

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1647 OF 2006

ORDER:

This Criminal Revision, filed by the petitioner/*de facto* complainant, under Sections 397 & 401 Cr.P.C, is directed against the order of acquittal recorded by the learned VII Additional Sessions Judge (Fast Track Court), Nizamabad at Bodhan, under Section 235(1) Cr.P.C. for the offence under Section 302 IPC in S.C.No.323 of 2004, dated 15.06.2006.

2. The brief facts of the case for the disposal of the present criminal revision case are as follows:

The murder of the deceased Sura Gangaram took place on 23.05.2004 at the toddy shop of Pedda Mavandi during the intervening night of 22/23.05.2005 at about 2.30 a.m. On 23.0.5.2004 at 9.00 a.m., P.W.1, Sura Naganna, son of the deceased came to Bodhan Police Station and gave written complaint under Ex.P-1 alleging that his father Sura Gangaram was eking livelihood by selling toddy bottles on commission basis. As usual, on 22.05.2004, the deceased, after taking dinner, left the house to sleep at the above said toddy shop. In the early hours, the toddy supplier (contractor) Mallepoola Raghavendhar Goud, who is P.W.3, came to his house and informed that the dead body of the deceased is found in the toddy shop with cutting injury on his throat. On the above said information, he immediately rushed to the toddy shop, found dead body of the deceased on the cot in a pool of blood with cut injury on throat. Some unknown persons might have murdered the deceased by cutting the throat. There are some disputes between the deceased and Bhoothi Gangaram and his sons with regard to dumping of the waste garbage. The said persons quarrelled several times with the deceased in that regard. Hence, he suspected the above said persons for the murder of

the deceased. Hence, the complaint.

3. On 09.12.2004, the Judicial Magistrate of First Class of Bodhan committed the case of all the five accused to the Principle Sessions Judge, Nizamabad, vide order in P.R.C.No.46 of 2004. In turn, the Principal Sessions Judge, Nizamabad, pleased to make over the case to the VII Additional Sessions Judge (Fast Track Court), Nizamabad at Bodhan.

4. On appearance of all the accused before the learned Magistrate on 02.05.2005, framed a charge for the offence of murder under Section 302 IPC against A-2, whereas he framed the charge under Section 302 read with 34 IPC against A-1, A-3 to A-5. The charges, thus, framed were read over and explained to the accused in Telugu, for which they pleaded not guilty and claimed to be tried.

5. To substantiate the case of the prosecution, the prosecution examined P.W.1 to P.W.11 and got marked Exs.P-1 to P-18 and material objects M.O.1 to M.O.7. On behalf of the accused, no oral or documentary evidence was adduced.

6. After closure of the prosecution evidence, the accused were examined under Section 313(b) Cr.P.C., for the incriminating evidence appearing against them. Accused denied the same.

7. Upon consideration of oral and documentary evidence placed on record, the learned Sessions Judge had comprehensively discussed the matter and found A-1 to A-5 not guilty for the offence punishable under Section 302 IPC and acquitted them under Section 235(1) Cr.P.C. Challenging the same, the present criminal revision case is filed.

8. Heard the learned counsel for the petitioner, learned Additional Public Prosecutor for the 1st respondent and the learned counsel for respondents 2 to 6 and perused the material available on record.

9. The entire case of the prosecution is based on the circumstantial evidence. There is nothing for this Court to go elaborately into the evidence adduced by the prosecution since admittedly in the present case, there is no eye witness to the occurrence. The witnesses, who deposed before the Court speaks only about the earlier quarrel between the deceased and the accused persons. The prosecution was able to prove that the death is homicidal in nature, but at the same time the prosecution failed to connect the accused with the crime. Except proving the motive between the deceased and accused, absolutely there is no evidence to connect the accused with the crime and the manner in which the occurrence also alleged to have taken place on the fateful day, the learned trial Judge has disposed of the entire case of the prosecution in length and the learned trial Judge is also of the view that the prosecution failed to prove the case by admissible evidence.

10. This Court is of the view that the said observation by the trial Judge is in accordance with law and there is nothing to interfere with the order passed by the trial Court. Hence, the present criminal revision case filed by the petitioner is liable to be dismissed.

11. Accordingly, the Criminal Revision Case is dismissed. Miscellaneous Petitions, if any, pending in this criminal revision case stands closed.

RAJA ELANGO, J

Date: 21st July, 2016

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