

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1932/2017

RAMA @ RAMANJINI @ ANJANAPPA APPELLANT(S)

VERSUS

STATE OF KARNATAKA RESPONDENT(S)

WITH

CRIMINAL APPEAL NO. 282/2021

O R D E R

Having heard the learned counsel for the parties at some length, we are of the opinion that the conviction of the appellant - Narayanagowda for the offence punishable under Section 302 of the Indian Penal Code, 1860¹, should be sustained as the case against him had been established beyond reasonable doubt.

Devraj (PW-5) had seen the occurrence, while he was on the motorcycle with the deceased - Narayanaswamy. He had thereupon proceeded to the Police Station, wherein his report Exhibit D-14/D-14(a) was recorded in the Station House Diary maintained in the Hosakote Police Station at about 09.45 a.m. on 29.07.2004. Exhibit D-14/D-14(a) mentions and names the appellant - Narayanagowda. Court identification by Devraj (PW-5), gets corroboration and confirmation from Exhibit D-14/D-14(a).

We would not set aside the conviction of the appellant - Narayanagowda because Devraj (PW-5) has been disbelieved, as far as, his implication of Vasudeva Poojanagarahara (accused No.1),

¹ For short "IPC"

Prasad (accused No.2), Venkataramanaswamy (accused No.5) and Hanumantha (accused No.6) is concerned. The reason why Vasudeva Poojanagarahara (accused No.1), Prasad (accused No.2), Venkataramanaswamy (accused No.5) and Hanumantha (accused No.6) have been acquitted by the High Court is that Devraj (PW-5), had not mentioned their names as per Exhibit - D-14/D-14(a). He had referred to Narayanagowda by name, and one more person not by name, but with the description of a black hefty man.

However, we are of the opinion that appellant - Rama @ Ramanjini @ Anjanappa, should be acquitted by giving him the benefit of doubt. The High Court has correctly rejected and discarded the testimony of G.K. Thagaraju (PW-4), Krishna Murthy (PW-6) and Nagaraj (PW-7), the purported eye-witnesses. We agree with the reasoning given by the High Court, which has relied upon Exhibit D-14/D-14(a), to observe that these witnesses were not present at the time of occurrence and hence were not eye-witnesses.

Exhibit D-14/D-14(a) does not mention the appellant - Rama @ Ramanjini @ Anjanappa as one of the persons, who was present with appellant - Narayanagowda, when the deceased - Narayanaswamy was attacked by stopping his motorcycle, throwing chili powder in his eyes, and thereupon stabbed. Devraj (PW-5), in the statement made at about 09.45 a.m. on 29.07.2004 as recorded in the Hosakote Police Station, had referred to the second person as a black hefty man.

We have gone through the deposition of Devraj (PW-5) and are unable to decipher whether the appellant - Rama @ Ramanjini @ Anjanappa was the said black hefty man. Devraj (PW-5) in his

testimony, had identified Vasudeva Poojanagarahara (accused No.1), Prasad (accused No.2), Narayana (accused No.3) Venkataramanaswamy (accused No.5) and Hanumantha (accused No.6) in addition to Narayanagowda.

In these circumstances, we do not know whether the black hefty man was the appellant - Rama @ Ramanjini @ Anjanappa, or any other accused. The appellant - Rama @ Ramanjini @ Anjanappa cannot be implicated and assumed as the person in Exhibit D-14/D-14(a). Accordingly, we give benefit of doubt to the appellant - Rama @ Ramanjini @ Anjanappa and he succeeds in his appeal.

In view of the aforesaid reasoning, the appeal preferred by the appellant - Narayanagowda is dismissed. The appeal preferred by the appellant - Rama @ Ramanjini @ Anjanappa is allowed and his conviction is set aside and quashed.

It is stated that the appellant - Rama @ Ramanjini @ Anjanappa is already on bail. The bail bonds would be cancelled and discharged.

The appellant - Narayanagowda, who is on bail, shall surrender before the trial court to undergo his remaining sentence within a period of three weeks from today. If he fails to surrender, coercive steps to detain and take him into custody will be taken.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(BELA M. TRIVEDI)

NEW DELHI;
JULY 19, 2023.

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). 1932/2017

RAMA @ RAMANJINI @ ANJANAPPA

Appellant(s)

VERSUS

THE STATE OF KARNATAKA

Respondent(s)

(IA No. 107990/2017 - EXEMPTION FROM FILING O.T.)

WITH

Cr1.A. No. 282/2021 (II-C)

(IA No. 30496/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT AND IA No. 30498/2021 - EXEMPTION FROM FILING O.T.)

Date : 19-07-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Appellant(s)

M/S. Devasa & Co., AOR
Mr. Shekhar G Devasa, Adv.
Mr. K. Parameshwar, Adv.
Mr. Manish Tiwari, Adv.
Ms. Thasmitha Muthanna, Adv.
Mr. Prashanth Dixit, Adv.
Mr. Vishwanath Chaturvedi, Adv.
Mr. Shashi Bhushan Nagar, Adv.

Mr. K. V. Muthu Kumar, AOR
Mr. Mohan Kumar D, Adv.
Ms. Anu B, Adv.
Ms. Geeta Verma, Adv.
Ms. S.Selva Kumari, Adv.

For Respondent(s)

Mr. Nishanth Patil, A.A.G.
Mr. V. N. Raghupathy, AOR
Mr. Manendra Pal Gupta, Adv.
Mr. Ayush P Shah, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Criminal Appeal No.1932/2017 is allowed and Criminal Appeal No. 282/2021 is dismissed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

**(BABITA PANDEY)
COURT MASTER**

**(R.S. NARAYANAN)
ASSISTANT REGISTRAR**

(Signed order is placed on the file)