

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 51 OF 2010
(Arising out of SLP(Crl.) No.6347/2009)

SYED AKBAR IRFAN AND ORS.

Appellant(s)

:VERSUS:

STATE OF KARNATAKA

Respondent(s)

O R D E R

Leave granted.

This appeal is directed against the judgment and order dated 11.6.2009 passed by the High Court of Karnataka, Circuit Bench at Gulbarga, passed in Criminal Appeal No.565 of 2005.

The appellants herein were charged and tried for the commission of offences punishable under Sections 427, 324, 504, 506 and 307 read with Section 34 of the Indian Penal Code. On careful examination of the oral and documentary evidence on record and the case properties, the Trial Court acquitted all the appellants.

On an appeal filed by the State, the High Court by the impugned judgment set aside the order of acquittal and convicted the appellants for commission of offence punishable under Section 324 read with Section 34 of the Indian Penal Code and sentenced them to pay a fine of Rs.5,000 each, in default of payment of fine they were directed to undergo simple imprisonment for four months. The appellants were further sentenced to pay a fine of Rs.2,500/- each under Section 427 read with Section 34 of the Indian Penal Code, in default to suffer simple imprisonment for four months.

Out of the fine amount totalling to Rs.30,000/-, PW-11 Habeeb Mojam and PW-12 Mohd. Miraj, who are said to have suffered injuries, were directed to be paid compensation for a sum of Rs.25,000/- and Rs.5,000/- respectively.

We have heard the learned counsel for the parties. In view of the facts and circumstances of this case, we are of the opinion that the High Court being the appellate Court in this case, has not considered the questions of law and facts after critical scrutiny of the

evidence on record. The impugned judgment, therefore, cannot be sustained which is accordingly set aside and the matter is remitted to the High Court for deciding the criminal appeal afresh after hearing the parties and considering the evidence adduced by them.

The appeal is disposed of accordingly.

.....J
(DALVEER BHANDARI)

.....J
(A.K. PATNAIK)

New Delhi;
January 8, 2010.

