

**THE HONOURABLE SRI JUSTICE RAJA ELANGO
AND
THE HONOURABLE SRI JUSTICE P.KESHA RAO**

CRIMINAL APPEAL No.334 OF 2011

JUDGMENT: (per Hon'ble Sri Justice Raja Elango)

This Criminal Appeal, under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is directed against the judgment, dated 28.02.2011, in Sessions Case No.215 of 2007 on the file of the Special Sessions Judge – cum – IV Additional District and Sessions Judge, Chittoor at Tirupati whereunder and whereby, appellants herein/A-1 and A-2 were found guilty of the offence punishable under Section 302 of the Indian Penal Code, 1860 (for short, "I.P.C.") and they were convicted under Section 235(2) Cr.P.C. and sentenced to suffer imprisonment for life and also to pay a fine of Rs.2,500/- each and in default, to undergo simple imprisonment for six months each.

2. The brief facts that are necessary for disposal of the present appeal may be stated as follows:

A-2 is the son of A-1 and both are residents of Mittakandruga Village of Srikalahasti Rural Mandal in Chittoor District and that Muppeti Ponnappa Reddy, aged 48 years, who is the deceased in this case, is a resident of Bandarupalli Village of Yerpedu Mandal and younger brother of A-1 and the complainant is the son-in-law of the deceased.

It is further alleged in the charge sheet that on 16.06.2006, at about 12:30 P.M. in Swarnamukhi River Bed near Bandrupalli Village situated between the lands of Krishnapuram Narayana

Reddy and Bathi Reddy, both the accused beat Ponnappa Reddy due to land and water pipe line disputes and cut two heels of M.Ponnappa Reddy and fled away and by the time M.Ponnappa Reddy shifted to SVRRGG Hospital, Tirupati, he was declared dead by the Casualty Medical Officer and that on the complaint given by T.Chiranjeevi Reddy, P.Sreeramulu, Sub Inspector of Police, Yerpedu Police Station registered a case on 16.06.2006 at about 7:15 P.M. and J.Sreenivasulu, Inspector of Police, Renigunta Circle took up investigation, who also arrested the accused on 23.06.2006 at 5:30 P.M. at the bus stop of Kothapalyam of Renigunta Mandal in the presence of K.Dayasagar and C.Ramudu and at the time of arrest, both the accused voluntarily confessed about the commission of offence and fled away from there by throwing the knife in a kunta situated nearby and in pursuance of the said confession, the crime weapon was also seized in Swarnamukhi River bed on the same day at 6:30 P.M. in the presence of panchayatdars and that the material objects seized at the scene of offence and the crime weapon sent to Regional Forensic Science Laboratory, Tirupati for analysis, who analysed and submitted report where AB blood group was detected on them, and that Dr.K.Bhaskar Reddy, who conducted autopsy over the dead body of the deceased, opined that the cause of death is due to Hypovolemic shock as a consequent of trauma to legs and so both the accused are liable for punishment under Section 302 read with 34 I.P.C. Hence, the charge.

3. The trial Court framed charge under Section 302 I.P.C. against A-1 and A-2.

4. When the above charge was read over and explained to the accused in Telugu, they pleaded not guilty and claimed to be tried.

5. To substantiate the charges, the prosecution examined P.Ws.1 to 15 and got marked Exs.P-1 to P-16 besides case properties – M.Os.1 to 6.

6. After closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. with reference to the incriminating circumstances appearing against them in the evidence of prosecution witnesses. They denied the same. On behalf of the accused, none was examined and Exs.D-1 and D-2 were got marked.

7. The trial Court, after appreciating both oral and documentary evidence on record, found A-1 and A-2 guilty of the charge with which they were charged and accordingly, convicted and sentenced them as stated supra. Challenging the same, the present appeal is filed by A-1 and A-2.

8. In the facts and circumstances of the case, the material on record clearly goes to show the commission of offence by A-1 and A-2 for the offence under Section 304 Part-I I.P.C. The offence committed was culpable homicide not amounting to murder. The intention of the accused is not to kill the deceased. The circumstances would clearly indicate that it is not a case where the accused intended to kill the deceased. Therefore, we find A-1 and A-2 guilty for the offence under Section 304 Part – I I.P.C.

9. At this stage, learned counsel for the appellants sought to reduce the punishment imposed by the trial Court.

10. From the material available on record and in view of the submission made by the learned counsel for the accused and in view of the fact that A-1 is a cancer patient and senior citizen and A-2 is the sole bread winner to their family, this Court is inclined to modify the sentence.

11. In the result, the conviction imposed against A-1 and A-2 in the judgment, dated 28.02.2011, in Sessions Case No.215 of 2007 on the file of the Special Sessions Judge – cum – IV Additional District and Sessions Judge, Chittoor at Tirupati for the offence punishable under Section 302 I.P.C. is modified to the offence punishable under Section 304 Part-I I.P.C. However, the sentence of imprisonment imposed by the trial Court is modified to the period which A-1 and A-2 have already undergone, while maintaining the sentence of fine.

12. Accordingly, the Criminal Appeal is partly allowed.

13. Miscellaneous petitions pending, if any, in this Criminal Appeal shall stand closed.

JUSTICE RAJA ELANGO

JUSTICE P.KESHA RAO

Date: 21.09.2017
AMD

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