

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1309 OF 2002

Gopal and Ors.

...Appellant(s)

Versus

State of Karnataka

...Respondent(s)

O R D E R

Heard learned counsel for the parties.

The four appellants, along with one Naga @ Nagaraja and Anwar @ Md. Anwar (Accused No.3) were tried and, by judgment rendered by the Trial Court, acquitted of all the charges. Against the order of acquittal, when appeal was preferred by the State of Karnataka, by the impugned judgement, the High Court upheld the acquittal of accused-Naga @ Nagaraja but set aside the judgement and order passed by the Trial Court in relation to the appellants and accused-Anwar @ Md. Anwar and convicted them under Section 302 read with Section 149 of the Indian Penal Code, [for short, 'I.P.C.'] and sentenced them to undergo imprisonment for life and to pay fine of Rs.2,000/- each. Appellants Nos.2-4, i.e., Hashim, V. Krishna and Basha @ Kadir Basha and accused-Anwar @ Md. Anwar were further convicted under Section 324 read with Section 149 I.P.C. and sentenced to undergo rigorous imprisonment for a
....2/-

period of six months. Both the sentences were, however, ordered to run concurrently. Against the order of conviction, accused-Anwar @ Md. Anwar, it appears, did not move this Court. This appeal has been filed by the remaining four accused persons, who are the appellants before this Court.

We have perused the judgments of acquittal rendered by the Trial Court as well as the one of conviction recorded by the High Court. We have also carefully gone through the entire evidence. In our view, the reasons given by the Trial Court for disbelieving the evidence of witnesses and recording the order of acquittal cannot be faulted and the view taken by it is not only possible but a reasonable one. It is well settled that in appeal against acquittal, the appellate court should not interfere with the order of acquittal unless the same is found to be perverse. As, in our opinion, the view taken by the Trial Court was quite reasonable, the order of acquittal could not have been said to be perverse; as such, the High Court was not justified in reversing the same.

We find that though accused-Anwar @ Md. Anwar did not prefer any appeal before this Court, but as his case also stand on the same footing, he is also entitled to the benefit as the four appellants before this court.

Accordingly, the appeal is allowed, conviction and sentence of the appellants and accused-Anwar @ Md. Anwar are set aside and the order of acquittal rendered in relation to them by the Trial Court is restored.

- 3 -

The appellants, who are on bail, are discharged from the liability of bail bonds.

So far as accused-Anwar @ Md. Anwar is concerned, he is directed to be released forthwith unless required in connection with any other case.

.....J.
[B.N. AGRAWAL]

.....J.
[AFTAB ALAM]

New Delhi,
September 01, 2009.



JUDGMENT