

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

AND

THE HON'BLE SRI JUSTICE N.BALAYOGI

Criminal Appeal No.852 of 2017

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

The present appeal came to be filed by the State against the judgment dated 24.6.2016 passed in S.C. No.623 of 2012 on the file of the V Additional Sessions Judge, Bhongir, wherein accused Nos.1 and 2 were tried for the offences punishable under Sections 302 and 201 I.P.C. By its judgment dated 24.06.2016, the Sessions Judge acquitted the accused for the offences under Sections 302 and 201 I.P.C.

2. Pending the appeal before this court, accused No.1/respondent No.1 herein died. The death certificate issued by the Grampanchayat, Nakrekal, is placed on record evidencing the same.

3. The case of the prosecution as culled out from the record is as under :

On 9.9.2011 at 11.00 hours V.R.O., Veliminedu Village lodged a report alleging that an unknown female dead body was found near National High Way No.9 at Yerukala Bollu Government land, its skin was totally peeled out and the dead body was lying since three months and that he was informed about the same by one shepherd, who was examined as P.W.4. Basing on the said report, case in crime

No.212 of 2011 was registered under Section 174 of Cr.P.C. and Ex.P11 is the F.I.R. The Sub-Inspector of Police, Chityal examined P.W.1, recorded his statement and proceeded to the scene of offence. He held inquest over the dead body of the deceased, later handed over investigation to P.W.11-Sub-Inspector of Police, Chityal, who took up investigation and filed a memo altering the Section of law from 174 Cr.P.C. to Sections 302 and 201 I.P.C.

4. Later, P.W.12 – the Circle Inspector of Police, Choutuppall took up the investigation. On 18.11.2011, he is said to have arrested A1, who confessed about the commission of the offence along with A2. Pursuant to confession made by A1, he seized four receipts of Sri Vinayaka Pawn Broker, Vanasthalipuram of Hyderabad. Later, he arrested A2 and seized one TATA Indica car bearing No.AP 10 V 1863 and also seized two gold rings, one pair of gold ear studs and one pair of silver anklets. On 18.11.2011, he examined P.W.5, recorded the statement and sent the femur bone and skull of the deceased to Forensic Science laboratory, Hyderabad for DNA comparison. Apart from that, he also held Test Identification Parade of gold articles before Tahsildar, Chityal, M.O.3 is the two gold rings seized. After completing the entire investigation, P.W.14 laid the charge-sheet, which was taken on file as PRC No.30 of 2012 on the file of the Judicial Magistrate of First Class, Ramannapet. After compliance with the procedure, the Judicial Magistrate of First Class committed the case under Section 209(a) of Cr.P.C. to the Court of Sessions. Basing on the material available, the

charges for the offences under Sections 302 and 201 I.P.C. were framed against accused. The contents of the charges were read over and explained to accused, for which the accused pleaded not guilty and claimed to be tried.

5. In support of its case, prosecution examined P.Ws.1 to 14 and got marked Exs.P1 to 11 and M.Os.1 to 3. After the closure of evidence, the accused was examined under Section 313 Cr.P.C., with reference to the incriminating circumstances appearing against them in the evidence of the prosecution witnesses, to which they denied. No oral or documentary evidence was adduced on behalf of the accused in support of their defence.

6. On appreciation of the entire evidence on record, the Sessions Judge acquitted the accused. Challenging the same, the present appeal came to be filed.

7. As seen from the record, there are no eyewitnesses to the incident and the case is based upon circumstantial evidence. In case of circumstantial evidence, the onus lies upon the prosecution to prove the complete chain of events which shall undoubtedly point towards the guilt of the accused.

8. As stated earlier, pending appeal, accused No.1 died and as such the case against him got abated.

9. The question is whether there is any material to connect the accused No.2 with the crime.

10. As stated earlier, dead body was found nearly three months after the incident. P.W.1 is said to have lodged the report setting the criminal law into motion. P.W.2 in his evidence deposed that he along with some other villagers visited the scene of offence and found a decomposed dead body of a female person. His evidence is of no help to the prosecution.

