

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

CRIMINAL APPEAL No.1302 OF 2010

J U D G M E N T

(Per Hon'ble Sri Justice Sanjay Kumar)

The appellant/accused was tried and convicted of the murder of his wife, Kukkala Pullamma, *vide* judgment dated 05.07.2010 in Sessions Case No.128 of 2010 on the file of the learned I Additional District and Sessions Judge, Khammam, and sentenced to rigorous imprisonment for life apart from paying a fine of Rs.100/-, in default of which, he was to suffer simple imprisonment for one month. Hence, this appeal under Section 374(2) Cr.P.C.

The case of the prosecution before the Sessions Court was as under: N.Anjali (LW.18), the Sub-Inspector of Police, Wyra Police Station, received a complaint (Ex.P1) from PW.1, wherein he stated that his sister, Kukkala Pullamma, was given in marriage to Kukkala Babu, the accused, about 25 years ago and they were blessed with three male children; that the accused was having illegal intimacy with another woman; that there were differences between the couple on this count; and that PW.1's nephew, Kukkala Suneel (PW.3), telephoned him on 25.11.2009 at about 01.30 PM stating that the accused had cut the throat of the deceased with a sharp edged knife and escaped along with the knife. PW.1 stated that he along with his relations went there and found the dead body of his sister. He therefore requested that necessary action be taken against his brother-in-law who had killed his sister by cutting her throat.

Thereupon, N.Anjali (LW.18) registered a case in Crime No.144 of 2009 under Section 302 IPC. Ex.P7 is the FIR. Upon receipt of the FIR, the Circle Inspector of Police, Wyra (PW.9) took up investigation. He visited the scene of the offence, secured mediators and in their presence, prepared the Crime Detail Form (Ex.P3). He recovered a bloodstained maroon colored shirt (MO.4), a bloodstained ash colored pant (MO.5), a bloodstained stone piece (MO.6) and a controlled stone piece (MO.7) from the scene of the offence under Ex.P3. He secured a photographer (PW.5) and photographs were taken of the scene of the offence. The photographs along with a compact disk are Ex.P2. PW.9 then secured the presence of PWs.1 to 4,

Modugu Narasamma (LW.5), sister-in-law of the deceased, Telluri Muthaiah (LW.6), father of the deceased, PW.7, Kommu Suneetha (LW.8), Kommu Saraswathi (LW.9), neighbours of the deceased, and Kukkala Nagabhushanam (LW.10), elder son of the deceased and the accused. He examined them and recorded their statements. PW.9 conducted an inquest over the dead body of the deceased at the scene of the offence in the presence of mediators. Ex.P4 is the inquest report. The dead body was then sent for post-mortem examination. PW.9 also seized the clothes that the deceased was wearing at the time of her death. MOs.1, 2 and 3 are her bloodstained red colored blouse, red colored polyester saree and red colored petticoat respectively. The accused surrendered before the learned Judicial Magistrate of First Class, Madhira, and was taken into police custody after filing of a requisition before the Court. In the presence of mediators, PW.9 recorded the confession statement of the accused and seized a knife (MO.8) under cover of a recovery panchanama (Ex.P5). After completion of the investigation and upon receipt of the post-mortem examination report (Ex.P6) and the Forensic Science Laboratory Report (Ex.P8), PW.9 laid a charge sheet against the accused.

After committal of the case to the Sessions Court, a charge was framed against the accused that he, on 25.11.2009 at about 01.30 PM, at Shanthinagar, Wyra, committed murder of his wife by intentionally causing her death by cutting her throat with a knife, thereby committing an offence punishable under Section 302 IPC. The accused denied the charge and claimed to be tried.

During the trial, the prosecution examined 9 witnesses and marked 8 exhibits. Case properties were marked as MOs.1 to 8. The defence did not lead any evidence, oral or documentary.

By the judgment under appeal, the Sessions Court held that the prosecution had proved the guilt of the accused for the charge under Section 302 IPC by accepting the evidence of PWs.2 to 4. The Sessions Court accordingly convicted and sentenced him.

Sri T.S. Rayalu, learned counsel for the appellant/accused, would contend that the presence of the accused at the scene of the offence was not proved beyond reasonable doubt and that, except for the evidence of interested witnesses, there was nothing to connect him with the crime.

Analysis of the evidence adduced by the prosecution before the

Sessions Court reflects the following salient points:

PW.1 was the brother of the deceased. In his evidence, he stated that the marriage of the deceased and the accused took place about 25 years prior thereto and that about a year before his sister's death, disputes started as the accused was keeping contact with another lady. He said that his sister had informed him of this and he had occasion to admonish the accused on this count. Thereafter, the accused and the deceased lived amicably for about a month or so but the accused continued his contact with the other lady. As to the events of the fateful day, PW.1 stated that on 25.11.2009 at about 01.00 or 01.30 PM, PW.3 informed his younger paternal uncle's son by cell phone and also informed him that the accused had killed his mother by cutting her throat and ran away. PW.1 said that they rushed to the house of the accused and found the deceased lying dead with her throat cut and bleeding. PW.1 then lodged a complaint with the police (Ex.P1). In his cross-examination, PW.1 stated that, except for his illicit intimacy with another lady, the accused had no other bad habits.

