

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.619 of 2008

JUDGMENT:

Petitioner-*de facto* complainant filed this criminal revision case by invoking the provisions under Sections 397 & 401 of the Criminal Procedure Code, being aggrieved by the judgment, dated 17.01.2008, rendered in S.C.No.198 of 2006, by the I Additional District & Sessions Judge, Kurnool, whereby and whereunder Respondents 2 to 5/A-1 to A-4 were not found guilty of the offence punishable under Section 302 IPC and they were accordingly acquitted under Section 235(1) Cr.P.C.

2. The brief facts, that are necessary for the disposal of the present Criminal Revision Case, may be stated as follows:

There is a dispute between the family members of the deceased K. Parvathamma and the family members of A-1 with regard to the right of passage at their field. The said dispute has been existing for the last 40 years. So, the accused have been waiting for an opportunity to do away with the family members of the deceased. While so, on 23.08.2005 in the morning, the family members of the deceased received information that one of their close relative at Bellary was expired. So, the husband of the deceased and his brothers except P.W.1 went to Bellary in Train. On the same day at about 8.00 a.m., the deceased went to her field for removing the weeds and grass in the field. At about 4.00 p.m., while she was at her work, P.W.4 along with his younger brother, who were attending the grazing of their sheep went to the deceased and talked with her and thereafter while they were going away, the accused came to the field where the deceased was working and

stabbed her to death taking advantage of her loneliness. As the deceased did not turn up till 5.00 p.m., on the request of woman folk in the house, P.W.1 went to their field for the deceased. At about 5.30 p.m., he reached the field of the deceased and he found A-1 to A-4. P.W.1 grew suspicious and raised cries at the accused. On that A-1 to A-4 ran away towards hillock called as Nallayana. P.W.1 also noticed daggers in the hands of A-2 and A-4. Thereafter, P.W.1 went near the deceased and found her dead body with stab injuries on her back. While the accused were running from the scene of offence, one K.Venkanna, who was working in his field, also witnessed them and he also noticed daggers in the hands of A-2 and A-4. P.W.1 returned back to the house and informed the incident to his family members and others. At about 6.30 p.m., P.W.1 along with other relatives went to the field in double bullock cart and shifted the dead body to their house. The husband of the deceased – P.W.2 and his elder brother – P.W.3 reached the house at 8.00 p.m. and learnt about the incident. As there was no transport facility from their village on the next day i.e., on 24.08.2005, P.W.1 along with P.W.3 went to the Dhone Police Station and submitted a written report – Ex.P-1, upon which the Sub-Inspector of Police, Dhone, registered the case in Crime No.175 of 2005 under Section 302 read with 34 IPC and issued FIR to all the concerned. So, the Inspector of Police – P.W.10, on receipt of information about the occurrence, took up investigation and reached the house of the deceased in the presence of mediators P.W.7 and Shaik Hunnuru Vali. Thereafter the dead body was sent to the postmortem examination. P.W.8 – Medical Officer of Government Hospital, Dhone, conducted autopsy over

the dead body of the deceased and he is of the opinion that the death was occurred due to shock and hemorrhage due to injuries to internal vital organs as result of stab injuries. The Inspector of Police – P.W.10 visited the scene of offence and prepared an observation report and a rough sketch and seized blood stained earth and control earth and other material from the scene of offence. On 21.01.2006 at 6.30 a.m., the Inspector of Police arrested A-1 to A-4 and produced them for judicial custody. After completion of investigation, the Inspector of Police filed charge sheet against the accused under Section 302 read with 34 IPC.

3. After filing of the charge sheet before the Judicial Magistrate of First Class, Dhone, committed the case to the Court of Sessions, Kurnool Division. The learned Sessions Judge, Kurnool, made over the same to the I Additional District & Sessions Judge, Kurnool, for trial in accordance with law.

4. On appearance of the accused before the trial Court, the charge under Section 302 IPC against A-1 to A-4 were framed, read over and explained to them in Telugu, for which, they pleaded not guilty and claimed for trial.

5. To substantiate its case, the prosecution got examined PWs.1 to 10 and marked Exs.P-1 to P-9 and material objects M.Os.1 to 8. On behalf of defence, no oral evidence was adduced, but Exs.D-1 to D-4 were marked.

6. After appreciating the oral and documentary evidence available on record, the trial Court found A-1 to A-4 not guilty of the offence punishable under Section 302 IPC and accordingly acquitted them. Challenging the same, the present revision case is filed by the petitioner - P.W.1.

