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[PLRonline 423501]

SUPREME COURT OF INDIA

Before:- A.K. Patnaik and Swatanter Kumar, JJ.

Govindaraju @ Govinda v. State by Sriramapuram P.S.

Criminal Appeal No. 984 of 2007.

15.3.2012.

(i) Criminal Procedure Code, Section 378 – Order of acquittal – Interference by the Court is justifiable only when a clear distinction is kept between perversity in appreciation of evidence and merely the possibility of another view – Not appropriate for the High Court to merely record that the judgment of the trial court was perverse without specifically dealing with the facets of perversity relating to the issues of law and/or appreciation of evidence, as otherwise such observations of the High Court may not be sustainable in law. [Para 10]

(ii) Indian Penal Code, Section 302 – Murder Case – Police officer – Sole witness – Role of a police officer as a witness is nuanced and dependent on various factors, including the specifics of each case and the overall trustworthiness of the testimony.

Can a Police Officer be a Sole Witness?

- No hard rule stating that a police officer can or cannot be the sole eyewitness in a criminal case.
- The credibility depends on the facts of each case.
- A police officer's testimony can be accepted if it's reliable, trustworthy, and corroborated by other evidence.

Court's Stance on Police Officers as Witnesses

- The Court has said that there's no law stating police officers' testimony should not be relied upon without corroboration.
- Police officers are subject to the same presumption of honesty as any other witness.
- Extra scrutiny may be applied, but if the testimony is reliable, it can be the basis for a conviction.

Reliability and Trustworthiness of Police Testimony

- The testimony can form the basis for conviction if it inspires confidence after careful scrutiny.
- No infirmity attaches to testimony just because the witness is a police officer.

- There’s no rule requiring that police testimony must be corroborated by independent evidence for a conviction.

Historical and Judicial Perspectives

- Courts have upheld the principle that police officers are as trustworthy as any other witness, going back more than half a century.
- Suspecting or distrusting a police officer without good grounds is not a judicial approach.

[Para 15, 16, 17]

(iii) Evidence Act, Section 154 – Hostile witness – Not always necessary that wherever the witness turned hostile, the prosecution case must fail – Firstly, the part of the statement of such hostile witnesses that supports the case of the prosecution can always be taken into consideration – Secondly, where the sole witness is an eye-witness who can give a graphic account of the events which he had witnessed, with some precision cogently and if such a statement is corroborated by other evidence, documentary or otherwise, then such statement in face of the hostile witness can still be a ground for holding the accused guilty of the crime that was committed – The Court has to act with greater caution and accept such evidence with greater degree of care in order to ensure that justice alone is done. The evidence so considered should unequivocally point towards the guilt of the accused. [Para 20]

(iv) Evidence Act, Section 114 – Evidence Act, Section 3 – Material witness – If material witness is not examined adverse inference may be drawn – Meaning of expression material witness.

Principle of ‘Adverse Inference’

- The principle applies when key witnesses who could clearly describe events are withheld.
- Without these witnesses, gaps appear in the prosecution’s case.

Missing Witnesses and Their Importance

- Key witnesses like the doctor, Head Constable, and Constable were not examined, despite being cited.
- Their testimony could have filled in critical gaps, such as:

-Explaining the chain of events from the crime scene to the death of the deceased.

– Clarifying whether the reported injuries could be inflicted by the recovered knife.

– Verifying whether the weapons contained human blood and matching it with the deceased’s blood group.

Consequences of Not Examining Key Witnesses

- No justification was provided for not examining these key witnesses.
- This raises suspicions and allows the Court to draw an adverse inference against the prosecution.

Impact on Case When Principal Witnesses are Hostile

- When main witnesses become hostile, it's even more critical for the prosecution to examine all other material witnesses to complete the narrative.
- Failing to do so can negatively affect the prosecution's case.

[Para 45]

(v) Indian Penal Code, Section 302 – Murder Case – Accused acquitted on following grounds :

Witness Credibility

- Out of 5 eye-witnesses, only one (a police officer) did not turn hostile.
- The police officer's statement was not considered trustworthy due to improbabilities and suspicion.

Missing Medical and Police Testimonies

- The doctor who performed the post-mortem was not examined.
- The Head Constable present immediately after the incident was also not examined.

Forensic Evidence

- An FSL Report was recorded, but no experts from FSL Bangalore or Calcutta were examined.

Recovery of Weapon

- All witnesses related to the recovery of the weapon turned hostile.

Blood-Stained Weapon

- The weapon (Chaku) was blood-stained.
- No efforts were made by the prosecution to determine if it was human blood, and whether it matched the deceased's blood group.

[Paras 29, 30, 32, 36 and 45]

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