

## **Habbalappa Dundappa Katti And Ors. vs State Of Karnataka on 14 February, 2001**

**Equivalent citations: AIR2002SC485, (2002)10SCC197, AIR 2002 SUPREME COURT 485, 2002 (10) SCC 197, 2002 AIR SCW 14, 2002 (2) MAH LR 259, 2002 (2) ALLCRIR 1775, 2002 ALL MR(CRI) 2586, 2001 (4) ALLCRILR 465, 2001 (3) EASTCRIC 110, 2001 (2) CURCRIR 91, 2001 (1) JT (SUPP) 65, 2001 (5) SUPREME 47, 2004 SCC(CRI) 463, AIRONLINE 2001 SC 104, (2002) 2 MAH LR 259, (2001) 1 JT (SUPP) 65, (2002) 2 ALL CRI R 1775, (2001) 3 EAST CRI C 110, (2001) 2 CUR CRI R 91, (2001) 4 ALL CRI LR 465, (2001) 3 CRIMES 218, (2001) 5 SUPREME 47, 2002 ALL MR (CRI) 2586, 2004 SCC (CRI) 463, (2006) 100 REVDEC 810, (2006) 3 ALL WC 2976, 2006 ALL CJ 3 1650, (2018) 157 FACLR 860, (2018) 2 SCT 505, (2018) 3 CURLR 835, (2018) 3 LAB LN 560, (2018) 3 SERVLR 799, (2018) 4 MAD LJ 254, (2018) 5 SCALE 728**

**Bench: Chief Justice, R.C. Lahoti, Shivaraj V. Patil**

### **ORDER**

1. For an occurrence which took place on 29th July, 1986, nine persons were charged for offences under Sections 147, 148, 447, 325, 307, 302, 326 read with Section 149, IPC. Two persons namely, Kathalsab and Govindappa succumbed to their injuries and died, while Husensab, brother of Kathalsab, received injuries during the said occurrence. After recording evidence, the trial Court vide order dated 11th September, 1987 acquitted all the eight appellants (Accused-9 was absconding and was not tried) of all the offences. On appeal by the State, the High Court of Karnataka vide judgment dated 9th June, 1992 set aside the acquittal of the eight appellants for offences under Sections 147/148/326/149, IPC while maintaining their acquittal in respect of other offences. The appellants were directed to undergo varying terms of imprisonment for offences under Sections 147/148/326/149, IPC. The maximum sentence awarded for the offence under Section 326/

149. IPC was four years' rigorous imprisonment.

2. The appellants have questioned their conviction and sentence through the present appeals by special leave.

3. After the appellants surrendered and furnished proof of surrender, leave was granted on 27th August, 1992 and vide order dated 28th August, 1992, all the appellants were directed to be released on bail on each of them executing a bond for a sum of Rs. 5,000/- with two sureties for the like sum to the satisfaction of the Sessions Judge. Bijapur. At present they are all on bail.

4. Mr. R. K. Jain, learned Senior Counsel appearing for the appellants has questioned the conviction and sentence of the appellants but having regard to the evidence led in the case and the findings recorded by the High Court which to our mind are cogent and sound, we find that conviction of the appellants for various offences as noticed above is well merited and is supported by the evidence on record. Faced with this situation, learned counsel for the appellants confined himself to the question of sentence only.

5. The occurrence took place as early as in 1986. The appellants were acquitted by the trial Court vide order dated 11th September, 1987 and after their conviction for offences under Sections 326/149, 147 and 148, IPC by the High Court on 9th June, 1992, they were directed to be released on bail vide our order dated 28th August, 1992. In our opinion keeping all these factors in view it would serve the ends of justice if the appellants are not now sent back to jail, as indeed nothing has been brought to our notice to show that after their release on bail they have acted in any manner prejudicial to law and order. We, therefore, reduce the substantive sentences of imprisonment of the appellants to the period already undergone by them for the various offences for which they have been convicted but we sentence each one of them to pay fine in addition to the sentence of imprisonment already undergone.

6. Appellants Nos. 1 to 7 (in Criminal Appeal No. 537/1992) shall pay a fine of Rs. 15,000/- each and appellant Venkappa Dundappa Katti (appellant in Criminal Appeal No. 18/1993), who has undergone comparatively lesser term of imprisonment than the other appellants, shall pay a fine of Rs. 25,000/-. In default of payment of fine, appellants Nos. 1 to 7 (In Criminal Appeal No. 537/1992) shall undergo rigorous imprisonment for one year each and appellant Venkappa Dundappa Katti (appellant in Criminal Appeal No. 18/1993) shall undergo rigorous imprisonment for 18 months. The fine shall be deposited by the appellants in the trial Court within 8 weeks. In case the appellants fail to deposit the amount of fine in the trial Court within the stipulated period, they shall be taken into custody to undergo the sentence in default of payment of fine and their bail bonds shall stand cancelled. Fine on realisation shall be paid in the following manner:

Each set of heirs, of Kathalsab and Govindappa, shall get Rs. 50,000/- (Fifty thousand). Husensab injured shall received a sum of Rs. 30,000/- (thirty Thousand).

7. With the aforesaid modification in the sentence, the appeals are disposed of.