

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

CRIMINAL APPEAL No. 114 OF 2011

JUDGMENT: (Per Hon'ble Dr. Justice Shameem Akther)

This Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure, 1973 (for brevity, 'Cr.P.C.') questioning the judgment dated 13.01.2011, passed by the learned Principal Sessions Judge, Warangal (for brevity, 'the trial Court') in Sessions Case No.106 of 2008, whereby the trial Court convicted the appellant-accused under Section 235(2) Cr.P.C. for the offence punishable under Section 302 of the Indian Penal Code, 1860 (for brevity, 'I.P.C.') and sentenced him to undergo imprisonment for life till the rest of his life without any remission and also to pay fine of Rs.10,000/- (Rupees ten thousand only) with a default sentence of **simple** imprisonment for a period of three and half years.

2. Heard Smt. A.Gayatri Reddy, the learned counsel appearing for the appellant, and the learned Public Prosecutor appearing for the State.

3. The case of the prosecution is as follows:

(a) This is a case of homicidal death of B.Laxmi by drowning allegedly committed by her own son-in-law, who is the appellant herein, on 18.04.2007 at about 4-30 hours by pushing her into an agricultural well near Talla Padmavathi Pharmacy College, Rangashaipet, since she forced him to reveal the whereabouts of her missing elder daughter-Renuka. The

appellant hailing from an agricultural family, studied upto 10th Class, worked under a Commission Agent at Kamareddy, married Ms.Venkata Laxmi of Begumpet. The appellant developed physical relationships with several women of loose character and in order to meet the expenses, he resorted to committing thefts which forced his first wife to return back to her parental abode. Later, he fell in love with Ms.Renuka, elder daughter of Smt. B.Laxmi-deceased, married her and stayed with her at Karimnagar, continued to commit theft of vehicles and got arrested by Siddipet Police. After release from jail, he and his wife-Renuka migrated to Bheemaram, Hanamkonda and settled down in a rented house. While so, he came in contact with a tractor driver-B.Raju and he along with his brother-in-law, B.Anjaneyulu and B.Raju started committing theft of several vehicles. His wife-Renuka suspected his fidelity due to his physical relationship with women of loose character and started questioning him about his activities, leading to altercations between them, which made him to get vexed up with her. On 25.08.2006 at about 04-00 hours, he took his wife-Renuka by a car to the outskirts of Ammavaripet, pushed her into a big quarry pit filled with water, concerning Crime No.115 of 2006 of Madikonda Police Station registered under Section 174 Cr.P.C. for the offences punishable under Sections 302 and 201 I.P.C., which ended in his conviction and sentence to imprisonment for life in Sessions Case No.787 of 2007 on the file of the II Additional Sessions Judge, Warangal.

(b) Later, the appellant fell in love with Ms.Haritha of Kesamudram and married her at Tirupathi. Subsequently, he shifted Mrs.B.Laxmi (mother-in-law) and her family from Komuravelli and kept them at Bheemaram. However, B.Laxmi continued to pressurize the appellant to reveal the whereabouts of her missing elder daughter-Renuka and forced him for money as she got indebted to others at Komuravelli village, due to which he decided to do away with her life (B.Laxmi) once for all. On 18.04.2007 at about 04-30 hours, he took B.Laxmi, his mother-in-law by jeep on the pretext that he would give money and see her off at the bus stand but drove the jeep towards Ursu Gutta, got it filled up with fuel on the way by P.W.13-A.Prashanth in filling station, had tea in the hotel of P.W.5-N.Kumara Swamy, took B.Laxmi towards Talla Padmavathi Pharmacy College, stopped the jeep there on the pretext of attending to calls of nature and asked B.Laxmi to go for urination, but when she alighted from the jeep, he suddenly pounced on her from her behind and pushed her into a nearby agricultural well and visited it on the following day to confirm about her death, found her dead body floating in the water and returned back home and informed P.W.3-B.Sunitha and L.W.6-B.Geetha that their mother went to Komuravelli. On sighting a dead body floating in the well on 27.04.2007, P.W.1-P.Vasundara lodged a report in Ex.P.1 with the Station House Officer, Mills Colony Police Station, about floating of the dead body in the agricultural well of one

P.Kanakaiah. On the basis of which, a case in Crime No.120 of 2007 was initially registered under Section 174 Cr.P.C.

