

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

Criminal Appeal no.1077 of 2010

JUDGMENT: (per Hon' ble Sri Justice M. Seetharama Murti, J)

This appeal under Section 374(2) of the Criminal Procedure Code, 1973 ('the CrPC', for short) by the sole accused is preferred against the judgment dated 01.05.2009 of the learned I Additional Sessions Judge, Anantapur, in SC.no.794 of 2007 taken on file pursuant to the Committal orders in PRC.no.43 of 2006 on the file of the learned Judicial Magistrate of First Class, Kalyandurg arising out of Crime no.33 of 2005 of Settur Police Station registered for the offence punishable under Section 302 of the Indian Penal Code, 1860 ('the IPC', for short).

2. We have heard the submissions of the learned counsel for the appellant/accused and the learned Public Prosecutor appearing for the respondent/ State. We have perused the material record.

3. The case of the prosecution constituting the gravamen of the charge, in brief, is this:

The deceased-Savithri is the wife of the accused. PW1-D.Mahadeva and PW2-Nagaraju are her brothers. The deceased was employed as Auxiliary Nurse Midwife (ANM) at Kanukur village. However, she was living at Lakshmampalli. After she fell in love with the accused, their marriage was performed in or about the year 1999-2000 without the consent of the elders. They started living together at Lakshmampalli. Out of their lawful wedlock, the deceased gave birth to a child. He was about four years of age as on the date of the subject offence. From the year 2002, the accused became addicted to vices like drinking and had started harassing the deceased for money and was ill-

treating the deceased on her refusal to give money to be spent on his vices. The deceased was informing PWs1 and 2, whenever she used to meet them, about the harassment being meted to her by the accused. The accused continued his said behaviour despite the advice given by the relatives. The accused having developed a kind of dislike towards the deceased wanted to marry a girl of his own caste to get money. While so, on 28.09.2005 A.N., that is, a day before the death of the deceased, the deceased met PW1 and narrated the problems she was having with her husband/the accused and sought his advice. PW1 promised to talk to the accused and do the needful in the matter. Accordingly, at about 05:30 P.M. on 29.09.2005, PW1 proceeded towards the house of the deceased to talk to her and her husband. While he was approaching the house of the deceased, he noticed through the window of the kitchen of the house, the accused, armed with an axe, hitting on the head of the deceased and raised cries and rushed towards the door of the house. Hearing the cries of PW1, PW8-Chittamma rushed to the scene and saw PW1 weeping and immediately rushed to her house and informed her grandfather about the death of the deceased and PW1 weeping. In the meanwhile, hearing the cries of PW1, PWs3 to 5 came there and shifted the deceased to the hospital at Kalyandurg where the Doctor declared that the deceased was brought dead to the hospital.

4. The learned I Additional Sessions Judge framed the following charge against the accused.

‘that you on the 29th day of September, 2005 at about 05.30 P.M in your house at Lakshmampalli village did commit murder intentionally and knowingly causing the death of Dommara Savithri your wife by hacking her with an axe on her head and thereby committed an offence punishable under Section 302 of the Indian Penal Code and within my cognizance.’

[Reproduced verbatim]

5. During the course of trial, PWs1 to 15 were examined and Exhibits P1 to P15 were marked on the side of the prosecution. MOs1 to 9 were also marked.

No witnesses were examined on the side of the accused. However, Exhibit D1 was marked.

6. By the judgment impugned in this appeal, the learned Additional Sessions Judge found the accused guilty of the offence punishable under Section 302 of the IPC and sentenced him to suffer rigorous imprisonment for life and also to pay a fine of Rs.200/- and to undergo simple imprisonment for one month in default of payment of the said fine amount.

7. At the outset, it is to be noted that the evidence brought on record discloses that PW1 is the sole eyewitness to the incident. The prosecution further relies upon the recovery of the weapon of offence (MO9) and certain other circumstances to establish the complicity of the accused. However, the defence disputes the presence of PW1 at the scene of the offence and also the recovery of MO9 at the instance of the accused; and, the accused seeks to contend that one Venkata Svaiah, who is the uncle of the deceased, was responsible for the death of the deceased and that the accused is falsely implicated.

8. To begin with, the death of the deceased is a homicidal death and the fact that the deceased was hacked to death by an axe is not in dispute. The only defence of the accused is that he is not responsible for the murder of the deceased.

