

**THE HON'BLE SRI JUSTICE K.C.BHANU**

**AND**

**THE HON'BLE MRS JUSTICE ANIS**

**CRIMINAL APPEAL No.602 OF 2010**

**JUDGMENT:-** (per Hon'ble Sri Justice K.C.Bhanu)

This Criminal Appeal, under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is directed against the judgment, dated 21.12.2009, in Sessions Case No.163 of 2007 on the file of the Principal Sessions Judge, Medak at Sangareddy, whereunder and whereby, appellants herein/A-1 and A-2 were found guilty of the offence punishable under Section 302 of the Indian Penal Code, 1860 (for short, "I.P.C.") and accordingly, convicted and sentenced to undergo imprisonment for life and to pay a fine of Rs.1,000/- each and in default of payment of fine amount, to suffer simple imprisonment for a period of three months each.

2. The brief facts that are necessary for disposal of the present appeal may be delineated as follows:

On 12.9.2006, at about 10 a.m., P.Ws.1 and 2 and one Beerla Manaiiah (hereinafter referred to, as "the deceased") went to their wet land near Maisamma Cheruvu. While P.Ws.1 and 2 were attending agricultural work in their cotton field, the deceased was attending work at wet land. At about 12 noon, they heard cries from the side of their wet land and noticed A-1 and A-2 attacking the deceased with an axe and a knife respectively. They immediately rushed to the scene of occurrence and found the dead body of the deceased in a pool of blood. On seeing P.Ws.1 to 4, both the accused ran away from the scene of occurrence. P.W.1 immediately went to the police station and lodged Ex.P-1 report to P.W.13 – Sub

Inspector of Police, Sadasivpet Police Station. P.W.13 registered it as a case in Crime No.330 of 2006 for the offence punishable under Section 302 I.P.C. and sent Ex.P-8 – First Information Report (F.I.R.) to the concerned Court. He informed about the registration of the case to P.W.14 - Circle Inspector of Police, Sadasivpet Police Station. P.W.14 visited the scene of occurrence and conducted scene of offence panchanama in the presence of P.W.6 and another and seized the material objects. He prepared rough sketch of the scene of occurrence and thereafter, conducted inquest over the dead body of the deceased in the presence of mediators. He examined P.Ws.3 to 8 and 11. He arrested the accused on 18.9.2006. A-1 said to have made a confession in the presence of P.Ws.9 and 10 and in pursuance of his confession, M.Os.10 and 11 were seized on 18.9.2006. On 19.9.2006, he sent the accused to remand. After completion of the investigation, he filed the charge sheet.

3. When a charge under Section 302 I.P.C. was framed, read over and explained to the accused in Telugu, they pleaded not guilty and claimed to be tried.

4. To substantiate the charges, the prosecution examined P.Ws.1 to 14 and got marked Exs.P-1 to P-9 besides case properties – M.Os.1 to 11.

5. After closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. with reference to the incriminating circumstances appearing against them in the evidence of prosecution witnesses. They denied the same. On behalf of the accused, none was examined and no documents were got marked.

6. The trial Court, placing reliance on the opinion of P.W.12 - Doctor as to the cause of the death of the deceased and the evidence of P.Ws.1 to 4, who are the eye witnesses to the occurrence, found the accused guilty of the charge under Section 302 I.P.C. and accordingly, convicted and sentenced them, as stated supra. Challenging the conviction and sentence, the present appeal is filed by the accused.

7. The points for determination are:

“Whether the prosecution proved its case beyond all reasonable doubt against the appellants/A-1 and A-2 of the offence punishable under Section 302 I.P.C. and whether the judgment of the trial Court is correct, legal and proper or not?”