(c) P.W.11-Assistant Sub Inspector of Police took up investigation, visited the scene of offence, secured the presence of mediators-P.W.3 and L.W.6-B.Geetha, got the scene of offence photographed, seized one saree, blouse and petticoat from the scene, got the dead body retrieved from the well, photographed the same, conducted an inquest over the dead body and referred the same for postmortem examination. Later, P.W.12-Inspector of Police, Mills Colony Police Station took up investigation, verified the investigation done by P.W.11-Assistant Sub Inspector of Police and while he was making efforts to establish the identity of the dead body, on 10.06.2007 at about 09-00 hours, P.W.9-Sub Inspector of Police, Mulkanoor Police Station arrested the appellant in Crime No.64 of 2007 for the offences punishable under Section 307 r/w 34 I.P.C. of Mulkanur Police Station, Karimnagar District, while checking vehicles at Mulkanur Bus Stand and interrogated him, during which he voluntarily confessed that on 18.04.2007, he killed his mother-in-law B.Laxmi by pushing her into the agricultural well near Padmavathi Pharmacy College, Ursu Gutta, Warangal, as she was insisting him to pay money to clear off her debts and to reveal the whereabouts of her missing elder daughter-Renuka and also confessed commission of other property offences he had committed. On receipt of intimation about the same from P.W.9-Sub Inspector of Police, P.W.12-Inspector of Police, Mills

Colony Police Station, Warangal, in turn, altered the Section of Law from 174 Cr.P.C. to Section 302 I.P.C. and issued an express memo to all concerned. Later, he visited Komuravelli and S.R.T.Thota, Ursu Gutta, secured the presence of P.Ws.3 to 5, 13 and L.W.6-Geetha, recorded their statements and showed photographs of the deceased to them and they identified the dead body as that of the mother of P.W.3-B.Sunitha. P.W.10-Dr. K.V.Ramana Murthy conducted postmortem examination on the dead body of B.Laxmi and opined that the cause of her death was due to drowning. Thereafter, the appellant was sent up for remand to judicial custody in this case too on 30.07.2007, by the learned Additional Judicial Magistrate of First Class, Warangal. After completion of investigation, P.W.12-Inspector of Police filed charge sheet against the appellant for the offence punishable under Section 302 I.P.C.

(d) The learned Additional Judicial Magistrate of First Class, Warangal, took cognizance of the offence punishable under Section 302 I.P.C., registered the charge sheet as P.R.C. No.88 of 2007 and committed the case to the Principal Sessions Court, Warangal, as the case is exclusively triable by the Court of Sessions, where it was registered as Sessions Case No.106 of 2008.

(e) On appearance of the appellant before the trial Court, a charge for the offence punishable under Section 302 I.P.C. was framed against him, read over and explained to him in his language. When questioned, he pleaded not guilty and

claimed to be tried. During trial, the prosecution examined P.Ws.1 to 13 and marked Exs.P.1 to P.11. After closure of evidence of the prosecution, the appellant-accused was examined under Section 313(1)(b) Cr.P.C. explaining him the incriminating material appearing against him in the evidence of prosecution witnesses. For which, he pleaded not guilty and stated that he was implicated in a false case. The appellant-accused did not examine any witnesses to defend him before the trial Court.

