

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WEDNESDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIFTEEN

PRESENT

**THE HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
THE HONOURABLE SRI JUSTICE M.S.K. JAISWAL**

Criminal Appeal No.565 of 2010

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Between:

Seedari Subbarao

Appellant/Accused

And

State of Andhra Pradesh
Rep.by its Public Prosecutor,
High Court of Andhra Pradesh,
Hyderabad.

Respondent/Complainant

**THE HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
THE HONOURABLE SRI JUSTICE M.S.K. JAISWAL**

Criminal Appeal No.565 of 2010

JUDGEMENT: (Per the Hon'ble Sri GC, J)

This judgment is directed against the judgment dated 09.07.2009 passed in S.C. No.212 of 2008 by the learned Sessions Judge, Mahila Court, Visakhapatnam whereunder the appellant-accused was found guilty for the offence punishable under Section 302 IPC and convicted of the said charge under Section 235(2) Cr.P.C. sentencing life imprisonment and fine of Rs.1,000/- (Rupees one thousand only) and in default of payment of fine appellant-accused shall suffer imprisonment for one month.

2. The case of the prosecution, in brief, is that the deceased, Seedari Soppayi, is the resident of Bangarumamidi village and she is the wife of accused, Seedari Subbarao. The marriage took place between the deceased and the accused about 25 years back and they were blessed with four children. While so, the accused had suspicion that the deceased was having illicit intimacy with one Pangi Chanti and used to dispute with the deceased and beat her now and then. In this regard, P.W.3, Pangi Viswanadham, and others, who are village elders, warned the accused on one or two occasions too, but the accused did not change his mind and continued to dispute with the deceased often.

On 01.08.2008, night, after having dinner, the accused asked the deceased for sexual intercourse. The deceased expressed reluctance for the same. On that the accused picked up quarrel with the deceased and slept. In the early hours of 02.08.2008 at about 05.30 hours, the deceased woke-up and was going out side the house and the accused by noticing the same grew wild, caught hold tuft of her hair and started abusing and beating with hands. Later he dragged her into the kitchen room and beat with a crowbar

indiscriminately on the head and caused death of the deceased.

3. On a report given by P.W.1, Marrisetti Ramunaidu, P.W.7, S.Sankara Rao, Sub Inspector of Police, Pedabayalu Police Station, registered a case under Section 302 IPC and took up investigation. During the course of investigation, P.W.8, Y.Govinda Rao, Inspector of Police, held inquest over the dead body of the deceased in the presence of Marrisetti Ramunaidu, Pangi Sundara Rao, Pangi Indro, Pangi Chandra Rao, Pangi Viswanadham and Pangi Chanti and panchayatdars

Pangi Jagannadham and Kimudu Sivalingam Naidu, examined the scene of offence, seized the material objects and photographed the scene of offence by Patcha Sreenu and sent the dead body of the deceased to

P.W.5, Dr. K.Krishna Rao, for post-mortem examination. On 04.08.2008 at 10:00 hours, P.W.8 arrested the accused in the presence of Pangi Viswanadham and Pangi Jagannadham and sent for remand.

On completion of investigation, P.W.8 filed the charge sheet.

4. The learned Judicial First Class Magistrate, Paderu has taken cognizance of the case for the offence under Section 302 IPC and after complying with the requirements under Section 209 Cr.P.C., the matter was committed to the Court of Sessions. The learned Sessions Judge, Visakhapatnam, made over the same to the Court of the Sessions Judge, Mahila Court, Visakhapatnam for its disposal, in accordance with law.

5. On appearance of the accused, the trial Court framed the charges under Section 302 IPC and read over and explained the same to the accused for which, he pleaded not guilty and stated that his wife consumed liquor, fell down and died.

6. During the course of trial, the Prosecution had examined P.Ws.1 to 8 and Exs.P.1 to P.15 were got marked besides marking M.Os.1 and 2 and on the side of defence none were examined and no document was got marked.

7. The Court below framed the following issue for its determination:

“Whether the prosecution has proved the guilt of the accused beyond all reasonable doubt for commission of offence punishable

under Section 302 IPC?”

8. After considering the entire evidence on record, the Court below held that the prosecution is able to establish the guilt of the accused beyond all reasonable doubt for commission of offence of murder punishable under Section 302 IPC and sentenced him as stated above. Assailing the same, appellant-accused preferred the present appeal.

9. The learned counsel appearing for the appellant-accused submitted that it is a case of no eye witness and the accused was falsely implicated in the crime. It is further submitted that there is no corroboration of witnesses in their statements and nobody had seen the alleged act of accused killing the deceased. Further, there is no motive for the accused to cause the death of the deceased and she fell down and died. Therefore, the impugned judgment is liable to be set aside.

10. On the other hand, the learned Public Prosecutor submitted that P.W.2, is eye witness, who spoke that on hearing the cries of the deceased as “*RAKSHINCHANDI*” (save me), he went there and asked the accused why he is beating the deceased. Then the accused replied that the deceased is his wife and he can do what ever he want. Then, P.W.2 called Pangi Sundara Rao and Pangi Indro and neighbours were gathered and on seeing all of them, the accused ran away. Then, they went into the house of the accused and noticed that the deceased was lying in a pool of blood with injuries on head and back side. Since there was no time gap between the P.W.2 seeing the accused and the deceased quarrelling and beating the accused to the deceased and within few minutes calling the Pangi Sundara Rao and Pangi Indro and other neighbours gathering there and on seeing them the accused ran away from the scene of offence is a clear eye witness account by the P.W.2. Therefore, the contention that there is no eye witness is not sustainable. It is further submitted that the entire evidence on record corroborating with each other and it is a clear case of murder. Motive behind killing the deceased by the accused is that on several occasions, as and when the disputes arose between the accused and the deceased, village elders intervened and conducted panchayats and resolved and suggested them to live happily for which, the accused developed ill motive against the

deceased and decided to kill the deceased and accordingly, he intentionally killed the deceased. Therefore, interference of this Court is not required with the impugned judgment and the appeal is liable to be dismissed.

