

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

AND

HON' BLE SRI JUSTICE N.BALAYOGI

CRIMINAL APPEAL No.1283 of 2012

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

The sole accused in Sessions Case No. 390 of 2012 on the file of the Court of the Principal Sessions Judge, Warangal is the appellant herein. He was tried for the offences punishable under Sections 498-A and 302 IPC, for causing the death of his wife, Bhojanapu Saritha, by cutting her throat with a knife. By its judgment dated 04.09.2012, the learned Sessions Judge, while acquitting the accused for the offence punishable under Section 498-A, convicted him under Section 302 IPC and sentenced him to suffer 'imprisonment for life' and to pay a fine of Rs.6,000/-, in default to simple imprisonment for a period of six months.

2. The facts, as culled out from the evidence of the prosecution witnesses are as under:

The accused is the husband of the deceased. PW1 is the mother of the deceased, while PW2 is the daughter-in-law of PW1. The deceased is the sister-in-law of PW2. PW3 is the son of PW1 and husband of PW2, while PW4 and PW5 are residents of Shyamapet who know the accused and the deceased.

3. The accused was working in a hotel at Parkal. The marriage between the accused and deceased took place about 1 ½ year prior to the date of incident. After marriage, the accused and deceased were staying together at Hyderabad. PW1 presented household articles besides one bicycle for the use of the accused, apart from providing provisions. A month after their marriage, the deceased came to the house of PW1 from Hyderabad and informed her that the accused was suspecting her character, and expressed her intention to stay in the village. However, she was convinced by PW1 and sent her back to house. After some time, the deceased again came back to the village and requested him to provide a room in the house of PW1. PW1 provided one room which is on the northern side of her house and the other two rooms were occupied by PW1 and her sons.

4. On the date of incident, i.e., on 22.12.2011, the accused went to Parkal in the morning and PW1 took her daughter (deceased) to the hospital at Hanamkonda for treatment, as she was ill. PW1 and the deceased returned home at about 12 noon, and the deceased was sleeping in her room. At about 1.00 or 1.30 p.m., PW2 heard hue and cries from the room of the deceased and informed the same to PW1. Immediately, PW1 and PW2 went to the room of the deceased, which was bolted from inside. They peeped through the window and found the accused sitting on the chest of the deceased and cutting her throat with a knife. On seeing the same, they raised cries which attracted the attention of PW3 and PW4. All of them tried to break open the door of the

room of the deceased, but could not succeed. Hence, PW3 went outside and saw the incident through the window. Meanwhile, the accused himself opened the door, came out of the room, and disclosed that he cut the throat of his wife and tried to flee away. Then, PW4 and PW5 caught hold of the accused and handed him over to the police, along with the report of PW1, which is marked as Ex.P1. Basing on the said report, PW10-the Sub Inspector of Police registered a case in Crime No. 149 of 2011 under Section 302 IPC. Ex.P.7 is the original F.I.R.

5. Further investigation was conducted by PW11-the Inspector of Police, who, on receipt of information about the commission of the offence, rushed to the police station where PW1 was present and recorded her statement. Then, he visited the scene of offence and arrested the accused who was in the custody of PWs 3 and 5. At the scene of offence, he prepared a panchanama, along with the rough sketch in the presence of PW7, which is marked as Ex.P4. During the preparation of panchanama, he seized blood stained earth and controlled earth in the presence of PW7. He also got the scene of offence photographed through PW6. Subsequently, he conducted inquest over the dead body of the deceased in the presence of PW7. During inquest, he examined PWs 2, 4 and 5. Ex.P4 is the inquest report. Thereafter, he sent the dead body for postmortem examination.

6. PW9-the Civil Assistant Surgeon, CHC, Parkal conducted autopsy over the body of the deceased on 23.12.2011 and issued

Exhibit P6-the Post Mortem Report. According to him, the cause of death was due to shock and haemorrhage due to cut throat injury.

7. On 22.12.2011, PW11 interrogated the accused in the presence of PW8, and during the interrogation, the accused is said to have voluntarily confessed about the commission of the offence. He recorded the confession statement of the accused in the presence of PW8. Ex.P5 is the relevant portion of the confession leading to seizure of knife-M.O1.