(f) The trial Court, after perusal of the entire evidence on record and after hearing both sides, held that the appellant-accused is found guilty for the charge under Section 302 I.P.C. and accordingly convicted him under Section 235(2) Cr.P.C. for the said charge and after hearing him on the question of sentence, sentenced him to undergo imprisonment for life till he is alive and he shall not be released from prison till the rest of his life and also to pay fine of Rs.10,000/- (Rupees ten thousand only) with a default sentence of simple imprisonment for a period of three and half (3½) years. The trial Court further held that the sentence of imprisonment for life in this case shall run consecutively after his earlier sentence of imprisonment for life in Sessions Case No.787 of 2007 on the file of the II Additional Sessions Judge's Court, Warangal. The trial Court has given liberty to the appellant to set off the pre-trial custody already undergone by him in this case from 30.07.2007 to 13.01.2011 under Section 428 Cr.P.C. Questioning the said conviction and

sentence imposed, the appellant-accused preferred the present appeal.

4. Learned counsel for the appellant would submit that there are no direct witnesses to the commission of the offence and the case rests on the circumstantial evidence; the prosecution failed to prove the guilt of the appellant by legal and reliable evidence; there is no evidence to believe that the death of B.Laxmi is homicidal; there is no legal and acceptable evidence to believe that the dead body belonged to B.Laxmi; the trial Court erred in relying on the alleged confession of the appellant said to be made before the police, which is inadmissible in evidence; and ultimately, prayed to allow the appeal by setting aside the conviction and sentence awarded in the impugned judgment dated 13.01.2011 passed by the trial Court in Sessions Case No.106 of 2008.

5. On the other hand, learned Public Prosecutor would submit that there is ample evidence on record, more particularly, the evidence of P.Ws.4, 5, 8 and 13, to prove the guilt of the appellant for the offence punishable under Section 302 I.P.C.; the trial Court had rightly convicted and sentenced the appellant; and ultimately, prayed to dismiss the appeal.

6. In view of the contentions putforth by both sides, the point for determination in this appeal is, on 18.04.2007, whether the appellant had caused the death of his mother-in-law by name B.Laxmi by pushing her into an agricultural well near Talla Padmavathi Pharmacy College, Rangashaipet?

7. **POINT**: Admittedly, the entire case of the prosecution is based on circumstantial evidence. In this regard, it is apt to refer the decision of the Hon'ble Supreme Court rendered in **Sharad Birdhichand Sarda v. State of Maharashtra**¹, wherein it was held as hereunder:

"When a case rests upon circumstantial evidence, such evidence must satisfy the following tests:

- (i) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;
- (ii) those circumstances should be of definite tendency unerringly pointing towards guilt of the accused;
- (iii) the circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and
- (iv) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence.

The conditions precedent in the words of this Court, before conviction could be based on circumstantial evidence, must be fully established. They are:

- (i) the circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned must or should and not may be established;
- (ii) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty;
- (iii) the circumstances should be of a conclusive nature and tendency;
- (iv) they should exclude every possible hypothesis except the one to be proved; and

¹ (1984) 4 SCC 116 = AIR 1984 SC 1622

(v) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."

8. The conditions required to prove the guilty of the accused based on circumstantial evidence are enunciated in the following cases:

"1. **Hanumant Govind Nargundkar v. State of M.P.** : AIR 1952 SC 3442.

2. **Sharad Birdhichand Sarda v. State of Maharashtra** : (1984) 4 SCC 116 : AIR 1984 SC 1622.

3. **C.Chenga Reddy v. State of A.P.** : (1996) 10 SCC 193."

9. The case of the prosecution is that the appellant on 18.04.2007 around 4-30 a.m., took his mother-in-law by name Bayyapu Laxmi (deceased) to an agricultural well, situated near Talla Padmavathi Pharmacy College, Rangeshaipet, Warangal, and pushed her into the well and caused her death by drowning her. The motive for commission of such act is that the daughter of the deceased by name G.Renuka fell in love with the appellant and married him, they begot two children and thereafter, G.Renuka was missing, so his mother-in-law-B.Lakshmi, who is said to be deceased in this case, repeatedly insisting the appellant for whereabouts of her daughter-Renuka and also demanding money from him to clear off her debts. To prove the guilt of the appellant, the prosecution examined P.Ws.1 to 13

and got marked Exs.P.1 to P.11. No defence witnesses were examined and no material objects were marked.

