

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE Ms. JUSTICE J. UMA DEVI
CRIMINAL APPEAL NO.267 OF 2011

DATED:5-06-2017

Between:

Kollabailu Chakali Padmavathi ... Appellant

And

The State of Andhra Pradesh ... Respondent

COUNSEL FOR THE APPELLANT: Mr. D. Kodanda Rami Reddy

COUNSEL FOR THE RESPONDENT: Public Prosecutor (AP)



THE COURT MADE THE FOLLOWING:

JUDGMENT: (per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)

The sole accused in Sessions Case No.42 of 2010 on the file of the VII Additional District and Sessions Judge, Madanapalle, filed this appeal feeling aggrieved by her conviction and sentence of life imprisonment for the offence under Section 302 IPC and also conviction for the offence under Section 452 IPC and sentence of rigorous imprisonment for a period of three years, vide judgment dt.27.1.2011.

In the view we are proposing to take, it is wholly unnecessary for us to refer to the case of the prosecution in detail. It would suffice to note that while the appellant and her husband were charged for the offence of murder and house trespass, the latter was acquitted of both the charges, but the appellant was convicted and sentenced as referred to above. The alleged attack on the deceased was stated to have taken place on 14.11.2008, while the deceased succumbed to the injuries received by him, on 21.1.2009, i.e., more than 65 days after the deceased was allegedly attacked by the appellant. Ex.P.11 – post-mortem certificate mentioned the cause of death as septicaemia as a complication of wound No.6.

Sri D. Kodanda Rami Reddy, learned counsel for the appellant, has submitted that even if the contents of Ex.P.12, which was recorded only by P.W.13, Assistant Sub-Inspector of Police, are taken on their face value, it is clearly evident that the appellant has hacked the deceased on his left leg knee and left hand with a sickle and caused bleeding injuries. He has further argued that this fact coupled with the further fact that the deceased died more than 65 days after the attack itself would show that the appellant did not have either intention to kill or knowledge that the injuries inflicted by her in ordinary course would cause death. He has further argued that as could be seen from Ex.P.11 – post-mortem certificate, the death has occurred not due to direct result of the injuries, but due to septicaemia.

After hearing the learned Public Prosecutor for the State of Andhra Pradesh, we find merit in the submission of the learned counsel for the appellant. The knee and left hand are not vital parts of the body and in ordinary course there is a possibility of the victim surviving such attack. If the appellant had the intention of either causing death of the deceased or such injuries as in ordinary course would cause the death of the deceased, she would have attacked the deceased on more vital parts, such as, head, neck, chest etc. Added to this, the deceased has survived for more than two months which again would prove that the death was caused not due to direct result of the injuries, but because of onset of septicaemia.

In these facts and circumstances of the case, we are of the opinion that the appellant is guilty of voluntarily causing grievous hurt by a dangerous weapon, punishable under Section 326 IPC. Accordingly, while confirming the conviction and sentence recorded against the appellant for the offence under Section 452 IPC, we alter the conviction recorded against the appellant in the impugned judgment, from the offence under Section 302 IPC to that of the offence under Section 326 IPC. As regards the sentence, considering the fact that the appellant is a woman and her husband was already acquitted, we sentence her to suffer rigorous imprisonment for six years. If the appellant has already completed the said sentence of imprisonment, after giving the benefit of the remissions which she may be entitled to as per law, she shall be released forthwith, if she is not required in any other case or crime.

The criminal appeal is accordingly partly allowed.

C.V. NAGARJUNA REDDY, J

J. UMA DEVI, J

05-06-2017
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