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# Case Analysis: Jayamma & Anrs v State of Karnataka

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## ABSTRACT

*The Supreme Court in May 2021, delivered a judgement. The main point of consideration was, whether a dying declaration can be considered as a sole and non questionable evidence in a case. This case analysis give a complete outlook of the case and further explains the reasoning given by the Supreme Court over evidentiary value and circumstantial importance of dying declaration.*

## I. FACTS OF THE CASE

Jayamma wife of Riddiniaka is the Appellant and Jayamma (deceased) wife of Ramanaika is the Respondent. Both the parties had a history of long standing enmity. On 10<sup>th</sup> September 1988 during an argument between both the parties, Thippeswamynaika the son of deceased assaulted Riddiniaka (husband of appellant). On 21<sup>st</sup> September, the appellant family reached the premises of the responded, confronted them and further demanded Rs 4000 to cover the medical expenses. The respondent party denied, leading to a headed skirmish which ultimately lead the appellant party to pour kerosene on Jayamma (deceased respondent), thus further setting her on fire. The respondent's other son Ravi Kumar and daughter in law Saroja Bai heard the screams of the respondent and tried to set off the fire while the appellants ran away from the scene.

The respondent was then taken to the public hospital where she was given primary medical treatment by Dr A. Thipeswamy. He also administered her certain pain killers. The doctor further sent a medico-legal case information to Thalak Police Station. On receiving the receipt there the SHO of Police Station reached hospital and recorded the statement of the respondent in which she implicated all the appellants. The patient was then sent to the Government hospital Chitradurga due to severe injuries but succumbed to her injuries on 23<sup>rd</sup> September 1988.

*The case was registered by the police under Sections 504, 307, 114 read with Section 34 of Indian Penal Code.*

The police further sent a requisition to the court requesting to alter the offense under Sec 307

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read with Sec 34 to Sec 302 read with Sec 34, upon the death of Jayamma. Further after investigation and filing of charge sheet, the case was committed to the court of Additional Sessions Judge.

## **II. MATTER IN TRIAL COURT**

During the trial, most of the witnesses except for the police officer and doctor turned hostile. The major question before the trial court was that whether the death was suicidal or homicidal as it was clear that death happened due to burn injuries. As most of the witnesses turned hostile, the only link between the death and its connection with homicide was being established by the prosecution solely on the statement recorded by the deceased before death. The court finally acquitted the accused on the ground that the prosecution has not been able to establish the presence of homicidal death.

## **III. MATTER IN HIGH COURT**

The appeal went to High Court and the High Court reversed the judgement of trial court stating that the statement by the deceased was enough to establish the presence of homicidal death, thus, convicting the accused parties under Sec 302 read with Sec 34 of IPC

## **IV. MATTER IN SUPREME COURT**

The appellants being discontented by the order of High Court, challenged the order in Supreme Court, on the below mentioned principal contentions –

- 1) High Court did not scrutinize the well reasoned order of acquittal passed by the trial court which was made while relying on the catena of decisions given by Supreme Court in cases of **Chandrappa v State of Karnataka<sup>2</sup>, Perla Somasekhara Reddy and Others v. State of A.P.<sup>3</sup>, State of Rajasthan v. Shera Ram<sup>4</sup>, Shyam Babu v. State of Uttar Pradesh<sup>5</sup>, Murugesan v. State<sup>6</sup>, Mookiah v. State<sup>7</sup> and Shivasharanappa v. State of Karnataka<sup>8</sup>** and did not even scrutinize the evidence in record.
- 2) The contention also said that no categorical reason as to why it was impossible to sustain the order of trial court was given by High Court, which further also said that High Court cannot solely rely in the dying declaration while relying upon the decision

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<sup>2</sup> (2007) 4 SCC 415

<sup>3</sup> (2009) 16 SCC 98

<sup>4</sup> (2012) 1 SCC 602

<sup>5</sup> (2012) 8 SCC 651

<sup>6</sup> (2012) 10 SCC 383

<sup>7</sup> (2013) 2 SCC 89

<sup>8</sup> (2013) 5 SCC 705

in case of **Surinder Kumar v State of Haryana** which stated that as the dying declaration statement was surrounded by suspicious and doubtful circumstances, the same cannot be solely relied upon to convict the accused.

- 3) The contention further mentioned that the prosecution has miserably failed to establish the homicidal nature of the present case and thus the conviction of the appellant is completely untenable

Based on the above contentions, the questions raised were –

- 1) Whether the High Court made mistake by reverting the order of trial court in exercise of it's power under Section 378 of the CrPC ?
- 2) Whether the prosecution has been able to establish the existence of homicidal nature of the death at the hand of appellant.

From the above contentions it is clear that the major question raised was around the validity of dying declaration as sole evidentiary document for the conviction of accused.

## **V. OBSERVATIONS OF THE SUPREME COURT**

The Supreme Court laid down following observations –

- 1) The dying declaration is based upon the questions asked by the Police Officer. Certain remarks in the declaration were written with different ink.
- 2) The dying declaration was taken under certain suspicious circumstances as there was enough time with the police to call for the judicial magistrate to record the dying declaration but it was not done.
- 3) The deceased suffered 80% of burns on the body. The Supreme Court here relied upon **Chacko v State of Kerala**<sup>9</sup>, in which it was held that it was difficult to accept that the 70 year old who suffered 80% of burns can give a detailed dying declaration after 8-9 hours have already been lapsed since the burning happened. In this above case there was no certification by the doctor. The court held that though in this case there is certification by the doctor but this certification in no way improve the case of prosecution. Further, as the deceased was suffering with 80% burns on pivotal parts of the body, this suffering through immense pain, the idea that she was undergoing hallucinations and delusions cannot be ruled out.

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<sup>9</sup> (2003) 1 SCC 112

- 4) The court further relied on the judgements in cases like **Sham Shankar Kankaria**, which clearly stated that in cases where dying declaration is suspicious, the corroborative evidence becomes a necessity.
- 5) The court further highlighted that most of the witnesses including the son and daughter in the law of the deceased have become hostile. The only witness supporting the prosecution case was the police officer who is the author of the dying declaration.
- 6) The court finally held that due to the suspicious nature of the dying declaration, the court does not find it right to convict the appellant primarily based on the dying declaration.

## **VI. CONCLUSION**

The Supreme Court acquitted the appellants due to insufficient evidence against them. The Supreme Court answered the principal question of a dying declaration to be solely admitted as evidence by stating the fact that a dying declaration cannot be blindly considered to be effective as sole evidence. It is important that the truthfulness and relevancy of the dying declaration based on its scrutinisation by the court should be given the prime importance while deciding the case.

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