

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
CRIMINAL APPEAL No. 269 OF 2011

JUDGMENT: (*Per Hon'ble Dr. Justice Shameem Akther*)

This Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure, 1973 (for brevity, 'Cr.P.C.') questioning the judgment dated 04.02.2011 passed by the learned VI Additional Sessions Judge, Markapur (Fast Track Court), Prakasam District (for brevity, 'the trial Court'), in Sessions Case No.448 of 2010, whereby the trial Court convicted the appellant-accused under Section 235(2) Cr.P.C. for the offences under Sections 302 and 201 of the Indian Penal Code, 1860 (for brevity, 'I.P.C.'), and sentenced him to undergo imprisonment for life and to pay fine of Rs.1,000/- (Rupees one thousand only), in default, simple imprisonment for a period of four (4) months for the offence under Section 302 I.P.C. and rigorous imprisonment for a period of two (2) years and to pay fine of Rs.500/- (Rupees five hundred only), in default, simple imprisonment for a period of two (2) months for the offence under Section 201 I.P.C. The trial Court directed that both the sentences shall run concurrently and also directed to set of the period of remand already undergone by the appellant.

2. Heard Smt. B. Vasantha Lakshmi, learned counsel for the appellant, and Sri Posani Venkateswarlu, learned Public Prosecutor appearing for the State.

3. The case of the prosecution, in brief, is as follows:

(a) The deceased in this case by name Sk. Meerambi was the wife of the accused. Their marriage took place 23 years prior to the incident. They are residing at Mannemvaripalli village, Besthavaripet Mandal, Markapur. They are blessed with two sons, viz., Sk. Pedda Kasim Saheb (P.W.1) and Chinna Kasim Saheb (P.W.2). The accused used to quarrel with the deceased frequently suspecting her fidelity. The accused waited for an opportunity to do away with the life of the deceased, in order to go for second marriage. On 07.12.2009 at 9-00 hours, the accused and his wife-Meerambi (deceased) went to their sweet lime orchard with sickles and grass patta to fetch grass for cattle and there they worked for some time. The same was witnessed by P.W.4-Sd. Chinna Hussain and L.W.5-Nusum Subba Reddy. Later the accused took the deceased towards Kottacheruvu to get firewood and both of them having participated in sex there, quarreled with each other regarding the name of the person with whom the deceased, alleged to be having illegal relationship. On that day at about 12-00 noon, the accused hacked his wife-Meerambi with sickle on the face, neck and other parts indiscriminately, due to which, she fell down on the ground with blood. After the accused came to know that his wife died, in order to screen the evidence, he shifted the dead body to eastern edge of the channel of Kotha Cheruvu and conceal there. Later he cut the blood stained grass, thrown it nearby thorny bushes of japanbabool trees and also thrown the

sickle which was used to kill the deceased and washed his hands and bloodstained shirt in the water pool of Kotha Cheruvu in order to disappear the evidence.

(b) On 07.12.2009, P.W.1-Pedda Kasim Saheb, P.W.2-Sk. Chinna Kasim Saheb and P.W.3-Sd. Basha searched for the accused and the deceased, they found one gaddi patta and sickle at sweet lime orchards. On 08.12.2009, P.W.1 went to Markapur Rural Police Station and gave a report at about 5-30 p.m., about missing of his father and mother. Then P.W.10-G.L. Srinivasa Rao, Sub Insepctor of Police, Markapur Rural Police Station registered the said report as a case in Crime No.144 of 2009 under the head 'Man and Woman missing', submitted copies of F.I.R. to the concerned officers, informed the same to the other police stations and examined P.W.1.

(c) On 09.12.2009, when P.W.1 and L.W.6-Battula Pedda Peraiah searched for the accused and the deceased, when they reached Kotha Cheruvu channel, they found half naked dead body of the deceased, midst of japanbabool trees and informed the same to P.W.8-Jilella Chinna Pulla Reddy, V.R.O., Gajjalakonda, who in turn, gave a report to P.W.10-Sub Inspector of Police. Thereafter, P.W.10 altered Section of Law to Sections 302 and 201 I.P.C.

