

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

CRIMINAL APPEAL NO.671 OF 2010

Between:

Allakonda Purushotham, S/o Late Gangaram, Gudla, Labour, R/o
choutpally and another

Petitioners

And

State of Andhra Pradesh, rep. by its
Public Prosecutor, High Court of A.P.,
Hyderabad

Respondent

JUDGMENT PRONOUNCED ON: 19.08.2015

- **THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

AND

THE HON'BLE SMT JUSTICE ANIS

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes |
| 3. Whether Their Ladyship/Lordship wish to see
the fair copy of the Judgment? | No |

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For the Appellants : Chollari Nageswara Rao.

**For the Respondent : Public Prosecutor, State of
Telangana.**

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> Head Note:

? CITATIONS:

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J U D G M E N T:

(per Hon'ble Sri Justice Nooty Ramamohana Rao)

Accused 2 and 3 in Sessions Case No.193 of 2000, who have been convicted for the offence punishable under Section 302 of the Indian Penal Code, are the appellants.

We are informed at the Bar by the learned Public Prosecutor that Accused No.1, who was also convicted, died almost immediately thereafter and hence, there was no Appeal preferred by him.

The case of the prosecution is that one Smt. Kunta Raju @ Kisham Raju (hereinafter referred to as 'the deceased'), a sixty-year old woman and residing at Choutpally village of Kammapally Mandal, Nizamabad District, went about, as she does usually, on the fateful day, on the morning of 20-11-2007 to sell curd, but however, she has not returned home raising suspicion in the minds of the other inmates of the house. They searched for her for a while and they were under the impression that she may have gone to some relatives place and hence, did not immediately report to the Police about her missing in the village. But however, next day morning, PW-1, the son of the deceased, lodged a complaint about missing of his mother from the village the previous day. In the mean time, it is PW-3, who found an abandoned gunny-bag near Jodunuthulakunta, a local water body, and informed the same to the Police and immediately the Police arrived and upon opening the gunny-bag, they found the dead body of the mother of PW-1 tied with a dish-antenna wire. The gold ornaments, normally worn by her, were found missing on the dead body. Thus, the death caused by unknown persons was investigated. PW-10, the Civil Assistant Surgeon, who conducted the post-mortem examination, opined that the cause of the death was ASPHYXIA AS A RESULT OF THROTTLING. Ex.P-11 is the post-mortem report issued by him.

There are no eye-witnesses to the commission of offence. To bring home the charge, the prosecution depended on the circumstantial evidence. PW-6, who is a resident of the same village,

owns an Auto Rickshaw. He drives it on his own and also lends it for hire. PW-6 has deposed that while he was returning from the college after dropping the students, near Bhasheerabad 'X' roads, A-1 met him and took his Auto Rickshaw for hire, as there was 'Ellamma Festival' on that day. The Auto Rickshaw was to be returned in the evening, but however, some other Auto Rickshaw drivers informed him that his Auto Rickshaw was stuck up in the mud near the water body in the village. In that view of the matter, while he was proceeding towards the village tank, he found the Auto Rickshaw near the house of A-1 itself. When he went inside to find out as to what had happened and as to what is the reason why his Auto Rickshaw was not returned promptly, he found A-1 and A-2 in an intoxicated condition and they were not in a position to give proper replies to his questions. Consequently, it is PW-6, who retrieved his Auto Rickshaw from the house of A-1 and took it away. Later on, the Police informed him about the incident.

PW-1 and PW-2, the son and the husband of the victim, have only narrated as to how the deceased went missing from their house. They have stated that she left in the morning hours, as usual, to sell curd. It is P.W.4 who purchased curd from the deceased on the fateful day. But however, it is PW-7, the wife of PW-1 and the daughter-in-law of the deceased, who stated that suspicion in their minds has arisen as the gold ornaments normally worn by her were found missing on the dead body. She has described that the deceased wore the following gold ornaments:

1. Padigelu 1 ½ grams,
2. Mutyala Meda Gundlu,
3. One gold chain,
4. Four Menchulu,
5. Two Pakka Pullalu,
6. Two Govva Gonalu,
7. Four Bakkinelu, and
8. Four Silver rings.

She has identified all the eight gold ornaments, which are marked as MOs 1 to 8, as belonging to the deceased.

The learned counsel for the appellants has tried to discredit this exercise of PW-7 by urging that it was so unnatural for one to keep noticing as to what ornaments are worn by another woman so early in the morning, but however, we do not find any substance in this criticism. PW-7 is not a stranger to the deceased for her to miss out or fail to take note of the ornaments worn by the deceased on the day of the incident. She is the daughter-in-law of the deceased and they were living together in the same house. PW-1 was the husband of PW-7. Therefore, there is nothing unnatural about PW-7 knowing or noticing the ornaments, which the deceased would have worn on her person everyday. There is also nothing unnatural about women of certain financial status wearing such number of ornaments on their person. Further, MOs 1 to 8 are all ornaments, which are normally worn by women of that age day in and day out. They are not the kind of special or precious ornaments, which are normally worn by women on important or festive occasions. Therefore, we do not find any merit in the criticism with regard to the deceased wearing them on the day when she went missing or their account being rendered by P.W.7.

PW-9, who is a toddy-tapper by profession and who is a resident of the village, has been examined by the prosecution as he has witnessed the recovery of the Material Objects from the houses of the accused. PW-9 deposed of the recovery of the MOs from A-1, A-2 and A-3. It is, no doubt, true that PW-9 is one of those persons, who has signed the extra judicial confessional statement of the accused, but however, we do not need to attach much significance to such statements, in view of the recovery of MOs, particularly, the gold ornaments from the house of A-1, A-2 and A-3. PW-8 is another resident of the village, who has also been examined as he signed the inquest panchanama and also witnessed the recovery of MOs 9 and 10, the gunny bag and the dish antenna wire. Thus, the prosecution

has established by piecing together the circumstances that it is A-1, who has taken on hire the Auto Rickshaw from PW-6 and that P.W.6 was informed that the Auto Rickshaw got stuck in the mud near the village water body and when he was proceeding towards the village water body, he noticed his Auto Rickshaw parked outside the house of A-1 and when he went inside the house of A-1 to question him as to the reasons why he did not return the Auto Rickshaw on the previous evening, as agreed to, he found A-1 and A-2 in an intoxicated condition and they were not in a position to give him proper or effective answers. It is PW-6, who retrieved the Auto Rickshaw from the house of A-1. It is PW-7, who identified the gold ornaments, MOs 1 to 8, worn by the deceased on the day when she went missing. These are the gold ornaments, which have been recovered at the instance of the accused from their residences. Therefore, it is for the accused to explain as to how the gold ornaments of the deceased found a place in their homes. They have failed to discharge this burden that is shifted on to their shoulders. We have no doubt with regard to the recovery of MOs. 1 to 8 from the places of the accused. It is also important to notice that the Aluminium vessel in which the deceased has carried the curd from the house of PW-1 and PW-2 was also recovered. Therefore, these circumstances clearly and unerringly point to the involvement of the accused persons. Since they have failed to explain the reasons for finding the Aluminium vessel in which the deceased carried the curd on the day of the incident and also the gold ornaments belonging to the deceased, which are found in the houses of the accused, the probability of their committing the crime gets probablised. Hence, they are liable to be convicted for the offence alleged against them.

Therefore, we do not find any mitigating circumstance or factor for us to come to a different conclusion. Accordingly, the Criminal Appeal fails and it is accordingly, dismissed.

**NOOTY RAMAMOHANA
RAO, J.**

ANIS, J.

Note:
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