

**7THE HON'BLE SRI JUSTICE SANJAY KUMAR  
AND  
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

**CRIMINAL APPEAL NO.1381 OF 2010**

**J U D G M E N T**  
***(Per Hon'ble Sri Justice Sanjay Kumar)***

By judgment dated 24.09.2010 in Sessions Case No.20 of 2010, the learned Sessions Judge, Ongole, convicted the sole accused of offences under Sections 302 and 324 IPC. For his conviction under Section 302 IPC, he was sentenced to imprisonment for life and to pay a fine of Rs.1,000/- or suffer simple imprisonment for three months, in default thereof. For his conviction under Section 324 IPC, he was sentenced to rigorous imprisonment for six months and to pay a fine of Rs.500/- or suffer simple imprisonment for one month, in default thereof. Aggrieved thereby, the sole accused is in appeal before this Court under Section 374(2) CrPC.

The gravamen of the case against the accused was that, on the night of 20.07.2009, near the hut of the deceased, Illa Somi Reddy, near Prakasam Weigh Bridge, Dubagunta Village, the accused intentionally caused the death of the deceased by hacking him with a big knife (M.O.5) on the right side of his neck and on the same day, time and place, he also voluntarily caused hurt to Bollam Rama Rao (P.W.2) and Cheerapu Abbayya Dora (P.W.3) with the big knife (M.O.5), causing bleeding injuries to them. Hence, the charges under Sections 302 and 324 IPC.

The accused pleaded not guilty and claimed to be tried.

At the trial, the prosecution examined 10 witnesses and marked 16 exhibits. Case properties were marked as M.Os.1 to 8. The defence did not choose to adduce any evidence.

The case on hand did not rest on circumstantial evidence as the prosecution produced as many as four eyewitnesses, of whom two sustained injuries allegedly at the hands of the accused in the course of the same attack which resulted in the death of the deceased. The four eyewitnesses and the doctors stated as under:

Illa Rajamma (P.W.1), the wife of the deceased, stated that the accused belonged to her village and that he had murdered her husband about a year prior thereto near the huts at the kata (Weigh Bridge) near Kandukur. She said that the said huts were temporarily constructed by them as they had come there to work under Bheemana Srinivasulu (L.W.7), i.e., to remove the bark of Eucalyptus logs. According to P.W.1, Chundam Bapiraju (L.W.6) and one Kantha Rao, who were part of their group, left to work at some other weigh bridge and the accused went and beat them up. As to the events of the fateful day, she said that at about 9.00 PM on the said day, Bollam Rama Rao (P.W.2), Cheerapu Abbayya Dora (P.W.3) and Mampa Ramana (P.W.4) were talking in front of their hut about the said incident, whereupon the accused suddenly came out of his hut, which was behind their hut, and questioned them as to why they were discussing about him. P.W.1 stated that the accused hacked her husband with a knife on the right side of his neck and on his left collar bone. She stated that the accused threatened to kill her if she went to the rescue of her husband and out of fear she went to the back of her hut to hide. She stated that some time later, she came to the front and saw the dead body of her husband. She then went to the police station where her statement was recorded and the contents thereof were read to her. She stated that she affixed her thumb mark on the written statement and confirmed that Ex.P1 was the said

statement. She further stated that there were lights at the kata and she could see under the illumination of the said lights. In her cross-examination, P.W.1 confirmed that the deceased and others sat in front of their hut on the ground and discussed about the conduct of the accused in beating Kantha Rao and Bapiraju for about one hour and they were talking of the right of the accused to beat them. She also confirmed that there were knives and sticks in all the huts and denied the suggestion that there was a free fight during which the deceased sustained injuries and died. According to her, when the discussions were going on with the accused and others in front of the hut, she was inside, but upon hearing the galata (commotion) she came out. She denied the suggestion that she was not at all present at the time of occurrence and that she did not witness it.