10. The evidence of P.W.1-P.Vasundhara, who is *de facto* complainant in this case, reveals that she is working as 12th Ward Corporator, Municipal Corporation, Warangal; on 27.04.2007, she received information that a dead body of a lady was floating in the agricultural well of Pogaku Kankaiah; on that she went to the said well and found a dead body; immediately, she lodged a complaint with the police under Ex.P.1; and the police examined her and recorded her statement. The evidence of P.W.2-Kota Babu reveals that he is a resident of Veerannakunta; he is doing labour work, on instructions from the police about two years back, he along with L.W.2-V.Yakaiah removed a dead body aged between 45 and 50 years, which was floating in the well of one Pogaku Kankaiah. P.W.3-Bayyapu Sunitha is none other than the daughter of B.Laxmi. Her evidence reveals that after death of their father, they shifted to Komravelli and her mother-B.Laxmi was running a hotel; her elder sister-Renuka fell in love with the appellant and married him, they begot two children and they used to reside at Bheemaram; about one year prior to the death of her mother, the appellant came to her mother and stated that her elder sister-Renuka was missing; and later, he shifted to Hanamkonda and married one Haritha. She further deposed that after some days, they found her mother missing, they searched for her but could not trace her; one month after missing of her mother, the

appellant and Haritha came to her and informed her that he would take her to her mother and took her by his motorcycle during midnight at 2-00 a.m. near a well and pushed her in the well in order to do away her life and left the place thinking that she died; later, she came to know through the police that the appellant had committed murder of her sister-Renuka and her mother-Laxmi; and the police examined her and recorded her statement. The evidence of P.W.4-M.Bala Narsaiah reveals that B.Laxmi was his younger sister. He spoke about the marriage of Renuka with the appellant, missing of Renuka, conducting search for her, and after some time, he found B.Laxmi missing. He further stated that the appellant was arrested by Mulkanoor Police during interrogation, the appellant confessed about the commission of murder of his sister-Laxmi and Renuka.

11. P.W.1-*de facto* complainant lodged Ex.P.1-report with the police. P.W.2 is the person who removed the dead body of a woman floating in the well. He did not depose about identification of the dead body. P.W.3 is the daughter of the deceased and P.W.4 is the brother of the deceased and they also did not say that they have seen the deceased and the appellant together, but simply they stated that on interrogation, the appellant confessed the commission of the murder of Renuka as well as B.Laxmi. The contention of the prosecution is that P.W.5-N.Kumaraswamy saw the deceased and the appellant together, but this witness did not support the case of the prosecution and turned hostile. In his examination in chief,

he has clearly stated that he did not see the appellant at any time. Ex.P.2 is the statement said to be given by P.W.5 to the police. P.W.6-K.Mallesham is a witness for inquest panchanama conducted over the dead body of the deceased. He also did not support the case of the prosecution. His signature (Ex.P.3) on the inquest panchanama was marked.

12. The evidence of P.W.8-P.Mogili reveals that he is a resident of Bheemdevarapalli and he knew L.W.13-S.Bhadraiah; about two years back at 9-00 a.m., police called them to the police, he found the appellant in the custody of police and, on interrogation, the appellant confessed that he had killed the deceased in this case 15 or 20 days prior to arrest at the agricultural well near Talla Padmavathi College by taking the deceased by jeep. He further that the appellant also confessed that he has killed his wife and also tried to kill his sister-in-law (P.W.3) and the police drafted the said confessional panchanama and obtained his signature. Admittedly, there is specific evidence of P.W.8 that he was called to the police station by the police, and on interrogation, the appellant confessed the commission of the offence and other offences. This piece of evidence is inadmissible in evidence. There is no evidence that the appellant voluntarily confessed the commission of offence in his presence. Moreover, the so-called confession is said to have made at the police station in the presence of the police on interrogation. This evidence does not qualify the

requirement under Sections 24, 25 and 27 of the Indian Evidence Act, 1872.

