

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.557 OF 2007

JUDGMENT:

This Criminal Appeal, under Sections 378 (2) of the Code of Criminal Procedure, 1973, is filed by the appellant/accused challenging the judgment, dated 28.04.2007, in Sessions Case No.138 of 2004 on the file of II Additional Sessions Judge, Kadapa at Proddatur, whereunder and whereby, the learned Sessions Judge found the appellant/accused guilty of the offence punishable under Section 369 IPC and accordingly, convicted and sentenced him to undergo rigorous imprisonment for a period of seven years. The appellant/accused was acquitted for the offence punishable under Section 302 IPC.

2. The brief facts of the case are as follows:

P.W.1 is father of the deceased Yogesh Guptha. The deceased used to go to school in the auto of the accused. The accused hatched a plan to kidnap the deceased in order to extract money. On 10.11.2002 at about 11:30 AM while the deceased was in the old market, the accused took away him to a distant place, apprehended him and thereafter, stabbed him with a dagger and abandoned the dead body in the bushes near Veerabrahmam temple at Kalamalla Road. Subsequently, the accused telephoned to the parents of the deceased and demanded an amount of Rs.2,00,000/-. The accused visited the house of P.W.1 and enquired about the deceased. On 13.11.2002 and 14.11.2002 the accused telephoned to the parents of the deceased. On information, the police reached S.C.N.R. College and arrested the accused, who was in the telephone booth. The accused led the police to the place where he killed the deceased. P.W.1 and his

wife identified the dead body of the deceased with the help of clothes and waist thread of the deceased. Police conducted inquest over the dead body and thereafter, the dead body was subjected to post-mortem examination. During the course of investigation, police recovered the knife, which was used in the commission of offence, from the house of the accused under the cover of panchanama in the presence of mediators. Hence, the charge sheet.

3. The learned Magistrate had taken cognizance for the offences under Sections 302 and 369 IPC. On appearance of the accused, charges were framed for the offences under Sections 302 and 369 IPC read over and explained to him, for which he pleaded not guilty and claimed to be tried.

4. To prove the said charges, prosecution examined P.Ws.1 to 9 and got marked Exs.P.1 to P.9 besides case property M.Os.1 to 4. On behalf of defence, no oral or documentary evidence was adduced.

5. After considering both oral and documentary evidence, the trial Court found the petitioner/Accused guilty of the offence punishable under Section 369 IPC and accordingly, convicted and sentenced as stated supra. Challenging the said judgment, the appellant/accused preferred the present appeal.

6. Considering all the facts and circumstances of the case and from the material available on record, the learned Sessions Judge has rightly come to the conclusion that the appellant/accused committed an offence punishable under Section 369 I.P.C. and accordingly, convicted him as stated supra. Hence, this Court is

not inclined to interfere with the conviction imposed by the Court below.

7. After arguing some time, learned counsel for the appellant/accused confined his argument only in connection with question of sentence and informed that the appellant has suffered considerable time in prison and hence, prays to reduce the sentence of imprisonment imposed against the appellant.

8. Considering the facts and circumstances of the case and the submission of learned counsel for the appellant, this Court is inclined to reduce the sentence of imprisonment.

9. In the result, the conviction imposed against the appellant/accused in the judgment, dated 28.04.2007, in Sessions Case No.138 of 2004 on the file of II Additional Sessions Judge, Kadapa at Proddatur, for the offence punishable under Section 369 IPC is confirmed. However, the sentence of imprisonment imposed by the appellate Court for the said offence is reduced to the period which the appellant/accused has already undergone.

10. Accordingly, this Criminal Appeal is partly allowed. Miscellaneous petitions, if any, pending in this Criminal Appeal shall stand closed.

JUSTICE RAJA ELANGO

26.09.2016
YVL

THE HONOURABLE SRI JUSTICE RAJA ELANGO



CRIMINAL APPEAL No.557 OF 2007

Date: 26.09.2016

YVL