9. The veracity of the prosecution thus hinges on the testimony of PW1, the sole eye-witness to the occurrence. He is the brother of the deceased. It is true that a related witness cannot be branded as an interested witness, as an interested witness is one who is interested to see that the accused is convicted. It is now well-settled that the evidence of a witness cannot be discarded merely on the ground that he is a related witness or a sole witness, or both, if otherwise, the same is found credible. It is equally well settled that

the testimony of such a witness has to be evaluated more carefully and cautiously before acting upon such evidence. It is also well settled that rule of prudence requires the Court to look for corroboration, if necessary and the facts of the case warrant doing so. Hence, it is necessary to now carefully analyse and evaluate the evidence of PW1. He deposed to the following effect:

‘The deceased-Savitri loved the accused and married him about five years prior to her death. They were blessed with a male child. The child was of 4 years of age by the time of the subject offence. After the marriage of the deceased with the accused, PW1 and his family members did not interfere with their family affairs. About two years prior to the incident leading to the death of the deceased, the accused became addicted to vices like drinking liquor and was harassing the deceased to give money. Whenever the deceased used to meet PW1, she used to tell him about the harassment being meted out to her by the accused and the intention of the accused to marry a girl of his caste and that the accused wanted to do away with her life. She requested PW1 to talk to the accused to change his behaviour. On 28.09.2005 at about 12:00 noon, the deceased met him at Kambadur near a bank and told him that she had withdrawn money from her account to give it to the accused as the accused wanted to marry another girl and that she is hopeful that if the money is given by her to the accused, he would stop the idea of marrying another girl. On 29.09.2005 at about 05:30 P.M., PW1 went to the house of his deceased sister to talk to her. He found the accused hacking the deceased with an axe on her head above the right ear; after the accused hacking her, the deceased came out of the house and fell in a pool of blood; and, he had noticed two bleeding injuries on the right and left side of the head above the ears and had shouted that the accused had killed the deceased. On that the accused went away on a motorcycle towards Makodi village. While he was weeping, the villagers namely Mallela Honnurswamy, Vannuru Swamy and Hosura took the injured sister of PW1 (the deceased) in an auto belonging to one Saranappa to the hospital.

Later he went to the hospital; the Doctor declared that the deceased was brought dead to the hospital. Subsequently, he gave a report in Settur police station. Exhibit P1 is his report.’ Apart from giving the details of the rooms in the house where the offence took place and identifying the case property including the apparel, which the deceased was said to have been wearing at the time of incident, and her other belongings, he had further identified MO9-axe stating that the same was used to hack the deceased. The essential points elicited in his cross-examination are to the following effect: - ‘No complaint was given to the police at any time against the accused alleging harassment of the deceased by him. The accused is having Ac.5.00 cents of land and is a painter at Kalyandurg. The accused purchased a motorcycle immediately after the marriage. He was not on talking terms with the accused after the marriage of the accused with the deceased. Venkata Svaiah is his uncle. The distance between his house and that of the house of the accused is about 100 yards. He never went to the house of the accused after the marriage of the accused with his sister. He does not know the number of rooms in the house of the accused. He did not state in his report that he saw the offence standing on the road. He was examined by the police at the hospital on the next day at about 08:00 A.M.’ He denied the suggestion that he never witnessed the incident.

9.1 Before coming to a safe conclusion on the question –‘whether or not the said evidence can be acted upon to sustain the conviction of the accused for the offence with which he is charged? it is now necessary to deal with the rival contentions and the circumstances from the evidence on which the prosecution and the defence rely upon in support of the respective contentions.

10 The first contention of the defence is that PW1 was not present at the scene at the time of the alleged incident of murder and that he had not witnessed the incident and indeed, there is no reason for PW1 to come to the house of the accused and the deceased and be present there at the time of the

alleged incident and that, therefore, his presence at the scene of offence at the time of occurrence is highly doubtful. Per contra, the learned Public Prosecutor submitted that the deceased met PW1, her brother, at or near a bank on the previous day and that they had a conversation and that PW1 assured the deceased to come to her house and pacify the differences between the spouses and that therefore, his evidence about his presence at the scene and witnessing the occurrence is credible and hence, his direct evidence can be acted upon.

