APHC010431812009

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3368]
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

CRIMINAL APPEAL No: 711/2009

Between:

1. THE STATE OF A.P, REP BY THE PP, REP BY THE PUBLIC PROSECUTOR HIGH COURT OF A.P, HYDERABAD

...APPELLANT

AND

1. THAMBISETTY RAMPRASAD ANOTHER, S/O VENKATA KONDAIAH N/O MADDURUOPALLI(V), NOW RESIDING AT MALLAMMAGUNTA(V), RAPUR(M).

2. THAMBISETTY VENKATAMMA, W/O VENKATA KONDAIAH N/O MADDURUOPALLI(V), NOW RESIDING AT MALLAMMAGUNTA(V).

...RESPONDENT(S):

Counsel for the Appellant:

1. PUBLIC PROSECUTOR (AP)

Counsel for the Respondent(S):

1. K.N.RAO

The Court made the following:

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

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CRL.A.No.711 OF 2009

Between:

State of Andhra Pradesh, rep. by
The Public Prosecutor,
High Court of Andhra Pradesh,
Hyderabad. …… APPELLANT

A N D

1. Thambisetty Ramprasad,
   S/o.Venkata Kondaiah,
   32 years, Vaddera,
   N/o.Maddurupalli Village,
   Now residing at Mallammagunta Village,
   Rapur Mandal.

2. Thambisetty Venkatamma,
   W/o.Venkata Kondaiah,
   55 years, Vaddera,
   N/o.Maddurupalli Village,
   Now residing at Mallammagunta Village,
   Rapur Mandal. …… RESPONDENTS/ACCUSED

DATE OF ORAL JUDGMENT PRONOUNCED : 22.04.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

1. Whether Reporters of Local Newspapers may be allowed to see the Judgment? Yes/No

2. Whether the copy of Judgment may be marked to Law Reporters/Journals? Yes/No

3. Whether His Lordship wish to see the fair copy of the Judgment? Yes/No

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JUSTICE B.V.L.N.CHAKRAVARTHI.

*** HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**

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! Counsel for the Appellant : Sri C.P.Somayaji
Addl.Public Prosecutor

^ Counsel for the Respondents **:** Sri B.R.Sanku

< Gist:

> Head Note:

? Cases referred:

1. (2021) 3 Supreme Court Cases 687.
2. (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325.
3. (2012) 10 SCC 383: (2013) 1 SCC (Cri) 69.
4. (2017) 5 SCC 719 : (2017) 2 SCC (Cri) 653.

This Court made the following:

THE HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

CRIMINAL APPEAL No: 711 OF 2009

O R A L J U D G M E N T:

Heard Sri C.P.Somayaji, learned Additional Public Prosecutor representing the appellant/State.

2. The appeal is preferred U/s.378 of the Code of Criminal Procedure, 1973 by the State/complainant in the case, challenging the judgment dated 01.04.2005 in S.C.No.27/2003 on the file of Assistant Sessions Judge, Nellore District at Gudur. The learned Assistant Sessions Judge found the respondents/A-1 and A-2 not guilty for the offence U/secs.498-A and 306 IPC, and accordingly, acquitted them.

CASE OF PROSECUTION:

3. The case of the prosecution is that A-1 and Smt.T.Shankaramma (hereinafter referred to as 'deceased') fell in love 7 or 8 years ago. A-2 i.e., other of A-1 did not agree for the marriage of A-1 and the deceased. However, the elders convinced her to agree for the marriage. Therefore, their marriage was solemnized with the consent of both families. The deceased joined A-1. They lead conjugal life for six months. During that period, A-1 and A-2 subjected her to cruelty. Therefore, the deceased left the house of accused and returned to her parents' house. P.Ws-1 and 2 are the parents of the deceased. The deceased lived in her parents' house for seven years. The deceased and A-1 lead conjugal life at that time in the house of

P.W-1. Three children were born out of their wedlock during that time. A-1 subjected her to cruelty and beating her. The parents of deceased asked A-1 and deceased to live separately. Therefore, A-1 and deceased went to the house of A-2. But A-2 did not permit A-1 to reside with A-2. Hence, A-1 started living with the deceased in a separate house in the village.

4. After three months, one day P.Ws-1 and 2 received information that deceased made attempt to commit suicide and admitted in hospital of P.W-18. Therefore, they visited the hospital to see the deceased. They were informed by the deceased that unable to bear the harassment made by A-1, she committed suicide.