PW.2 stated in his evidence that he was the second son of the accused and the deceased. He affirmed that about a year prior to the death of his mother, quarrels started owing to the accused having illicit contact with another woman. He stated that on 25.11.2009, he and his mother were present at home along with the accused. He said that his elder brother had gone to Hyderabad on some work and his younger brother went for catering work. He further said that at about 11.00 AM, his mother wore a new saree to go to the temple and the accused asked him to go to the house of Narasamma (LW.5) to bring money. PW.2 said that as Narsamma (LW.5) was not present at her house, he returned. But, again after some time, the accused sent him back to her house to bring money and pushed him out of the house. PW.2 said that by the time he returned, he noticed the front door of the house was closed and when he looked into the house through a hole in the door, he noticed blood on the floor. He said that his father came out of the house, pushed him aside, bolted the door, locked it and went away. PW.2 said that due to fear, he informed K. Yesu (PW.4), who was coming along the way, that the accused tried to kill his mother. PW.4 then broke open the lock and when they went into the house, they noticed that the deceased was lying dead on the floor with a cut injury on her throat. The villagers gathered at the scene and PW.3 also reached there. PW.2 said

that he informed all the persons present there about the accused killing his mother. He further stated that after receiving information, PW.1 also came to the house and lodged a complaint. PW.2 identified MOs.1, 2 and 3 as clothes belonging to his mother and MOs.4 and 5 as clothes belonging to his father. In his cross-examination, PW.2 stated that he was studying at Shanthinagar Government High School which was at a distance of one kilometer from his house and that he attended school everyday regularly. He however said that on 25.11.2009, he did not attend school but did not know as to which day of the week it was. He denied the suggestion that on that day also he attended school and that he was deposing falsely. He admitted that he did not witness the accused cutting the throat of his mother and killing her. He said that Narasamma (LW.5) was his paternal aunt and denied that he was deposing falsely that the accused sent him to her house. He also denied the suggestion that the conduct of his mother was not good and that she was having intimacy with many persons. He denied the suggestion that he was collecting money from people who had illicit contact with his mother and that he was rooming in the village. He denied the suggestion that someone who had illicit intimacy with his mother had killed her. He denied the suggestion that eight months prior to the death of his mother, the accused left their house and went away. Finally, he denied the suggestion that the case properties, MOs.1 to 5, did not belong to his mother and father respectively.

PW.3, the other son of the deceased and the accused, was not present at the scene but confirmed that he left the house by 07.00 AM on the fateful day and at that time, his father, mother and PW.2 were present in the house. He also confirmed that about one month prior to the date of death of his mother, there were quarrels between them as his father was having illicit contact with others. He stated that he returned home by 01.00 PM and found his mother lying dead having her throat cut. He affirmed the presence of PWs.2 and 4 along with others at the scene. He further stated that PW.1 came there upon coming to know of the death of the deceased and lodged a complaint. He confirmed that he himself had informed about the death of his mother and thereafter PW.1 came to the house. He further stated that MOs.1 to 3 belonged to his mother and MOs.4 and 5 belonged to his father. In his cross-examination, PW.3 stated that he completed 9th class and as 25.11.2009 was a holiday, he attended catering work. He denied the

suggestion that on 25.11.2009, his father was not present in the house. He also denied the suggestion that his father left the house and went away as he was unable to tolerate his mother. He denied the suggestion that the conduct of his mother was not good and that she had illicit intimacy with others.

PW.4 stated that he was running a cycle shop at Shanthinagar, Wyra. On 25.11.2009, between 01.00 and 01.30 PM, he was proceeding along the way and PW.2, who was crying at that time, informed him that the accused tried to kill his mother, closed the door, locked it and went away. PW.4 stated that he then took a stone and broke open the door. He said that they noticed the deceased lying dead with a cut injury on her throat. He telephoned for an ambulance but upon reaching there, the ambulance personnel declared that the deceased had died. He stated that by that time, PW.3 also reached there and he telephoned and informed PW.1 about the incident. PW.1 then came and lodged a report with the police. In his cross-examination, PW.4 denied that he was deposing falsely as he had political rivalry with the accused. He admitted that he did not witness the accused killing his wife but denied the suggestion that she was not having good conduct. He also denied the suggestion that about eight months prior to the death of the deceased, the accused had left the house.

PW.5, the photographer, stated that he was running a photo studio at Wyra and on 25.11.2009 at about 02.30 or 03.00 PM, the police called him and he took photographs of the deceased lying inside the house. He confirmed that Ex.P2 was the set of three photographs along with CD which he had handed over to the police. He said that the photos were digital photos and there were no negatives.

PW.6, a private electrician at Wyra, stated that he knew the accused and the deceased. He was a witness to the inquest proceedings and confirmed that he signed on the inquest report (Ex.P4). In his cross-examination, he stated that he was called by the police at about 03.00 or 03.30 PM to be a witness to the proceedings. As to his personal knowledge, he confirmed that he has seen quarrels between the accused and his wife and that the accused used to beat the deceased. He further stated that the deceased was a soft lady and denied the suggestion that her conduct was not good.

