

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and
The Hon'ble Sri Justice M.S.K.Jaiswal

Criminal Appeal No.1549 of 2010

Date: 22.11.2016

Between:

Vadrevu Venkateswarlu and 7 others

.. Appellants

and

Boommidi Adinarayana (died)
rep. by the legal representative
Smt.B.Kameshwari and another

.. Respondents

Counsel for the Appellant Nos.1 to 7: Mrs.A.Gayathri Reddy

Counsel for respondent No.8: Mrs.C.Vasundhara Reddy

The Court made the following:

Judgment : (Per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The accused in Sessions Case No.194 of 2007 on the file of the VII Additional Sessions Judge, Kakinada, filed this Criminal Appeal against Judgment, dated 08-12-2010, passed therein.

2. By the afore-mentioned Judgment, accused Nos.1, 3 to 5 and 7 to 9 were convicted for the offences punishable under Sections 302 and 120-B IPC and sentenced to suffer Life Imprisonment and pay fine of Rs.100/- each, in default, to suffer simple imprisonment for 10 days each for the offence under Section 302 IPC and to suffer Simple Imprisonment for 3 months each and pay fine of Rs.100/- each, in default, to suffer Simple Imprisonment for 10 days each for the offence under Section 120-B IPC. Accused No.2 was convicted for the offence punishable under Section 202 IPC and sentenced to suffer Simple Imprisonment for three months and pay fine of Rs.100/-.

3. The brief facts of the case are as follows:

One Bommidi Adinarayana (hereinafter referred as 'the complainant') has filed a complaint before PW.13- Sub-Inspector of Police, I Town Police Station, Kakinada, on 14.07.2009 with the allegation that on 13-07-2009 at 7.00 a.m.,

his fourth son- Bommidi Lakshmi Kiran (hereinafter referred as 'the deceased') went to the college; that at about 10.00 a.m., accused Nos.1, 8 and 4 came together to his house stating that accused No.2, who is the daughter of accused No.1, was not found at their house and that the deceased might have taken her and asked him to tell about their whereabouts; and that they have raised galata by stating that they will kill the deceased, if he is traced and went away by saying that they will come again. The complainant further stated that he went to the College of the deceased and came to know that the latter absented on that day. Thus, the complainant and his family members having concluded that the deceased and accused No.2 might have gone together somewhere, enquired the friends of the deceased and searched the surrounding areas of Kakinada for the whereabouts of the deceased and A.2; that the deceased was not found; that on the same day at 11.00 p.m., the said accused again came to the house of the complainant and stated that accused No.2 came on her own and that they do not know the whereabouts of the deceased and went away. Based on the said complaint, Crime No.108 of 2014 was registered as 'man missing'.

4. Three days later, *i.e.*, on 16-07-2004, the complainant submitted Ex.P.5- Complaint to the Superintendent of Police, East Godavari District, wherein he has referred to the names of accused Nos.1, 4, 8 and 9, who, allegedly, came to his house and informed that accused No.2 was not found and that if they come to know that accused No.2 went with the deceased, they will kill the deceased and ruin their family. He has further stated that he has gone to the College; that his enquiries revealed that the deceased did not attend the College on that day; that his further enquiries with PW.9- classmate of the deceased revealed that on 13-07-2004 morning, accused No.2 and the deceased went together; and that on that day, accused No.8 again came to the house of the complainant and stated that if he happens to find accused No.2, he must hand over her and if they happen to find the deceased, they will hand him over to him; that they have threatened the complainant not to file Police case as the life of accused No.2 will be ruined; that on the same day at 10.00 p.m., the afore-mentioned four persons again came to the house of the complainant and stated that accused No.2 came to their house and that it is for the complainant to search for the deceased. When PW.3 and others caught hold of accused No.4, he informed them that

they killed the deceased in the beach; that immediately, accused No.4 was handed over to the I Town Police Station, Kakinada, who did not take any action; that in the early hours of 14-07-2009, at about 3.00 a.m., the corpse of the deceased was traced in the beach; that the same was informed to the Police; and that from the injuries on the dead body observed by them, they were of the opinion that the death was homicidal but not suicidal.