10.1 Reverting to the relevant evidence brought on record it is to be noted that it is an undisputed and established fact that the deceased fell in love with the accused and that their marriage, which is an inter caste marriage, took place without the consent of the family of the deceased and that thereafter there are no exchange of visits between the family of the deceased and the family of PW1, and that PW1 and his family members are not talking to the accused since the date of the marriage of the deceased with the accused. Indeed, PW1 had testified that 'after the marriage of deceased with accused we did not interfere in their family affairs and that he is not on talking terms with the accused after the marriage of the accused with the deceased, and that he never went to the house of the accused after the marriage of the accused with his sister.' PW7 is the mother of the deceased and PWs1 and 2. She stated that the distance between her house and the house of the accused is 200 yards and that she is not on talking terms with the accused after the marriage and that she does not know about his personal life. Thus, but for the prosecution version in regard to a meeting and the conversation between PW1 and the deceased on the previous day at a Bank, the defence that there is no reason for PW1 to be present at the house of the accused and the deceased at the time of the incident is probable and needs consideration. Hence, it is necessary to further advert to the evidence of the prosecution on the aforesaid aspect. Exhibit P1, the report given by PW1, set the law in motion. In the said

report PW1 has stated to the following effect: "On 28.09.2005 at about 12:00 noon, the deceased met him at Kambadur and told him during the course of conversation that if she does not give money to her husband/ the accused, she is afraid that he would harass her; and that she was of the view that the accused may stop harassing her if she gives money to the accused; and hence, she is intending to draw money from the bank on that day; and that in turn, PW1 had stated to the deceased that he would talk to the accused and that therefore, he went on 29.09.2005 evening to the house of the deceased to talk to her". On this aspect, he had stated in his evidence to the following effect: "On 28.09.2005 the deceased met me at Kambadur near bank at about 12.00 noon. The deceased told me that she had withdrawn money from her account to give it to the accused as he wanted to marry another girl; and that the accused would give up the idea to marry another girl, if money is given". It is apt to note that the Investigating officer did not conduct any investigation and no evidence is brought on record as to whether or not the deceased was having an account in any Bank at Kambadur and whether or not she had withdrawn any amount from her account, if any, in any such Bank. No money was recovered either from the house of the deceased or the possession of the accused on his arrest. Therefore, except the testimony of PW1 there is no other corroborative evidence to accept his version that he met the deceased at the Bank on the previous day and assured to come to her house the next day. In the absence of any corroboration from the independent plausible sources it is doubtful as to whether PW1 has any valid reason to come to the house of the deceased on that day of the offence in the light of his own testimony that 'after the marriage of deceased with accused we did not interfere in their family affairs' and his further testimony referred to supra. The learned Public Prosecutor has, however, pointed out from the evidence of PW8 that immediately after the offence proper, when PW1 was crying by sitting by the side of the body of the deceased lying in front of the house, PW8 who is the niece of PW1, came

there on hearing his cries and gave water to the deceased (injured by then) and rushed to her house and informed her grand parents. He would also point out from the evidence that PW2, another brother of the deceased and PW1, also came there and saw PW1 weeping while sitting by the side of the body of the deceased. Thus, it is sought to be contended on behalf of the prosecution that PW1's presence at the scene was spoken to by the said witnesses. PW8 who was said to be of 16 years of age at the time of her examination had deposed that on hearing the cries of PW1 she came to the scene where the deceased was lying and that by then PW1 was weeping and that she had found the deceased with injuries lying in front of the door of the house of the accused and also the accused going away on a motorcycle and that at that time she gave water to the deceased and that thereafter she ran towards her house and informed her father and grandmother about the same. It is important to note that even though PW8, according to her version, has come to the scene on hearing the cries of PW1 and offered water to the deceased lying with injuries, PW1 did not state in his evidence about PW8 coming over there and therefore, there is no corroboration between the versions of PW1 and PW8. PW2 is another brother of the deceased and PW1. He deposed that PW8, who is his relative, informed him that the deceased/ his sister sustained injuries and that the accused hacked the deceased and that on that he ran to the house of the accused and saw the deceased sister lying at the entrance of the house of the accused and that at that time she was not able to talk and that he saw PW1 weeping and that Honnurswamy, Hosurappa and others shifted his sister to the hospital at Kalyandurg and that he too went to the hospital and that at the hospital, the Doctor declared that the deceased had died. Strangely, PW1 did not even speak of PW2 coming to the scene. He did not also mention the name of PW2 as one of the persons who came along with the others who had shifted the deceased to the hospital. In the normal course, if the versions of PWs8 and 2 are true, PW1 ought to have spoken about their coming to the scene one

