

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
MONDAY, THE SEVENTEENTH DAY OF OCTOBER
TWO THOUSAND AND SIXTEEN
(17.10.2016)

PRESENT
THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL APPEAL No.1489 of 2010

Between:

State of Andhra Pradesh, rep.by the
Public Prosecutor

..... APPELLANT

AND

Golla Gaddi Chandrasekhar and 4 others

.....RESPONDENTS/ A1 to A5

Counsel for the Appellants : PUBLIC PROSECUTOR (A.P)

Counsel for the Respondents : Sri RAJA REDDY KONETI

The Court made the following:



THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL APPEAL No.1489 of 2010

JUDGMENT: (per Hon'ble Sri Justice M.S.K.Jaiswal)

Respondents Nos.1 to 5/Accused Nos.1 to 5 were charged before the Additional Sessions Judge, Hindupur in Sessions Case No.478 of 2008 for the offence punishable under Section 302 read with Section 34 IPC, but were acquitted of the said charge vide judgment dated 19.08.2009. Challenging the said judgment, the present appeal is filed by the prosecution.

For convenience, the respondents are referred to as "the accused".

The case of the prosecution in brief is that the deceased Sakunthamma is the wife of PW 3-Golla Geddi Ganganna, who is the son of A5. A1 was the brother-in-law of the deceased. A2 is son-in-law of A5. A3 & A4 were cousin brothers-in-law of the deceased. PW 7 & PW 8-Golla Pothula Narayana and Ramakrishnamma were parents of the deceased. That the father-in-law of the deceased and husband of A5 by name Golla Geddi Narasimhulu worked in BGML at Ramagiri; that he had taken voluntary retirement and received benefits thereof to the extent of more than Rs.2,51,000/- and that subsequently he died. That A5 being the wife of Narasimhulu and mother of A1 & PW 3, received the money of her deceased husband and started money lending business in the village. The deceased, being daughter-in-law and wife of PW 3 demanded share in the property, for which, the accused bore grudge and decided to eliminate her. With that motive, the accused conspired together and on the intervening night of 7/8.03.2007 at about 1.00 a.m went to the house of

the deceased and that while the deceased was in deep sleep, A1 threw a boulder on the head of the deceased and that when the deceased was struggling for life, A3 and A4 caught hold of her hands and legs firmly and A2 lifted the same boulder and threw it on the head of the deceased and killed her. That PW 1, who was alleged to have illegal intimacy with the deceased, went to her house at the time of the incident and found the accused present there and that A1 and A2 hurled a stone on the person of the deceased resulting in the latter's death. In this regard, A5 gave complaint to escape from the criminal liability. During the course of investigation, the accused confessed having involved in the incident.

The plea of the accused is one of denial.

In order to bring home the guilt of the accused, the prosecution examined PWs 1 to 16 and marked Exs.P1 to P25 and M.Os.1 to 5. On behalf of defence, no oral or documentary evidence was adduced. Based on the oral and documentary evidence, the learned Additional Sessions Judge has acquitted all the accused of the charges leveled against them.

Learned Public Prosecutor submits that the Court below has not appreciated the evidence on record in proper perspective and has erroneously acquitted the accused. Hence, the appeal.

On behalf of the respondents/accused it is submitted by the learned Counsel that absolutely there is no material leave alone legal evidence to connect the accused with the crime and since none of the witnesses whose evidence is material for determining the guilt or otherwise of the accused have supported the case of the prosecution, the Court below has recorded the finding of acquittal and hence there are no grounds to interfere with the same and the appeal is liable to be dismissed.

The point for consideration is whether the prosecution proved its case against all the accused beyond reasonable doubt.

We have carefully considered the respective submissions of the learned counsel for both parties and perused the record.