(d) P.W.11-S. Maqbul, Inspector of Police, Markapur took up investigation, proceeded to the scene of offence, where dead body was traced, observed the scene of offence, prepared rough sketch of the scene of offence, collected the blood stained

earth and control earth, blood stained stones, grass in the presence of the witnesses, took photographs with the help of a photographer, held inquest over the dead body of the deceased in the presence of witnesses, examined and recorded their statements and sent the dead body for autopsy to the Area Hospital, Markapur. P.W.9-Dr. S. Ravindra Reddy, Civil Assistant Surgeon, conducted autopsy over the dead body of the deceased and gave PME report. On 11.12.2009 at about 10-30 hours, P.W.11-Inspector of Police arrested the accused at Gunugapenta village bus stand centre in the presence of P.W.8-Jillela Chinna Pulla Reddy and P.W.5-Sd. Mastan Vali, recorded his confession statement and seized the sickle (M.O.1), pursuant to the confession made by the accused under the cover of mahazar and produced the accused before the Court for judicial remand. P.W.11-Inspector of Police sent the material objects to Regional Forensic Science Laboratory, Guntur, for analysis and after receipt of R.F.S.L. Report, he filed charge sheet against the accused for the offences under Sections 302 and 201 I.P.C.

4. The case was committed to the Court of Principal Sessions Judge, Prakasam District and was made over to the VI Additional Sessions Judge, Markapur, for trial and disposal in accordance with law. The said Court framed charges against the accused for the offences under Sections 302 and 201 I.P.C., for which the accused denied the charges and claimed to be tried. Before the trial Court, the prosecution to prove the charges, examined P.Ws.1 to 11 and marked Exs.P.1 to P.20 and M.O.1.

The accused did not adduce any oral evidence but got marked Ex.D.1. The trial Court, on appreciation of the entire evidence on record, convicted and sentenced the accused as mentioned above. The accused preferred this Appeal.

5. Smt. B. Vasantha Lakshmi, learned counsel for the appellant, would submit that the findings of the trial Court are contrary to law and evidence on record; the trial Court erred in relying on inadmissible evidence; in Ex.P.1-report, there is no suspicion against the accused; the seizure of M.O.1-sickle, pursuant to the alleged confession made by the accused is not convincing; the mediators-P.Ws.5 and 8 did not support the case of the prosecution; there are material omissions and contradictions in the evidence of prosecution witnesses, which are fatal to the case of the prosecution; the accused is falsely implicated for the death of his wife; the sentence recorded against the accused is harsh; the whole case is based on circumstantial evidence; the evidence of the prosecution witnesses is not inspiring confidence; the prosecution failed to prove the charges against the accused beyond all reasonable doubt and the accused is entitled for acquittal; and ultimately, prayed to set aside the conviction and sentence recorded against the accused.

6. Sri Posani Venkateswarlu, learned Public Prosecutor would submit that P.Ws.1 and 2 are the sons of the deceased and accused and they clearly and categorically stated that the deceased and the accused left the house on

07.12.2009, morning hours; P.W.1 also stated that he lodged a report with the police under Ex.P.1; on 09.12.2009 at about 9-00 a.m.; the accused alleged that there was illegal intimacy between the deceased and P.W.3, even it is not suggested to P.W.3; there is no iota of evidence to establish illegal intimacy between the deceased and P.W.3; the accused suspected the fidelity of the deceased and he wanted to perform second marriage; there were frequent quarrels between the deceased and the accused suspecting the fidelity of the deceased; the accused caused the death of the deceased and made an attempt to disappear the dead body and caused disappearance of the evidence; the trial Court had appreciated all the facts and circumstances of the case and rightly convicted and sentenced the accused; there is nothing to disbelieve the prosecution case and no two opinions are possible; the accused set up a false defence that he was not living with the deceased, the same is without substance and evidence; the prosecution proved the guilt of the accused beyond all reasonable doubt; the trial Court appreciated the entire evidence on record; the findings of the trial Court are not contrary to the evidence on record; and ultimately, prayed to sustain the conviction and sentence recorded against the accused.

