



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1458/2010

MAHANTESH & ORS.

Appellant(s)

VERSUS

STATE OF KARNATAKA

Respondent(s)

WITH

CRIMINAL APPEAL NO.32/2011

O R D E R

1. Heard learned counsel for the parties.
2. Accused Nos.2 to 11 have filed the appeal(s) being aggrieved over the impugned judgment by which they were convicted for the major offence punishable under Section 302 r/w 149 of the Indian Penal Code,1860 (for short "IPC") among others.
3. It is the specific case of prosecution that there was a prior enmity between the deceased on one hand and accused Nos.1 and 2 on the other. The deceased and Accused No.1 are brothers and accused No.2 is the son of Accused No.1.
4. The dispute is with respect to the property allotted for the maintenance of the mother of Accused No. 1, who died thereafter.
5. The deceased was traveling in a jeep. He was intercepted and thereafter attacked by the accused persons. PW-1 is the son of the deceased who is the informant of the FIR.
6. Initially twenty persons were arrayed as accused in the FIR, which was reduced to thirteen in the charge-sheet.

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7. Before the Trial Court, witnesses have been examined as eyewitness in the form of PW-2, PW-3, PW-5, PW-6, PW-7 & PW-8, out of which PW-6 and PW-7 turned hostile.

8. The Trial Court after a thorough examination of the deposition of eye witnesses and other witnesses including PW-16, who is the Investigating Officer, was pleased to render an order of acquittal. On appeal, the High Court in the impugned judgment, while acquitting Accused No.1, Accused No. 12 and Accused No.13, rendered conviction against Accused No.2 to Accused No.11. Accused No.2 died during the pendency of the appeal and so also Accused No.7. Therefore, the appeal(s) against them got abated.

9. Learned counsel appearing for the appellants submitted that even the High Court has found contradictions in the evidence of the so-called eye witnesses. The Trial Court by giving cogent reasons seriously doubted the presence of the eye witnesses. PW-7 being the sterling witness, turned hostile.

10. The Investigating officer has not chosen to examine some of the eye witnesses who deposed for the first time before the Trial Court. The conduct of some of the witnesses was taken note of by the Trial Court as the FIR was given by the son of the deceased who is PW-1, who is admittedly not an eye witness.

11. The evidence of some of the witnesses was discarded by the Trial Court after having found them untrustworthy. Special reference has been made on the evidence of PW-2 who himself was having a criminal background and it is the specific case of the prosecution that he made his presence before the Police Station to

execute bail bonds, thereafter went to the place of occurrence by way of chance witness.

12. After a thorough analysis, the Trial Court rendered the order of acquittal against all the appellants.

13. The High Court once again re-appreciated the evidence. Despite finding certain contradictions, it held that some of the witnesses speak about the presence of the appellants as against Accused No.1 namely, PW-2, PW-3 & PW-5 and therefore they should be convicted. However, the High Court did not consider the reasoning of the Trial Court in rendering acquittal.

14. From the aforesaid analysis, we find that the appellants are liable for acquittal. While dealing with the case involving Section 149 of the IPC, the Court will have to be extra cautious as there is a tendency to include many persons. This is exactly the approach adopted by the Trial Court. In fact, even the High Court rendered acquittal as against Accused No.12 and Accused No.13 on the aforesaid basis.

15. The principle governing *falsus in uno, falsus in omnibus* does not have an application in Indian Law. However, when witnesses implicate all the accused persons, the other principle of law with respect to removing chaff from the grain will have to be adopted. The Trial Court, in our view, had undertaken an exhaustive job by considering the evidence available on record. The High Court for the reasons noted did not choose to consider the reasons adopted by the Trial Court and therefore no finding has been recorded as to how the Trial Court is wrong.

16. For the foregoing reasons, we have no hesitation in holding that the impugned judgment is set aside especially when the Trial Court has rendered an order of acquittal leading to strengthening of the presumption in favour of the accused.

17. In such view of the matter, the appeals are allowed and the appellants are acquitted.

18. The Bail bonds stands discharged, unless and until the same is required by the Court.

.....J.
(M.M. SUNDRESH)

.....J.
(ARAVIND KUMAR)

**NEW DELHI;
August 01, 2024**

VERDICTUM.IN

ITEM NO.115

COURT NO.13

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 1458/2010

MAHANTESH & ORS.

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STATE OF KARNATAKA

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WITH

CrI.A. No. 32/2011 (II-C)

Date : 01-08-2024 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s)

Mr. Ankolekar Gurudatta, AOR
Mr. Korada Pramod Kumar, Adv.
Mr. Shivkumar, Adv.
Mr. Venugopal Meesala, Adv.
Mrs. Jayasheela Y.J. Adv.

Mr. Basavaprabhu S. Patil, Sr. Adv.
Mr. Anirudh Sanganageria, AOR
Mr. Samarth Kashyap, Adv.

For Respondent(s)

Mr. Muhammad Ali Khan, A.A.G.
Mr. V. N. Raghupathy, AOR
Mr. Manendra Pal Gupta, Adv.
Mr. Omar Hoda, Adv.
Mr. Uday Bhatia, Adv.
Ms. Eesha Bakshi, Adv.
Mr. Kamran Khan, Adv.

Mr. D. L. Chidananda, AOR

Mr. Anand Sanjay M. Nuli, Sr. Adv.
M/S. Nuli & Nuli, AOR
Mr. Suraj Kaushik, Adv.
Ms. Akhila Wali, Adv.

VERDICTUM.IN

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

1. Heard learned counsel for the parties.
2. The Court inter-alia directed as under:-

“16. For the foregoing reasons, we have no hesitation in holding that the impugned judgment is set aside especially when the Trial Court has rendered an order of acquittal leading to strengthening of the presumption in favour of the accused.

17. In such view of the matter, the appeals are allowed and the appellants are acquitted.

18. The Bail bonds stands discharged, unless and until the same is required by the Court.”

3. The appeals are allowed in terms of the signed order.
4. Pending application, if any, stands disposed of.

(RASHMI DHYANI PANT)
COURT MASTER (SH)

(POONAM VAID)
COURT MASTER (NSH)

(signed order is placed on the file)