after the other; but, he did not mention about these vital aspects in his evidence. According to the version of another related witness-PW7, the mother of PW1 and the deceased, she had come to the scene of offence on hearing from PW8 that the deceased was hacked by the accused. However, PW1 did not mention about PW8, PW2 and PW7 coming to the scene in his report under Exhibit P1, which was later presented after shifting of the deceased to a hospital by PWs3 to 5, namely, Mallela Honnurswamy, Honnur Swamy and Hosurappa. Thus, he only makes a specific mention in his report and also in his evidence that after the incident PWs3 to 5 came there and shifted the deceased in the auto of PW6 to the hospital. If really PW1 was present there and PW8 came and offered water to the injured (deceased), he would not have failed to mention the said fact at least in his evidence. But he makes no reference to any such aspect in his evidence. His further version that he did not even accompany the injured (deceased) to the hospital is also unnatural. When, according to the evidence of PW8, the deceased has not breathed her last and was perhaps struggling for life, one would expect PW1 to take steps for immediate shifting of his injured sister to a hospital. However, the evidence brought on record to the effect that PW1, who is none other than her brother, was simply sitting by the side of the injured sister and was weeping without making any attempt to comfort her or to shift her to a hospital is an implausible conduct on his part, if really he was present there. The unnatural conduct of PW1 as is evident from the evidence on record suggests an inference that PW1 might not have been present there, as rightly urged by the defence. Be that as it may.

10.2 Proceeding on the assumption that PW1 was present at the scene of offence the next aspects to be examined are – ‘at what time or when he had arrived at the scene; and, whether or not he had witnessed the assault on the deceased’. The learned Public Prosecutor points out from the evidence of PW1 that the arrival of PW1 at the scene coincided exactly with the attack on the

deceased by the assailant and that the evidence of PW1 discloses that he had witnessed the incident in which the accused hacked the deceased with an axe. PW1 in his report under Exhibit P1 had stated that just on his coming on to the road near the house of the deceased and the accused, he had witnessed the assailant/the accused hacking the deceased with an axe on the right side and the deceased sustaining a big bleeding injury and that thereafter the deceased came out of the kitchen room and fell down and that he had cried that the accused had killed his sister and that on that the accused left the place on his Suzuki motorcycle. Per contra, PW1 in his evidence has deposed that when he went to the house of the deceased sister to talk to her, he found the accused hacking the deceased with an axe on her head above the right ear and that after such hacking by the accused, the deceased came out of the house and fell in a pool of blood and that he had noticed two bleeding injuries on the right and left side of the head above the ears and shouted that the accused had killed the deceased. Adverting to the said vital aspect of the evidence of PW1 it is first contended on behalf of the accused that even if it is to be accepted for a moment that PW1 was present at the scene, his version that he had just arrived at the road in front of the house of the deceased at the exact moment at which the accused hacked the deceased with an axe is a make-believe version and such version being pretence is unbelievable being far from truth. It is also contended on behalf of the accused that the version of the prosecution that the meeting of PW1 and the deceased, the day before the incident at the bank, is a coincidence and that the timely arrival of PW1 on the next day at the scene and his witnessing the assault by the accused on the deceased is also another coincidence make it manifest that the said coincidences, one after the other, are a figment of fertile imagination and are quite unbelievable by any reasonable standard. As rightly contended, had PW1 gone to the scene a few minutes before the occurrence, there could have been two possibilities viz., he could have either prevented the attack on the deceased by the assailant or the

assailant might not have attacked the deceased noticing his presence. The arrival of PW1 at the scene coincided with the attack by the accused on the deceased being a prospect of pure chance is not free from doubt in our considered view.

10.3 Continuing with the examination of the evidence on the aspect as to whether or not he had witnessed the actual occurrence in which the deceased was axed to death, be it noted that the Post Mortem examination report- Exhibit P7 and the evidence of the Doctor-PW10, who had conducted the post mortem examination on the dead body of the deceased disclose that the deceased suffered the following two injuries: 'Chopped injury of ½ inch size above right ear and another chopped injury above left ear.' But, as rightly pointed out by the defence, PW1 had stated that the accused hacked the deceased with an axe on her head above the right ear and that the deceased came out of the house and fell in a pool of blood and that he found two bleeding injuries on the right and left side of the head above the ears. Thus, he did not state that he had seen the accused hacking the deceased twice.