7. In view of the contentions put forth by both sides, the following points have come up for determination:

(1) Whether the accused had caused the death of his wife, Sk. Meerambi (deceased herein)?

(2) Whether the conviction and sentence recorded against the accused for the offences under Sections 302 and 201 I.P.C. is sustainable?

8. **POINT Nos.1 and 2:** In view of the contentions, it is apt to refer the evidence on record. The evidence of P.W.1-Shaik Pedda Khasim reveals that he is a resident of Mannevaripella, the deceased is his mother, the accused is his father and P.W.2-Shaik Chinna Khasim is his younger brother. His mother died 11 months prior to his deposition; he along with P.W.2, deceased and the accused used to live together; they own 1½ acre sweet lime (*Bathai*) garden, which is in the limits of Ganugapenta panchayat; they do not have she-buffaloes; the accused killed his mother suspecting her fidelity at sweet lime garden; on that day to his memory that was Monday, his mother and the accused left the house at 10-00 a.m. on the pretext of getting firewood for their domestic use and they did not return home; then he along with P.W.3 and others went to their field and tried to get his parents, but in vain; on the next day morning also, they have searched for their parents at hill area, situated near their garden, they could not trace the accused and the deceased for three days; after two days he along with his brother gave Ex.P.1-report to the police; he identified his signature on Ex.P.1; after three days of missing, he was informed that a dead body was found in sluice of Kotha Cheruvu, he identified as of his mother; he gave information to the Sub Inspector of Police; the police visited the scene of offence, conducted inquest and

shifted the dead body for post-mortem examination; his father (accused) did not return home and remain absconding; he suspected his father for the death of his mother; thereafter, his father was arrested, confessed the offence in this case and also confessed suspecting the fidelity of his mother, he hacked her to death with a sickle. The evidence of P.W.2-Sk. Chinna Khasim reveals that P.W.1 is his brother, the accused is his father and his mother is the deceased. He also deposed about the other relatives and neighbours. P.W.2 further deposed that the accused came to their house after marriage as an illatom son-in-law; they are staying in one house of their maternal grand-father; the relationship between his mother and father were not cordial, they used to quarrel often; the accused used to insist for the consent of his mother to perform second marriage; the accused used to harass his mother physically; his maternal grand-father gave 1½ acres of sweet lime garden and one acre dry land to his mother; on the date of occurrence, he along with P.W.1 left the house at 9-00 a.m. and 8-00 a.m., respectively and returned home at 2-00 p.m., before their leaving the house, the accused and the deceased left their house together to get grass for their she-buffalo; on that day, as his parents did not return home, P.W.1 and P.W.2 searched for their parents along with relatives till late night; during search on second day, they found gunny bag which was taken by the accused and the deceased for collection of grass for the cattle, ropes, hair and bloodstains and some drag marks on tank bund of new tank were also found;

though they searched further they could not trace the deceased and the accused; on the third day, they found foul smell emanation near the new tank sluice; one of them got entered into the tank and removed the dry fencing with which the sluice was covered, on that they found the dead body of their mother; they found several brutal injuries on face caused by a sickle; police prepared report and shifted the dead body for postmortem examination; after 3-4 days, his father was apprehended; his father suspected illicit intimacy between the deceased and one Basha.

9. The evidence of P.W.3-Syed Basha reveals that the deceased is his younger sister by courtesy, the accused is her husband, P.Ws.1 and 2 are the sons of the deceased and he know their mother (deceased); the accused came as illatom son-in-law, parents of the deceased gave 1½ acres of the sweet lime garden to the accused and the deceased; when he was informed the missing of accused and the deceased, he accompanied P.W.1 and others to search them; ultimately, on the third day, during search, they found foul smell and they found the dead body of the deceased which was covered by thorny fencing; they passed message to the police and the police came there at 11-00 a.m., conducted inquest, dead body was shifted for post-mortem examination; he found cut injuries and multiple incised wounds on the face of the dead body; he was told by P.W.1 that the deceased and the accused left the house together for collecting firewood on the day of their missing; thereafter, the