5. P.W-24/SI of Police, Rapur Police Station on 06.02.2002 at about 13.50 hours received intimation from Government Hospital, Rapur about admission of deceased in Government Hospital, Rapur with burn injuries. Ex.P-17 is said hospital intimation. He proceeded to Government Hospital, Rapur. He recorded statement of the deceased in the presence of P.W-25/Medical Officer vide Ex.P-18. He registered the same as a case in Cr.No.5/2002 under woman burns case. Ex.P-19 is FIR. He submitted Exs.P-17 to P-19 to the jurisdictional Magistrate. The Mandal Executive Magistrate, Rapur, recorded dying declaration of deceased vide Ex.P-25.

6. P.W-24/SI of Police visited scene of offence n the village in the presence of mediators and prepared Ex.P-20 observation report and

seized material objects M.Os-1 to 7. He also prepared a rough sketch for the scene of offence vide Ex.P-21, examined some witnesses and recorded their statements. Later, on 14.02.2002 at about 03.30 p.m. received intimation from hospital at Nellore, regarding death of the deceased. Ex.P-22 is said death intimation. SI of Police altered the section of offence from woman burns to sections 498-A and 306 IPC and submitted Ex.P-23 altered FIR to the jurisdictional Magistrate.

7. On 15.02.2002 Mandal Executive Magistrate conducted inquest over dead body at Jai Bharat Hospital at Nellore in the presence of P.W-10, P.W-15 and prepared Ex.P-13 inquest report. Later, P.W-17 conducted autopsy over body of deceased and issued Ex.P-11 report, opining that the deceased would have died due to septicemia on account of the burn injuries.

8. The Investigation Officer examined some more witnesses and recorded their statements during investigation. On 18.02.2002 he arrested the accused. Later after receipt of wound certificate, postmortem certificate laid charge sheet before the Magistrate. It was registered as P.R.C.18/2002. The Magistrate committed the case to the Sessions Division at Nellore. Later, it was registered as S.C.No.27/2003. The Sessions Judge transferred the case to the Assistant Sessions Judge, Gudur, for trial in accordance with law.

9. The Assistant Sessions Judge charged the accused for the offence U/secs.498-A and 306 IPC. Both the accused pleaded not guilty and claims to be tried.

EVIDENCE FOR THE PROSECUTION:

10. The prosecution to substantiate the above charges, examined 25 witnesses as P.Ws-1 to 25 respectively and got marked Exs.P-1 to P-25 during their evidence, apart from M.Os-1 to 7.

11. The accused were examined U/s.313 Cr.P.C. regarding the incriminating circumstances appearing against them from the evidence for the prosecution. Both the accused denied the same, as not true and correct. No oral evidence adduced for the defence.

FINDING OF THE SESSIONS COURT:

12. The Assistant Sessions Judge on consideration of the above evidence of the prosecution, found the accused not guilty for the offence U/secs.498-A and 306 IPC. Accordingly, acquitted them. Therefore, the appeal came to be preferred by the State U/s.378 Cr.P.C.

13. Sri C.P.Somayaji, learned Additional Public Prosecutor would argue that the evidence of P.W-1, P.W-2, P.W-4, P.W-5 and P.W-6 would prove that the deceased was subjected to cruelty by A-1 and A-2. Their evidence would also establish that soon before her death, they subjected her to cruelty. But the trial Court ignored their testimony and solely relied on Ex.P-18 and Ex.P-25 i.e., statements of the

deceased made to P.W-24 and Mandal Executive Magistrate, Rapur and acquitted the accused. Therefore, the judgment of the trial Court is not sustainable either on facts or in law.

14. In the light of above contentions of the learned Additional Public Prosecutor, the point that would arise for consideration in this Criminal Appeal is as under:

> "***Whether there are grounds to interfere with the judgment of the Assistant Sessions Judge, Gudur***"?

15. **P O I N T**: It is an appeal against acquittal filed by the State.The scope of interference in an appeal against acquittal was dealt with by the Hon'ble Supreme Court in ***N.Vijay Kumar Vs. State of Tamilnadu***[1] case (supra), wherein the Hon'ble Apex Court observed at para Nos.20 to 23, which are extracted hereunder:

> "**20.** Mainly it is contended by Shri Nagamuthu, learned Senior Counsel appearing for the appellant that the view taken by the trial court is a "possible view", having regard to the evidence on record. It is submitted that the trial court has recorded cogent and valid reasons in support of its findings for acquittal. Under Section 378 Cr.P.C., no differentiation is made between an appeal against acquittal and the appeal against conviction. By considering the long line of earlier cases this court in the Judgment in ***Chandrappa Vs. State of Karnataka***[2] has laid down the general principles regarding the powers of the appellate court while dealing with an appeal

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[1] (2021) 3 Supreme Court Cases 687.
[2] (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325.

against an order of acquittal. Para 42 of the Judgment which is relevant reads as under: (SCC *p.432)*

"42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc., are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be

presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court."

