

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

AND

HON' BLE SRI JUSTICE P.KESHA RAO

CRIMINAL APPEAL No.1003 of 2017

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

1) Assailing the judgment dated 20.08.2014, passed in S.C.No.19 of 2014, on the file of V Additional District and Sessions Judge (FTC), R.R.District, L.B.Nagar, wherein the sole accused was acquitted for the offences punishable under Sections 302, 380 and 201 IPC, the present Criminal Appeal is filed by the State.

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

PW1 is the elder daughter of the deceased, PW2 is the husband of PW1, PW3 is the younger sister of PW1, PW4 is the watchman at the nearby house and PW5 is the immediate neighbour of the deceased.

The accused are wife and husband hailing from Shilpakunta village, Nuthankal Mandal, Nalgonda District, having two daughters amongst whom the eldest one got married and the younger one – PW8 is living with her parents. A1 - husband was working as watchman, whereas A2 - wife was working as a maid servant in the house of the deceased. It is stated that the deceased developed extra marital relation with A2 and used to provide additional cash and gold ornaments besides monthly payment. Suspecting the

attitude of the wife, the husband went to the house of the deceased, wherein he found the deceased and A2 together and warned them initially. In spite of it, A2 continued her relation with the deceased, for which A1 bore grudge against the deceased. Accordingly, on 23.05.2013 at about 10.15 a.m., when A2 went to the house of the deceased, by sending her daughter PW8 to the house of her sister PW-9 A1 also reached the house of the deceased, noticed both of them together and caught hold of his clothes, dragged him into kitchen and stabbed him to death by asking A2 to assist him. Immediately, A1 threw the knife on the dead body, took away the gold chain from the neck of the deceased, washed their hands, poured water on the deceased to screen the evidence and fled away.

PW14 the Inspector of Police took up the investigation after receipt of FIR. He sent a requisition to PW6 the photographer, who took photographs of the dead body and prints of the chappals. He then conducted inquest over the body in the presence of PW10. During inquest he seized MO 2. PW14 also got conducted the scene of offence panchanama in the presence of PW10. Ex.P5 is the scene of offence panchanama. He prepared a rough sketch of the scene of offence which was brought on record as Ex.P6. After completing the inquest, he got shifted the dead body for post mortem examination. PW12 the medical officer conducted autopsy over the dead body of the deceased and used Ex.P9 the PME report.

After completing the investigation, PW13 SI of police arrested the accused, on the instructions of the inspector of police PW14, filed a charge sheet which was taken on the file in the Court of Judicial Magistrate of First Class, Special Mobile Court –cum –XI Metropolitan Magistrate, Cyberabad at L.B.Nagar. As the offences alleged are exclusively triable by the Court of Sessions, the case was committed, under Section 209 of Cr.P.C. to the Court of Metropolitan Sessions Judge, Cyberabad, Ranga Reddy District at L.B.Nagar and the same came to be numbered as S.C.No.19 of 2014.

On appearance, charges came to be framed against the accused for the offences punishable under Sections 302, 380 and 201 of IPC, which were read over and explained to the accused, to which he denied and claimed to be tried.

To substantiate its case, the prosecution examined PWs.1 to 14 and got marked Exs.P1 to P14 and M.Os.1 to 4. 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 by the accused in support of his defence. In the absence of any evidence being adduced by the public prosecutor showing the complexity of the accused in the offences alleged and as the entire case is based on confession, the learned Judge acquitted the case.

Challenging the same, the present appeal came to be filed by the State.

3) Learned public prosecutor would submit that the judgment of the trial Court is erroneous for the reason that the guilt of the accused was proved beyond all reasonable doubts. According to him, the stab injuries, found on the deceased itself is sufficient to connect the accused with the offences alleged.

4) As seen from the record, the entire case rests on the confessions made by the accused. Firstly, the said confession was made before the police officer, which is inadmissible in evidence, but only recovery made pursuant to the confession can be taken into consideration. But however, the evidence of panch witnesses, who were examined by the prosecution would show that the accused did not specifically state before them as to where the chappals and gold chain of deceased were kept. Moreover, there is no panchanama to the effect that MOs.1 to 4 were recovered from the possession of the accused. Apart from that, it is also to be noted that the prosecution failed to collect the prints of the chappals with that of A1. Further, no single witness was examined to show that the accused was last seen in the company of the deceased. Even the medical officer did not mention in his post mortem examination as to time of death of the deceased.

5) In view of the above circumstances, we see no reason to interfere with the order passed by the Court below.

6) Accordingly, the appeal is dismissed at the admission stage, confirming the acquittal order dated 20.08.2014, passed in Sessions Case No.19 of 2014 on the file of the V Additional District and Sessions Judge (FTC), R.R.District at L.B.Nagar.

7) Consequently, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

JUSTICE P. KESHAVA RAO

02.11.2017
vnb