accused was not seen; as the accused was not seen throughout, they suspected the accused in the death of the deceased. The evidence of P.W.4-Syed Hussain reveals that the deceased is his senior paternal uncle's daughter, the accused is her husband and P.Ws.1 and 2 are the sons of the deceased; they own 1½ acres of Sweet lime garden; the deceased died one year back; on that day, he saw both the accused and the deceased in their Sweet lime garden at about 12-00 noon, plucking the grass for their cattle; he has a field by the side of the garden of the accused and the deceased; on that day at 6-00 p.m., he was told by P.Ws.1 and 2 that their parents did not return home; immediately, he along with P.W.1, P.W.2 and other villages went to the field and searched for the deceased till 9-00 p.m.; on the third day, when they were searching in the fields near Kotha Cheruvu by the side of a sluice, he found the dead body of the deceased in naked condition, it was in horrible position; he did not venture to note down the injuries; and the police obtained his signature. This witness was declared hostile. He denied that he was examined by the police.

10. The evidence of P.W.5-Sd. Masthan Vali reveals that the deceased is his senior uncle's daughter; about one year ago, P.Ws.1 and 2 came to his house, i.e., after disappearance of the deceased, informed him that both the deceased and accused together went to the fields but did not return; he along with P.W.1 and others searched for the deceased and the accused; ultimately, they traced the dead body of the deceased

in the sluice of tank and he informed the same to the police and took the police to the dead body. He also deposed about conduct of the scene of offence panchanama and the inquest over the dead body in the presence of mediators; he was also present at that time and he attested both Ex.P.3 and Ex.P.4, the scene of offence and inquest panchanamas. The evidence of P.W.6-Bathula Srinivasulu reveals that he knew the deceased, her husband and their children; he was present at the time of conducting inquest panchanama over the dead body; he was also present when the scene of offence panchanama was conducted; he attested both the panchanamas, i.e., Exs.P.3 and P.4; and opined that the deceased was murdered. The evidence of P.W.7-G.Naga Sundara Narahari reveals that he took photographs of the scene of offence and dead body; and Ex.P.5 is the bunch of photographs marked through his evidence. The evidence of P.W.8-Gillella China Pullareddy reveals that he is the V.R.O. of Naidupalli panchayat; on information given by P.W.1 and others, he went to Kotha Cheruvu and saw the dead body of the deceased, it was naked; there were bloodstains on the dead body; he lodged a report before the police, it was marked as Ex.P.6.

11. The evidence of P.W.9-Dr. S. Raveendra Reddy reveals that on 10.12.2009 at 11-00 a.m., he commenced post-mortem examination over the dead body of the deceased; he noted the injuries in Ex.P.10-post-mortem examination report and opined that the death was due to shock hemorrhage

secondary to laceration of vessels, carotels and jugulars in the neck; the death was caused 2 to 4 days prior to the post-mortem examination; the lacerated injuries found on the dead body were caused with a sharp edged object.

12. The evidence of P.W.10-G.L. Srinivasa Rao reveals that he is Sub Inspector of Police; on 08.12.2009 at 17-30 hours, P.W.1 lodged a report, on that he registered a case of man and woman missing; he collected the passport photographs of parents of P.W.1 and placed them in online system; he prepared scene of observation panchanama in the presence of P.Ws.5 and 6 and seized a sickle and a gunny bag taken by them for grass; Ex.P.1 is report dated 08.12.2009, Ex.P.12 is the F.I.R. issued by him and Ex.P.13 is the rough sketch map of the scene of offence prepared by him; on 09.12.2009, on finding the dead body, he altered Section of Law to Sections 302 and 201 I.P.C. and submitted Ex.P.14-alteration memo. The evidence of P.W.11-Shaik Maqbul reveals that on 09.11.2009, he took up investigation, he along with Sub Inspector of Police and staff members reached the scene of offence, examined the same and seized the bloodstained earth, bloodstained stones, bloodstained grass, black beed single thread, bloodstained earth and controlled earth under a cover of panchanama in the presence of mediators; Ex.P.3 is the scene observation panchanama, Ex.P.15 is the rough sketch of the scene of offence; thereafter, he conducted inquest over the dead body in the presence of P.Ws.5 and 6; he recorded statements of P.Ws.1 to 4 and other

