

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR
AND
HON' BLE SRI JUSTICE P.KESHA RAO
CRIMINAL APPEAL No.848 of 2011

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

1) The sole accused in S.C.No.423 of 2010 on the file of the XIII Additional District and Sessions Judge, Narsaraopeta, Guntur District, is the appellant herein. He was charged for an offence punishable under Section 302 IPC. By its judgment dated 05.05.2011, the learned Sessions Judge convicted and sentenced the accused to suffer "imprisonment for life" and to pay fine of Rs.1,000/- for the offence punishable under Section 302 IPC.

2) The gravamen of the charge against the accused is that on 02.01.2010 at about 7.00 a.m. the accused is alleged to have caused the death of one Ramisetty Ramana (hereinafter referred to as "the deceased") by stabbing him with a knife.

3) The case of the prosecution as culled out from the evidence adduced by the prosecution is as under:

PWs.1 and 2 are children of the deceased. PW.3 is the niece and PW4 and 5 are brothers of the deceased. One Ramisetty Lakshmi is the sister of the accused. Due to death of Ramisetty Lakshmi and Ramisetty Nagaraja died in a motor accident on 29.11.2007, the Government paid Rs.50,000/- each to PW.4 (husband of Ramisetty Lakshmi) and the deceased, as compensation under Apatbandhu scheme. They also received lakhs

of rupees towards compensation from the insurance company pursuant to the order of the Court. The father of the accused insisted PW.4 to deposit some amount in the names of his children and which was denied by him. On 18.12.2008 at 8.00 p.m. PW.4 beat the father of the accused and also caused bleeding injury on the throat of the accused, with a blade, for which a case in Crime No.142 of 2008 came to be registered under Section 324 IPC against PW.4. In the said case, PW.4 was arrested. Then, the deceased convinced the accused to compromise the matter, on a condition that the compensation amount shall be deposited in the names of the children of PW.4 in a Bank. Subsequently, the said case was settled before the Lok Adalath on 30.12.2008. The deceased failed to fulfill his promise in depositing the compensation amount in the names of the children. When the accused asked the deceased about the said deposit, the deceased challenged the accused with dire consequences. Hence, the accused is said to have developed vengeance and decided to kill the deceased. While so, on 02.01.2010 at about 7.00 p.m., the accused noticed the deceased going towards his house along with his daughter from Durgi Centre. It is said that when they reached Z.P.High School, Durgi, the accused stabbed the deceased with knife which lead to spontaneous death. Immediately, the daughter of the deceased, who was accompanying the deceased, lodged a report with PW.12. Ex.P1 is the report. Basing on the said report, PW.12 registered a case in Crime No.2 of 2010 under Section 302 IPC and issued First Information Report. Ex.P9 is the First Information Report. Later,

PW.12 handed over the case to PW.13. On the same day, PW.13- the Circle Inspector of Police, examined and recorded the statement of PW.1. On 03.01.2010 he went to Government Hospital, Macherla, and conducted inquest over the dead body of the deceased in the presence of LWs.13 to 15 (not examined). Ex.P5 is the inquest report. During inquest, he examined PWs.2 to 5 and recorded their statements. Then he proceeded to the scene of offence and prepared a mahazar of the scene of offence and also a rough sketch of the scene. Ex.P6 is the scene observation panchanama while Ex.P10 is the rough sketch of the scene. PW.11- the Civil Assistant Surgeon, Government Hospital, Macharla, conducted autopsy over the dead body of the deceased on 03.01.2010 and opined that the cause of death was "due to multiple stab injuries with hemorrhage and shock." On 11.01.2010, LW.19-D.Venkateswarlu (not examined) arrested the accused and recorded the confession statement of accused in the presence of PW.9 and another. At the instance of accused, M.O.4 knife was seized in the presence of mediators. After collecting all the material, PW.13 filed a charge sheet, which was taken on file as P.R.C.No.14 of 2010 on the file of the Junior Civil Judge, Macherla, which on committal came to be numbered as S.C.No.423 of 2010.

4) After complying with the provisions under Section 207 Cr.P.C., charge under Section 302 IPC was framed, read over and explained to the accused, to which he denied and claimed to be tried.

5) In support of their case, the prosecution examined PWs. 1 to 13 and got marked Exs.P1 to P12 and Mbs.1 to 5. 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 his behalf, in support of his defence.

6) Relying on the evidence of PWs.1 to 3, the learned Sessions Judge convicted the accused for the above mentioned charge in the manner referred to above. Challenging the same, the present appeal is filed.

7) As seen from the record, the entire case rests on the evidence of PWs.1 to 3, who were examined as eye witnesses to the incident.