7. Heard and perused the entire material available on record.

8. The entire case of the prosecution is based on the evidence of P.Ws.1 to 4. As far as the evidence of P.W.1 is concerned, he has seen the dead body of the deceased in the field which was taken by P.W.2 on lease from P.W.3, which is situated in the outskirts of Chanugondla Village. P.W.6 has deposed that about two years ago on one day at about 6.30 p.m., when he was at his house, P.W.1 came and informed him that the accused killed the deceased. Then himself, K. Venkatramudu, Chinna Rangadu, Govindu and P.W.1 went in bullock cart and brought the dead body of the deceased to the house of P.W.2. It is his case that on the information received that the deceased has not returned home even after 5.00 p.m., while he proceeded to the field, he saw the accused having weapons in their hands and suspecting the accused, P.W.1 raised cries at the accused. On that, the accused ran away from the place of occurrence and he saw the dead body of the deceased in the field.

9. As far as the evidence of P.Ws.2 to 4 are concerned, even according to the case of the prosecution they are not eye witnesses to the incident. P.W.2, who is the brother of P.W.1 and husband of the deceased, deposed that the accused might have killed the deceased in view of the dispute with them in connection with rasta in Survey No.222, which is claimed as Yanala Chenu Pykathva. The said land fell to the share of Venkoba Rao (P.W.3), which was cultivated by him on lease.

10. P.W.3 is the elder brother of P.W.1 in whose land the incident took place and where the dead body of the deceased was

found. According to him, the accused killed the deceased because of disputes with their family and the accused family with regard to rasta. On that day, the accused came to kill them in the field, but as they were not there, they killed the deceased. P.W.3 is the scribe of the first information report.

11. P.W.4 is a student and according to him, on 23.08.2005, when he went to Nallayana Gattu along with his brother Imam to supervise the grazing of the sheep, he found the deceased while she was removing weeds in her land which is situated at a distance of 10 to 15 yards from the place where their sheep were grazing. At about 4.00 p.m., they started at Nallayana Gattu to come back to their village, while he was coming, he questioned the deceased as to why she came alone to the field. On that she replied that her husband and other family members went to Bellary for attending funerals of their relation. Thereafter, he proceeded further and saw the accused while entering into the land of the deceased. On the same day, at about 6.00 p.m., after he reached the village, he came to know that some one killed the deceased in the field. As per the evidence of P.W.4, he has seen the accused while they are entering the land of the deceased at about 4.00 p.m.

12. P.W.5 is no other than the cousin of P.Ws.1 to 3. According to P.W.5, his land is situated on the eastern side of land of P.W.3. On 23.08.2005, himself and his wife were removing weeds and grass in their land, at about 5.30 p.m., he found the accused coming from the land of the deceased towards their land and further proceeding towards Thaduru Village and he has also seen a knife in the hands of A-2 and A-4. After they came back to

the house, he came to know that the deceased was killed by A-1 and others. On the next day, police came to their village and he informed the police about the facts seen by him.

13. Except the said evidence, there is no other evidence to connect the accused with the crime. Further, it is the case of the accused that during the cross-examination to other witnesses examined by the Investigation Officer, categorically stated that they saw the dead body and in turn they informed P.W.1 regarding the dead body in the fields of P.W.3. On such information only, P.W.1 went to the place of occurrence. The said witnesses were deliberately not examined by the prosecution since their statements are against the case of the prosecution.

14. The learned trial Judge has taken into consideration the said facts and also taken into consideration the fact that P.W.1 saw the accused with weapons. After arrest of the accused also, the investigation agency has not taken any steps to recover the said material objects to connect the accused with the crime. The prosecution was able to prove the crime, but miserably failed to connect the accused with the crime. Hence, the learned trial Judge was of the opinion that the circumstances which were emanating from the record either individually or collectively were not at all sufficient to draw necessary inference which was consistent to the guilt of the accused and the cumulative effect of all those circumstances cannot un-earning pointed out the guilt of the accused and found the accused not guilty for the offence punishable under Section 302 IPC and accordingly acquitted him.

15. Having regard to the facts and circumstances of the case, this Court is of the view that in a case of this nature where

the offence alleged against the accused is serious in nature, when there are reasonable doubts regarding the case of the prosecution, it is highly unsafe to convict the persons. Hence, after perusal of the entire record and after hearing the arguments of both the learned counsel, this Court is of the view that the judgment of the trial Court is in accordance with law and it does not suffer from any illegality or perversity necessitating interference by this Court. Hence, the criminal revision case fails and is liable to be dismissed.

16. The Criminal Revision Case is, accordingly, dismissed. Consequently, the Miscellaneous Petitions pending, if any, shall stand closed.

RAJA ELANGO, J

Date: 26th August, 2016

KL



HONOURABLE SRI JUSTICE RAJA ELANGO



CRIMINAL REVISION CASE No.619 of 2008

Date: 26th August, 2016

KL