witnesses; Ex.P.4 is the inquest panchanama; after completion of inquest panchanama, he sent the dead body for post-mortem examination; on 11.12.2009, the accused was arrested pursuant to the confession made by him in the presence of mediators; he seized the sickle from the scene of offence in the presence of mediators; Ex.P.16 is the confession and Ex.P.17 is the seizure panchanama of M.O.1-sickle seized pursuant to the confession made by the accused; the seized material was sent to R.F.S.L., Guntur and the accused was remanded to judicial custody and Ex.P.18 is the letter of advice.

13. Learned counsel for the accused relied on the following decisions:

- 1) ***Rambraksh alias Jalim v. State of Chhattisgarh***¹.
- 2) ***Mallepally Sridhar v. State of Andhra Pradesh***².
- 3) ***State of Andhra Pradesh v. Kokatam Indiramma @ Indiravathi***³

In ***Rambraksh's*** case (supra 1), the Hon'ble Supreme Court observed that the improvement of testimony of wife of the deceased, delay in lodging report with the police and independent witnesses not supporting the case of the prosecution are fatal to the case of the prosecution. It is further observed that there was also a time gap with regard to the accused and the deceased last seen together and the prosecution has not proved the complete chain of circumstances to bring home the guilt of the accused. In ***Mallepally Sridhar's***

¹ 2016(2) ALD (CrI.) 16 (SC)

² 2017(1) ALD (CrI.) 141

³ 2017(1) ALD (CrI.) 810

case (supra 2), a Division Bench of this Court observed that when the investigation was faulty, there is no evidence to show that DNA test was conducted and mere recovery of the gold jewelry, could not prove the guilt of the accused, however, strong suspicion might be against the accused, he is not liable to be convicted. In **Kokatam Indiramma's** case (supra 3), a Division Bench of this Court observed that there were material discrepancies and omissions in the evidence, there are also infirmities in the investigation, the prosecution evidence is inconsistent with regard to the scene of offence and the evidence of P.W.2, i.e., P.W.2 while sleeping in pooja room witnessed the commission of offence through holes of the door during night hours, upheld the acquittal recorded by the trial Court.

14. It is apt to refer to a decision of the Hon'ble Supreme Court in **C. Chenga Reddy and others v. State of A.P.**⁴, wherein it has been observed thus:

"In a case based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in nature. Moreover, all the circumstances should be complete and there should be no gap left in the chain of evidence. Further the proved circumstances must be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence...."

15. P.Ws.1 and 2 are the sons of the deceased. Their evidence is that they are present at the house when the

⁴ MANU/SC/0928/1996

deceased and the accused left their house. When P.W.1 was cross-examined before the Court, in chief-examination, he stated that his parents left their house together to get firewood, but in Ex.P.1-report lodged by P.W.1, P.W.1 specifically mentioned that his parents left the house to get grass for the cattle. There is ample evidence on record that the deceased and the accused left together to get grass for their cattle, thereafter they went towards Cheruvu Katta to collect firewood. Therefore, it cannot be said that there is material contradiction in the evidence of P.W.1 with regard to the purpose for which the deceased and the accused left the house. Further, the deceased was not found alive till her dead body was found on the third day. The accused was also not seen by anybody till he was arrested by the police. Ex.D.1 was marked through the evidence of P.W.1, it relates to the search mode of the deceased and the accused and finding the dead body of the deceased. When P.W.1 was examined by the police, he also stated the manner of search made by him, P.W.2 and others to find out the deceased and the accused. So, there is no material discrepancy in Ex.D.1. The evidence of P.W.2 corroborates with the evidence of P.W.1 and Ex.P.1 report. P.W.4 is also another material witness in this case, who has seen the deceased and the accused in their sweet lime garden, which is situated by the side of his land at 12'O clock on that day. He had also stated that in the evening, P.Ws.1 and 2 informed him that their parents did not return home and he along with P.W.1, P.W.2 and others searched for the dead body of the

deceased. There is no denial that the land of P.W.4 is situated by the side of the sweet lime garden of the accused and the deceased. Nothing is brought in his cross-examination to discard his testimony.