8. **POINTS:-** Learned counsel for the appellants/A-1 and A-2 contended that there were land disputes between the accused and the deceased and because of those disputes, the accused were falsely implicated in this case; that the F.I.R. shows that P.W.1 and his father went to the cotton field, but in the mediators' report, there is no such cotton field; that there was no mention in the F.I.R. about P.W.2, who is said to have been accompanied the deceased to the scene of occurrence; that P.Ws.1 and 2 are highly interested witnesses; that from the evidence of P.Ws.3 and 4, it is clear that they have come to the scene of occurrence half an hour after the incident and in such a case, there is no scope or possibility for P.Ws.1 and 2 to witness the incident; that even according to P.Ws.3 and 4, they were doing coolie work at a distance of 1 km. from the place of occurrence and therefore, from that place, the scene of occurrence may not be visible and hence, witnessing the incident is also doubtful; that the ocular testimony is not corroborating with the medical evidence as the doctor opined that the injuries found on the dead body of the deceased might have been caused by sharp and blunt objects and it is not the case of the prosecution that any blunt object was used in the commission of the offence; that the axe and knife were seized at the instance of A-1; that the axe has not been sent to the Forensic Science Laboratory (F.S.L.); that the name of P.W.4 was not mentioned in the F.I.R.; that P.Ws.3 and 4 have categorically stated that they have not been examined by the police and their statements have not been recorded and these circumstances indicate as to whether really the accused caused injuries to the deceased or not; that the prosecution failed to establish the case beyond all reasonable doubt and hence, he prays to set aside the conviction and sentence recorded against the accused by the trial Court and acquit the accused.

9. On the other hand, learned Public Prosecutor (Telangana State) appearing for the respondent contended that there is no other reason for P.Ws.1 and 2 to foist a false case against the accused; that P.Ws.3 and 4 are the independent witnesses and their evidence would clearly go to show that it is the accused, who caused injuries to the deceased; that the opinion of the doctor would clearly go to show that the

deceased died due to multiple injuries; that minor discrepancies in the evidence of prosecution witnesses cannot be a sole ground to acquit the accused; that immediately within half an hour after the incident, P.W.1 lodged Ex.P-1 – complaint with P.W.13 and in the short span of half an hour, a person like P.W.1 would not have implicated the accused falsely leaving the real assailants; that P.Ws.1 to 4 were examined during inquest nearly three hours after the incident and therefore, the presence of P.Ws.1 to 4 at the time of incident is established; that considering all these aspects, the trial Court rightly found the accused guilty of the offence punishable under Section 302 I.P.C. and that order needs no interference by this Court and hence, he prays to dismiss the appeal.

10. P.W.12 is the Doctor, who conducted autopsy over the dead body of the deceased on 12.9.2006 from 4.30 p.m. to 6.30 p.m. He found the following ante mortem injuries:

*“1. An incised injury on occipital region of the head about*

*3” x 1” x 1”, 2” x ½” with the fracture of occipital bone,*

*2. An incised injury on the left side of parietal region of the head*

*about 4” x 2” x 1”.*

*3. An incised injury over the left side of the neck to the ear about*

*6” x 2” x 4” with the cutting of the local vessels and muscles.*

*4. An incised injury on the occipital region about 4” x 1” x 1” with*

*fracture of occipital bone,*

*5. An abrasion on the right scapula region about 4” x ½” x skin*

*deep,*

*6. An incised injury on the left hand little finger about 1” x 1”*

*x ½”.*

*7. An incised injury on the left hand ring finger about*

*1 ½” x ½” x ¼”,*

*8. An incised injury on the left hand middle finger about*

*½" x ½" x ¼",*

*9. An abrasion in the left hand indexed finger about ½" x ½" x skin*

*deep.*

*10. An incised injury on the right hand little finger with cutting*

*phalanges,*

*11. An incised injury on the left side thumb 1" x ¼" x ¼",*

*12. An incised injury on the right hand index finger about*

*1" x ¼" x ¼" with fracture of distal Phalanges.*

*13. An incised injury on the right occipital region 3" x 1" x 1" with*

*the fracture of occipital bone."*

According to him, the approximate time of death of the deceased is about 4 to 5 hours prior to his examination. He opined that the cause of death of the deceased was due to shock, hemorrhage and multiple injuries over the head and neck and that the injuries found on the dead body of the deceased might have been caused with weapons like M.Os.10 and 11. He issued Ex.P-7 – Post Mortem report. Practically, the evidence of P.W.12 and the recitals in Ex.P-7 remained unchallenged. No suggestion was given that the injuries found on the dead body of the deceased would not have been caused with weapons like axe and sickle. So, from the medical evidence, it is clear that the death of the deceased is homicidal.

11. Now, it has to be seen as to whether the accused are the assailants of the deceased or not?

12. P.Ws.1 to 4 are the eye witnesses present at the time of incident. P.W.1 is the

son and P.W.2 is the wife of the deceased. Simply because they are closely related to the deceased, that does not mean their evidence has to be rejected on the ground of relationship. Law is well settled that relationship, by itself, is not a ground to reject the evidence, but their evidence has to be carefully and cautiously appreciated/evaluated taking into consideration the probability factor. If the presence of P.Ws.1 and 2 at the scene of occurrence is established or proved, then, there is no difficulty in accepting their evidence.

