appeal No.1438 of 2003 c/w Criminal Appeal No. 1580 of 2003 and Criminal Appeal No. 1591 of 2003.

F

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

The Judgment of the Court was delivered by

R. BANUMATHI, J. 1. The appeals by the State of Karnataka are against the acquittal of the respondents/accused.

G

2. The case of the prosecution revolves around the following circumstances:- (i) deceased Jagdeesha was last seen alive in the Company of A1 to A3-respondents; (ii) recovery of Car having Registration No. MEC 8344 and (iii) recovery of material objects from

H

the houses of accused – one golden chain (MO-8) at the behest of A1, A
one Rado watch (MO-6) at the behest of A2 and one golden ring (MO-
7) at the behest of A3.

3. The trial Court convicted all the accused under Section 302, B
201, 392 and 397 IPC and sentenced to them, inter alia, to undergo life
imprisonment. The High Court by the impugned judgment allowed the
appeal and set aside the conviction and acquitted all the accused.

4. We have heard Mr. V.N. Raghupathy, learned counsel appearing C
for the State of Karnataka and perused the impugned judgment and
materials on record. In spite of service of notice none entered appearance
on behalf of the respondents-accused.

5. Insofar as the first circumstance that the deceased was last D
seen alive, the prosecution relies upon the testimony of P.Ws 5 and 6
who were also running the taxi at Chikkamagalur Car Stand. PW-5 stated
that even though the accused wanted to engage his car, deceased
Jagdeesha expressed his intention to go on hire as his wife's house is in
Thanneruhalla near Hasan so that he could go to the house of his in-
laws where his wife was staying. Subsequently the body was found
near the bridge on NH-48 near Kirisave Village on 08.05.2000. The
body was found in a decomposed state on 08.05.2000. The evidence of
PWs 5 and 6 is only limited to the extent that the deceased was last seen
alive in the company of the accused. E

6. So far as the second circumstance - recovery of the car, F
prosecution relies upon the evidence of PW-4 (garage owner) and PW-
20 S.I. of Gudlur Police Station (Tamil Nadu). In his evidence PW-4
(garage owner) has stated that the accused nos. 2 and 3 had left the car
in his garage for repairs and for effecting repairs he issued quotation
under Ex.P-6 on 09.05.2000. Contrarily, PW-20 S.I. of Gudlur Police
Station has stated that the car was abandoned in front of "Hot and Cold
Hotel" and he seized the car on 07.06.2000 and reported the matter to
the Taluk Executive Magistrate. Insofar as the recovery of the car, the
evidence of PW-4 (garage owner) and evidence of PW-20 S.I. of Gudlur
Police Station are totally contradictory to each other and it is difficult to
be reconciled. Pointing out the inconsistency in the evidence of PW-4
and PW-20, the High Court rightly held that the case of the prosecution
is highly doubtful and this circumstance cannot form the basis for
conviction. G

H

- A 7. Insofar as the recovery of the material objects namely, gold chain (MO-8), Rado watch (MO-6) and golden ring (MO-7) recovered from the houses of the respective accused, they were identified by PW-3 (father of the deceased) on 18.06.2000; whereas as per version of the investigating officer they were recovered on 23.06.2000. Here again there is a material contradiction as to the recovery of the above material objects and also the identification of those material objects by PW-3. The High Court has pointed out that the inconsistent version between the evidence of I.O and PW-3 (father of the deceased) raises serious doubt about the alleged recovery and the case of the prosecution.
- B
- C 8. Based on the above inconsistencies and contradictions when the High Court has acquitted the accused, this Court can not interfere with the acquittal unless there are serious and substantial error or compelling reasons warranting interference. We do not find any such serious infirmity in the judgment of the High Court warranting interference.
- D 9. The appeals are, accordingly, dismissed.

Devika Gujral

Appeals dismissed.