

**The Hon'ble Sri Justice C.V.Nagarjuna Reddy**  
**and**

**The Hon'ble Sri Justice M.S.K.Jaiswal**

**Criminal Appeal No.1486 of 2010**

**Date: 24.10.2016**

**Between:**

The State of Andhra Pradesh  
rep. by the Public Prosecutor  
High Court of Judicature at Hyderabad

**.. Appellant**

**and**

Irigineni Venkata Subaiah, S/o. Peda Nagaiah,

**.. Respondent**

**Counsel for the Appellant : Public Prosecutor**

**Counsel for the respondent: Mr.Pavuluri Sreenivasulu**

**The Court made the following:**



**Judgment : (Per Hon'ble Sri Justice C.V.Nagarjuna Reddy)**

This Criminal Appeal is filed by the State against Judgment, dated 31-12-2008, in SC.No.65 of 2007 on the file of the II Additional Sessions Judge, Nellore, FAC III Additional Sessions Judge, Nellore.

The case of the prosecution in brief is as follows:

One Gunnapunni Guravaiah (hereinafter referred as 'the deceased') is the husband of PW.1 and they are residents of Ponguru Kandriga Village in Marripadu Mandal. They got three daughters and one son. The marriage of their second daughter- Narayanamma, who is dumb, was performed with the respondent/accused about 10 years back. Since then, the respondent and his wife were residing in the same village by doing cooly work. The respondent was addicted to alcohol and became a spendthrift. Hence, Narayanamma gave an amount of Rs.10,000/- to her parents for safe custody. This amount was lent by them for interest. The respondent also lent a sum of Rs.25,000/- for interest. The pronotes for those amounts were kept with the deceased. There were ill feelings between the accused and the deceased for not returning those promissory notes by the latter to the former.

On 21-08-2006 at about 7.30 p.m., when the deceased and PW.1 were coming from bus stand towards their village and reached a culvert, the respondent quarreled with the deceased, during the course of which, the latter fell into the culvert. Then the accused sat on the deceased, cut his throat with a knife and fled away. PW.1 ran to PW.2- her son and intimated the same. Immediately, other villagers also rushed to the spot. Meanwhile, the respondent fled away from the scene of offence. On telephonic information, PW.3- elder daughter of the deceased rushed to the spot. PW.1 and PW.2 lodged a report with PW.11- Sub-Inspector of Police, Marripadu Police Station, who registered the same as Crime No.56 of 2006 for the offence under Section 302 IPC against the respondent.

PW.12- Circle Inspector of Police took up the investigation, prepared Ex.P.5- observation report, Ex.P.6- Inquest report and sent the dead body for Post Mortem. PW.14- Medical Officer conducted Post Mortem and gave Ex.P.21- Post Mortem Certificate.

During the course of investigation, the respondent was arrested on 13-10-2006. His confessional statement was recorded and crime weapon was recovered in the presence of PW.9- Village

Administrative Officer. Thereafter, PW.12- Circle Inspector of Police filed charge sheet, which was taken on file and the case was committed to Sessions and numbered as S.C.No.65 of 2007 on the file of the II Additional Sessions Judge, Nellore.

In support of its case, the Prosecution examined PWs.1 to 15, got Exs.P.1 to P.21 marked and produced MOs.1 to 6. No evidence was adduced on behalf of the respondent. On appreciation of both oral and documentary evidence, the trial Court has acquitted the respondent.

Heard the learned Public Prosecutor for the State of Andhra Pradesh appearing for the appellant and Mr.Pavuluri Sreenivasulu, learned Counsel for the respondent.

