Karnataka High Court
Prashanth vs State Of Karnataka on 30 May, 2008
Author: K.Sreedhar Rao A.S.Pachhapure

A. NO.893(2005

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AND FURTHER SENTENCING THEM TO UNDERGO MINIEUM
OF' RJ. FOR 7 YEARS FOR THE OFFENCE P/U/S 39'? R/VL3'-3 V0?

Bow THE ssmmcns ARE DIRECTED TO Rim CONCURRE§_ITLY.VV_' ;; __ ' _

THi8 CRIMINAL APPEAL HAVING BEEN H3AR9..A1§ib.R§=;S'aRv'§iD; ._
COMING on FOR PRONOUNCEMENT OF.....JUDGMENI",'=.f1'HI$_ may

PACMMPURE. J., DELIVERED THE FOLLOWENG: '_

The appellants have chm} M gm"-,.. "£oi- the

oifenee undcr Sections '.397'. and me

sentence thereon on a trial at Mysore.

2. The of this $1 are

as under.

The Vt Manager of Gotten. Media'
Net Work = No.202, Siddarta Exmfion,

Myson: the appellants (accused before the

in the ofioe of the deccaseci. Tm

titie omen few days earlier to the incident and

t a againstthc deceased for notretusrning their

card and in that view' , it is alkgod by the

uftbn that the appellants/accused hav1ng' the prawn' us 1'!!-
thc deceased and with an intcntirm to start a

-steitxilar type of business as that of the deceased, had pwzned to

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bangle pieces, blood stained mud, door pieces, ,a

turkey towel and a c1ub{!v!0s.3 to 7, 13 and 19)--.f::'Hc-

the statements of the witnesses and"

examination, the clothes on the body

14) were produced and he seized» undgr
013 9.3.2001

, he arxttstod Ac§§u{gcid.,Vr\:o.é'ta§V§N$nj=§ngud Bus Stand and on search, "and a gold ring (M017) wen; Ex.P.4. On interrogation off the voluntary statement Ex. attesting Witnesses to Village, showed a place and from a bush and it was seized under thtf: On the same day at about 5.25 J "p.m., 1V'§v"'s"pioduccd before him and on armst and the vohmtaxy statement of Accused No.1 (Ext? .«:};Acc1xsed No.1 led the Police and attesting Wiiha□sées é place near Harohalli Village and produced the ;MO.8 and be seized the same under the mahazax (Ex.P.9). H V "" □eld, he took out the Motor Cycle beaxing No.KA«14~ also led them to Basavanapura and □om the . c7< Off. A. NO.893/2305 K~ 4222 and it was seized under the mahazar accused aiso produced the burnt pant pieces 3 buttons (M09) and it was seized 1?1ia.iA:ier't1;e"--«¢n1a13,<~ 011 11.3.2001, he further interrogated No.2 led the Police and attesting"v□$i'i31esses' and □dm the Roja bushcag he bench with three keys (M024) and the mahazar (Ex.P. 10). The sfaiie ment;;cHfV witnesses were recorded seized under the mahazar seized nine hill books (IN/10.11) {under 13. He collected ail the relevant the seized articles to the forensic _. Vexpertsia□d the report. After the completion of the he the chargesheet against the accused. " .A.3.A {he trial, the prosecution led the evidence of % 'PWs.1 tog :29 W in their evidence got marked Exs.P.1 to 13.32 MQS. to 24. The statement of the accused was recorded.

--.The;{ 11e1ve not led any defence evidence. The Tria} Court on "--.efi1§£*eciatic;1 of the evidence on reccni convicted the xaccusedl appellants for the offence under Sections 302 andgg A. NO.893(2005 circumstances, the appelhnts cannot be held o□ences charged. So also, it is his contention delay in Iewrding the statement of witnesses for the recovery having not A' J se. prosecution, the 'l'nal' Court thee recovery. On these gxctmds, he the conviction. The learned e submits that there are strong' iexeidence of the prosecution and. presence of the accused in fhe □me of the incident and as is' 1 - «fitness, the Tzia} Couzrt is justi□aed He submits that the posseseifan of the cash and golden articles has not E the """ "accused/appellants and therefore, in circumstances of the accused seen in the of a presumption arises regazding the " the snatched axtkzles and thcrewe, he supporis jud□ncnt of the 'E'n'al Court and the convictkm of the A ee,¢;,j%,pems_ the of the v's'.t is also natural that due to anxiety, V i"""V'vand 2; '-Sgeavifag o□ice aiongwith the Suzuki Motor Cycle of tee A1' As regards the identity, it is relevant to haow that ghe accused in the day time at 10.30 a.m. and as her V. was driven to them, due to the scream that she heaxd V few minutes eariier, we do not think that she could forget the identity of the persons who took this motor cycke and in that C□ A. NC1893/2005 the statement of this witness was zeoonied on after about four days of the incident and _ that the possibility of plan□ng suehiwtit□ess ruled and thexefore, a serious suvspic:i4;3:!._' evidence as trust worthy. Tng§v:¢en§¢ of including Pw.3 reveals that were-;£:g in the office of the deceased few ttizzviaclent. It is true that PWJ7 had noteeeen the date of the incident

and evidence about she having 10.30 am. as she claims she of her house and she heard the scream andttherefotre, □ve as to what happened in D4 L A. NO.893(20@5