13. P.Ws.3 and 4 are the independent witnesses. If they have no grouse, serious enmity or rancor with the accused, then, their evidence can be accepted provided their presence at the scene of occurrence and witnessing the incident is not shown to be false. Though it is vehemently contended by the learned counsel for the appellants that there are discrepancies in the evidence of eye witnesses with regard to their arrival to the scene of occurrence from the place where P.Ws.1 to 4 were working, those discrepancies cannot be said to be vital. If those discrepancies are not shown to be vital, then, undue importance cannot be given to those discrepancies. The incident is alleged to have taken place on 12.9.2006 broad day light i.e., at about 12 noon near the Maisamma Cheruvu of Manchireddipally Village. The deceased is none other than the brother of A-1 whereas A-2 is the son of A-1. From the evidence, it is clear that there were land disputes between the accused and the deceased. According to the case of the prosecution, those disputes were settled about one year prior to the incident. P.W.5 has stated about this fact. Because of the disputes, they were not on talking terms. A bad blood was running between them. Therefore, the evidence of P.Ws.1 to 4 and their presence has to be carefully and cautiously evaluated duly taking note of the fact as to whether their presence at the time of incident is believable or not.

14. In view of the fact that the incident had taken place during broad day light i.e., afternoon, there is no difficulty for the witnesses to identify the known assailants provided the presence of those witnesses is proved. P.W.1 has stated that on the date of the incident, himself, his father (deceased) and his mother (P.W.2) went to their land near Maisamma Cheruvu near his village. While P.Ws.1 and 2 were

attending the agricultural work in their cotton field, his father was attending the work at the wet land. At about 12 noon, he heard cries from the side of their wet land and at that time, he noticed A-1 and A-2 attacking the deceased with axe and knife. Then, they rushed to the scene of occurrence and found the body of his father in a pool of blood. He also stated that Kistamma, Manemma and Padma (P.W.4) were also present at the time of the incident. On seeing them, the accused ran away. According to him, A-1 beat the deceased with an axe on the head whereas A-2 caused injuries to the fingers of the deceased with a knife.

15. As seen from the evidence of doctor, the deceased sustained as many as 13 injuries. P.W.1 might have noticed A-1 and A-2 causing only some injuries on the head and fingers of the deceased. He was studying 10<sup>th</sup> class at the time of the incident and he was not on talking terms with the accused. He set the criminal law into motion by giving Ex.P-1 report wherein it is stated that he and his father – Manaiah went to their agricultural field and he was attending to the agricultural work in cotton field and his father stood little far away from him; that about 12.30 noon, his paternal uncle – A-1 and his son – A-2 came suddenly and attacked his father with axes and knives and stabbed indiscriminately; that P.Ws.2, 4 and some others came to the scene of occurrence by shouting and on seeing them, the accused ran away.

16. The complaint was given to P.W.13 at about 1 p.m. Ex.P-8 – original F.I.R. was registered at 1.00 p.m. and he along with P.W.14, visited the scene of occurrence. The fact that P.W.1 lodged a complaint at 1 p.m. on 12.9.2006 remained unchallenged. Further, there was no delay in sending the F.I.R. to the jurisdictional Court located at Sangareddy, which is at a distance of 17 kms. from police station. When the investigation started within half an hour after the incident and there is no delay and the factum of giving Ex.P-1 – complaint by P.W.1 is not denied or disputed, the recitals in Ex.P-1 can be used to support the evidence of P.W.1. The recitals in Ex.P-1 are also in consonance with the evidence given by him when he was in the witness box, P.W.1 did not state in Ex.P-1 about his mother accompanying the deceased to Maisamma Cheruvu, but the fact remains P.W.2 was also present at the time of incident, as seen from the recitals in Ex.P-1. Except giving suggestion that he did not witness the incident and there are no eye witnesses and that the accused were falsely implicated due to previous disputes, nothing has been

elicited to doubt the testimony of P.W.1 because he set the criminal law into motion within half an hour of the incident and there is no other compelling motive for P.W.1 to implicate the accused, who are his junior paternal uncle and his son, falsely leaving the real assailants. It may be a fact that there were civil disputes between the accused and the deceased. For that reason, P.W.1 would not have implicated the accused falsely in a case of this nature. He withstood the test of cross examination. In his entire cross examination, there are no circumstances to indicate that his presence is doubtful. Unless he was present at the time of occurrence, he would not have given all the details, the sequence of events, the manner of attack, the weapons used in the commission of offence in the F.I.R. That is the reason why the trial Court also placed implicit reliance on the evidence of P.W.1.