5. After investigation, the Police have submitted final report on 09-12-2004 to the effect that no foul play, whatsoever, was suspected in the case and that under the circumstances, no further probe is necessary. Feeling aggrieved by the final report of the Police, the complainant has filed a private complaint before the jurisdictional Magistrate under Section 190 r/w 200 Cr.P.C., which was received by the Magistrate on 11-02-2005. After recording the statements of the relevant witnesses, the case was taken cognizance of and committed to the Court of Sessions, Kakinada.

6. The Sessions Court has framed the following charges against all the accused.

“Firstly: That you Vadrevu Venkateswarlu (A1), Vadrevu Ravi Kumar (A3), Vadrevu Venkata Ramana (A4), Vadrevu Eswara Rao (A5), Adadadi Krishna Murty (A6),

Adadadi Nukaratnam (A7), Karri Samba Siva Rao @ Eswara Rao (A8), and Sangadi Veerababu (A9) on 13-7-04 have conspired together and agreed to do an illegal act to wit, to murder the deceased Lakshmi Kiran and thereby you have committed an offence punishable u/s.120(B) I.P.C., within the cognizance of the court of Sessions.

Secondly:- That you Vadrevu Venkateswarlu (A1), Vadrevu Ravi Kumar (A3), Vadrevu Venkata Ramana (A4), Vadrevu Eswara Rao (A5), Adadadi Krishna Murty (A6), Adadadi Numaratnam (A7), Karri Sambasiva Rao @ Eswara Rao (A8), and Sangadi Veerababu (A9) on 13-7-04 at night time near Suryaraopeta Light House beech road, intentionally caused the death of Bommidi Lakshmi Kiran by bearing and throwing him into the sea water, pressed and kicked the body in to the water and thereby you have committed an offence punishable u/s.302 I.P.C., within the cognizance of the court of sessions.

Thirdly:- That you Vadrevu Venkata Lakshmi (A2), on 13-7-04 at night time knowing that certain offence to wit, Bommidi Lakshmi Kiran was murdered by A1, A3 to A9 at Suryaraopeta Light House, opposite to Sea Beech and you have witnessed the kicking and throwing the body of the deceased Lakshmi Kiran into the sea water and you have returned along with A1, A3 to A.9 to your house and did not give any information to the police intentionally, such omission amounts to an offence and thereby you have committed offence punishable u/s.202 I.P.C., within the cognizance of the court of sessions.”

7. In support of his case, the complainant has examined himself as PW.1 and thirteen others as PWs.2 to 14 and marked Exs.P.1 to P.21. No oral evidence was let in on behalf of the

accused. However, Exs.D.1 to D.8 were marked on their behalf.

8. On appreciation of both oral and documentary evidence, the learned Sessions Judge has convicted and sentenced the accused as indicated herein before.

9. Before proceeding further, we need to mention that during the pendency of the Criminal Appeal, accused No.7 was released and accused Nos.4 and 6 have died. Therefore, the appeal has become infructuous and abated *qua* the aforementioned accused.

10. Smt.A.Gayathri Reddy, learned Counsel for the appellants/accused, has strenuously submitted that the Court below has committed serious illegality in convicting the accused on mere suspicion; that the complainant failed to establish motive; and that the case being based on circumstantial evidence, in the absence of motive, the conviction of the accused cannot be sustained in law. She has further argued that the medical evidence, which clearly proves that the death has occurred due to drowning, does not support the case of the complainant that the death was homicidal and that the Court below, having categorically observed that the Doctor failed to explain the injuries formed on the body of the deceased, instead

of giving benefit of doubt to the accused, drew conclusions against them, which is contrary to the criminal jurisprudence. It is further argued that the links in the chain of circumstances have not been established and that how-so-ever strong the suspicion may be, it will not take the place of proof. She has further argued that when two views are possible, the one which favours the defence must be preferred. In support of her submission, she has placed reliance on the judgments of the Supreme Court in **Prem Kumar Gulati vs. State of Haryana and others**¹ and **Sharad Biridhichand Sarda vs. State of Maharashtra**².