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View of the matter, we (10 not think: that there is for. the investigating agency to have an During her statement, she has ident§;iiéd"'tht; stated before the pehcc having (at tlimc" incident and they taking away is" V cons'mtcnt with her statcncgcnt be;fcs:v.=: 'i□zzithér there is any omissiotn nor a we are of the opinion that her 'V I " '

8. Now to obsczwe that the people " accord. to the Police Statkén {which they witnessed, soicly because the Police Station and the Court " thyeu mam. fact that PWJ7 did amt approach the the incident in our oonsidemd opinion is not'sii¢h é to discard her evidence. Furthermore, the takm place in a. city and the judiciai notice of the peopk in thc city éo not desire themselves to .i:11¥ql1:?.?:' --in such can be infexmd. She is neither T in the dmscd 11101' has an adverse interest against D? □le accusad. In that View of the matter, We are cf the censidered DC, émpIoyé%&* by: 61¢ d he states on the earlier day of the V éixicjdentéexat "p.m., the deceased had called him and told that «.Noe'.1 and 2 had come to the o□¢e. Though Later, he V I» □lzjlis version, the fact that the accused were working in i'1'v1e"e'□ee has been satisfactorily proved from the evidence of The prosecution evidence further reveals that the A. :~:0.s93;2005 .. 15 -

gmund in the o□¢e. The anivai of Pwts at this spoken to by a neighbour (PW .7). Though _ maid servant of the deceased has pmseeution, the evidence "the around 10.30 3.111. and this the complement (PW.1). the circumstance that the viatithe time, when the death of the and they Went on the motor cycle record and there is , brought on xeconi by preeeeuiie□

11, that Accused Nos.l and 2 were ~ in his owes has been satisfactorily □rpveri of Pws. 1, 6 and 25. PW.6 is aiso an bé o f'ti1e"goldc13, rings and the chain. So also, (Pw.23) to whom the ash was sent has Ex.P.19 and he states that the ash the' cloth pieces. As the recoveries of burnt cloth at the instance of the accused, it would go to Show 'T A V ' the incident the accused burnt their cbthec In cause tne disappeaxance of the incriminating evidence. The accused can A. N<_;>.393/2005

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accused had gone to Venugopal (P'W.16) for books (M()s.I() and 11) which proves that they_yve§'e. the office of the deceased.

12. On the date of the tnc L' Search was made by the Police reveals that the golden rings and so also the cash. The golden__r.ings _.1_1a,:i_Ie, by PW.3 as belonging to her □1e'The hot that the deceased was spoken to by PW .3 in her ' these golden rings has not been Witnesses, there is nothing to disbelieye e€ridei1oe"v_oVf'.Vthe Police Inspector (PWK28) as {he seized at the instance of the accused and DC, Clix A. NQ893/2005

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had left the o□e few days earlier to the incident and had an intention to have their own 0&0: and in View otitheir acquaintance with the deceased, the .611' record would to show that they were in V' establish their own of□e and on the'J<ihte'of the»: caused the death and snatched' the §a1d;:::A'ai;§i*e~t,%1§e.,e cash by causing injuries and death-teof the» the recovery of the motor cyeiegnd the .'orneiment;§: is Within few days i.e., less than dhayshcf a presumption arises under 114 Act that either they are the or the persons who were _ .er1:ic1es. The fact that the recovery t----0;f □ve days would even go to the extent of assugniag of the crime of mmder and vmbberyiééh t□fvthe értieies. Scanning the evidence led by the V. its scrutiny reveals that the strong been brought on I'€COI'd which connect the V VV crime. In that View of the matter, We are of the H H " that" the Trial Court on consideration of the evidence led gimsecution has come to a just conclusion in convicting the----eccused appellants for the o□ence under Sections 302 and DC Cl}. A. NO.893[%'O5 .13..

397 xvcadwith 34 of IPC. We do not □nd any the intzerfemnoe. Hcnce, we answer Point _A and pro-0% to pass the following: _(_)_RlI)ER ~..

The appeal is dismissed, 'tl;_ic' and VV sentence awarded by thc□A under Sections 302 and 397 xeadvs}ith_'34 L %%%% Judgzfe 12553 A. .....