

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL APPEAL No.96 of 2011

DATE: 10-07-2017

Between:

Peddireddigari Bhaskar Reddy

..... APPELLANT

AND

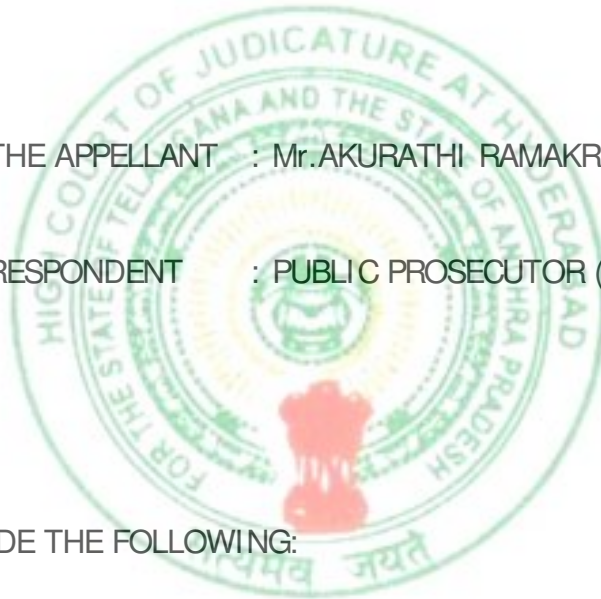
State of A.P., rep.by Public Prosecutor,
High Court, Hyderabad

.....RESPONDENT

COUNSEL FOR THE APPELLANT : Mr.AKURATHI RAMAKRISHNA

COUNSEL FOR RESPONDENT : PUBLIC PROSECUTOR (AP)

THE COURT MADE THE FOLLOWING:



THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL APPEAL No.96 of 2011

JUDGMENT: (per Hon'ble Sri Justice M.S.K.Jaiswal)

This criminal appeal is filed against judgment dated 03.11.2010 in Sessions Case No.163 of 2010 on the file of the VII Additional District and Sessions Judge, Madanapalle, by and under which, the learned Sessions Judge has convicted the appellant for the offence punishable under section 302 IPC and sentenced him to undergo imprisonment for life.

2. In brief, the case of the prosecution is as follows:

The deceased by name Peddireddi Vijaya was the wife of the accused. About 15 years prior to the death of the deceased, both the accused and the deceased fell in love and married each other. They were blessed with two female children, viz., PW 2-Pavithra and Haritha. The accused suspected fidelity of the deceased and in 2001 he discarded the deceased. One year prior to the incident, the deceased and her children took the house of PW 1 on rent and were residing there. Both PW 1 and the deceased were working as Tailors in Talreddy Garments, Madanapalle. About six months prior to the incident, the accused again joined the deceased and was residing with the deceased and his children in the house of PW 1. While so, on 30.10.2009 at 8.15 p.m the accused came to the house in a drunken state and caught hold of the tuft of the deceased while she was talking with PW 1 outside the house, dragged her to the water tub and forced to dump her head therein, threw a big stone on her, which broke after hitting the wall and one of the broken pieces hit PW 1 causing injuries to her. Later, the accused caught hold of the deceased and dragged her into the house, fell her on the ground, sat on her chest and cut her throat with a knife with an intention to kill her,

as a result of which, the deceased died on the spot. The incident was witnessed by PW 1 and the daughters of the deceased and other neighbours. Immediately, PW 1 lodged a report before the concerned police station and the police registered the same as Crime No.206/2009 under Section 302 IPC and issued Ex.P7 First Information Report. PW 9, the Inspector of Police, secured the presence of witnesses and recorded their statements. On 31.10.2009 he conducted inquest over the dead body of the deceased and sent the dead body for postmortem examination. PW 8 conducted autopsy over the dead body of the deceased and opined that the deceased died due to shock and damage to the blood vessel at the neck. On 31.10.2009 PW 9 arrested the accused and seized the material objects and after the completion of investigation, he filed the charge sheet.

3. The plea of the accused is one of denial.

4. In order to bring home the guilt of the accused, the prosecution examined PWs 1 to 9 and marked Exs.P1 to P12 and M.Os.1 to 10. On behalf of the accused, no oral or documentary evidence was adduced. Based on the oral and documentary evidence, the learned Sessions Judge has convicted the appellant and sentenced him, as stated supra. Hence, the appeal.