Bollam Rama Rao (P.W.2) confirmed that about one year prior to his deposition, he along with others came to the kata near Kandukur to work under Bheemana Srinivasulu (L.W.7) for removal of the bark of Eucalyptus logs. He also stated that one Kantha Rao and Chundam Bapiraju (L.W.6) left the work at the said kata and went to work at some other kata and that the accused went and beat them. He stated that on the same day, they questioned the accused as to his conduct, stating that as they had all come to one place it was not proper for him to beat them. P.W.2 stated that after dusk, the accused hacked the deceased with a knife outside his hut and at that time, P.W.1, P.W.3, Cheerapu Narayanamma (L.W.4) and he were present. P.W.2 stated that he went to the kata to make a phone call to Bheemana Srinivasulu (L.W.7) to inform him about the incident and the accused came there and hacked him on his head, neck, right palm and both the legs. P.W.2 further stated that the

accused hacked Cheerapu Abbayya Dora (P.W.3) also at the huts. He stated that he was taken to the hospital. In his cross-examination, P.W.2 denied the suggestion that after consuming alcoholic drinks and with a view to exercise control over the accused he, along with the deceased, P.W.3, P.W.4 and Chundam Bapiraju (L.W.6) went to his house with knives and sticks and that there was a free fight amongst them in a drunken state, which resulted in the death of the deceased and injuries to himself and P.W.3.

Cheerapu Abbayya Dora (P.W.3) confirmed that he knew P.Ws.1, 2, 4, Chundam Bapiraju (L.W.6) and the deceased. He confirmed that Cheerapu Narayanamma (L.W.4) was his wife. He stated that about one year prior to his examination in the Court, the accused killed the deceased. Twenty days prior thereto, he said that they all came to work at the kata near Kandukur. On the date of the occurrence, he stated that at about 9.30 PM the deceased, P.W.2, P.W.4 and one Raghava were sitting at their huts and discussing about the highhanded behaviour of the accused in beating Kantha Rao and Bapiraju (L.W.6). He stated that P.W.1 and Cheerapu Narayanamma (L.W.4) were also present there. The accused was stated to have come there with a knife and hacked the deceased on his neck, questioning as to why they were discussing about him. P.W.3 stated that when he was checking to see whether the deceased was dead or alive, the accused hacked him asking why he had come there. P.W.3 stated that when the accused hacked the deceased, P.W.1 ran away out of fear and when P.W.2 went near the kata to make a phone call, the accused hacked P.W.2 also. P.W.3 stated that he and P.W.2 were shifted to the Government Hospital in an ambulance. He confirmed that the deceased died on the spot after

receiving injuries. P.W.3 identified M.O.5 knife as the knife with which the accused hacked him and the others. In his cross-examination, P.W.3 denied the suggestion that they were all drunk on that night and that there was a free fight with knives and sticks and in that process, he, P.W.2 and the deceased received injuries.

Mampa Ramana (P.W.4) stated that the accused belonged to his village and that he knew the deceased, P.Ws.1 to 3, Chundam Bapiraju (L.W.6) and Cheerapu Narayanamma (L.W.4). He stated that the deceased was murdered by the accused near their huts about one year prior to his examination. He stated that the time would have been about 9.30 PM. He further stated that the deceased, P.W.1, P.W.3 and Cheerapu Narayanamma (L.W.4) along with one Raghava were at the hut of the deceased at the time of the occurrence. He stated that he was at his own hut which was at a distance of about 10 to 15 feet from the scene of the offence. He confirmed that P.W.2 was also there at the hut of the deceased. He stated that the accused hacked the deceased on his neck and P.W.1 tried to intervene but when the accused raised the knife against her, she ran away. P.W.4 stated that he too ran away from the scene on witnessing the occurrence. He confirmed that P.W.3 went across the accused and the accused hacked him whereby P.W.3 received an injury on his right fore-arm. P.W.4 further stated that he came to know that P.W.2 was also hacked by the accused. In his cross-examination, P.W.4 stated that he was sitting in front of the hut on a cot like arrangement and that the deceased and others were discussing for about half an hour and he was listening to the same. He denied the suggestion that he did not witness the occurrence and that he came to know about it through someone else. He denied the

suggestion that the deceased, P.Ws.2 and 3 and others consumed alcoholic drinks and went upon the accused with knives and sticks and in that process, there was a free fight and the deceased, P.Ws.2 and 3 sustained injuries.

Dr.N.Rama Mohana Rao (P.W.9), Civil Assistant Surgeon, Area Hospital, Kandukur, confirmed that he had conducted the post-mortem examination of the body of the deceased on 21.07.2009 at 3.00 PM. He stated that he found an incised injury on the right side of the neck (3" X 2") and fracture of the left collar bone (5" X 2"). He stated that the deceased had died due to cardio-respiratory failure caused by haemorrhage. He stated that the first injury could be inflicted with a knife and that it was sufficient to cause death in the ordinary course of nature.