11. While opposing the above submissions, Mr.A.K.Kishore Reddy, learned Counsel for respondent No.1- Complainant, submitted that though there is no direct evidence, the evidence adduced by the prosecution clearly establishes the guilt of the accused beyond reasonable doubt and that the lower Court has rightly convicted the accused. He has further argued that although there was complicity between the Police and the accused, as a result of which, the Police have filed a false report, but for the extra ordinary efforts made by respondent No.1, the accused would not have been brought to book. He

¹ (2014) 14 Supreme Court Cases 646

² AIR 1984 Supreme Court 1622

has further argued that the accused were guilty of honour killing as they did not like the deceased, who belongs to a poor family and low social strata, loving accused No.2, who is the daughter of accused No.1, who is affluent, and that despite all the manipulations indulged in by the accused in collusion with the Police, the lower Court has secured justice by convicting the accused and that therefore, its judgment is not liable for interference.

12. We have carefully considered the submissions of both parties and perused the record.

13. As regards the motive, there is no dispute about the fact that the deceased and accused No.2 were in love with each other. In his evidence, PW.1 has deposed that in the month of February, 2002, accused Nos.1 and 3 to 9 came to their house and warned that his deceased son was loving accused No.2 and that if he continued his love affair with accused No.2, he would be killed. The following suggestions put to PW.1 would clearly reveal that the deceased and accused No.2 were loving each other:

“.....It is not true to suggest that myself and my other three sons used to admonish my deceased son for loving A-2 even without performance of marriages of my elder sons. Witness adds that I came to know

about the love affair of deceased Lakshmi Kiran with A 2 in the month of February, 2002 only after the accused came up on our house, and made galata with us, then we have warned deceased Lakshmi Kiran not to continue the love affair with A-2.....

.....It is not true to suggest that the deceased was afraid (ing) to reveal about his love affair with A-2 to me and other family members and he was internally suffering.....

..... It is not true to suggest that accused No.8 sent a word through one person to us stating that we both together search for A-2 and Deceased and on tracing them we will take back out respective children, conveying the same to one another.....

.....It is not true to suggest to suggest that A-8 sent a word to me at about 8 P.M. on 13-7-2004 stating that the deceased and A-2 were vexed with their life and attempted to commit suicide by going into SEA and unfortunately my deceased son was not seen at the see, whereas the A-2 was survived in that attempt and she herself came back to their house.....”

14. On behalf of the accused, it was suggested to PW.1 that he was speaking falsehood, but he has denied the same.

15. Ex.P.9 pertains to two love letters addressed by accused No.2 to the deceased, the authenticity of which is not in dispute. It is clearly stated by accused No.2 in one letter that her brother (accused No.3) has informed her that the deceased may come in the vicinity of their house and try to follow her; that himself and others will catch hold of the deceased; that

they will attack the deceased; and that they will not let him live.

She cautioned the deceased not to come near her house as she is afraid that he may be attacked by her brother and others.

16. In his evidence, PW.1 has deposed that on 13-07-2004, at about 10.30 a.m., all the accused except accused No.2 came to his house by raising cries and enquiring the whereabouts of the deceased; that when PW.1 has informed that the deceased has gone to the College, they went away; that on the same day, those accused again came to the house of PW.1 suspecting that accused No.2 might have gone with the deceased; and by proclaiming that they are going to search in the college and if the deceased was not available in the College premises, they will presume that the deceased might have eloped with accused No.2; and that if accused No.2 and the deceased were found together, the latter will be killed. PW.1 further deposed that on 13.07.2004, at about 2.00 p.m., all the accused again came to his house and enquired about the whereabouts of the deceased; that on coming to know that deceased has not returned home, they went away; that again at 4.00 p.m., on that day, accused No.7 came to the house of PW.1 along with four women and insisted him to hand over accused No.2 to them uttering that if she is not handed over, they will set his house on fire; that again