5. Learned Counsel appearing for the appellant submitted that the Court below has not appreciated the evidence on record in proper perspective and erred in convicting the accused. He has further submitted that the material on record shows that the accused divorced the deceased wife in the year 2001 in view of her behaviour and conduct, and therefore it is difficult to believe that the accused had come to the house of the deceased in October, 2009 and committed the crime. The learned counsel has further submitted that the evidence of the material witnesses is doubtful, that the presence of eyewitnesses cannot be believed, that the deceased might have been killed by persons who were frequently visiting her house and that the accused has

been falsely implicated. He has further submitted that the Court below ought not to have believed the version of the prosecution witnesses whose evidence is suspicious and unreliable.

6. On the other hand, the learned Public Prosecutor submitted that the consistent evidence of the prosecution witnesses who actually witnessed the incident cannot be discarded, that the evidence on record clearly shows that even though the accused might have divorced the deceased in 2001, but in October, 2009, in view of the health of their daughter-PW.2, the accused came to them and started living with them, that the accused was suspecting the fidelity of the deceased and therefore brutally killed her, and that PWs.1 to 3 witnessed the incident. He has further submitted that the evidence produced by the prosecution is consistent, cogent and reliable, that the Court below has rightly appreciated their evidence and accepting the same, found the accused guilty of the charge, and that therefore there are no merits in the appeal and the same is liable to be dismissed.

7. The point for consideration is whether the prosecution proved its case against the appellant beyond reasonable doubt so as to sustain the conviction and sentence recorded against him, or whether the same needs to be set aside, modified or varied?

8. We have carefully considered the respective submissions of the learned counsel for both parties and perused the record.

9. There is no controversy insofar as the fact that on the date, time and place alleged the deceased Vijaya was brutally killed. This horrifying incident is said to have been witnessed by the prosecution witnesses who are examined as PWs.1 to 3 and according to them, it is the appellant who has committed the crime. The contention of the learned counsel for the appellant is that the deceased was leading immoral life with the instigation of PW.1, both of whom were working under one Kishore, and the deceased was

leading an adulterous life with the said Kishore and this fact is borne out from the evidence of their daughter-PW.2, who admitted that the said Kishore used to visit their house now and then and whenever the said Kishore used to come, the deceased used to send PW.2 and another daughter outside to play in the house of PW.1. It is his further case that the deceased might have been killed by some persons with whom she was having affair and the accused has been falsely implicated in the case.

10. The prosecution case rests on the evidence of eyewitnesses to the incident. The deceased and the accused out of their wedlock were blessed with two teenaged daughters namely Pavitra, who is examined as PW.2 and Haritha. The accused is stated to have divorced the deceased in 2001 but no acceptable evidence is produced in that direction. According to the prosecution, the deceased and PW.1 were doing tailoring work under one Kishore and PW.1 has let out a portion of her house to the deceased who was living with her two teenaged daughters. About a month or so, prior to the incident, PW.2 fell ill and she was taken to Vellore for treatment. At that time, the accused started visiting the deceased and their daughters and as a matter of fact, started living with them. These aspects are spoken to by PW.2.

11. Insofar as the incident proper is concerned, it is in the evidence of PW.1 that on 30.10.2009 at about 08.15 pm., when herself and the deceased were talking in front of the house, the accused approached them in a drunken state, caught hold of the hair of the deceased and dragged her towards the water tub which was in front of the house of the deceased and forced face of the deceased into the water tub. It is further in the evidence of PW.1 that when herself and the children of the deceased went to her rescue, the accused took a big stone and tried to hit the deceased, that when PW.1 pushed the accused, the stone hit against the wall, broke into pieces,

and a piece of the stone hit PW.1, due to which she sustained the injury. PW.1 further deposed that thereafter the accused did not leave the deceased but dragged her into the house and due to fear, she raised cries, hearing which, a neighbouring resident-PW.3 came there and when he rushed into the portion of the deceased, he has seen the accused sitting on the chest of the deceased and stabbing her on the neck. Immediately, PW.1 took an auto and went to the Police Station and gave a complaint, marked as Ex.P.1. It is further in her evidence that when she was returning, she has seen the accused going away holding the knife, and that the police took him into custody.