11. In view of the controversy between the parties, the point that arises for consideration is whether the Prosecution had proved the guilt of the accused beyond all reasonable doubt and whether the Court below had rightly convicted the accused?

12. As could be seen from the evidence of P.W.2, who categorically deposed that there were disputes between the accused and the deceased and the accused was suspecting the character of the deceased.

On 02.08.2008, at about morning 5'o clock on hearing the cries of the deceased "*Rakshinchandi*" (save me) he went to the deceased and asked him why he is beating the deceased for which, the accused replied that the deceased is his wife and he can do what ever he want. Then he called his brother, Pangi Sundara Rao and his wife Pangi Indro, and neighbours also gathered. On seeing them, the accused ran way and when they went into the house of the accused, they noticed the deceased lying in a pool of blood with injuries on head and back side.

13. At this juncture, it is to be seen that P.W.5, doctor, who conducted the post-mortem had found the following antemortem injuries over the dead body of the deceased.

"i) A lacerated injury of size length 5 cm x width 2 cm, depth 4 cm over occipital area of scalp with fracture of occipital bone laceration seen over the cerebeliam of brain with a large subdinal haematoma, antemortem in nature.

ii) A lacerated injury of size length 1 cm x width 1 cm x depth 0.5 cm over left forearm with a fracture of both radius and unla, distal 1/3rd, antemortem in nature.

iii) A lacerated injury is seen over right palm over dorsal aspect of size length 5 cm x width 4 cms x depth 0.2 cm, antemortem in nature.

iv) An abrasion of size length 1.9 cm breadth 1 cm is seen

over left shoulder, antemortem in nature.”

P.W.5, doctor, opined that the said injuries can be caused by a person by using M.O.No.1 crowbar and injury No.1 is fatal in nature and the same is sufficient to cause death in ordinary course of nature. Evidence of P.W.1 is that the Police recovered Crowbar M.O. No.1 in his presence during inquest. The doctor's opinion was corroborated with the material object recovered in the presence of P.W.1. At this stage, it is also to be observed that according to the appellant-accused, the deceased died due to fall but, the injuries are found by the Medical Officer at different parts of the body, which are not possible if a person falls accidentally even on hard surface. For a moment, if it is to be considered that the deceased might have died due to fall, the deceased ought to have received injuries only on her back side but not as found in post-mortem i.e. a lacerated injury over left forearm with a fracture, a lacerated injury over right palm and an abrasion over left shoulder. In view of the above, the version of the accused that the deceased died due to consuming liquor and having fallen is not sustainable.

14. During the cross-examination of P.W.2, nothing is elicited except the relationship between the witnesses Pangi Sundara Rao, Pangi Indro, Pangi Viswanadham and Pangi Chanti. It was suggested to P.W.2 that there is enmity between the witnesses and accused and therefore, they falsely implicated the accused in this case. In this regard, nothing has been brought on record which would go to show that P.W.2 will go to the extent of implicating the accused falsely in heinous crime of death of the deceased.

15. P.W.3, Sarpanch of Kimudupalli village stated about his acquaintance with deceased and accused and the disputes between them and also about accused beating the deceased by suspecting her fidelity and stated that elders of the village, including himself, advised the accused to live amicably. He further stated that on 02.08.2008 accused killed his wife and P.W.2 informed about the incident and he has also stated that on 04.08.2008 accused made confession.

16. P.W.4 is a panchayatdar who attended the inquest over the dead body of the deceased stated that according to his opinion and opinion of other panchayatdars, deceased might have died due to the attack of the accused

with a crowbar.

17. During cross examination of P.Ws.3 and 4 nothing could be elicited except suggesting that they are speaking as per the training give by the Police. Enmity attributed to the witnesses and the reason of local disputes attributed to the witnesses for speaking falsehood is not substantiated by giving any details or reasons for the enmity or by giving details of local disputes etc.

18. P.W.2 has witnessed the accused beating the deceased and there is no denial from the accused that P.W.2 is not his neighbour and that there is no possibility P.Ws.2 and 3 knowing about the disputes between the accused and the deceased. Recovery of M.O.1 from the scene of offence is also not doubtful as the recovery is supported by P.Ws.1 and 2. The specific case of the prosecution is that the injuries found over the body of the deceased were caused by the accused and to substantiate the same, prosecution adduced the sufficient evidence. But, the version of the accused that the deceased fell down and sustained injuries in alcoholic condition was neither supported by any witness nor was any explanation for those injuries, being husband of the deceased. In the absence of any witness/evidence in support of the version of the accused, it can safely be held that the act of the accused is responsible for the cause of the death of the deceased.

19. Having gone through the entire evidence on record, submissions made by the learned counsel on either side and the judgment of the Court below, we do not see any reason to interfere with the impugned judgment and we are of the view that the prosecution has proved the charge levelled against the appellant-accused. Therefore, the appeal is liable to be dismissed and accordingly, the appeal is dismissed.

JUSTICE G.CHANDRAIAH

JUSTICE M.S.K. JAISWAL

Date: 04.02.2015

LSK

