

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

AND

HON' BLE SRI JUSTICE T.AMARNATH GOUD

CRIMINAL APPEAL No.878 OF 2012

JUDGMENT : (per Hon'ble Sri Justice C.Praveen Kumar)

1) The sole accused in Sessions Case No.18 of 2010 on the file of the III Additional Sessions Judge, East Godavari, Kakinada, is the appellant herein. He was tried for an offence punishable under Section 302 IPC. By its judgment, dated 21.09.2010, the Sessions Judge, convicted and sentenced the accused to suffer "imprisonment for life" and to pay a fine of Rs.100/- in default to suffer simple imprisonment for a period of one month.

2) The substance of the charge against the accused is that on 21.09.2009 at about 12.00 noon, near a coconut tree in the vacant place of the house of PW.1, the accused said to have caused the death of one Pothula Ramanamma (hereinafter referred to as "the deceased") by hacking her with a curved knife on her left side neck and head.

3) The facts as culled out from the evidence of the prosecution witnesses are as under:

i) PW.1 is the brother's son of the deceased while PWs.2 and 3 are residents of same village. The accused is the brother-in-law of the deceased. The evidence of the prosecution witnesses would show that the accused was un-married and he is residing at Gollaprolu. The husband of the deceased died three years prior to

her death and since then she started living with PW.1 and his family, as she has no children. The deceased and her husband had Ac.0.05 cents in S.C.Peta, Gorinta Village. Out of five cents, the deceased and her husband settled Ac.0.02 ½ cents in favour of PW.1 and his brother by name Satyanarayana, wherein PW.1 constructed a house and is living there. The accused used to raise quarrels frequently with the deceased stating that she did not settle the property in his favour. Two months prior to the incident, the deceased executed a will bequeathing her remaining site of Ac.0.2 ½ cents in favour of PW.1 and his brother. As such, the accused developed grudge against the deceased.

ii) On 21.09.2009 at about 12.00 noon, PW.1, V.Rambabu (LW5), K.Sanyasirao (LW.4), E.Ramana (PW2) and G.Raghava (LW3) were talking with each other relating to a feast to be arranged in connection with the death of Ex-Chief Minister, Y.S.Raja Sekhara Reddy at a distance of ten yards from his house. At that time, the accused came there, abused the deceased by questioning her as to why she bequeathed her site in favour of PW.1, so saying hacked her with a knife on her throat, neck and head. When PW.1 and others were about to go nearer to the accused, he threatened them with the said knife. Later, the accused went away with the said knife. The deceased fell down unconscious and as the blood oozed out from the injuries, PW.1 and others took the deceased to Government Hospital, Peddapuram. At about 1.00 p.m., the S.I. of Police came to the hospital and recorded the statement of PW.1. Ex.P1 is the said statement. At about 5.00 p.m. the deceased was

shifted to Government General Hospital, Kakinada, where she died at 3.00 a.m. on the next day.

iii) Basing on the statement of PW.1, PW.8-the S.I. of Police, registered a case in Crime No.195 of 2009 for the offence punishable under Section 307 IPC and issued the first information report, which was placed on record as Ex.P12. On 21.09.2009 at about 4.00 p.m., PW.8 visited the scene of offence, conducted a panchanama of the scene of offence and also prepared a rough sketch of the scene in the presence of PW.5. Ex.P13 is the rough sketch and Ex.P7 is the observation report. During the said panchanama, he seized blood stained earth and control earth. He also got photographed the scene of offence.

iv) The evidence on record further discloses that the deceased Pothula Ramanamma died on 22.09.2009. Ex.P14 is the intimation sent to the police from the hospital. Basing on the said intimation, the section of law was altered from 307 IPC to 302 IPC. Ex.P15 is the altered F.I.R. Thereafter, PW.8 along with Inspector of Police proceeded to Government General Hospital, Kakinada, and conducted inquest over the dead body of deceased in the presence of PW.5 and others. During inquest, he recorded the statements of PWs.1, 2 and others. Ex.P8 is the Inquest Report. Thereafter, he forwarded the body for postmortem examination. PW.7-the Assistant Professor of Forensic Medicine, R.M.C., Kakinada, conducted autopsy over the dead body of the deceased and issued Ex.P10-the postmortem certificate. According to him,

the cause of death was “due to chop wound on the left side of neck, clean cutting the muscles and vessels underneath along with cut injury to laminae of C5 and C6 vertebra, by hitting with a sharp edged medium to heavy size cutting weapon associated with other multiple injuries.”

v) On 22.09.2009, on reliable information, PW.8 along with the Inspector of Police, went to the R.T.C. Bus Station Complex, Peddapuram, arrested the accused and recorded his confession statement in the presence of PW.6. After completing the investigation, Inspector of Police (LW19) filed the charge sheet before the Court of Additional Judicial First Class Magistrate, Peddapuram, who inturn committed the case to the Sessions Division under Section 209 of Cr.P.C. On committal, the same came to be numbered as S.C.No.18 of 2010.