8) Learned counsel for the appellant mainly submits that no credence can be given to the evidence of PWs.1 to 3, as they are interested witnesses and their evidence cannot be made the basis for convicting the accused. Since PWs.6 and 7 did not support the case of prosecution he submits that the case of the prosecution has to be viewed suspicious. He further submits that since the F.I.R. does not disclose the presence of PWs.2 and 3 as the persons, who accompanied the deceased, their presence at the scene of offence is doubtful. Having regard to the above, he would submit that the accused should be acquitted by extending the benefit of doubt.

9) The learned Public Prosecutor opposed the same contending that even if the evidence of PWs.2 and 3 is eschewed from consideration still the evidence of PW.1, who is the daughter of the deceased is sufficient to convict the accused. He would submit that nothing incriminating is elicited in the cross-examination of PW.1, to disbelieve her testimony.

10) In order to appreciate the rival submissions, it would be useful to refer to the contents of Ex.P1 and the evidence of PWs.1 to 3. In the first information report which was given by PW.1, she narrated the manner in which the incident took place and also the existence of previous disputes between PW.4 and the accused, wherein the deceased acted as mediator and compromised the matter. The argument of the learned counsel for the appellant that the names of PWs.2 and 3 did not find place in the first information report appears to be incorrect. A reading of the report would show that PWs.2 and 3 were present and they helped PW.1 in shifting the deceased to Macherla Government Hospital in a private jeep.

11) Further, a perusal of the first information report coupled with the evidence of investigating officer would show that the incident happened at 7.00 p.m. and within two hours the first information report came to be lodged. Therefore, in the given set of circumstances, it cannot be said that there was undue delay in lodging the report.

12) Coming to the oral evidence, PW.1 is the daughter of the deceased. On the date of incident at about 7.00 p.m. while herself, deceased along with PWs.2 and 3 were returning from Bazar and when they reached Z.P.High School, Durgi, the accused came from back side and stabbed the deceased indiscriminately on the chest and other parts of the body. When she tried to obstruct the attack, the accused pushed her aside and threatened with knife. She is said to have raised cries, which attracted the attention of neighbours. On seeing them the accused ran away. Thereafter, the deceased was shifted to Government Hospital, Macherla, where the doctor declared him dead. On the same day she lodged a report. The evidence of PW.1 further discloses that her mother and wife of her junior paternal uncle died in an accident and the Government granted compensation of Rs.50,000/- each under Apatbandhu scheme. Out of which no amount was paid to the accused, because of which he bore grudge and quarreled with her junior paternal uncle, which lead to registration of a crime. Thereafter, the matter was compromised at the instance of the deceased but the deceased failed to comply with the terms of the compromise which was questioned by the accused, he challenged the accused with dire consequences. This appears to be the motive for the accused to attack the deceased. Though PW.1 was cross-examined at length nothing incriminating is elicited to discredit her evidence. On the other hand it has come out that the deceased acted as a mediator.

13) The evidence of PW.1 gets ample corroboration from the evidence of PW.2, who is child witness and also from the evidence of PW.3. In his evidence, PW.2 deposed as under:

“On 02.01.2010 at about 7.00 p.m., myself, PW.1 and the deceased were returning from bazaar, the accused came from the back side of PW.1 and deceased; went in front of the deceased and stabbed the deceased with knife on the chest, neck and other parts of the body. When PW.1 went to rescue the deceased, she was pushed aside by the accused.”

14) Similarly, PW.3 also deposed as under:

“On 02.01.2010 at about 7.00 a.m. while the deceased, myself and PWs.1 and 2 were returning from bazaar and reached near Z.P.High School at Durgi, the accused came behind the deceased and PW.1 and stabbed him with a knife indiscriminately. When PW.1 went to rescue the deceased, she was pushed aside by the accused.”

15) Though PWs.2 and 3 were subjected to lengthy cross-examination, nothing useful came to be elicited. All the suggestions given with regard to their presence and seeing the incident were denied. The suggestions given remained as suggestions without establishing the same. It is to be noted that even by inquest, PWs.2 and 3 figured as witnesses to the incident. Therefore, there is no reason to disbelieve their evidence.

16) From the above, it is clear that the prosecution could establish the motive for the accused to attack the deceased and the incident proper. Apart from that PW.11, who conducted post mortem examination over the dead body of the deceased, noticed

11 external injuries on the body of the deceased and most of them were cut and stab injuries on vital parts of the body, which corroborates the oral evidence of PWs. 1 to 3.

17) For the aforesaid reasons, we are of the opinion that the prosecution succeeded in establishing the guilt of the appellant/ accused beyond reasonable doubt and the trial Court was right in convicting the appellant as stated supra.

18) In the result the appeal fails and it is accordingly dismissed, confirming the conviction and sentence passed in S.C.No.423 of 2010 on the file of the XIII Additional District and Sessions Judge, Narsaraopeta, Guntur District. Consequently, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

JUSTICE P. KESHAVA RAO

04.10.2017
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