at 6.00 p.m., on the same day, all the accused except accused No.2 came to the house of PW.1 and accused Nos.4 and 8 have uttered that the deceased has no social strata to love accused No.2, who is capable of sleeping in AC rooms, whereas the deceased has no capacity to have a square meal a day; and that accused No.2 is refusing to marry anybody else except the deceased because of their love affair. Nothing material could be elicited from PW.1 to discredit his testimony on all the events that have occurred on 13-07-2004.

17. PW.8 is the classmate of the deceased. He speaks about the love affair between the deceased and A.2 which fact is not in dispute. It is in his evidence that on 13.07.2004, the deceased came on his cycle along with the books to his house, parked his cycle and was going away from there and at that time he has seen the deceased and A.2 going together. The aspects which are spoken to by PW.8 are not relevant for determining the guilt or otherwise of the other accused. His evidence corroborates the admitted fact that both the deceased and A.2 were having a love affair and that on 13.07.2004 both of them were together through out the day till about 07.00 or 07.30 p.m., when A.2 was taken away from the place where the dead body was found lying.

18. Similar is the evidence of PW.9 who deposed that on 13.07.2004 at about 06.00 a.m., A.2 came to his house and asked him to get the deceased along with her book which was kept with the deceased. He claims to have gone to the house of the deceased and conveyed the request of A.2. Sometimes thereafter, the deceased came to his house with the books and he saw the deceased and A.2 both going away from his house.

19. If the entire evidence of the witnesses produced on behalf of the complainant is carefully perused, what emerges is that A.2 and the deceased were in deep love and were not prepared to part ways inspite of strong resistance from the family members of A.2 on the ground that the deceased is not a person who is in any way near the status and standard of living of A.2. The evidence also discloses that the accused persons who are all the kith and kin of A.2 were holding out threats of even physical liquidation of the deceased if he does not desist from continuing the affair with A.2. The documents also clearly point towards the fact that even A.2 was apprehending danger to their lives at the hands of her own people in view of her insistence to continue the affair with the deceased and her refusal to marry any person other than the deceased.

20. Even according to the statement of A.2 made by her during the course of her examination under Section 313 Cr.P.C., she clearly speaks about the fact that on the fateful day, both A.2 and the deceased were together almost through out the day loitering here and there including going for a movie and both of them decided to commit suicide since there were no chances of their living together in view of the hostile attitude of her parents and relatives. According to A.2, pursuant to a suicide pact, both of them went into the sea waters but as the providence would have it she survived the onslaught of the sea waves whereas the deceased succumbed to it. This theory of A.2 of their entering into a suicide pact and attempting to do so cannot be believed for the reason that when both of them have tied their hands together with a chunni and went into the waters, her surviving unscathed without even a scratch and the deceased meeting the watery grave cannot be fathomed. Admittedly, A.2 was not at all administered any treatment which would not have been the case if really both of them jumped into the waters, more particularly by tying their hands together with a chuni.

21. The afore-mentioned evidence, in our opinion, is sufficient to hold that the accused had strong motive to kill the

deceased as, admittedly, accused No.2 was in love with the deceased and they were roaming together against the will and wishes of accused No.1, his family members and relatives.