4) On appearance, charge under Section 302 IPC was framed, read over and explained to the accused, to which the accused pleaded not guilty and claimed to be tried.

5) To substantiate their case, the prosecution examined PWs.1 to 8 and got marked Exs.P1 to P17 and MOs.1 to 3. After the closure of evidence, the accused was examined under Section 313 Cr.P.C., with reference to the incriminating circumstances appearing against him, in the evidence of the prosecution witnesses, to which he denied. No oral or documentary evidence was adduced on behalf of the accused.

6) After considering the oral and documentary evidence on record, the Sessions Judge convicted the accused for the offence with which he was charged. Challenging the same, the present appeal is filed.

7) Learned counsel for the appellant mainly submits that PW.6 in whose presence the weapon was seized from the possession of the accused admits that the weapon does not contain any blood stains, hence, a doubt arises as to whether the accused used the said weapon in the commission of offence. He further submits that the prosecution failed to examine the Inspector of Police, who conducted investigation after altering the first information report. According to him, non-examination of the investigating officer is fatal to the case of the prosecution case. He further submits that the accused, who is aged about 70 years and is un-married, has no necessity to kill the deceased, for the sake of property.

8) On the other hand, learned Public Prosecutor would submit that the prosecution not only established the motive by leading cogent and reliable evidence but also established all other circumstances connecting the accused with the crime. He further submits that the conviction and sentence awarded by the trial Court warrants no interference.

9) The question that arises for consideration is whether the accused can be held liable for the offence of murder.

10) Insofar as the motive aspect is concerned, the prosecution placed on record the evidence of PWs.1 and 2. In their evidence both of them deposed that the accused is the brother-in-law of the deceased. The deceased was not having any children. About 11 months prior to the date of incident, the deceased bequeathed her house site in favour of PW.1 and his brother by executing a will. It is the consistent version of both the witnesses that because of the settlement made by the deceased, the accused developed a grudge. Therefore, it can be said that he had a motive to do away with the life of the deceased for the sake of property.

11) PWs.1 and 2, who are eye witnesses to the incident, in their evidence, deposed that on 21.09.2009 at about 12.00 noon while they were talking with regard to the arrangements for a feast in connection with the death of Ex-chief Minister Y.S.Rajasekhara Reddy at a distance of 10 feet from the house of PW.1, the accused came to the said place, abused the deceased questioning her as to why she bequeathed her site in favour of PW.1 and his brother. So saying, he hacked the deceased with a knife on her throat, neck and head. When they tried to go nearer to the accused, he threatened them with the said knife. Thereafter, the accused left the place armed with a knife. Later, they shifted the deceased to Government Hospital, Peddapuram, in an auto.

12) PW.3 in his evidence deposed that on 21.09.2009 at about 12.00 noon, he started from his house to go to the place where

meals was arranged in connection with the death of Ex-Chief Minister Dr.Y.S.Rajasekhar Reddy. While he was proceeding, he heard cries from the house of the deceased. He went there and found the accused leaving the place armed with a knife. The said knife was bloodstained. He found PWs.1 and 2 and others present there. The deceased was taken to the Government Hospital, Peddapuram, in an auto. Later, he came to know that the deceased died on the next day. Though PWs.1 to 3 were cross-examined at length, nothing useful was elicited to discredit their testimony.

13) Since the evidence of PW.1 inspires confidence and which gets corroboration not only from Ex.P1 but also from the evidence of PWs.2 and 3 and PW.7 the doctor, who noticed five external injuries on the body tallying with the version given by PW.1, we see no grounds to disbelieve the case of the prosecution.

14) Having regard to the evidence available on record, we are of the opinion that the prosecution succeeded in establishing the guilt of the appellant/ accused beyond reasonable doubt and the trial Court has rightly convicted the appellant and sentenced him as stated supra.

15) At this stage, the Public Prosecutor brought to the notice of the Court that on 25.01.2016 the Government issued G.O.Ms.No.9, releasing the prisoners by giving special remissions subject to the final orders passed by the Apex Court in W.P.(Crl.) No.48 of 2014 filed by the Union of India. The said G.O. states that in exercise of

the powers conferred under Article 161 of the Constitution of India, the Government of Andhra Pradesh pleased to remit the unexpired residue of sentence as on 26.01.2016 of 400 life convicted prisoners shown in Annexure-I to the said order subject to certain conditions. The name of the appellant was shown at Sl.No.108. He was released after completing six years, four months and four days, which after including the remission would be 7 years 11 months 7 days.

16) Hence, the Criminal Appeal is disposed of, subjecting his release to the result of W.P. (Crl.) No.48 of 2014 pending before the Apex Court. Consequently, miscellaneous petitions, if any, pending shall stand closed.

C.PRAVEEN KUMAR, J

T. AMARNATH GOUD, J

08.12.2017
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