Supreme Court of India
C. V. Govindappa & Ors vs State Of Karnataka on 22 January, 1998
Author: Srinivasan
Bench: Chief Justice India, M. Srinivasan

PETITIONER:
C. V. GOVINDAPPA & ORS.

Vs.

RESPONDENT:
STATE OF KARNATAKA

DATE OF JUDGMENT: 22/01/1998

BENCH:
CHIEF JUSTICE OF INDIA, M. SRINIVASAN

ACT:

HEADNOTE:

JUDGMENT:

THE 22ND DAY OF JANUARY, 1998 present :

Hon'ble the Chief Justice Hon'ble Mr. Justice M. Srinivasan Mr. S. S. Javeri, Sr. Advocate, Mr. Mohan V. Kataria for Mr. Ashok K. Sharma, Advocate with him for the appellants. Mr. Kh. Nobin Singh, Mrs. Manjula Kulkarni for M. Veerappa, Advocates for the respondent J U D G M E N T Th following Judgment of the Court was delivered: SRINIVASAN, J.

The appellant is challenging the judgment of the High Court of Karnataka convicting him for offences under Sections 302, 304 and 498-A I.P.C. and sentencing him to imprisonment for life for the offence under Sections 302 IPC and rigorous imprisonment for two years and payment of fine of Rs. 1000/- for the offence under Section 498-A IPC with a direction that the substantive sentence of imprisonment were to run concurrently. The High Court reversed the Judgment of the Sessions Judge at Chitradurga acquitting the appellant and his mother Thimmakka. The appeal by the State against the appellant's mother before the High Court was dismissed and in fact the acquittal of the appellant's mother by the Session's Court was not seriously challenged in the High Court.

2. The appellant married Yashodhamma in September 1976. Even before the marriage there was demand for dowry of jewels and Rs. 50, 000/- in cash and only a part thereof was paid. The

remaining part was being paid in instalments. the appellant was repeatedly demanding payment of dowry in cash and also jewels. he was treating his wife with cruelty as evident from letters written by her to her relations. Though there were tow children, the appellant did not stop the ill- treatment of his wife. on 26.1.1984 there was a quarrel between husband and wife which was noticed by the neighbors. In the evening between 5 and 5.30 P.M. the appellant's wife came running out of the house with flames on her clothes and dashed against the scooter of the appellant kept in front of the house. she fell down and rolled on the ground. The appellant came out of the house and restored the scooter to its stand but did not take steps to save his wife and went away after merely touching her. The neighbours who were present made all attempts to put out the flames by wrapping her in a rug and removing the burning clothes for her body. An auto rickshaw was brought by one of them and she was taken to the Government hospital.

3. Even before that the appellant's wife had told the neighbours that her husband had poured kerosene oil on her and set fire. While going in auto-rikshaw she was repeatedly saying that her husband had burnt her. She was admitted in the hospital by PW 12 to whom the appellant's wife had two days before the incident given a sum of Rs. 100/- and addresses of her brothers with a request to inform them in the event of anything untoward happening to her. PW -12 sent telegrams to the relatives of the appellant's wife. The appellant went to the hospital later in the night and saw his wife in the ward. He scolded PW 12 Krishnaveni fro staying in the hospital by the side of his wife and told her that whatever had happened and his wife should be properly advised.

4. On 27.1.1984 the statement of the appellant's wife was recorded by PW 27, P.S.I. Extension Police Station, Devangere. The appellant was arrested on the same day in the hospital where he was undertaking treatment as an indoor patient. The appellant's wife died on 28.1.84 at about 12.30 AM. After completion of investigation the appellant and his mother stood charged with offence under Section 302 and 408A IPC.

5. The Court Session disbelieved the evidence adduced by the prosecution and accused. On appeal the High Court set aside the judgment of the Court of Sessions and so far as the appellant is concerned, convicted bin an aforesaid.

6. Though the High Court refused to accept the credibility of the statement containing dying declaration escorted by PW 27 and also the entry in the Accident Register of the hospital containing the version given by the deceased, accepted the evidence of PWs 2, 13 and 14 and then factum of dying declaration made to them by the deceased. The High Court has found that the evidence of the aforesaid three witnesses is quai natural and there is no reason whatever to reject the same. Consequently the High Court found no difficulty in accepting the declarations made to those witnesses.

7. Before us it is vehemently contended by the learned counsel for the appellant that there are several loopholes in the case of the prosecution which make it unworthy of acceptance. According to learned counsel the evidence of PWs 12 to 14 is of no value as there is no explanation for their not taking any steps to inform the police immediately. It is also contended that there is no explanation for non- examination of the two persons who were sent by PW 12 to give message to the incident. It

is further argued that the evidence of the doctor PW 6 who admitted the deceased in the hospital proved that she was not in a position to speak at all and she could not therefore have made any statement immediately prior to the admission in the hospital to PWs 12 to 14. It is also submitted that the appellant was himself hospitalised fro treatment of burn injuries in his left hand which he sustained when he attempted to save his wife. A comment is also made with regard to non-seizure of material objects in the house of the appellant. It is argued that the High Court had no justification to reverse the order of acquittal passed by the Court of Sessions which was passed on a detailed reasoning.