17. Coming to the evidence of P.W.2, who is no other than the wife of the deceased, she also stated as to how the incident had taken place. According to her, at 12.30 noon, P.Kistamma, P.W.4 and one P.Manemma were attending to the plantation works in the field of K.Satyanarayana; that on hearing their cries, she rushed and noticed both the accused running from the scene of occurrence after committing the offence. She stated that the accused inflicted injuries with knife. She has not stated about the specific overt acts against each of the accused in causing the injuries to the deceased. Though she was projected as a witness, she stated that after hearing the cries of P.W.4 and others, she rushed to the scene of occurrence and at that time, the accused were running away from the scene of occurrence. If really P.W.2 wanted to perjure herself, she would have stated that A-1 and A-2 caused injuries to the deceased with axe and knife. She has not specifically stated about the specific overt acts. So, in our opinion, P.W.2 is a witness of truth and she has testified what had transpired in her presence. The learned defence counsel wants to take advantage of the admission made by P.W.2 that she was not examined by the police and the police did not record her statement. An inadvertent admission made by P.W.2 cannot be taken as a sole ground to doubt her testimony. Ex.P-3 is the inquest report drafted by the mediators in the presence of P.W.14. The fact that the police conducted inquest on 12.9.2006 from 1.45 p.m. to 3.45 p.m. remained unchallenged. Her name was specifically mentioned in the inquest report as an eye witness.

18. P.W.6 is one of the inquest mediators, who has categorically stated about the drafting of Ex.P-3 – inquest panchanama. The evidence of P.W.6 and the recitals in Ex.P-3 remained unchallenged. As seen from Ex.P-3, the inquest was conducted within two hours after the incident and P.Ws.1, 2 and 4 were examined during the course of inquest. The inquest mediators also opined that the deceased died as a result of injuries on his body. To that extent only, the inquest report can be taken note of because the opinion of the inquest mediator is only relevant with regard to the apparent cause of death of the deceased.

19. P.Ws.3 and 4 are the independent eye witnesses to the incident. They also went to the scene of occurrence to work in the agricultural land of one K.Satyanarayana for transplantation of paddy. Their evidence is clear that at about 12.30 noon, they heard some galata from a distance of 5 to 6 yards. At that time, they saw A-1 hacking the deceased with an axe and A-2 also hacking the deceased with a knife on the head of the deceased. Then, they rushed to the scene of occurrence and found the deceased dead. P.Ws.1 and 2, who were present at their lands abutting to the scene of occurrence, came after the incident. P.W.3 has stated that the scene of occurrence is at a distance of ½ km. from the fields whereas P.W.4 stated that it is about 1 km. from the scene of occurrence. According to P.W.4, she was examined by the police one week after the incident and the police recorded her statement accordingly. Admittedly, P.W.4 was having talking terms with the accused and she never had any dispute with the accused. From the evidence, it is clear that there were no disputes between accused and P.W.4.

20. One of the contentions of the learned counsel for the appellants is that K.Satyanarayana is a material witness to speak about his engaging P.Ws.3 and 4 to work in his field and therefore, non-examination of K.Satyanarayana is fatal to the case of the prosecution. Though he may be a material witness to speak about his engaging P.Ws.3 and 4 to work in his paddy field, at the same time, the police must have committed irregularities in not citing him as a witness. Simply because K.Satyanarayana was not examined, on that ground, it cannot be said that P.Ws.3 and 4 are untruthful witnesses. Admittedly, they are independent witnesses. They have no grouse or enmity against the accused so as to implicate them in a false case of murder. Ex.P-3 would clearly go to show that P.W.4 was examined during

the course of inquest. That means within 1½ hour after the incident, inquest was conducted and her statement was recorded. The admission made by P.W.4 that she was examined by the police one week after cannot be said to be vital discrepancy because the incident had taken place in the month of September, 2006 whereas after lapse of three years, she had testified about the incident. Therefore, she might not have remembered as to whether she was examined by the police on the date of the incident or one week thereafter. There is no other reason to doubt the evidence of P.W.4. After hearing the voice of the deceased saying “Ammaya Chastira”, she stood up and saw A-1 and A-2 causing injuries to the deceased with their respective weapons. Yet another important circumstance to establish her presence is seizure of M.Os.1 and 2 by police. It is the specific evidence of P.W.4 that she dried her sarees at the scene of occurrence and went to work in the agricultural field. After hacking the deceased by the accused, the deceased fell down on those sarees. M.Os.1 and 2 are the sarees belonging to P.W.4. This aspect of the case has not been denied or disputed. M.O.2 was sent to F.S.L. It contained ‘A’ blood group. The shirt of the deceased was also sent to F.S.L., which also contained “A” blood group. Therefore, the presence of P.W.4 is established beyond all reasonable doubt and when she has no enmity or grouse against the accused, her evidence can be put in the category of wholly reliable.

