

**THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

CRIMINAL APPEAL No.761 of 2012

JUDGMENT : (per Hon'ble Sri Justice T.Amarnath Goud)

The appellant is the sole accused in Sessions Case No.329 of 2011 on the file of the Court of the III Additional District & Sessions Judge, Tirupati. He was tried for the offences punishable under Sections 302 and 506(ii) IPC for causing the death of one Bhulakshmi (deceased) on 07-03-2011. After appreciating the oral and documentary evidence on record, the trial Court convicted the accused of the said charges, under Section 235(2) of the Cr.P.C., and sentenced him to suffer 'imprisonment for life' and to pay a fine of Rs.1,000/-, in default, simple imprisonment for one month for the offence punishable under Section 302 IPC. He was further sentenced to suffer rigorous imprisonment for two years for the offence punishable under Section 506(ii) IPC. The trial Court directed both the sentences to run concurrently.

2. The case of the prosecution, as culled out from the evidence of prosecution witnesses, is as under:

The accused is the younger brother of P.W.7 – Venkatarathnam and the deceased is the wife of P.W.7. P.Ws.1 and 3 are sons of senior paternal uncle of P.W.7, while P.W.2 is the father of P.Ws.1 and 3. The marriage of the deceased with P.W.7 was solemnized about 10

years prior to the date of incident and out of their wedlock, they were blessed with two sons and two daughters. P.W.7 is a dumb and deaf person and cannot speak. P.Ws.1 to 3, P.W.7, deceased and the accused were living in the same house, belonging to P.W.2. The accused developed illegal intimacy with the deceased. Although it was to the knowledge of P.W.7, he could not do anything because of his helplessness. The family members and relatives were also aware of the same. The family members advised the deceased to put an end to the relationship with the accused and also counseled the accused to discontinue the relationship with the deceased, marry other woman and lead a happy marital life. On 06.03.2011 in the afternoon, the accused insisted the deceased to accompany him to Tirupati, and on refusal, the accused inflicted injuries on his hands with a blade. On coming to know about the said incident, P.Ws.1 and 2 pacified the accused and advised him to marry a woman, live a happy marital life and leave the deceased, to which, the accused is alleged to have stated that if the deceased failed to come along with him, he would kill her and left the place. On the same day, all of them had their dinner and went to sleep in the same house. On 07.03.2011 at about 4.00 am., P.W.1 woke up to attend calls of nature and noticed the accused sitting. When asked, he expressed that he was not getting sleep. Then, P.W.1 went out of the house to attend the calls of nature. Later when he heard the hue and cry, rushed to the house and saw the accused in the verandah of the house

with a blood stained knife in his hand. When he went inside, noticed the deceased dead with bleeding injuries on her neck, head and left hand in a pool of blood. When the family members tried to catch hold of the accused, he tried to attack them by throwing the knife and then ran away. Then P.W.1 proceeded to the Police Station and lodged a report (Ex.P.1) before P.W.12 – the Sub Inspector of Police, S.R.Puram Police Station. Basing on the said report, P.W.12 registered a case in Crime No.9 of 2011 for the offences punishable under Sections 302 and 506 IPC and issued Ex.P.10-First Information Report. P.W.13 – the Inspector of Police took up the investigation. During the course of investigation, he proceeded to the scene of offence and found the dead body of the deceased lying on the floor. He recorded the statements of P.Ws.2 to 4 and another. He, then, conducted inquest over the dead body in the presence of P.W.8 and 2 others. Ex.P.6 is the inquest report. He observed the scene and got it photographed by P.W.5. He conducted the scene of offence panchanama in the presence of P.Ws.9 and 10 and seized M.Os.1 to 7 under a cover of panchanama. He examined the husband of the deceased, but could not record his statement, as he was a dumb and deaf person. Thereafter, the body was sent to the hospital for conducting post mortem examination. P.W.14, the Civil Assistant Surgeon, Community Health Centre, Puttur, conducted autopsy over the dead body of the deceased. Ex.P.9 is the Post Mortem Examination Report. According to P.W.14, the cause of death was “due to massive

haemorrhage and injury to vital organs like brain, leading to cardio-respiratory failure.” On 08.03.2011 at about 5.00 pm P.W.13 arrested the accused. After collecting all the relevant material, a charge sheet came to be filed, which was taken on file as P.R.C.No.19 of 2011, which on committal, came to be numbered as S.C.No.329 of 2011.

3. Basing on the material, charges under Sections 302 and 506(ii) IPC came to be framed, read over and explained to the accused. The plea of the accused is one of total denial and claimed to be tried.

4. To substantiate their case, the prosecution examined P.Ws.1 to 14 and got marked Exs.P.1 to P.16 and M.Os.1 to 7. 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.