PW.7, a vegetable vendor at Wyra, was one of the witnesses to the

recovery proceedings under Ex.P5 panchanama. He stated that on 08.12.2009 at about 03.00 PM, the police called him to Wyra Police Station and he, along with K. Anil Kumar (LW.14), questioned the accused at the instance of the police. He said that the accused admitted cutting the throat of his wife and killing her. He was stated to have further informed them that he had hidden the knife at Wyra pump house under a coconut tree. Thereupon, PW.7, Anil Kumar (LW.14), and the police went there and the accused showed them the knife. MO.8 was identified by PW.7 as the said knife. He also confirmed his signature in Ex.P5, the recovery panchanama. In his cross-examination, he denied the suggestion that MO.8 was not recovered at the instance of the accused and that the place where the accused took out the knife was a busy locality.

PW.8, the Civil Assistant Surgeon, Government Hospital, Madhira, confirmed that on 26.11.2009, he conducted the post-mortem examination of the dead body of the deceased on the requisition of the Station House Officer, Wyra, and found the following *ante mortem* external injuries on the dead body :

“1. Lacerated wound on front of neck extending from angle of left mandible to angle of mandible right side 6 inches in length.

Trachea & Oesophagus severed

Severed Thyroid gland

Severed Jugular and Carotid vessels

Severed stem of credo mastoid muscle.”

He opined that the deceased might have died due to hemorrhage shock due to severed large vessels. He confirmed that Ex.P6 was the post-mortem examination report given by him and that the injuries noticed by him could be inflicted with MO.8 knife.

PW.9, the Investigating Officer, spoke of the various steps taken by him during the investigation. In his cross-examination, he stated that he did not know as to whether 25.11.2009 was a working day or a holiday.

On the strength of the afore-stated evidence, it is clear that the crucial witness against the accused was none other than his son, PW.2. Though a consistent attempt was made by the defence to throw suspicion on the conduct of the deceased by implying that she had illicit relations, none of the witnesses even hinted at such a possibility. The testimony of both the sons remained unshaken on this aspect and even the evidence of independent witnesses, PWs.4 and 6, confirmed it. A feeble attempt by the defence to establish that the accused was not living with the deceased for about eight

months prior to the date of the incident also failed, as all the relevant witnesses, including the sons of the accused, confirmed that they were all living jointly.

The steadfast version put forth by PW.2 indicates that the accused deliberately sent him away from the house. PW.2 categorically said that the accused sent him to the house of Narasamma (LW.5) not once, but twice. This was obviously an attempt by the accused to get PW.2 away from the scene. The endeavour of the defence to discredit the testimony of PW.2 remained unsuccessful and his evidence is eminently acceptable and trustworthy. There is no reason as to why PW.2, the son of the accused, would falsely incriminate his father in the death of his mother.

Sri T.S. Rayalu, learned counsel, would argue in the alternative that it was not a premeditated and planned crime and therefore, the killing of the deceased by the accused, even if held to be true, would amount to culpable homicide not amounting to murder. He contended that Exception 4 to Section 300 IPC would have application as there was no planning and the incident must therefore have occurred in the heat of passion.

We are not impressed. It is a matter of record that the accused sent away PW.2 from the house twice. This was clearly an attempt on his part to get PW.2 out of the way. There is no indication of any sudden quarrel or altercation between the couple immediately prior to the incident. PW.2, in fact, stated that the deceased wore a new saree to go to a temple. There is therefore no indication of any heat of passion arising out of a sudden fight whereby the accused can take recourse to Exception 4 to Section 300 IPC. The cold blooded manner in which the offence was committed and the fact that there was no quarrel or fight immediately prior thereto demonstrates planning by the accused to commit the offence. Further, after commission of the offence, the accused locked the door and absconded along with the weapon. These facts are also borne out by the evidence. This act on the part of the accused also militates against application of Exception 4 to Section 300 IPC as it indicates his consciousness of the act committed by him and his intention to garner as much time as possible to escape.

Recovery of MO.8 knife is sought to be belittled on the ground that such recovery was effected from a public place. However, when the said knife was hidden near a pump house and was taken out by the accused himself from a thicket of bushes, Section 27 of the Indian Evidence Act,

1872, clearly applies and there is no reason to doubt the recovery. Further, the Forensic Science Laboratory report (Ex.P8) confirms that MO.8 knife was stained with the Blood Group 'B', which was the same blood group detected in relation to the blood stains on MOs.1 to 3, the clothes of the deceased.

On the above analysis, we are of the opinion that though there was no actual eye-witness to the offence, the evidence put forth by the witnesses clearly demonstrated an unbroken chain of events which unerringly pointed towards the guilt of the accused. We therefore find no grounds to interfere with the judgment under appeal. The conviction and sentence imposed upon the accused are accordingly confirmed.

The appeal is dismissed.

SANJAY KUMAR, J

M.SEETHARAMA MURTI, J

12th AUGUST, 2016

PGS