8. After completing the investigation, a charge sheet came to be filed, which was taken on file as PRC No. 20 of 2012 on the file of Judicial First Class Magistrate, Parkal. After complying with the requirements of Section 207 of Cr.P.C., the matter was committed to the Court of Sessions and the same came to be numbered as S.C.No. 390 of 2012 on the file of Principal Sessions Judge, Warangal. Basing on the material on record, charges for the offences punishable under Sections 498-A and 302 of IPC were framed, read over and explained to the accused, to which he denied and claimed to be tried.

9. In support of their case, the prosecution examined PWs.1 to 11 and got marked Exs.P1 to P8 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 him in the evidence of the prosecution witnesses, to which he denied. No oral or documentary evidence was adduced by the accused in support of their defence.

10. Basing on the evidence of PWs 1 to 5, the trial Court convicted the accused under Section 302 IPC. Challenging the same, the present appeal came to be filed through legal aid.

11. The learned counsel for the appellant would contend that there is any amount of doubt as to the presence of the accused in the house at the time of incident. According to him, on the date of incident, the accused went to Parkal in pursuit of his employment in the morning, and as such, his presence during the time of incident appears to be doubtful. He places reliance on the evidence of PWs 1 and 2 to show that the accused was not in the house at the time of incident.

12. On the other hand, the learned Public Prosecutor strenuously opposed the same, contending that when the evidence on record shows that the accused was apprehended by PWs 4 and 5 while fleeing away from the scene of offence, the question of doubting his presence in the house does not arise. Basing on the evidence of PWs 1 to 5 and he would submit that the prosecution has made out a case for conviction.

13. The point for consideration is: "whether the accused is responsible for the death of the deceased."

14. The evidence on record, more particularly, the evidence of PWs 1 to 5 clearly shows that on 22.12.2011, at about 1.30 p.m., on hearing cries from the room where the deceased was sleeping, they went towards the room. As the room was bolted from inside, they peeped through the window and saw the accused sitting on

the chest of the deceased and cutting her throat with a knife. Then, the accused opened the door, came out of the room and disclosed that he has killed the deceased by cutting her throat. When he tried to flee away, he was apprehended by PWs.3 and 5, who subsequently handed him to the police.

15. Though all the witnesses were cross-examined, nothing useful was elicited to discredit their testimony. In the cross-examination of PW1, it has been elicited that when she and her daughter-in-law-PW2 tried to break open the door of the room, from where they heard the cries of the deceased, they were not successful, as the door was bolted from inside. Similar admissions came to be elicited from the cross-examination of PW2 as well. PW2 also stated in her cross-examination that she has seen the accused cutting the throat of the deceased.

16. The evidence of PW3 would reveal that he received a phone call at about 1.45 p.m, on the date of incident, informing him that the accused cut the throat of the deceased with a knife in her room. Immediately, he rushed to the house and found the deceased lying dead on the floor in a pool of blood in the room and her throat was cut. On enquiry, he came to know that the accused cut the throat of the deceased with a knife, and when the deceased raised cries, all of them went towards the door, which was bolted from inside. It was also informed to him that when PWs 1 and 2 found the door locked, they peeped through the window of

the room and found the accused sitting on the chest of the deceased on the floor and cutting her throat with a knife.

17. As seen from the evidence of PW4, he proceeded to the room of the deceased and tried to break open the door along with PWs 1 and 2, but could not succeed as the door was bolted from inside. He further deposed that on peeping through the window, he noticed the accused sitting on the chest of the deceased and cutting her throat, and thereafter, the accused himself opened the door and came out of the room. Similar is the version of PW5.

18. As seen from the evidence of all these witnesses, it is clear that they not only saw the accused committing the offence, but also apprehended the accused when he came out of the room after committing the offence, and handed over the accused to the police.

19. Further, the evidence of PWs. 1 to 5 with regard to the cause of death of the deceased gets corroboration from the evidence of PW9-the Civil Assistant Surgeon, who conducted post mortem examination on the body of the deceased and opined that the cause of death was due to shock and hemorrhage due to throat injury, caused 20 to 24 hours prior to conducting post mortem. The time mentioned in the post mortem examination also tallies with the case of the prosecution.

20. Having regard to the above, the conviction of the accused for the offence punishable under Section 302 IPC imposed by the Principal Sessions Court, Warangal in Sessions Case No. 390 of 2012 dated 04.09.2012 warrants no interference.

21. Accordingly, the Criminal Appeal is dismissed.

JUSTICE C. PRAVEEN KUMAR

JUSTICE N. BALAYOGI

21.12.2017
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