

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

THE HON'BLE MRS. JUSTICE ANIS

CRIMINAL APPEAL No. 673 OF 2010

J U D G M E N T: *(per Hon'ble Sri Justice Nooty Ramamohana Rao)*

Since, in this Appeal, legal aid has been provided to the appellant, we considered that it would be appropriate to adjourn the case, so that the counsel, whose services have been engaged by the State Legal Aid Authority, would get ready with the case and assist the Court. The matter was adjourned, hence, on 02.06.2015, 10.06.2015, 23.06.2015, 06.08.2015 and 19.08.2015.

When we have taken up this Criminal Appeal today, there is no representation made on behalf of the appellant. Hence, we are constrained to go through the paper book and proceed further in the matter, after hearing the learned Public Prosecutor (Telangana).

The appellant is the sole accused, who has been tried for an offence punishable under Section 302 of the Indian Penal Code in S.C.No. 405 of 2009 on the file of the Family Court –cum- Additional District and Sessions Judge, Nalgonda. The learned Sessions Judge convicted the appellant for the said offence and sentenced him to undergo imprisonment for life apart from imposing a fine of Rs.5,000/-, and in default of payment of fine amount, the appellant/accused was directed to undergo simple imprisonment for a further period of six months.

On behalf of the prosecution, P.Ws.1 to 10 were examined and Exs.P1 to P8 were got marked. The 'stick', which was used for commission of the offence, has been recovered and the same was exhibited as M.O.1. No defence witnesses were examined and no documents were also got marked.

The case of the prosecution was that the accused and P.W.1 are brothers. On 07.06.2008, the accused has picked up a quarrel with his wife, P.W.2, at his house. At that time, Sri Bheeshaiah (hereinafter

be referred to as 'the deceased'), who is the father of P.W.1 and the accused, intervened and tried to pacify the situation. The accused got enraged and blamed his father for the troubles faced by him and hence, took a stick and hit his father on his head causing a heavy bleeding injury to which, the old man succumbed almost immediately. The incident had happened around 10.00 in the night. The next day morning, P.W.1 went to the police station, at about 09.00 a.m., and lodged Ex.P1 complaint, which was registered by the police promptly.

P.W.2, the wife of the accused, was an eye witness to the incident and notwithstanding her relationship with the accused, she narrated faithfully the incident that took place. Since the deposition of P.W.2 is most crucial and vital, we have gone through the said deposition, which was placed at page 8 of the paper book, very carefully. After the initial narration of the relationship amongst various parties, P.W.2 has stated that her father-in-law, the deceased Bheeshayya, was at their house along with the accused. On the day of incident, the accused quarrelled with P.W.2 for having not prepared a curry for dinner. At that stage, the deceased Bheeshayya intervened and tried to pacify the accused pointing out that P.W.2 was also working as an agricultural cooli and by the time she came back home, she was tired and hence, she could not cook the curry for the day and hence, the accused should not unnecessarily blame or quarrel with her. The accused got annoyed by the words of the deceased and then, picked up M.O.1 stick and hit his father on his head, holding him completely accountable for the quarrel. At that stage, P.W.2 started crying aloud and rushed out of her house. The son of P.W.1, who has gone out for watching the television, was returning home. He was the first, who attended to the wails of P.W.2 and went inside the house and found the deceased, who is none other than his grand-father, dead by then. Then he went out to inform P.W.1. P.W.1 came to the house of the accused and inquired from P.W.2 as to what really transpired that evening. P.W.2 has also pointed out that the accused was staying at

Nalgonda for the past eight years and has returned home only 20 days prior to the incident. Because the accused has returned home after such a long gap, the deceased father of the accused has also come to the house of P.W.2 ten days prior to the incident. The deceased was living till then with another son of his, by name Sri Parvathalu. P.W.2, in her chief-examination, has made the following statement:

“ The accused is responsible for the death of my father-in-law.....”

During her cross-examination, nothing has been elicited by the defence. On the other hand, P.W.2 has asserted that the accused was staying with some other woman at Nalgonda and for about eight years, he did not come to her. She has also explained as to why she allowed the accused to stay with her, as the accused cut a sorry figure for having deserted her and promised that he would live with her and would not go to Nalgonda again. She also denied the suggestion left with her that the deceased might have died of the injuries sustained by him by falling on the floor because of his advanced age. P.W.2 has flatly denied the suggestion left to her that the accused did not beat the deceased with M.O.1.

In the face of the faithful and truthful testimony of P.W.2, an eye witness to the entire incident, the finding recorded by the Sessions Judge that the accused is the one, who has caused the bleeding injury on the head of his father which resulted in his death, cannot be faulted, all the more so, when the cause of death has been certified by P.W.9 doctor, who has conducted Post-mortem examination on the deceased and issued Ex.P7 P.M. Report, as the ‘head injury’ suffered by him.

The rest of the evidence, even if it is ignored by us, in the face of the eye witness account, narrated by P.W.2 and the opinion tendered by the doctor, certifying the cause of death as the injury sustained by the deceased on his head, which, we are sure, was caused by the accused, there are no mitigating factors for us to take into account or consideration.

Hence, this Appeal stands dismissed, duly confirming the conviction and sentence handed down by the Sessions Court.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

ANIS, J

27th August 2015

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