10.4 Coming now to the crucial aspect as to whether or not it was possible for PW1 to witness the assault that took place in the kitchen of the house from the place he was standing on the road at the time of the incident, it is necessary to first recall the relevant evidence on this aspect. Though the said aspect and the relevant evidence are already referred to supra in another context, it is necessary to reiterate the same in view of their importance. "PW1 in his report under Exhibit P1 had stated that just on his coming on to the road near the house of the deceased and the accused, he had witnessed the assailant/ the accused hacking the deceased with an axe on the right side and the deceased sustaining a big bleeding injury and that thereafter the deceased came out of the kitchen room and fell down and that he had cried that the accused had killed his sister and that on that the accused left the place on his Suzuki

motorcycle.” Per contra, PW1 in his evidence has deposed as follows: “when he went to the house of the deceased sister to talk to her he found the accused hacking the deceased with an axe on her head above the right ear and that after the accused hacked her, the deceased came out of the house and fell in a pool of blood and that he had noticed two bleeding injuries on the right and left side of the head above the ears and shouted that the accused had killed the deceased.” Placing reliance on this vital aspect of improvement in the evidence of PW1, it is contended that this improvement that he was at the house of the accused was made only because it is not possible for any person from the road to see what is happening in the kitchen of the house of the accused and the deceased. It is now necessary to examine the sketch of the scene of offence-exhibit P14. The same on a perusal would show that the door of the kitchen is opening into the cart yard but not into any of the three rastas/ roads on the three sides of the house of the accused. The sketch map does not disclose that the kitchen is having a window on any side. It is not elicited from PW1 as to where he was standing when he had witnessed the incident proper. PW13 is the S.I of police who previously worked as ASI in Settur police station. In his cross examination it was brought out that his S.I prepared the rough sketch and that as per the sketch, the kitchen room was the scene of offence and there is no window to the kitchen room and it is not possible to see anything happening in the kitchen room. However, PW14 who worked at the relevant time as S.I of Police in Kundurpi had stated in his evidence that he had prepared Exhibit P14, the rough sketch of scene of offence, and that in the sketch existence of any window is not shown; but, he had volunteered that there was a window to the kitchen room; but, he could not say on which side of the kitchen the window was existing. His said statement, which is an improvement brought about in the evidence, does not inspire confidence. Even on the acceptance of his version that there is a window to the kitchen room, it is not helpful to accept that PW1 could have

witnessed the incident of attack as there is no clarity in the evidence as to in which of the three walls of the kitchen the said window is located. Therefore, even if it is to be assumed that PW1 was present on the road at the very moment of the assault as stated by him in his report, still the evidence on record makes it clear that it was not possible for him to witness the assault, which had taken place in the kitchen of the house of the deceased, which has no windows on any side and which is having only one door way opening into the cart yard of the house but not on to any of the roads abutting the house. Being conscious of the fact that if one goes by the version in the report, Exhibit P1 given by PW1, it is not possible to accept the theory that PW1 had witnessed the occurrence, the improvement was made in his evidence only to improve the prosecution case is a contention which merits consideration. Therefore, in the circumstances of the case brought on record, it follows that there is no acceptable and clinching evidence as to the position at which PW1 was on the road and the possibility to see what had happened in the kitchen from his position. Therefore, it is very much doubtful as to whether PW1, even assuming for a moment that he was present there, could have witnessed the incident proper which had admittedly happened in the kitchen of the house.

10.5 Therefore, all the circumstances brought out in the prosecution evidence and the inherent inconsistencies and improbabilities in the evidence raise a reasonable doubt as to the presence of PW1 at the scene of offence at the time of the occurrence or alternatively about the possibility of his witnessing the incident, which had happened in the kitchen as the evidence on record and the admission of the PW13, the police officer concerned, shows that it is not possible for anybody to witness from the road the happenings in the kitchen room. The incident had occurred in the kitchen is undeniable; and in the rough sketch, the scene of offence is also shown as the kitchen. According to PW1 after receiving the blow, the deceased came out of the kitchen and fell down in a pool of blood and that PW1 having seen her with injuries had raised