22. With regard to the submission of the learned Counsel for the appellants on merits, this is a case based on circumstantial evidence, which requires establishment of every link in the chain of circumstances to prove the guilt of the accused beyond all reasonable doubts. No doubt in his earliest complaint, based on which Ex.P.18- FIR was registered, PW.1 has stated that accused Nos.1, 4 and 8 came to his house on 13-07-2009 at about 7.00 a.m., and also at 11.00 p.m., on the same day and threatened that if the deceased is traced, they will kill him. However, in Ex.P.5- Complaint given on 16-07-2004 to the Superintendent of Police, he has referred to the names of accused Nos.1, 4, 8 and 9 as having come to his house on 13.07.2004. He has further stated therein that at 10.00 p.m., on 13.07.2004, accused No.4 has informed PW.1 that his son was killed in the beach; that he may search for the dead body and that thereupon, PW.1 and others have handed over accused No.4 to the I Town Police Station.

23. Thus, we find an improvement in the version of PW.1 as regards the involvement of accused No.4. However, this does

not assume much significance for the reason that accused No.4 has died during the pendency of the appeal. As regards accused Nos.1 and 8, PW.1's version is consistent. Accused No.1 being the father of accused No.2, we have no reason to believe that if the death is proved to be homicidal, he will not have any role in the killing of the deceased. Similarly, accused No.8 being the maternal uncle of accused No.2, the evidence clearly shows that he had been actively supporting accused No.1. Thus, we have no reason to doubt the involvement of accused Nos.1, 4 and 8 in the commission of offence.

24. Accused Nos.5 and 9 were last seen by PW.7. PW.7 claims to have seen A.5 and A.9 physically taking away A.2 on their motorcycle from the scene of offence on 13.07.2004 at about 7.00 or 7.30 p.m. According to PW.7, he went to the harbour to see the arrival of his fishing boat and at that time he has witnessed the above aspect. He also claims that at that time A.2 was raising cries so as to attract the attention of others. If what PW.7 deposed is to be believed, the presence of A.5 and A.9 at the place where the dead body of the deceased was found lying shortly thereafter is established. However, if the evidence of PW.7 is carefully analyzed, it creates any amount of doubt as to whether he was really present at the place where he

claims to have been. His conduct does not conform to the conduct of a person of ordinary prudence. He is the co-brother of the brother of PW.1. He admits in his cross-examination that there was absolutely no need whatsoever for him to go to the Suryaraopeta Light House from Sambamurthy Nagar for going to the fishing harbor. He also admits that the fishing boats will not come to Suryaraopeta Light House and that there was no necessity whatsoever for him to go to the Light House and wait for the arrival of his fishing boat. That apart, when he has seen a young girl physically being lifted and being taken away on motorcycle by two known persons viz., A.5 and A.9, he should have alerted the other villagers about his seeing the girl being forcibly taken away by A.5 and A.9 on motorcycle by making her sit in between them. Having seen such an incident at about 07.30 or so in the evening, for about 12 hours i.e., till the morning of 14.07.2004 he did not inform about it to anybody and only on coming to know that the dead body of the deceased is found lying on the beach, he informed as to what he has seen. His further admission that he did not make any effort whatsoever to apprehend or prevent A.5 and A.9 from taking her away on motorcycle raises a serious doubt about his version. When he claims to have seen the said crucial

aspect and since he is closely related to PW.1, he being the co-brother of the brother of PW.1, he could have come out with the said version at the earliest point of time, at least, during the course of inquest panchanama conducted on 14.07.2004. He came to know directly from PWs.1 and 2 at about 07.00 or 07.30 a.m., on 14.07.2004 that their son – the deceased was murdered in the beach road near the Light House area. He also claims to have accompanied PWs.1 and 2 and found the dead body. His non-disclosure of the above facts to anybody even at the time when the inquest over the dead body was being held goes to show that he was not present at the place where he claims to have been present and his assertion that he has seen A.5 and A.9 taking away A.2 forcibly on their motorcycle from near the place where the dead body of the deceased was found lying shortly thereafter.

25. In the light of the above discussion, the point that needs not to be adjudicated is as to who is responsible for the death of the deceased, the circumstances in which he died and whether the persons responsible for the death of the deceased needs to be punished for the offence punishable under Section 302 IPC., or whether it attracts Section 304 IPC.?