16. The facts of the case on hand are distinct from the facts of **Rambraksh's** case (supra 1). The deceased and the accused are wife and husband, they went together to their sweet lime garden to get grass for cattle, they were seen at 12-00 noon by P.W.4, nearby land owner, thereafter the deceased was not seen alive. This factum was deposed by P.W.1, P.W.2, P.W.3, P.W.4, P.W.5 and other witnesses. P.W.1 and P.W.2 had informed to P.W.3, P.W.4 and P.W.5 that their father and mother left together to their sweet lime garden to get grass for their cattle. Thereafter, they did not return home. P.W.3, P.W.4 and P.W.5 corroborated this aspect. They have also stated that they have searched for the deceased and the accused along with P.W.1 and P.W.2. Their evidence also reveals with regard to finding of the dead body at sluice of Kotha Cheruvu of Mannemvaripalli village. There is also evidence of the investigating officers with regard to conduct of scene of offence and inquest panchanama over the dead body of the deceased at that place.

17. As per the evidence on record, the deceased and the accused are husband and wife, they are living at Mannemvaripalli village, P.Ws.1 and 2 are their children. There is specific evidence of P.W.1 that the deceased and the accused

left their house on that day to get grass for their cattle. Ex.P.1 report lodged with the police, also corroborates with the evidence of P.Ws.1 and 2. Thereafter, the deceased and the accused were found in their sweet lime garden by P.W.4. The evidence of P.W.4 is not shaken. His evidence is consistent and cogent. Further, there is no reason for P.W.4 to depose falsely against the accused. The deceased and the accused after being seen by P.W.4 were not seen by any other person. Thereafter, P.W.1, P.W.2 and P.W.3 and other persons have found the dead body of the deceased. There is also evidence on record that the accused has absconded after committing the alleged offence. Therefore, the purport of above citations has no relevance to the case on hand.

18. When the entire incriminating evidence was put to the accused when he was examined under Section 313 Cr.P.C., he simply denied the same and contended that he is living at different village. None of the prosecution witnesses have conceded the same in their cross-examination. There is no reason for P.Ws.1 and 2 to depose that their father and mother were living together and both of them left their house in morning hours on 07.12.2009. Had the defence of the accused is true, he would have produced witnesses to substantiate the same. No such evidence is brought on record by the accused. The accused pleaded that the deceased developed illicit intimacy with P.W.3 and P.W.3 is responsible for her death. When P.W.3 is examined, even a suggestion was not given to him that he was

having illicit intimacy with the deceased. P.W.3 also deposed about the deceased and the accused having 1½ acres of sweet lime garden. He also deposed that he along with P.Ws.1 and 2 searched for the deceased and the accused and finding the dead body on third day. There is also a specific evidence of panch witnesses and the investigating officer that the dead body was found at sluice of Kotha Cheruvu. Ex.P.3 is the scene of observation panchanama and Ex.P.4 is the inquest panchanama, reveal the same. There is nothing to doubt Exs.P.3 and P.4 panchanamas. As per the evidence of P.W.10-doctor and Ex.P.10-post-mortem examination report, several injuries were found on the dead body of the deceased. There is also evidence of the doctor that those injuries are possible with a sharp edged weapon. M.O.1-sickle was seized pursuant to the confession made by the accused. As per Ex.P.20-F.S.L. Report, blood was found on M.O.1-sickle. It is also an incriminating circumstance against the accused.

19. As per Section 106 of the Indian Evidence Act, 1872, the accused is required to explain the facts within his knowledge. Section 106 of the Indian Evidence Act reads as follows:

“106. Burden of proving fact especially with knowledge
– When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him
illustrations:

(a) When a person does an act with some intention other than that which the character and

circumstances of the act suggest, the burden of proving that intention is upon him.