Dr.M.Srinivasa Rao (P.W.7), Civil Assistant Surgeon, Area Hospital, Kandukur, stated that on 20.07.2009, he examined P.Ws.2 and 3 and confirmed that they had sustained simple injuries. He certified that Ex.P9, in relation to P.W.2, and Ex.P10, in relation to P.W.3, were the wound certificates issued by him. He confirmed that the said injuries could be caused by a sharp-edged weapon. In his cross-examination, P.W.7 confirmed that all the injuries under Ex.P9 could have been caused with a single weapon.

On the strength of the aforesaid evidence, it is clear that the death of Illa Somi Reddy, the deceased, was homicidal in nature.

The presence of P.Ws.1, 2, 3 and 4 at the scene of the offence is natural and believable as P.W.1 was none other than the wife of the deceased, while the other witnesses were members of the group who had come from the same village to jointly work at the weigh bridge. Though a suggestion was put to all the eyewitnesses that there was a

free fight, there is no evidence of the same. On the other hand, the fact that the accused did not suffer any injuries militates against the theory of a free fight as he would have undoubtedly suffered injuries if it was true, as he was completely outnumbered.

Sri B.Parameswara Rao, learned counsel for the appellant/accused, would contend that the discrepancies in the testimony of the eyewitnesses are sufficient to eschew the same from consideration. We find no merit in this submission.

In particular, one discrepancy which is sought to be banked upon by Sri B.Parameswara Rao, learned counsel, is with regard to P.W.1's statement as to what she did after the attack by the accused. In Ex.P1, her statement recorded by the police, P.W.1 stated to the effect that she ran to the backside of the weigh bridge to hide while in her deposition before the Court, she said that she went to the back of her hut to hide.

The presence of P.W.1 cannot be doubted as she, being the wife of the deceased, would have been at their hut in the late hours of the day. It is not in dispute that the incident occurred at or about 9.00 or 9.30 PM. P.Ws.2, 3 and 4 also confirmed her presence. The contradiction as to where she went to hide is therefore insufficient in itself to discredit her testimony. Minor discrepancies in the depositions of eyewitnesses after a lapse of time do not warrant dismissal of their account of what they had actually seen, all the more so, when some of the eyewitnesses sustained injuries in the course of and in the same transaction which resulted in the death of the deceased.

Sri B.Parameswara Rao, learned counsel, would further argue that P.W.4 is unworthy of reliability as he confirmed in his cross-

examination that he had stated before the police that he came to know that the accused attacked P.Ws.2 and 3 and caused bleeding injuries. It is brought out in the evidence of the other eyewitnesses that P.W.2 was attacked and hacked when he went to make a phone call at the weigh bridge. That is perhaps the reason why P.W.4 stated that he did not actually see P.W.2 being attacked and that he came to know about it. This, in fact, adds to his credibility as a witness as he did not claim to have seen what he could not have seen in the normal course of events. In his chief-examination, P.W.4 stated that P.W.3 went across the accused and the accused hacked him. No doubt, in his cross-examination, he stated that he informed the police that he came to know that the accused attacked P.W.3 and caused him bleeding injuries. It is to be noted that P.W.4 stated that he too ran away from the scene on witnessing the occurrence. Correlating these statements, the actual extent of injuries suffered by P.W.3 may not have been seen by this witness and therefore, he stated that he came to know that the accused had attacked P.W.3 and caused him bleeding injuries. These discrepancies are thus explainable and do not discredit the testimony of this witness to the extent that it should be eschewed from consideration. Further, even if the evidence of this witness is discarded, the overwhelming evidence of the other eyewitnesses is more than adequate.

It is also brought out in the evidence of P.W.3 that M.O.5 knife was the knife used by the accused to inflict injuries upon the deceased, P.W.2 and himself.

Given the totality of the aforestated evidence, this Court finds that the prosecution established beyond reasonable doubt that the accused caused the death of Illa Somi Reddy, the deceased, by

hacking him on the right side of his neck with M.O.5 knife and also caused injuries to P.Ws.2 and 3 thereafter with the same knife. The offences alleged against the accused under Sections 302 and 324 IPC therefore stood proved and neither his conviction nor the sentences visited upon him by the Sessions Court warrant interference on any ground, factual or legal.

The appeal is devoid of merit and is accordingly dismissed.

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**SANJAY KUMAR, J**

**27<sup>th</sup> SEPTEMBER, 2016**

PGS

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**M.SEETHARAMA MURTI, J**