26. It is in the evidence of P.Ws.1 to 6 that throughout the day on 13.07.2004 except A.2, the other accused were coming to their houses, enquiring about the whereabouts of the deceased as well as A.2 and they also went to the College where both the deceased and A.2 claimed to have gone and the accused except A.2 also proclaimed that if both the deceased and A.2 were found together, they will see the end of the deceased boy. It is further in their evidence that on the same night at about 11.00 p.m., A.1, A.3, A.4, A.6 and A.8 came to their house on motorcycles and informed that A.2 has been traced, but they do not know the whereabouts of the deceased and asked them to go and search for the deceased. However, it is in their evidence that out of the accused persons they could apprehend A.4 and when questioned, A.4 informed them that all the accused persons except A.2 have caused the death of the deceased.

27. When the above information was available with the complainant/P.W.1 by about 11.00 p.m., on 13.07.2004 itself, it is not understandable as to why in the Ex.P2 complaint which he filed subsequently or in Ex.P.5, the representation made by him to the Superintendent of Police on 16.07.2004, he did not name all the accused persons. In the earliest complaint Ex.P.2,

on the basis of which Ex.P.18-FIR came to be issued, P.W.1 has suspected the involvement of only A.1, A.4 and A.8. However, in the representation made by him to the Superintendent of Police three days thereafter, he expressed a suspicion against A.1, A.4, A.8 and A.9.

28. In view of the above, it is difficult to believe the claim of P.W.1 that when A.4 was apprehended on 13.07.2004 itself, he informed that it is A.1 and A.3 to A.9 who have killed the deceased.

29. The appellants/accused are also charged with the offence of criminal conspiracy of liquidating the deceased. However, if the evidence on record is carefully perused, there is nothing which point towards any conspiracy or a pre-concerted plan to eliminate the deceased. What could be gathered from the evidence on record is that in the morning of 13.07.2004 both the deceased and A.2 disappeared and the kith and kin of A.2 were searching vigorously for A.2 and the deceased and when they found both the deceased and A.2 together near the beach, they took away A.2 and forcibly sunk his head with face downwards into the sand near the seashore, which resulted in his death. This act of the accused can be said to be the outcome of the sudden provocation and anger in view of the

fact that as suspected by them both the deceased and A.2 were found together which was not to their liking. In view of the above, it is not possible to hold that there was any criminal conspiracy or meeting of mind in between all the accused to commit the crime. Therefore, the charge insofar as the offence punishable under Section 120(B) IPC., is concerned cannot be sustained.

30. What emerges from the entire ocular and documentary evidence is that even though the witnesses spoke about the involvement of all the accused except A2, there is no consistency in their evidence. In Ex.P5 which is the representation said to have been given by the complainant to the Superintendent of Police two days after the body was discovered, the complainant has specifically mentioned about the involvement of A1, A4, A8 and A9. However, in the earliest complaint which he gave to the police under Ex.P2, on the basis of which Ex.P18 FIR was registered, he stated about the involvement of A1, A4 and A8. He did not name A9 in Ex.P2. Therefore, we cannot say that the evidence is consistent about involvement of A9.

31. Now the aspect as to whether the alleged act of the accused attracts the ingredients of Section 302 IPC., or whether

it falls within the contours of Section 304 IPC., needs to be considered.

32. The medical evidence on the record comprises that of the Doctor-PW.11 who conducted autopsy over the dead body of the deceased and after obtaining the opinion of the Forensic Science Laboratory he issued Ex.P15 post-mortem certificate conclusively opining that the cause of the death of the deceased was asphyxia due to ante mortem drowning. PW.11 found the following three injuries on the deceased:-

- 1) Abrasion of 8 x 3 cm., size present over left temple and bony cheek, reddish in colour;
- 2) Abrasion of 3 x 1.5 cm., size present over right bony cheek, reddish in colour; and
- 3) Abrasion 1 x 0.5 cm., size present over mid aspect of Ala of the nose.