21. Further in the judgment in the case of ***Murugesan Vs. State***[3] relied on by the learned Senior Counsel for the appellant, this Court has considered the powers of the High Court in an appeal against acquittal recorded by the trial court. In the said judgment, it is categorically held by this Court that only in cases where conclusion recorded by the trial court is not a possible view, then only the High Court can interfere and reverse the acquittal to that of conviction. In the said Judgment, distinction from that of 'possible view' to 'erroneous view' or 'wrong view' is explained. In clear terms, this Court has held that if the view taken by the trial court is a 'possible view', the High Court not to reverse the acquittal to that of the conviction.

22. The relevant paragraphs in this regard where meaning and implication of 'possible view' distinguishing from 'erroneous view' and 'wrong view' is discussed are paras 32 to 35 of the judgment, which read as under: (***Murugesan*** case, SCC pp.392-97)

"32. In the above facts can it be said that the view taken by the trial court is not a possible view? If the answer is in the affirmative, the jurisdiction of the High Court to

[3] (2012) 10 SCC 383: (2013) 1 SCC (Cri) 69.

interfere with the acquittal of the appellant- accused, on the principles of law referred to earlier, ought not to have been exercised. In other words, the reversal to earlier, ought not to have been exercised. In other words, the reversal of the acquittal could have been made by the High Court only if the conclusions recorded by the learned trial court did not reflect a possible view. It must be emphasized that the inhibition to interfere must be perceived only in a situation where the view taken by the trial court is not a possible view. The use of the expression 'possible view' is conscious and not without good reasons. The said expression is in contradistinction to expressions such as 'erroneous view' or 'wrong view' which, at first blush, may seem to convey a similar meaning though a fine and subtle difference would be clearly discernible.

33. The expressions "erroneous", "wrong" and "possible" are defined in ***Oxford English Dictionary*** *in the following terms:*

'erroneous. – wrong; incorrect.
Wrong. – (1) not correct or true, mistaken.

(2) unjust, dishonest, or immoral.

Possible. – (1) capable of existing, happening, or being achieved.

(2) that may exist or happen, but that is not certain or probable.

34. It will be necessary for us to emphasise that a possible view denotes an opinion which can exist or be formed irrespective of the correctness or otherwise of such an opinion. A view taken by a court lower in the

hierarchical structure may be termed as erroneous or wrong by a superior court upon a mere disagreement. But such a conclusion of the higher court would not take the view rendered by the subordinate court outside the arena of a possible view. The correctness or otherwise of any conclusion reached by a court has to be tested on the basis of what the superior judicial authority perceives to be the correct conclusion. A possible view, on the other hand, denotes a conclusion which can reasonably be arrived at regardless of the fact where it is agreed upon or not by the higher court. The fundamental distinction between the two situations have to be kept in mind. So long as the view taken by the trial court can be reasonably formed, regardless of whether the High Court agrees with the same or not, the view taken by the trial court cannot be interdicted and that of the High Court supplanted over and above the view of the trial court.

35. A consideration on the basis on which the learned trial court had founded its order of acquittal in the present case clearly reflects a possible view. There may, however, be disagreement on the correctness of the same. But that is not the test. So long as the view taken is not impossible to be arrived at and reasons therefore, relatable to the evidence and materials on record, are disclosed any further scrutiny in exercise of the power under Section 378 Cr.P.C., was not called for."

23. Further, in ***Hakeem Khan v. State of M.P.***[4] this Court has considered the powers of the appellate court for interference in cases where acquittal is recorded by the trial court. In the said judgment it is held that if the "possible view" of the trial court is not agreeable for the High Court, even then such "possible view" recorded by the trial court cannot be interdicted. It is further held that so long as the view of the trial court can be reasonably formed, regardless of whether the High Court agrees with the same or not, verdict of the trial court cannot be interdicted and the High Court cannot supplant over the view of the trial court. Para 9 of the Judgment reads as under: (SCC pp. 722-23).