12. PW.2, who is none other than the elder daughter of the deceased and accused, deposed that one year prior to the incident, her father/the accused joined them when she fell ill, that her father was always suspecting the fidelity of her mother/deceased, that on the date of incident at 08.00 p.m., when herself and her sister (Haritha) were studying in front of their house and PW.1 and her deceased mother were talking, her father came there, caught hold the hair of her mother, dragged her towards water tub and immersed her head into the water tub, that the accused lifted a big stone with an intention to kill her mother, that when herself, her sister and PW.1 went to rescue her mother and pushed her father, the stone hit against the wall and that the broken pieces of the stone fell on PW.1. She further deposed that her father caught hold the hair of her deceased mother and dragged her into the house, that herself and her sister followed her mother, that her father took a knife and stabbed her mother, that then herself and her sister raised cries, that later her father pushed her mother and sat on her chest and cut her neck with the knife. She further deposed that in the meanwhile P.Ws.1 and 3 came there, that the accused threatened PW.3, and that due to fear, PW.3 ran away.

13. It is in the evidence of PW.3 that on 30.10.2009 at about 08.30 p.m., while he was in the house, he heard the cries of PW.1 and the deceased, that he went to the scene of offence, that at that time the accused was sitting on the chest of the deceased and he was killing the deceased with knife, that when he questioned the accused, he tried to assault him and that due to apprehension, he ran away from the spot.

14. The evidence of PW.1, insofar as the incident proper is concerned, is corroborated by PW.2 and PW.3. The evidence of these three witnesses is consistent, cogent and corroborative. The evidence of PW.1 is further strengthened by the fact that while the incident is said to have taken place at about 08.30 pm., she lodged the complaint-Ex.P.1 at 09.30 p.m., i.e., within an hour. The evidence of PWs.1 to 3 is consistent with the contents of the complaint – Ex.P.1.

15. PW.4 was the brother of the deceased who substantially supported the version of PW.2, namely, that the accused was neglecting the deceased, due to which she shifted to Madanapalle and was living with her two daughters by doing tailoring work. It is also in his evidence that when PW.2 fell sick, the accused started visiting her and on 30.10.2009, PW.2 telephonically informed him that the accused killed the deceased, and that immediately, he rushed to the place and seen the deceased lying dead.

16. During the course of investigation by PW.9, the scene of offence panchanama was conducted, inquest over the dead body was held, and the dead body was sent for post-mortem examination which was conducted by PW.8, the Medical Officer. He opined that the deceased died due to a cut injury on the neck which was almost separated the neck except at the site of cervical vertebrae. The evidence of PW.8 also shows that he has also treated the accused for the cut injuries on his fingers when he examined him on the next day i.e., on 31.10.2009 at about 03.25 pm.

17. It is no doubt true that the admissions made by the daughter-PW.2 gives rise to a suspicion that the deceased was having a questionable relation with one Kishore but the same cannot be taken as a ground for holding that it may be either the said Kishore or some other person with whom the deceased was having relationship has committed the crime. Though living separately from the deceased for nearly eight years, the accused being the father of PW.2 and another daughter, started visiting them when PW.2 fell sick and was undergoing treatment at Vellore. PW.2 is a grownup daughter of the accused and the deceased and therefore she would not have falsely implicated her own father by leaving the real culprit who has caused the heinous crime of killing her mother the deceased in her presence. Nothing is placed on record to disbelieve the consistent evidence of PWs.1 to 3 and to hold that the accused was nowhere present near the place of incident.

18. The evidence of PW.8, the Medical Officer, clearly shows that the appellant has sustained injuries on his fingers, which according to him, are possible if the assailant attacks a victim with a knife and the victim resists the attack. PWs.1 and 3 are the independent witnesses and they have nothing against the accused to falsely implicate him. The evidence of these witnesses coupled with the evidence of PW 2, which inspires the confidence of the Court, leaves no room for doubt that it is the accused who committed crime.

19. The prosecution evidence is consistent, which points towards the irresistible conclusion that it is the accused who killed the deceased on 30.10.2009 at about 8.15 p.m in the manner in which it is spoken to by PWs.1 to 3. There is nothing on record to hold that any person other than the accused might have perpetrated the crime. The learned Sessions Judge has appreciated the evidence on record in proper perspective and held the accused guilty of the offence punishable under Section 302 IPC., and convicted him accordingly. Upon careful scrutiny of the oral and

documentary evidence on record, we see no reason to dislodge the finding and accordingly the same is confirmed. There are no merits in the appeal and the same is liable to be dismissed.

20. In the result, the Criminal Appeal is dismissed confirming the conviction and sentence recorded against the appellant, by the VII-Additional District and Sessions Judge, Madanapalle, vide Judgment dated 03.11.2010, in Sessions Case No.163 of 2010, for the offence punishable under Section 302 IPC.

C.V.NAGARJUNA REDDY,J

M.S.K.JAI SWAL,J

Date: 10.07.2017
Dsr/smr