Except for the above, no other injuries are found on the deceased and nothing abnormal was found by the Medical Officer. If the evidence of the Medical Officer is carefully analyzed and juxtaposed with the other evidence on record, what could be safely concluded is that having seen the deceased and A.2 together near the beach, the accused have forcibly put the head of the deceased with face downwards into the shallow waters near the seashore with sand around. In the absence of any injuries other than what is noticed by the Medical Officer, it is difficult to believe that the accused intended to commit the

offence which is punishable under Section 302 IPC. However, it appears to be a case where the accused persons have committed the offence which is punishable under Section 304 Part-I of IPC.

33. With regard to the involvement of the other accused, except for the confession said to have been made by A4 when he was apprehended that it is all the accused who beat the deceased, there is no satisfactory evidence to show that all accused have participated in the commission of the crime. However, since the evidence is consistent in so far as A1, A4 and A8 are concerned the same needs to be accepted for holding that it is they who have committed the crime.

34. The rest of the accused are entitled to the benefit of doubt for the aforementioned reasons. However, since A4 died during the pendency of the appeal, no sentence can be recorded against him.

35. In the result, the Criminal Appeal is partly allowed.

- (i) The conviction and sentence recorded against appellant No.2/accused No.2 for the offence punishable under Section 202 IPC and the conviction and sentence recorded against appellant Nos.3, 5, 6 and 8/accused Nos.3, 5, 7 and 9 for the offences punishable under Sections 302 IPC and 120-B IPC in Judgment dated 08-12-2016 in S.C.No.194 of

2007 on the file of the learned VII Additional Sessions Judge, Kakinada, are set-aside. Consequently, appellant Nos.2, 3, 5, 6 and 8/accused Nos.2, 3, 5, 7 and 9 shall be set at liberty forthwith, if they are not required in any other case or crime and the fine amount, if any, paid by them shall be refunded to them.

- (ii) The conviction and sentence recorded against appellant Nos.1, 4 and 7/accused Nos.1, 4 and 8, for the offences punishable under Sections 302 IPC and 120-B IPC are set-aside. Instead, they are convicted for the offence under Section 304 Part-I IPC and appellant Nos.1 and 7/accused Nos.1 and 8 are sentenced to undergo Rigorous Imprisonment for a period of seven years together with fine of Rs.25,000/- each, payable within one month before the trial Court. As the fine amount now being imposed is over and above the fine already imposed against appellant Nos.1 and 7/accused Nos.1 and 8, the fine amount imposed against them for the offence under Section 120-B IPC shall be adjusted towards the same. In default of payment of fine, appellant Nos.1 and 7/accused Nos.1 and 8 shall undergo imprisonment for six months. The period already undergone by them is directed to be given set off.
- (iii) As and when the fine amount is deposited in the trial Court, the same shall be paid to PW-2, who is the mother of the deceased Lakshmi Kiran.

- (iv) No sentence is being inflicted on appellant No.4/accused No.4 in view of the abatement of appeal against him consequent on his death during the pendency of the appeal.

It is noticed that in the Advance Order communicated, a typographical mistake crept in viz., instead of showing that appellant Nos.1, 4 and 7/accused Nos.1, 4 and 8 are convicted for the offence under Section 304 Part-I IPC, it is recorded as though appellant Nos.1, 4 and 5/accused Nos.1, 4 and 5, are convicted. The said mistake is accordingly rectified in this Judgment. It is however stated that the convicted and the surviving appellants/accused persons have served the sentence of 7 years imprisonment imposed on them even by the date of communication of the Advance Order and that they, including appellant No.5/accused No.5, were accordingly released. Therefore, appellant No.5/accused No.5 is entitled to recover the fine amount paid by him from appellant No.7/accused No.8.

(C.V.Nagarjuna Reddy, J)

(M.S.K.Jaiswal, J)

Dt: 22nd November, 2016
Lur/dsr