21. Learned counsel for the appellants vehemently contended that both P.Ws.1 and 2 admitted that they came to the scene of occurrence after the occurrence and therefore, there is no possibility for them to identify the assailants of the deceased since P.Ws.1 and 2 were working at a far off place from the scene of occurrence. A stray admission in the cross examination cannot be taken as a sole basis to discredit the testimony of the witnesses. The entire evidence has to be taken into consideration for the purpose of evaluation or appreciation of the evidence to arrive at a decision as to whether they are truthful witnesses or untruthful witnesses or not. If the entire evidence is taken into consideration, it is clear that it is A-1 and A-2, who caused injuries to the deceased with an axe and a knife. If really P.W.1 had not witnessed the incident, he would not have stated about A-1 and A-2 causing injuries with axe and knife respectively on the body of the deceased within half an hour after the incident. Therefore, the cumulative effect of P.Ws.1 to 4 coupled with the recitals

in Ex.P-1 leaves no room to doubt that it is the accused, who caused injuries to the deceased on the vital organs like head, neck etc. The incident had taken place in a broad day light and the witnesses knew the accused prior to the incident. Therefore, there is no difficulty in identifying the assailants of the deceased by the witnesses. Though the prosecution is also relying upon the arrest of the accused and seizure of M.Os.10 and 11, the axe, which was seized at the instance of A-1, has not been sent to F.S.L. to know the group of the blood. One of the mediators did not support the case of the prosecution with regard to the arrest of the accused. Though P.W.9 stated that he did not find any blood stains on the material objects, P.W.10 stated about containing the blood stains. After lapse of time, P.W.9 might have forgotten the existence of blood stains on the material objects seized. As seen from Ex.P-5, which is the seizure report, it is clear that there were blood stains on the weapons seized. No explanation was given by P.W.14 as to why he did not send an important material object, which is alleged to have been used in the commission of offence, to the F.S.L. It may be an illegality on the part of the Investigating Officer, but the illegality or irregularity cannot be taken as an advantage by the accused. Therefore, in view of the evidence of the two witnesses, who are closely related, and their evidence being corroborated with the independent witnesses, the non-sending of the axe cannot be said to be fatal to the case of the prosecution. But the fact remains there is no evidence to show that M.O.11 – sickle was used in the commission of offence. The sickle must have been used in the commission of offence, but nobody has stated about using of a sickle.

22. Learned counsel for the appellants placed reliance on a decision reported in **Bhola Singh v. State of Punjab** wherein it is held at para No.5 as under:

*"As was done before the courts below, it was contended before us that injuries suffered by the deceased Saun Singh were from blunt weapon as indicated by the post mortem report and the same could not have been inflicted with Gandasa and, as such there is no good reason to hold that Didar Singh and Kartar Singh witnessed the occurrence. We have carefully gone through the evidence of Kartar Singh (PW-1) and Didar Singh (PW-2), the two eye witnesses. If they had really witnessed the occurrence as had taken place, they would have certainly described the weapons used in causing injuries to the deceased - Saun Singh, leading to his death. It is highly improbable and unlikely that when the accused armed with sharp weapons like Gandasa and Ghop had used only the blunt edged side and not the sharp edged side of the said weapons. We are convinced that these two eye witnesses had set out this version only to fit in what had been found in the post mortem report. The normal way in which a Gandasa and Ghop could be used was only from the sharp edged side and not from the blunt edged side. Therefore, it is highly unlikely that the two eye witnesses PW-1 and PW-2 could have seen the incident as had taken place. It gives rise to serious doubt as to their presence at the time of incident. The trial court and the High Court did not duly appreciate this aspect of the matter and, therefore, we are of the view that there is an error in this regard. Hence, we accept the case as set forth on behalf of the appellant. We allow this appeal, set aside the conviction passed by*

*the trial court as confirmed by the High Court and set him at liberty.”*

Basing on the above judgment, it is contended by the learned counsel for the appellants that it is not the case of the prosecution that a blunt object has been used for causing injuries to the deceased.