(b) A is charged with traveling on a railway without a ticket. The burden of proving that he had a ticket is on him.”

20. In the case of ***State of M.P. v. Ratan Lal***⁵, the Hon’ble Supreme Court held that in a case where various links have been satisfactorily made out and the accused did not offer any explanation consistent with their innocence, the absence of such explanation itself is an additional link which completes the chain.

21. Further, in ***Mallepally Sridhar’s*** case (supra 2), investigation was faulty, the conviction was based on recovery of gold jewelry. In the instant case, there are no laches on the part of investigating officer. There is no inconsistency in the prosecution witnesses, i.e., P.Ws.1 to 5. M.O.1-bloodstained sickle used in the commission of the offence was seized. Therefore, it cannot be said that there is only strong suspicion against the accused and he is entitled for acquittal. In ***Kokatam Indiramma’s*** case (supra 3), the material discrepancies and omissions were found in the prosecution witnesses. In the case on hand, there are no material discrepancies in the prosecution witnesses, P.W.1 to P.W.5 are reliable witnesses and can be safely acted upon. P.W.3, P.W.4 and P.W.5 had stated in their evidence that P.W.1 and P.W.2 informed them that their father and mother leaving together to their sweet lime garden on that

⁵ AIR 1994 SC 458

day morning to fetch grass for cattle, thereafter they did not return and all of them searched for them from that day evening onwards, and ultimately, they found the dead body of the deceased on third day and the accused was not found anywhere by that time. There are no inconsistencies, material omissions and contradictions in the evidence of the prosecution witnesses. There is evidence to believe that the accused absconded after committing the offence and also made an attempt to cause disappearance of dead body and evidence of commission of the offence. There is also ample evidence to believe that the accused was suspecting the fidelity of the deceased and there were quarrels among themselves. The accused was also demanding the deceased to give consent to perform second marriage and when she did not give consent and as the accused suspected the fidelity of the deceased, he committed the offence.

22. The circumstances placed on record taken cumulatively form the complete chain that there is no escape from the conclusion that, in all human probability, the death of the deceased was caused by the accused and none else. The circumstantial evidence is amply clear to sustain the conviction and incapable of explanation of any other hypothesis that of not guilty of the accused. The evidence adduced by the prosecution is consistent, unerringly pointing towards the guilt of the accused and it is not inconsistent with his innocence. The trial Court had appreciated all the facts and circumstances of the case and ultimately held the accused guilty for the offences under Sections

302 and 201 I.P.C. The findings of the trial Court are based on record. There is no material to take a different view. The prosecution has proved the guilt of the accused beyond all reasonable doubt. The trial Court rightly convicted and sentenced the accused for the offences under Sections 302 and 201 I.P.C. As all the requirements of Sections 302 and 201 I.P.C. are proved by the prosecution, the conviction and sentence recorded against the accused by the trial Court is liable to be confirmed. All contentions raised on behalf of the accused do fail. Accordingly, both the points are answered against the accused.

23. In the result, the appeal is dismissed and the conviction and sentence recorded against the accused by the trial Court in Sessions Case No.448 of 2010, *vide* the judgment dated 04.02.2011, is confirmed.

24. A perusal of the record shows that by order dated 19.12.2016 in Crl.A.M.P. No.2156 of 2016, this Court granted bail to the accused following the order of this Court dated 02.11.2016 in ***Batchu Ranga Rao v. State of A.P.***⁶. Therefore, the accused shall surrender himself before the Superintendent, Central Prison, Nellore, Sri Pottisriramulu Nellore District, forthwith, to serve the remaining sentence. In default, the trial Court shall take appropriate steps against the accused to enforce the impugned judgment.

⁶ (Crl.A.M.P. No.1687 of 2016 in Crl.A. No.607 of 2011)

25. As a sequel, miscellaneous petitions, if any pending in this appeal, shall also stand dismissed.

SANJAY KUMAR, J

Dr. SHAMEEM AKTHER, J

Date: 6th October, 2017
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