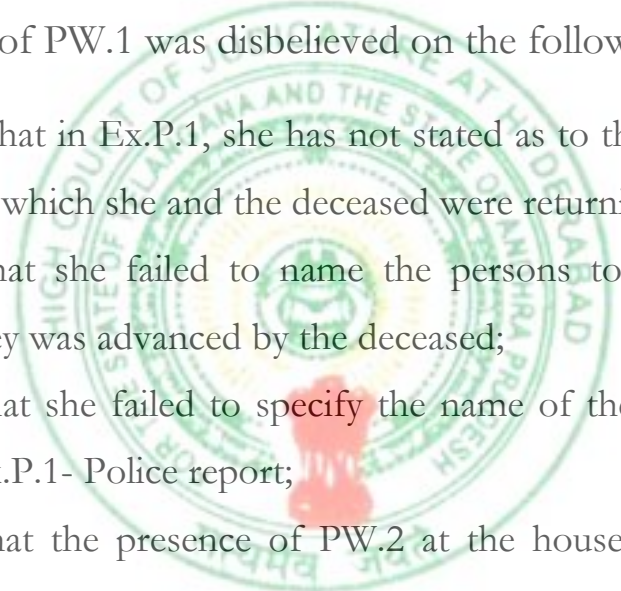
The learned Public Prosecutor submitted that though PW.1 was the only eye witness, as her evidence is cogent and reliable, the lower Court ought not to have disbelieved the same.

The learned Counsel for the respondent, while opposing the above submission, submitted that the lower Court has assigned sound reasons for disbelieving the evidence of PW.1. He has further submitted that PWs.4, 5, 6 and 9 became hostile and that except the sole testimony of PW.1, no independent witness, other

than PWs.7 and 8- panch witnesses to the inquest report and PWs.11 and 12- Investigating Officers, has supported the case of the prosecution.

We have carefully considered the respective submissions of the learned Counsel for the parties with reference to the material on record.

A perusal of the judgment of the lower Court shows that the evidence of PW.1 was disbelieved on the following grounds:

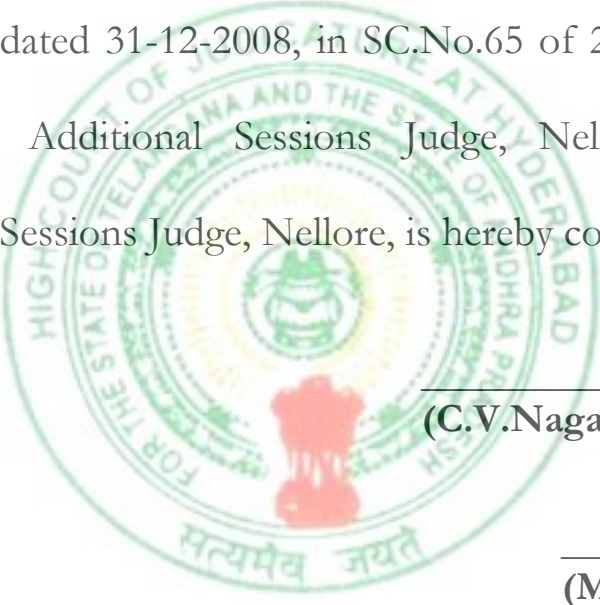
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- “(1) that in Ex.P.1, she has not stated as to the place from which she and the deceased were returning;
  - (2) that she failed to name the persons to whom money was advanced by the deceased;
  - (3) that she failed to specify the name of the scribe of Ex.P.1- Police report;
  - (4) that the presence of PW.2 at the house of the deceased at the time of occurrence was doubtful; and
  - (5) that while the medical evidence has disclosed two injuries on the body of the deceased, PW.1 spoke about only one injury *i.e.*, injury No.2, which is a cut on the throat.”

While PWs.4, 5 and 6, who were material witnesses, turned hostile, PW.9- Village Administrative Officer, in whose presence, the respondent has allegedly confessed and the confessional statement was recorded and MO.1- weapon was

allegedly seized, also turned hostile. In the face of these serious lacunae in the case of the prosecution, the lower Court has rightly disbelieved the evidence of PW.1.

On a careful consideration of the entire evidence on record, we do not find any reason to interfere with the judgment of the lower Court.

The Criminal Appeal is, accordingly, dismissed. The Judgment, dated 31-12-2008, in SC.No.65 of 2007 on the file of the II Additional Sessions Judge, Nellore, FAC III Additional Sessions Judge, Nellore, is hereby confirmed.



(C.V.Nagarjuna Reddy, J)

(M.S.K.Jaiswal, J)

Dt: 24<sup>th</sup> October, 2016  
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