23. Similarly, learned counsel for the appellants placed reliance on a decision reported in **Salveraj v. The State of T.N.** wherein it is held at para No.7 as under:

*“The prosecution relied strongly on the evidence of recovery of the knife from the appellant. But this evidence is also far from satisfactory. The recovery of the knife was made under Mazahar Ex. P-10 which was attested by A. Saleem and Rajarathnam. Now, out of these two witnesses only one came to give evidence, namely, A. Saleem. He stated that at the time of the incident he was in his shed carrying out repairs to the lorry of Rajarathnam and when they heard about the incident, they proceeded towards the hospital, but on the way they learnt that Natesan had gone to the police station and so they also went to the police station. Whilst they were at the police station, the appellant came running to the police station with the knife in his hand and gave a statement and then the Head Constable seized the knife under Mazahar Ex. P 10 which was signed by both of them. Now it is difficult to accept this evidence at its face value. In the first place, it is difficult to see why A. Saleem and Rajarathnam should have gone to the police station on their own, merely on learning about the incident. It is not stated by A. Saleem that he was in any way friendly with Natesan so that on hearing about the occurrence, he would be induced to go to the police station in order to help Natesan. It is a well known fact that ordinarily people do not willingly go to the police station unless there is some compelling reason to do so. And even if A. Saleem had some reason to go the police station, why should Rajarathnam also have accompanied him? It is also rather significant that the Head Constable, who prepared the Mazahar Ex. P-10, did not even bother to take down father's name and address of Saleem and Rajarathnam. He did not know these two witnesses before and if he did not take down their addresses, it is difficult to understand how he would hope to be able to secure their presence at the time of the trial. Then again, if we look at the Mazahar Ex P-10, it appears to be a suspicious document. The words "blood stained" seem to have been added subsequently on the back side of the Mazahar Ex. P-10 and it does appear from the way in which the last paragraph has been compressed in order to accommodate it within the space above the signature of Saleem that the signature of Saleem and Rajarathnam were first taken on a blank sheet of paper and then the contents of the Mazahar Ex. P-10 were written out. The learned Additional Sessions Judge also doubted the genuineness of the Mazahar Ex. P-10 and declined to place any reliance on the recovery of the knife. The High Court unfortunately did not refer to this infirmity in the prosecution evidence. We are afraid it is not possible to place any reliance on the recovery of the knife from the appellant and if the evidence in regard to the recovery of the knife is suspect, it would equally be unsafe to place reliance on the evidence in regard to the recovery of the shirt and the pant.”*

The above decision was rendered basing on the appreciation of the evidence, which is a question of fact. It is not a ratio laid down. Therefore, the above decision has no application to the facts of the present case. Insofar as **Bhola Singh's** case (1 supra) is concerned, it was also decided on the evidence let in by the prosecution. Therefore, the above decisions do not lay down any ratio so as to bind this Court. From the evidence of P.Ws.1 to 4, it is established beyond reasonable doubt that A-

1 and A-2 were the assailants of the deceased and caused multiple injuries over the head, neck and various other parts of the body of the deceased. From the medical evidence, it is also established about the homicidal nature of the death of the deceased. The presence of P.Ws.1 to 4 at the scene of occurrence is probable and believable. Once their presence is established, they had an opportunity to witness the incident after hearing the cries of the deceased. Since the incident had taken place in a broad day light, mistaken identity can be ruled out. Considering all these aspects, the trial Court rightly found the accused guilty of the offence punishable under Section 302 I.P.C. and accordingly, convicted them and that well reasoned judgment needs no interference by this Court. Hence, the appeal is devoid of merit and is liable to be dismissed.

24. In the result, the Criminal Appeal is dismissed confirming the judgment, dated 21.12.2009, in Sessions Case No.163 of 2007 on the file of the Principal Sessions Judge, Medak at Sangareddy. Miscellaneous Petitions pending, if any, in this Criminal Appeal shall stand closed.

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**JUSTICE K.C.BHANU**

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**JUSTICE ANIS**

Date : 03.06.2015

AMD

**218**

**THE HON'BLE SRI JUSTICE K.C.BHANU**

**AND**

**THE HON'BLE MRS JUSTICE ANIS**

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**Dated: 03.06.2015**

**AMD**