8. We are unable to accept any of the contentions urged by the appellant's learned counsel. Before adverting to the circumstances pointed out by him we would like to refer to a clinching circumstance which is evident from the conduct of the appellant soon after the incident. it should be pointed out that the appellant had no specific case whatever as to how his wife died. His wife was aged 25 at the time of death and there is no doubt whatever that her death was unnatural. There is no case before the Court that she died on account of any accident of by committing suicide.

9. It is admitted that the appellant did not take his wife to the hospital or make any attempt to get any medical aid for her when he know that she was suffering from burns. he had seen her admittedly lying on the ground with flames, yet he did not take any steps to help her or take her to the hospital.

10. It is worthwhile to refer to the following questions put to the following questions put to the appellant under Section 313 Cr. P.C. and the answers given by him.

Q. 46: It is in evidence of PWs 12 to 14 that there was scooter in front of your house at that time and due to rush of Yashodhamma running out she hit the scooter and it fell by its side. What do you say?

Ans. It is false. I tried to put out the fire at that time. I sustained burn injury to my left hand.

Q. 47. It is in evidence of PWs 12 to 14 that Yashodhamma got up and went in front of the house of PW 12 and fell on the road and started rolling. What do you say?

Ans. She was lying on the road.

Q. 48. it is in evidence of PWs 12 to 14 that you came out of your house and instead of attending to your wife, you lifted and stationed the scooter and touched your wife yashodhamma with your left hand and went inside the house. What do you say?

Ans. I tried to put out the fire and at that time I sustained an injury to my left hand.

Q.57. it is in evidence of PWs 12, 14, 15 and 16 that around 5.45 P.M.

they reached the hospital and got Yashodhamma shifted to the Causality Medical Officer. What do you say?

Ans. It is false. When went to the hospital, Yashodha was in the ward.

11. If the appellant's wife died on account of an accident or by committing suicide, the appellant would have certainly attempted to put out the flames and take her to the hospital. The above answers given by the appellant show that he was totally indifferent. That conduct of the appellant is undoubtedly a circumstance to be taken into account for deciding the question whether the appellant was guilty.

12. The evidence of PWs 12 to 14 has been accepted by the high court and in our opinion nothing has been placed on record to show that any of the three witness is motivated to speak against the appellant. Their neighbors have witnessed the incident, after the wife of the appellant came running out of the house and fell on the ground. Attempt has been made before us to discredit their evidence by contending that none of them took any steps to inform the police. We do not find anything unnatural in the conduct of PWs 12 to 14. They were more keen on the appellant's wife being taken to the hospital and given a proper treatment and inform her close relatives. Information to the police was given by the doctor in the hospital who is examined as PW 6. Immediately after admitting the appellant's wife in the hospital PW 6 sent a memo to the Sub inspector of police. Learned counsel for the appellant made a comment that the said memo marked as Ex. P.6 does not contain any statement that the appellant set fire to his wife or was responsible for the burn injuries suffered by her. There is no merit in this contention. The memo is in a prescribed from found in a book obviously kept by the hospital. One of the forms is filled up and sent by the doctor to the Sub inspector of police. It was not necessary at all to mention all the statements made to the doctor by the persons who brought the patient to him in that memo. It was not part of his duty.

13. The learned counsel for the appellant argued that the appellants wife was not in a position to talk even to the neighbours when they tried to put out the flames. According to learned counsel the evidence of PW 6 to the effect that auto rickshaw driver told him that she was not in a position to talk when she was brought to the hospital would lead to the inference that she was not in a position to talk even when she was proceeding to the hospital or before that. There is absolutely no substance in this contention. Even assuming that the deceased was not in a position to speak when she reached the hospital, it cannot be said by any stretch of imagination that she was not in a position to speak either in the auto rickshaw or before that.

14. There is no merit in the contention that the messengers sent by PW 12 to Bangalore to inform the relatives of the deceased about the incident have not been examined. Their evidence would if at all be only that they were informed by PW 12 about the same. it would not help the court in any manner to decide t he issue. We have no hesitation to agree with the High Court that the evidence of PW 12 to 14 is acceptable and sufficient to prove the statements made by the appellant's wife soon after the incident that it was the appellant's wife soon after the incident that it was the appellant who set fire on her after pouring kerosene on her.

15. There is no substance in the argument that the appellant himself was undergoing treatment in the hospital for injuries suffered by him when he attempted to save his wife. The only piece of evidence to show that the appellant was in - patient in the hospital is the deposition of PW 28 who

arrested there. It is also stated by PW 28 that the appellant had burn injury on his left hand and he was admitted to the hospital. There is nothing on record to show the extent of the injuries in the hand of the appellant or the necessity for his admission in the hospital as inpatient. We have already pointed out that the appellant did not take any step to put out the flames or save his wife. In the circumstances we are unable to accept the contention of the appellant's counsel in this regard.

16. After going through the entire evidence, we are of the opinion that the conclusion arrived at by the High Court is unassailable. There is no merit in the appeal and it is hereby dismissed. The accused is on bail; the same is cancelled. He shall surrender and undergo sentence.