5. Relying upon the evidence of P.Ws.1 to 4 and 7, the trial Court convicted the accused for the offences punishable under Sections 302 and 506(ii) IPC as stated supra. Challenging the same, the present appeal is filed.

6. Learned counsel for the appellant mainly contended that there are no eye witnesses to the incident. The circumstances relied upon by the prosecution do not form

chain of events so as to connect the accused with the crime. It is argued that the circumstances relied upon by the prosecution are not supported by any legal evidence and as such the same cannot be made the basis to convict the accused. He further argued that if the accused was having illegal intimacy with the deceased since six years prior to the date of incident, P.W.7, who is the husband of the deceased, might have taken steps for a separate setup with the deceased. Apart from the same, if there was a quarrel between the accused and the deceased a week prior to the date of incident when the accused insisted the deceased to accompany him to Tirupati, why P.W.7 did not take any steps against the accused and continued to live in the same house. Having regard to the above, it is urged that the prosecution failed to prove motive and also any of the circumstances connecting the accused with the crime.

7. Learned Public Prosecutor would submit that the case rests solely on the circumstantial evidence and the evidence of P.Ws.1 to 4, who deposed about the accused having illegal intimacy with the deceased and when the deceased refused, the accused killed her, can be made the basis to establish motive and intention of the accused to kill the deceased. Their evidence clearly establishes that the accused killed deceased and the motive behind killing the deceased was her refusal to accompany him to Tirupati. He would further

submit that the prosecution has proved the guilt of the accused beyond all reasonable doubt.

8. It is an admitted fact that the deceased is the sister in-law of the accused and they were living in the same house. As seen from the evidence on record, P.Ws.1 to 4, in their evidence, deposed in one voice about the incident, the illegal intimacy between the deceased and the accused and the incident of inflicting injury by cutting the hands of the accused by himself on the pervious day when the deceased refused the request of the accused to accompany him to Tirupati. They also deposed that after hearing the hue and cry of the deceased, while they were going to the scene of offence, they saw the accused in the verandah with a blood stained knife in his hand. When they tried to catch hold of the accused, he tried to attack them by throwing the knife and then ran away. In order to appreciate the same, it would be useful to extract the evidence of P.Ws.1 to 4 with regard to motive and incident, which is as under:

9. P.W.1, in his evidence, deposed as under:

“ Bhulakshmi was murdered on 07.03.2011. Since six years prior to 07.03.2011, there was illicit intimacy between accused and Bhulakshmi. Although it is in the knowledge of Venkatarathnam, he could not do anything because he is a deaf and dumb person.

Accused is a Taxi Driver. Accused also used to reside along with Bhulakshmi and Venkatarathnam in their house in Korlagunta, Tirupati.

About six months prior to the incident, Venkatarathnam alone came to Pathapalyam Adi Andhra Wada. About one month prior to the incident Bhulakshmi also came to Pathapalyam Adi Andhra Wada along with her children. About ten days prior to the incident accused also came to Pathapalyam Adi Andhra Wada.

Venkatarathnam, his wife Bhulakshmi, their children, Chengaiah, father of Bhulakshmi and accused resided in a house which is behind my house in Pathapalyam Adi Andhra Wada. It is a thatched hut.

On 06.03.2011 in the afternoon time, there was a quarrel between accused and Bhulakshmi. Accused asked Bhulakshmi to come along with him to Tirupati. Bhulakshmi refused to come along with accused. When Bhulakshmi refused to come along with accused, accused inflicted injuries on his both hands with a blade. On coming to know about the incident, myself and my father pacified the accused. We advised the accused to marry a woman and live happily and leave Bhulakshmi. Accused said if Bhulakshmi did not come along with him, he would kill her and went away.

On 06.03.2011 evening after taking meals, Bhulakshmi, Venkatarathnam, accused and children of Bhulakshmi came to my house and slept in my house. Myself and accused slept in the northern part of our house. Venkatarathnam, Bhulakshmi and their children slept in the other part of our house. IN the adjacent room my younger brother Jayasankar and his wife Nagamma slept.

On 07.03.2011 at about 4.00 am., I woke up to answer the calls of nature. I noticed accused was also sitting. I asked the accused why you are sitting and why he was not sleeping. Accused stated that he

was not getting sleep. There is a light burning in the house at that time. I went to answer the calls of nature. I heard cries from my house. Immediately I returned to the house. My father came out of the house. I saw Venkatesh in a Verandah of our house with a blood stained knife in his hands. I went inside the house and saw Bhulakshmi with a bleeding injury on her neck, head and left hand in a pool of blood. We tried to caught hold of the accused. Accused tried to hack us by throwing the knife. Accused ran away. We returned to the house. Myself, my father and Venkatarathnam brought the Bhulakshmi outside. Bhulakshmi died. We kept the body of Bhulakshmi in the Verandah of the house. Accused killed Bhulakshmi.”