cries and had started weeping. Neither the rough sketch nor any other direct or reliable piece of evidence brought on record does support the said version of PW1. The investigating officer collected the blood stained earth and controlled earth only from the kitchen, which, as is evident from the rough sketch, is the scene of offence. If really the version of PW1 that the deceased came out of the kitchen after she had sustained the injury at the hands of the accused and had fallen down in a pool of blood at the entrance of the house of the accused, is true, then the investigating officer ought to have collected the blood stained earth and controlled earth from the place where the deceased had fallen down in a pool of blood and ought to have got the same analysed by a chemical analyst. But he did not do so. This circumstance also creates a doubt as to whether the deceased came out from the kitchen room after sustaining injury and fell down at the entrance of the house of the accused. Therefore, there is any amount of doubt as to whether the scene of offence is shifted, after the incident, from the kitchen to a place outside the house to facilitate the witnesses like PWs1, 2 and 8 to speak in support of the prosecution version. Thus, on an overall consideration, the evidence of PW1, which does not inspire confidence either about his presence at the scene or about his witnessing the occurrence, is unreliable and is not sufficient to sustain the conviction of the accused for the charge levelled against him.

11. Be that as it may, the next piece of evidence on which the prosecution relies is the recovery of MO9/ Axe at the instance of the accused on his arrest. PWs11 and 12, the panch witnesses, who were said to have been present when police arrested the accused on 03.10.2005 and also when police were said to have recovered MO9/ Axe at the instance of the accused, had turned hostile to the case of the prosecution. However, PW15, the Investigating Officer, who had verified the earlier part of the investigation done by PW14 and laid the

charge sheet, had testified that the accused was arrested on 03.10.2005 at 04:00 P.M., near Bochupalli village bus station, which is situated between Kalyandurg and Kundurpi road and that on his arrest under Exhibit P15 arrest mahazar, which was drafted by PW15 in the presence of the mediators, the accused had led them to a place, that is, 'Badeddula Mori', where he has hidden the crime weapon, which is also situated between Kalyandurg and Kundurpi road and which is at a distance of 2 furlongs from Bochupalli bus stand, and showed the place where he had hidden the weapon and that on that he (PW15) recovered the same at the instance of the accused under Exhibit P16 recovery mahazar and that at that time MO9 contained blood stains. Thus, for the recovery of the weapon at the instance of the accused, there is no evidence of any independent witness except that of the police officer. No doubt there is no mandate of law that the recovery has to be disbelieved in the absence of evidence of an independent witness present at the time of the recovery. But, in this case on hand, PW1 stated that after the incident the accused had left the scene of offence on a motor cycle towards Mokidi village but he did not state that at that time the accused had carried the weapon with him. Similarly, PW8 who was said to have come to the scene of offence after hearing the cries of PW1 stated that accused went away on his motorcycle. She also did not state that she had seen the weapon with the accused while he was leaving the scene of offence on the motorcycle. Therefore, none of the witnesses stated that while leaving the scene of offence on the motorcycle, the accused had carried the weapon of offence with him. Though Exhibit P19-analyst's report shows that blood of human origin was detected on MO9 and that the blood group is 'O', there is no evidence brought on record as to the blood groups of the deceased and the accused. Their blood groups were not got determined. On an overall consideration of the evidence on record, the weapon which was used for commission of offence on 29.09.2005 and which was hidden in a 'mori' contained blood stains when it was recovered on

03.10.2005 is highly doubtful. Even otherwise, the said evidence considered with the other evidence on record is of no avail to link the accused to the offence of Murder.

12. Thus, on a careful and analytical examination of the evidence brought on record, we are in agreement with the contentions of the learned counsel for the accused that there is no required standard of evidence to come to a safe conclusion that the accused caused the death of the deceased by hacking her as alleged in the case of the prosecution and that the circumstances of the case create any amount of doubt regarding the complicity of the accused in the offence. We, therefore, find that the accused is entitled to reasonable benefit of doubt and is, therefore, entitled to be acquitted after setting aside the conviction recorded against him by the learned Additional Sessions Judge.

13. In the result, the Criminal Appeal is allowed and the judgment of the learned Additional Sessions Judge, Anantapur in SC.no.794 of 2007 holding the appellant/ accused guilty of the offence punishable under Section 302 of the IPC and further recording a conviction and imposing imprisonment for life and fine is hereby set aside. The appellant/ accused is accordingly acquitted of the said charge. He shall be set at liberty forthwith, if his confinement is not required in any other case. The fine amount, if paid already, shall be refunded after time for preferring further appeal/ revision is over.

JUSTICE SANJAY KUMAR

JUSTICE M. SEETHARAMA MURTI

03.08.2016
Vjl