

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CRIMINAL APPEAL No.358 OF 2011

JUDGMENT: *(Per Hon'ble Justice T.Amarnath Goud)*

This criminal appeal is filed against the judgment dated 18.02.2011 in S.C.No.250 of 2010 on the file of the Court of XI Additional District & Sessions Judge, Krishna at Gudivada (for short, Court below) in so far as it pertains to the conviction and sentence visited upon accused No.1. The appellant herein is accused No.1 in S.C.No.250 of 2010. He, along with accused Nos.2 and 3, was tried on charges under Sections 498-A, 353 and 302 read with 34 IPC. The Court below acquitted accused Nos.1 to 3 of the charges under Section 498-A IPC and Section 353 IPC, but convicted accused No.1 of the charge under Section 302 IPC and sentenced him to imprisonment for life and also to pay a fine of Rs.1,000/- with a further default clause prison sentence. Assailing the same, accused No.1 came up with this appeal.

2. The case of the prosecution, in brief, was as under:

On 16.04.2010 at about 2.30 am., P.W.1 submitted Ex.P.1 written complaint to the Sub-Inspector of Police, Kalidindi Police Station. Thereupon, P.W.16 registered a case in Crime No.42 of 2010 under Sections 498-A and 302 read with 34 IPC. Investigation was then taken up by the Circle Inspector of Police, Kaikalur Circle (P.W.17). He went to the scene of the offence and examined the same in the presence of the mediators. The

statement of P.W.1 was already recorded by the Sub-Inspector of Police (P.W.16). He also seized controlled and blood-stained earth from the scene of the offence and conducted an inquest over the body of the deceased. He then sent the dead bodies to the hospital for post-mortem examination. He also recovered the knife used in the commission of the offence under the cover of a panchanama. He sent the accused to Court for remand. He received the post-mortem examination report and sent the material objects to the Regional Forensic Science Laboratory, Vijayawada, for chemical analysis. After receiving a report from the Forensic Science Laboratory, he completed the investigation and laid the charge-sheet.

3. Upon committal, the Court below framed charges under Sections 498-A against accused Nos.1 to 3 and Sections 353 and 302 against accused No.1.

4. The accused denied the charges and claimed to be tried.

5. The prosecution thereupon examined P.Ws.1 to 17 and got marked Exs.P.1 to P.22 and M.Os.1 to 12. The accused marked Ex.D.1, a portion of the Section 161 Cr.P.C. statement of P.W.7, in evidence.

6. Accused Nos.2 and 3 are the mother and father of accused No.1. P.W.2 is the wife of accused No.1. P.Ws.1 and 3 are sister-in-law and mother of P.W.2 respectively. P.W.4 is a relative of the deceased. P.Ws.5, 6, 9, 12 and 13 are independent witnesses of

the locality. P.Ws.7 and 8 are police constables. P.W.10 is the doctor who conducted post mortem over the bodies of the deceased. P.W.11 is the electrical engineer of the Department.

7. The material allegations in the charge sheet are that three years ago, accused No.1 and one P.W.2 fell in love and married against the wishes of Accused Nos.2 and 3. After their marriage, accused No.1 and P.W.2 lived at her parents' house as accused Nos.2 and 3 did not allow them to live in their house. In the year 2008, accused No.1 and P.W.2 were blessed with a female child. After one month, P.W.2 was taken to the house of the accused and thereafter, she was driven out asking her to bring dowry stating that her parents did not give any dowry to accused No.1 in connection with her marriage. Yesobu, the father of P.W.2, deceased No.1, made efforts through elders and gave Rs.50,000/- to accused No.1 and sent P.W.2 with her child to their house. She was looked after well for some time and thereafter she was harassed physically and mentally by making an unlawful demand for Rs.50,000/-. She returned to her parents' house while she was carrying 4th month pregnancy. Accused No.1 used to visit his in-laws' house and was leading conjugal life with P.W.2 and used to abuse and quarrel with them over the demand for Rs.50,000/- cash. Deceased Nos.1 and 2, the father and brother of P.W.2, reprimanded accused No.1. Accused No.1 was unable to digest the same and made up his mind to do away with their lives. On 15.04.2010 at about 9.00 PM., Rajesh, deceased No.2, was