"9. Having heard the learned counsel for the parties, we are of the view that the trial court's judgment is more than just a possible view for arriving at the conclusion of acquittal, and that it would not be safe to convict seventeen persons accused of the crime of murder i.e., under Section 302 read with Section 149 of the Penal Code. The most important reason of the trial court, as has been stated above, was that, given the time of 6.30 p.m. to 7.00 p.m. of a winter evening, it would be dark, and, therefore, identification of seventeen persons would be extremely difficult. This reason, coupled with the fact that the only independent witness turned hostile, and two other eyewitnesses who were independent were not examined, would certainly create a large hole in the prosecution story. Apart from this, the very fact that there were injuries on three of the accused party, two of them being deep injuries in the skull, would lead to the conclusion that nothing was premeditated and there was, in all probability, a

[4] (2017) 5 SCC 719 : (2017) 2 SCC (Cri) 653.

scuffle that led to injuries on both sides. While the learned counsel for the respondent may be right in stating that the trial court went overboard in stating that the complainant party was the aggressor, but the trial court's ultimate conclusion leading to an acquittal is certainly a possible view on the facts of this case. This is coupled with the fact that the presence of the kingpin Sarpanch is itself doubtful in view of the fact that he attended the Court at some distance and arrived by bus after the incident took place."

ANALYSIS:

16. Before going into merits of the case, it is pertinent to note down the established legal principles relating to appeals filed challenging the order of acquittal. The accused are presumed to be innocent until proven guilty. This presumption would further strengthened on the order of acquittal recorded by the trial Court after trial. Therefore, the appellate Court shall not interfere with the judgment of the trial Court, unless the trial Court opinion is based on no evidence, perverse or material evidence is ignored by the trial Court.

17. Further, when the material on record make out two opinion, and the opinion of the trial Court is one of such opinion, the Appellate Court shall not interfere with the opinion of the trial Court.

18. When coming to the facts of the case on hand, the specific case of the prosecution is that the deceased was subjected to cruelty as laid down U/s.498-A IPC by A-1 and A-2. It is also the case of the

prosecution that the deceased committed suicide, as she was subjected to cruelty soon before her death.

Explanation to section 498-A IPC defines cruelty:— It speaks that any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman;

or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

19. Therefore, the prosecution must establish that A-1 and A-2 abused and beat the deceased, which is of such nature, as is likely to drive the deceased to commit suicide.

20. The reading of the evidence of P.W-1, P.W-2, P.W-4, P.W-5 and P.W-6 i.e., parents of the deceased, sibling of the deceased and relatives of the deceased would show that A-1 and the deceased fell in love 7 or 8 years ago to the date of death of deceased. They intend to marry. But A-2 i.e., mother of A-1 did not accept their love. Then, elders of the village convinced her to agree for the marriage. Therefore, she agreed for the marriage. Later, the parents of the deceased and A-2 performed the marriage of A-1 and the deceased. Hence, the deceased joined the conjugal life of A-1. P.Ws-1 and 2 and other witnesses mentioned above stated that A-1 and A-2 abused and

beat her, after the deceased joined the home of A-1 in the first six months. But, when they were questioned whether they made any report about the alleged abuse, they did not give any convincing answers, except saying that they gave report to police, but they did not take any action.

21. It is pertinent to note down that admittedly; the deceased returned to the house of her parents after six months of the marriage and started living with her parents. Then, A-1 has been visiting the house of P.W-1 to see the deceased. P.Ws-1 and 2 allowed A-1 to visit their house. In fact, the evidence of the above witnesses would show that A-1 started leading conjugal life with the deceased at the house of P.Ws-1 and 2 i.e., in-laws. Three children were born to A-1 and the deceased out of their wedlock during that period of seven years. P.Ws-1 and 2, P.Ws-4 to 6 made attempt to say that A-1 used to abuse the deceased during the period. But nothing is placed on record to convince the Court as to why the same was not informed to any elders in the village or police, if the alleged harassment is of such nature, which may drive the deceased to commit suicide. It appears that the unrest between A-1 and the deceased is on account of A-1 residing in the in-law's house for several years, without earning and depending on the in-laws. Their evidence would also show that after seven years, A-1 was asked to leave the house of in-laws by P.Ws-1 and 2 and to live separately with the deceased. Therefore, A-1 left

the house of in-laws along with the deceased. Initially he tried to stay with his mother i.e., A-2. But she did not agree. Therefore, he started living in a separate house along with deceased and children. The entire evidence of P.Ws-1 and 2, P.Ws-4 to 6 is not making out any tangible material to lead the Court to say that the prosecution proved that either A-1 or A-2 subjected the deceased to cruelty of such nature i.e., likely to drive the deceased to commit suicide, to attract the offence punishable U/s.498-A I.P.C.

22. The case of the prosecution is that the deceased committed suicide as she was subjected to cruelty soon before her death. Admittedly, P.W-24 soon after receiving Ex.P-17 intimation from Government Hospital on 06.02.2002 at about 01.50 p.m., visited the hospital and recorded statement of deceased vide Ex.P-18 in the presence of the Medical Officer/P.W-25.