According to the prosecution, it is a grim case where Shakuntalamma, the deceased, was bludgeoned to death by the mother, brother and other relations of her husband Ganganna (PW.3), who is said to be a not so worldly-wise person. The deceased was said to have raised a claim over the cash and landed properties of the family which was not to the liking of the relations of her husband, the accused herein. It is further alleged that the deceased had developed illicit intimacy with one Nagaraju (PW.1) which was also a cause of annoyance and humiliation to the family members of her husband. In pursuance of the conspiracy to eliminate the deceased, it is alleged that on the intervening night of 7/8-3-2007 at about 01.00 a.m., when the deceased was sleeping in front of the house, the accused persons went there and out of them, A.1 lifted a big boulder-MO-5 and threw it on the head of the deceased and when the deceased was struggling for life, A.3 and A.4 caught hold of her hands and legs firmly and A.2 lifted the same boulder and threw it on the head of the deceased, due to which the head of the deceased got crushed and she died instantaneously.

This gruesome incident was said to have been witnessed by PW.1, the alleged paramour of the deceased, who happened to reach the spot in the mid-night so as to satiate his lust. Similarly, a septuagenarian relation of the accused – Chennappa/LW.8 (who is said to have died during the pendency of the trial) happened to sleep nearby and see the incident having woken up upon hearing the commotion. Akulappa (PW.2) is said

to be the person who has seen A.1 to A.4 running away from the scene of offence by carrying the boulder-MO-5 used in the commission of the crime on the shoulder of A.1. The parents of the deceased who reached the spot after coming to know about the death were examined as P.Ws.7 and 8. According to the prosecution, the accused allegedly made extra-judicial confession before PW.5.

The case of the prosecution solely rests upon the evidence of PWs.1 and 2 who are said to be the direct eyewitnesses to the incident. Both of these material witnesses turned hostile and deposed in a rhythm that they do not know anything about the incident, that they do not know how the deceased died and that they were not examined by the police. They denied having stated before the police as in Exs.P.1 and P.2. The third eyewitness to the incident, as stated above, died and could not be examined by the prosecution.

The other witnesses examined by the prosecution are the husband of the deceased (PW.3) who also turned hostile and denied knowledge as to how his wife died. He denied having stated before the police as in Ex.P.3. Even the panch witnesses to the inquest panchanama examined as PWs.4 and 5 turned hostile and denied the suggestion that they acted as panch witnesses either for the inquest panchanama or the extra-judicial confession alleged to have been made by the accused in the presence of PW.5. The other persons in whose presence the accused allegedly confessed to the commission of the offence which led to the recovery of the boulder-MO-5 used in the commission of the crime are examined as PWs.6 and 15, also turned hostile and did not support the case of the prosecution.

PWs.7 and 8, the parents of the deceased are not the eyewitnesses to the incident and they came long thereafter. They spoke about the disputes between the deceased and her in-laws about the property. Both of them made a bald statement that it is the accused who had killed the deceased. Their evidence do not, in any way, strengthen the case of the prosecution that it is the accused who were the perpetrators of the crime. PWs.9 and 10 who were supposed to speak about their reaching the scene of offence shortly after the offence was committed also turned hostile and denied having stated before the police as in Exs.P.9 and P.10.

PWs.11 and 12, who were examined to speak about the financial dealings between themselves and A.5, the mother-in-law of the deceased, also resiled from their previous statements made in Exs.P.11 and P.12 and asserted that they never borrowed any amounts from A.5.

PW.13 is the Medical Officer who conducted autopsy over the dead body of the deceased and whose evidence establishes that the deceased met with a homicidal death. PWs.14 and 16 are the Investigating Officers and in view of the nature of the evidence of the material witnesses, their evidence do not in any way improve the case of the prosecution.

From the above discussion, what is manifest is that absolutely there is no material placed before the Court for accepting the case of the prosecution that it is the accused who have caused the death of the deceased by smashing her head with the boulder-MO-5. The learned Sessions Judge upon proper appreciation of the evidence on record has recorded a finding of acquittal and though the State has preferred the present appeal questioning the said acquittal, absolutely no grounds are shown as to how the Judgment of the Court below can be said to be erroneous warranting any interference therewith.

In view of the foregoing discussion, there are no merits in the appeal and the same is liable to be dismissed.

In the result, the Criminal Appeal is dismissed.

C.V.NAGARJUNA REDDY,J

M.S.K.JAI SWAL,J

Date: 17.10.2016
Dsr/Smr