reprimanding and scolding deceased No.1 for taking liquor by which time, accused No.1 was proceeding by the side of that house and mistook that deceased No.2 was abusing accused No.1 in his absence. On the same day, accused No.1 went to the house at about 10.00 P.M., and questioned both the deceased persons and quarreled with them and threatened them with dire consequences. P.W.4 pacified the matter. P.W.2 was frightened and left that place. On the same day, at about 11.00 P.M., deceased No.2 made a telephone call to Kalildindi Police Station. P.W.4 had taken away accused No.1 to his house. Thereafter, P.W.1, deceased Nos.1 and 2 Tripuranapalli Mani (L.W.5) went in search of P.W.2 and went to the place in front of the house of P.W.5 and were standing there under the street light, by which time two police constables (P.Ws.7 and 8) came there in response to the call made by deceased No.2. Accused No.1 suddenly came there with a butcher's knife with an intent to do away the life of both the deceased persons and stabbed the first deceased on his chest on the left side and on the chest of second deceased. The police constables (P.Ws.7 and 8) tried to catch accused No.1, but he threatened them with dire consequences showing the knife and obstructed them from discharging their public duty and ran away with the knife. The two police constables (P.Ws.7 and 8) chased accused No.1 but in vain. Both the deceased persons died at the spot.

8. The statements of witnesses examined on behalf of the prosecution confirm the presence of the police constables (P.Ws.7

and 8) at the scene of the offence and also the incident which occurred at the hands of accused No.1. There was sufficient light to identify accused No.1, as street lights were on, as confirmed by P.W.11. The material object i.e., M.O.6, knife, was seized from the place of hiding at the Primary School, Santosh Puram Village, as shown by accused No.1. P.W.10, the doctor, in his post mortem report, stated that the death was due to injury to vital organs.

9. P.Ws.7 and 8, the Constables of Kalidindi Police Station, stated in their evidence that on 15.04.2010 at about 11.00 pm, P.W.7 received a phone call that there was quarrelling at the house of deceased No.2 in Satoshapuram Village. Immediately, they went to Santoshapuram Village. At that time, P.Ws.1 to 5 and the deceased were there, but accused No.1 was not there. When they were enquiring about the incident, suddenly accused No.1 came there and stabbed deceased Nos.1 and 2 with a knife. When they tried to catch accused No.1, he threatened to stab them with the knife and ran away.

10. The Court below, relying upon the evidence of the direct witnesses i.e., P.Ws.7 and 8 that accused No.1 stabbed both the deceased with M.O.6, knife, concluded that the prosecution proved the act of accused No.1 in stabbing the accused. Accordingly, the Court below found accused No.1 guilty of the offence punishable under Section 302 IPC and convicted him thereunder. He was sentenced accordingly, leading to the filing of this appeal. In so far as the charge under Section 498-A IPC against accused Nos.1 to 3

was concerned, the Court below disbelieved the version of the prosecution and acquitted accused Nos.1 to 3 of said charge.

11. The evidence of the direct witnesses i.e., P.Ws.7 and 8, who deposed that accused No.1 stabbed both the deceased with M.O.6, knife, can be safely relied upon. Apart from the same, the intention of accused No.1 can be gathered from the fact that he came from the darkness and in the presence of police and others attacked the deceased with M.O.6, a deadly weapon, and stabbed the vital parts of the body so as to kill them and escaped from that place. Therefore, it can be inferred that accused No.1 with the clear intention to kill the deceased, stabbed them. In the circumstances, this Court finds no reason to interfere with the findings recorded by the Court below which formed the basis for the conviction and sentencing of accused No.1 under Section 302 IPC. Therefore, the conviction and sentence imposed upon him under Section 235 (2) Cr.P.C do not warrant interference.

12. For the aforesaid reasons, the criminal appeal is dismissed confirming the judgment and sentence dated 18.02.2011 in S.C.No.250 of 2010 on the file of the Court of XI Additional District & Sessions Judge, Krishna at Gudivada. The bail granted during the pendency of the criminal appeal shall stand cancelled. The appellant/accused No.1 shall surrender forthwith before the Superintendent, Central Prison, Rajahmundry, and suffer the rest of the sentence, as confirmed by this Court. In the event he fails to do so, the Court below shall initiate steps in accordance with law to

apprehend and incarcerate him for the balance period as per the confirmed sentence.

SANJAY KUMAR, J

T.AMARNATH GOUD, J

Date: 20.10.2017
TJMR