10. P.W.2, in his evidence, deposed as under:

“ About six months back on one day i.e., Sunday, there was a galata between accused and Bhulakshmi. Accused asked Bhulakshmi to come to Tirupati. Bhulakshmi refused to come to Tirupati. Then there was a galata between accused and Bhulakshmi. Bhulakshmi said that she will stay back with her husband. Accused also tried to beat Bhulakshmi when she refused to come along with him. Bhulakshmi came and informed me about the said incident.

I advised the accused to marry another woman and live happily leaving Bhulakshmi. Accused said that he will go away. I asked the accused to go away on the next morning.

On the same day evening at about 6.00 p.m., accused inflicted cut injuries on his hand with a blade. Accused said that he would kill Bhulakshmi and went away.

Venkatarathnam, Bhulakshmi and their children and accused came to our house on that night and slept in our house. In the same room on the other side P.W.1 slept. My another son slept in another room. I slept in another house of mine which is adjacent to Midde House.

On that night at 4.00 a.m., P.W.1 went outside to answer calls of nature. We found accused holding blood stained knife in his hand in the verandah of our house. We saw Bhulakshmi with bleeding injury on her neck, head and on left hand in that room in our house. P.W.1 tried to caught hold of the accused. I also tried to caught hold of the accused. Accused thrown away the knife on us and went away.

We returned to the house and we brought Bhulakshmi into the Verandah of the house. We found Bhulakshmi died. We laid Bhulakshmi in that Verandah.

11. P.Ws.3 and 4, in their evidence, supported the version of P.Ws.1 and 2. In their depositions, they consistently deposed about the illegal intimacy of the accused with the deceased, presence of the accused with blood stained knife in his hand and the threatening the accused when they tried to catch him. P.W.7, who is the husband of the deceased, is a deaf and dumb witness. The signs and gestures made by P.W.7 were translated by K.Jayachandra Naidu, retired Principal of S.V. High School for Deaf and Dubm, Tirupati in public Court. From the signs of P.W.7, K.Jayachandra Naidu understood that P.W.7, the deceased and their children were sleeping in a room. When P.W.7 woke up in early hours, he

found his wife in a pool of blood. The accused hacked his wife and he noticed blood stains on the shirt of the accused also.

12. Therefore, from the evidence of P.Ws.1 to 4, who are none other than the family members of the deceased and accused, it is clear that the accused was present in the house along with the deceased on the date of incident. Insofar as the motive aspect is concerned, the evidence of P.Ws.1 to 4 establish the same. In their evidence, they deposed that when the deceased refused to accompany the accused on the previous day, he inflicted injuries on his hands. This incident shows the attitude of the accused in continuing illegal relationship with the deceased.

13. Coming to the incident proper, P.Ws.1 to 4 stated that when they heard the hue and cry of the deceased, they came there and saw the accused in the verandah with a blood stained knife in his hands and the dead body of the deceased in a pool of blood. With regard to the threat, the witnesses said that when they tried to catch hold of the accused, he tried to attack them by throwing the knife. It is not the case of the accused that some other person or other inmates in the house caused the death of the deceased. Except denying the offence, no specific defence was taken by the accused.

14. Though all the witnesses were cross examined at length, nothing useful was elicited to discredit their

testimony. As seen from the evidence on record, during the course of cross examination, P.Ws.1 to 4 denied the suggestion that the accused was not present on the date of incident and also denied the suggestion that the accused did not throw the knife – M.O.1 on them.

15. The cause of death of the deceased has been confirmed by P.W.14 and supported by Ex.P.9 – the Post Mortem Report. The material object used by the accused for committing the crime i.e., blood stained knife has been recovered by P.W.13 near a tamarind tree near the scene of offence apart from other material objects in the presence of P.W.9 and another. The motive behind the crime being that the accused was having illegal intimacy with the deceased for the last six years before the date of incident and that on the previous day, the deceased refused the request of the accused to accompany him to Tirupati, which lead to the incident.

16. In the light of the evidence of P.Ws.1 to 4 coupled with other circumstances referred to above, we see no grounds to interfere with the judgment passed by the learned Sessions Judge.

17. Accordingly, the Criminal Appeal is dismissed, confirming the judgment dated 30.12.2011 in Sessions Case No.329 of 2011 on the file of the Court of the III Additional District & Sessions Judge, Tirupati. The bail granted during the pendency of the criminal appeal shall stand cancelled.

The appellant/accused shall surrender forthwith before the Superintendent, Central Prison, Kadapa. In the event he fails to do so, the trial Court shall initiate steps in accordance with law to apprehend the accused. Consequently, miscellaneous petitions, if any, pending shall stand closed.

C.PRAVEEN KUMAR, J

T.AMARNATH GOUD, J

24.11.2017
TJMR

