

PETITIONER:
STATE OF KARNATAKA

Vs.

RESPONDENT:
NARAYAN BABU SANADI AND ORS.

DATE OF JUDGMENT: 23/07/1998

BENCH:
G.T. NANVATI, S.P. KURDUKAR

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

Nanavati, J.

The State of Karnataka has filed this appeal against the judgment and order of acquittal passed by the High Court in Criminal appeal No. 237/81. The four respondents are convicted by the trial court under Sections 326 and 450 both read with Section 34 IPC.

The prosecution case was that because of the family property dispute, relations between deceased Nagappa and deceased babu with the accused, who were all closely related to each other, were strained and that led to an assault by respondent Nos. 1-4 on Nagappa when he was working in the fields and which resulted in his immediate death and also on deceased Babu, who was taking rest in his house and which also led to his death after about 10 days. The prosecution could not lead any direct evidence regarding the manner in which Nagappa and Babu were killed. but the trial court relying upon the statement of deceased Babu - Ex. P. 42 convicted the respondents as stated above.

The High Court on reappraisal of the evidence came to the conclusion that the statement of deceased Babu - Ex.P. 42 was not all reliable. The High Court pointed out that the statement of Ex.P. 42 was stated to have been given in presence of PWs 3 and 12. But PWs, 3 and 12 positively stated before the court that no such statement was given by Babu. The assault on Nagappa had taken place in the field which was three furlongs away from Babu's house and the assault on Babu took place while he was resting in his house; and yet, in Ex.P. 42 there was a reference to the assault on Nagappa in the field. The High Court taking these factors into consideration came to the conclusion that deceased Babu had not given the statement Ex.P. 42 deposed by the Investigating officer.

There was no other evidence led by the prosecution against the respondents. The high Court was, therefore, right in acquitting the respondents. The appeal is, therefore, dismissed. bail bonds of the respondents are ordered to be cancelled.

JUDIS