

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.836 OF 2007

JUDGMENT:

This Criminal Appeal, under Section 374 (2) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is filed by the appellants/A-1 and A-2 against the judgment, dated 18.6.2007, in Sessions Case No.204 of 2006 on the file of the Sessions Judge at Adilabad whereunder and whereby, the learned Sessions Judge found A-1 and A-2 not guilty of the offence punishable under Section 302 read with 34 I.P.C., but found them guilty of the offence punishable under Section 304 Part-I I.P.C. and accordingly, convicted and sentenced them to undergo rigorous imprisonment for a period of seven years and to pay fine of Rs.100/- each, in default of payment of fine, to suffer simple imprisonment for a period of three months each.

2. Case of the prosecution, in brief, is as follows:-

On 01.8.2005, Sunkari Bhumavva (L.W.1) went to Laxmanchanda Police Station and lodged a complaint stating that on the previous day, while she was cleaning bank in their field, her brother-in-law – Sunkari Shanker (A-1) abused her; that on 1.8.2005, at about 7:30 hours, while she was reporting the same to her husband, A-1 and his son A-2 came there, beat her husband, took him to a wheel of bullock cart, forcibly pressed on his throat with the support of the wheel and caused his instantaneous death. K.Devidas – Assistant Sub-Inspector of Police, Laxmanchanda (L.W.13) registered the said complaint as a case in Crime No.36 of 2005, issued F.I.R. under Section 302 read with 34 I.P.C. against

A-1 and A-2. During the course of investigation, on 18.8.2005, the accused were apprehended and in pursuance of their confession under a cover of panchanama before mediators, G.Radhakrishna (L.W.14), the then Circle Inspector of Police, seized weapons of offence i.e., stout stick and rope from the possession of accused. Dr.D.Janardhan, Medical Officer, Khanapur (L.W.12) conducted autopsy over the dead body of the deceased and issued report opining that the cause of death was due to haemorrhage shock as a result of blunt injury to vital organs i.e., liver, lungs and heart. Finally, on completion of investigation, the Circle Inspector of Police, Khanapur filed charge sheet against A-1 and A-2 in Crime No.36 of 2005 of Laxmanchanda Police Station for the offence under Section 302 read with 34 I.P.C.

3. The Judicial Magistrate of First Class, Nirmal took the case on file against A-1 and A-2 for the offence under Section 302 read with 34 I.P.C., furnished copies of prosecution documents to them and committed the case to the Sessions Court, Adilabad under Section 209 Cr.P.C.

4. On the appearance of the accused and on hearing both sides, charge under Section 302 read with 34 I.P.C. was framed against them, read over and explained to them in Telugu for which, they pleaded not guilty and claimed to be tried.

5. To substantiate the case of the prosecution, P.Ws.1 to 9 were examined and Exs.P-1 to P-10 were got marked besides case properties – M.Os.1 and 2.

6. After closure of the evidence on the prosecution side, accused were examined under Section 313 Cr.P.C. for which, they denied the incriminating circumstances appearing against them in the evidence of prosecution witnesses. On behalf of the accused, none was examined and no documents were got marked.

7. The learned Sessions Judge, basing on the evidence adduced and after elaborate discussion, found A-1 and A-2 not guilty of the offence punishable under Section 302 read with 34 I.P.C., but found them guilty of the offence punishable under Section 304 Part-I I.P.C. and accordingly, convicted them under Section 235(2) Cr.P.C. and sentenced them for the said offence as stated supra. Challenging the same, A-1 and A-2 filed the present appeal.

8. Heard and perused the material available on record.

9. After arguing for sometime, learned counsel for the appellants submitted that the appellants have suffered substantial period of sentence in the prison and they are the sole bread winners of their families and hence, prayed to reduce the sentence of imprisonment imposed by the trial Court.

10. Considering all the facts and circumstances of the case and taking into consideration of the submission of the learned counsel for the appellants, this Court is inclined to reduce the punishment imposed by the trial Court against the appellants.

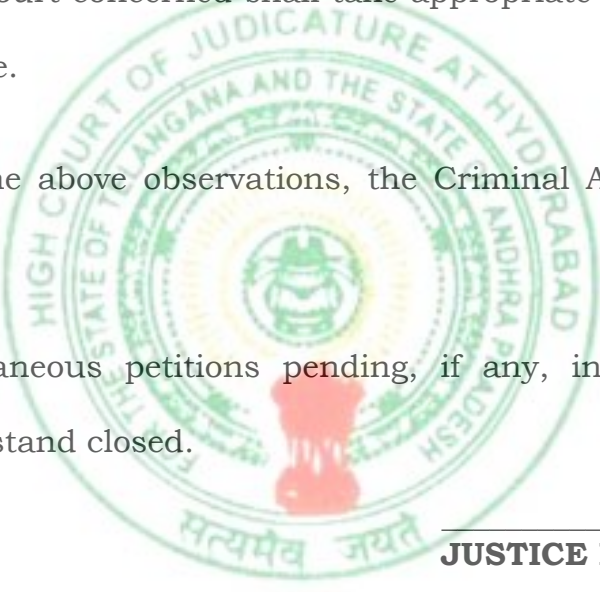
11. In the result, the conviction imposed against the appellants/A-1 and A-2 in the judgment, dated 18.6.2007, in Sessions Case No.204 of 2006 on the file of the Sessions Judge at

Adilabad for the offence punishable under Section 304 Part-I I.P.C. is confirmed. However, the sentence of imprisonment imposed by the learned Sessions against the appellants/A-1 and A-2 for the said offence to undergo rigorous imprisonment for a period of seven (7) years is reduced to two (2) years, while maintaining the fine amount. The period already undergone by the appellants/A-1 and A-2 is set off under Section 428 Cr.P.C. The appellants/A-1 and A-2 are directed to surrender before the Court concerned on or before 15.10.2016 to serve the remaining sentence and on their failure, the Court concerned shall take appropriate steps to secure their presence.

12. With the above observations, the Criminal Appeal is partly allowed.

13. Miscellaneous petitions pending, if any, in this Criminal Appeal shall stand closed.

22.9.2016
AMD



JUSTICE RAJA ELANGO

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Date: 22.09.2016

AMD