11. Coming to the evidence of P.W.3, he deposed that he is a businessman owning a Tata Indica car bearing No.AP 10 V 1862 and that he has given it to Bhadra Reddy Travels. A2 was working as driver in the said travels and about 3 years prior to the date of his evidence, he gave his car to A2 on rent for the purpose of taking a customer to Cheruvugattu temple, Nalgonda District. A2 took the car and returned the same on the next day morning. About 25 days later, the Circle Inspector of Police came to him and asked him whether A2 was his driver on which P.W.3 identified A2 as a person who took his car on hire about 25 days ago. It is to be noted here that the evidence of P.W.3 discloses that the Circle Inspector came to him and asked him whether A2 was his driver, as the vehicle was involved in the murder of a lady. But, strangely, the evidence of P.W.1 and Ex.P1 disclose that body was traced nearly three months after the incident.

12. P.W.4 - Shepherd is said to have seen the dead body at the first instance. According to him, about 2 years prior to the date of his evidence, while he was grazing the goats at Erukalabolu area in the outskirts of Veliminedu village, he found dead body and he also found bangles and hair. Immediately thereafter, he informed the same to Sarpanch of Veliminedu Village. His evidence may not be of much help to the prosecution.

13. Coming to the evidence of P.W.5, who is mother of the deceased, she deposed that her daughter eloped with accused No.1 prior to her death and that she was not aware under what circumstances the deceased died. She identified the two gold year rings belonging to the deceased.

14. The evidence of P.W.6 – Abdul Habeeb would show that the accused was arrested in his presence and pursuant to confession made by Accused No.1, M.O.1 and silver leg chains were recovered from the marvadi shop. Accused No.1 also led the police to the house of Accused No.2 and Accused No.2 confessed with regard to Tata Indica car and he led them to car owner's house.

15. From the evidence available on record it is clear that even the alleged recovery of gold articles belong to deceased was long after the incident. Accused No.1 died pending the appeal. Therefore, from

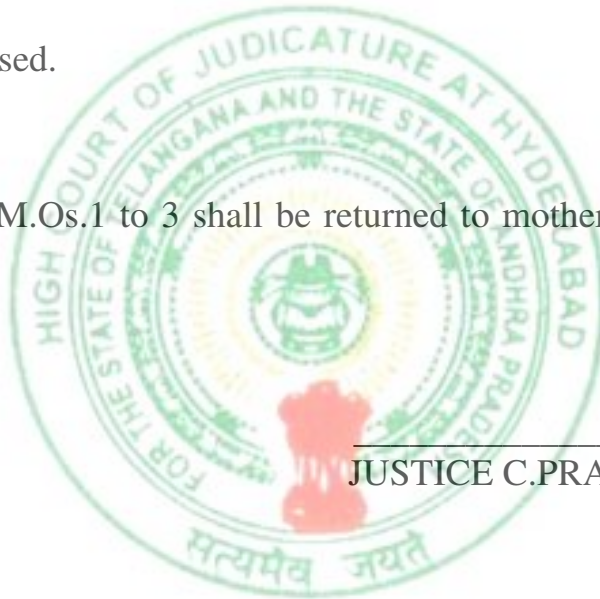
the evidence available on record, the prosecution failed to establish the complexity of the second accused in the commission of the offence.

16. Having regard to the above, we feel that there are no merits in the appeal and the same deserves to be dismissed at the admission stage.

17. Accordingly, the Criminal Appeal is dismissed.

18. Consequently, the miscellaneous petitions pending, if any, shall stand closed.

19. M.Os.1 to 3 shall be returned to mother of the deceased i.e., P.W.5.



JUSTICE C.PRAVEEN KUMAR

JUSTICE N.BALAYOGI

23rd November, 2017

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