23. The evidence of P.W-25 would disclose that the deceased was conscious, coherent and fit to make the statement. Ex.P-18 would disclose that the deceased on the date of incident made preparation to cook food. She attempted to light the stove, pouring kerosene. Accidentally, fire caught the saree of the deceased and spread to the body. A-1 was working outside the house. The deceased raised cries. On hearing the same, A-1 and neighbours came to rescue of the deceased. A-1 put off the fire, shifted the deceased to the hospital of P.W-18.

24. It is pertinent to note down that on the request of P.W-24/SI of Police, Mandal Executive Magistrate also visited the hospital at 03.30 p.m. on the same day and recorded her statement, which was marked as Ex.P-25, as both parties gave consent before the trial Court to receive the same into evidence. The statement of the deceased given to the Mandal Executive Magistrate is also on similar lines. There are no contradictory statements made by the deceased. Therefore, the consistent version of deceased under Ex.P-18 and Ex.P-25 is that it was an accident, when she was trying to cook the food. The evidence of the doctors i.e., P.Ws-17 and 18 does not disclose anything that they found kerosene or smell of kerosene from the body of the deceased at any time, when she was brought to the hospital. The autopsy report would show that the deceased sustained burn injuries 70% as referred in the autopsy report. She would appear to have died due to septicemia on account of burn injuries. Nothing is found in their evidence leading the Court to say that she sustained burn injuries on account of her attempt to commit suicide or somebody made to commit homicide pouring kerosene.

25. It is pertinent to note down that P.W-1,P.W-2 and P.W-4 first time before the Court came with a version that on receipt of information about the incident, they visited hospital to see the deceased. They asked the deceased about the injuries. She intimated that A-1 poured kerosene and set fire to her.

26. The evidence of P.W-24 i.e., Investigation Officer would disclose that P.W-1, P.W-2 or P.W-4 did not make any such statement to him when he recorded their statements during investigation. P.W-4 categorically admitted that she did not make any such statement to the police during investigation. Therefore, this story deposed by P.W-1, P.W-2 and P.W-4 is an omission amounting to material contradiction, as laid down U/s.162 of Code of Criminal Procedure, 1973.

Explanation:- An omission to state a fact or circumstances in the statement referred to in sub-section (1) may amount to contradiction if the same appears to be significant and otherwise relevant having regard to the context in which such omission occurs and whether any omission amounts to a contradiction in the particular context shall be a question of fact.

27. Therefore, it is clear that P.W-1, P.W-2, P.W-4, P.W-5 and P.W-6 for the reasons best known to them, made attempt to make new statement before the Court, improving their statements made before the police.

28. Section 155(3) of the Indian Evidence Act, 1872, reads as follows: "*The credit of a witness can be impeached by proof of former statement inconsistent with any part of his evidence which is liable to be contradicted*".

29. In the case on hand, the evidence of P.W-1, P.W-2 and P.W-4 mentioned above is inconsistent with the former statements made by

them before P.W-24 i.e., Investigation Officer during investigation. As already mentioned above, it amounts to a material contradiction. They changed the version from suicide to homicide and tried to implicate A-1 as a person responsible for the homicide. But the statements of the deceased mentioned above under Ex.P-18 and Ex.P-25 recorded by the Investigation Officer and the Mandal Executive Magistrate would show that the deceased sustained burn injuries on account of accident, when she was trying to light the stove to prepare food. In those circumstances, the testimony of P.W-1, P.W-2, P.W-4, P.W-5 and P.W-6 is not inspiring any confidence in the mind of the Court to conclude that A-1 and A-2 subjected the deceased to cruelty as laid down U/s.498-A IPC and therefore, the deceased committed suicide as alleged by the prosecution.

CONCLUSION:

30. In the light of foregoing discussion, this Court has no hesitation to say that the prosecution miserably failed to prove the charges for the offence U/secs.498-A and 306 I.P.C. against A-1 and A-2.

31. In that view of the matter, the order of acquittal recorded by the trial Court does not warrant any interference by this Court. It is sustainable on facts and in law. Hence, the Criminal Appeal filed by the State is liable to be dismissed.

RESULT:

32. In the result, the Criminal Appeal is dismissed. This judgment be certified to the trial Court, as per section 405 of Cr.P.C.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

JUSTICE B.V.L.N. CHAKRAVARTHI

22.04.2026

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THE HONOURABLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

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CRIMINAL APPEAL No: 711 OF 2009

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Date: 22.04.2026

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