13. P.W.9-K.Srinivas, Sub Inspector of Police, Mulkanoor, deposed that he conducted investigation in this case and during investigation, he arrested the appellant in connection with Crime No.64 of 2007 of Mulkanoor Police Station and on interrogation, the appellant voluntarily confessed about commission of the offence in this case. P.W.10-Dr. K.V.Ramana, Assistant Professor, Department of Forensic Medicine, KMC, Warangal, deposed that on 28.04.2007, on a requisition made by the Station House Officer, Mills Colony Police Station, he conducted postmortem examination over an unknown female dead body from 9-15 a.m. to 10-15 a.m. and found no ante-mortem external or internal injuries over the dead body and opined that approximate time of death was three to four days prior to the postmortem examination and the cause of death was due to drowning and he issued Ex.P.5-postmortem examination report. Admittedly, no blood samples were collected from the dead body and no DNA test was conducted. P.W.3-daughter of the deceased and P.W.4-brother of the deceased have not stated anything about identification of the dead body.

14. The evidence of P.W.11-M.Venkateshwarlu, Assistant Sub Inspector of Police, Mills Colony Police Station, Warangal, reveals that on 27.04.2007 at about 2-30 p.m., on receipt of Ex.P.1-report from P.W.1, he registered the same as a

case in Crime No.120 of 2007 under Section 174 Cr.P.C. and issued Ex.P.6-F.I.R., sent copies of F.I.R. to all concerned, recorded statement of P.W.1-B.Vasundhara, visited the scene of offence, took photographs of the dead body and got it removed from the well with the help of P.W.2-Kota Babu, L.W.2-Velpula Yakaiah and L.W.4-Kota Sanjeeva, held inquest over the dead body in the presence of P.Ws.6 and 7 under Ex.P.7-inquest panchanama and sent the dead body to MGM Hospital, Warangal for conducting postmortem examination. He also did not speak about the identification of the dead body in this case. The evidence of P.W.12-C.Prabhakar, Inspector of Police, reveals that on 14.06.2007, he took up investigation in this case, visited the scene of offence, re-examined the witnesses, verified the investigation done by P.W.11 and found it on correct lines and on receipt of confessional statement of the appellant, he altered Section of Law from 174 Cr.P.C. to Sections 302 and 201 I.P.C. and Ex.P.8 is the altered F.I.R.

15. The evidence of P.W.13-A.Prashanth reveals that he is a resident of S.R.Nagar, Hyderabad, and working as Security Guard in a private company; earlier, he worked as a Cashier in a petrol bunk in Hanamkonda located on Warangal-Khammam road in Kareemabad locality; in the year 2007, during early hours, one person came by jeep and took diesel in his jeep, he noticed that a woman was present in his jeep; thereafter, the jeep left, they stopped the jeep near a tea hotel, situated near the petrol bunk; ten minutes thereafter, the jeep left the place

and proceeded back towards Hanamkonda, at that time, he noticed that only one person who was driving the jeep was present in that jeep, the said person was present in the Court Hall. In the cross-examination, P.W.13 stated that he has no idea about the number of the vehicle, daily 100 vehicles used to come to their petrol bunk for filling petrol or diesel; he cannot identify all those persons, but since it was early hours, he could identify the appellant. He further deposed in his cross-examination that he worked at the said petrol bunk for a period of three or four months, he did not say how many persons visited the petrol bunk in early hours, he did not say as to whether he issued a receipt or not to the appellant. He further deposed in his cross-examination that there were four persons working in one shift at the petrol bunk, he is a resident of Karimnagar, and the police had shown the appellant in the Court premises on 24.02.2010. He admitted that he did not know the appellant prior to the incident, he saw the appellant on the date of incident and again on 24.02.2010. He denied that the appellant did not come to his petrol bunk on that day. He also denied that he is deposing false. Admittedly, P.W.13, who is said to be the circumstantial witness, simply stated that in the year 2007 in the early hours, the appellant had purchased diesel from his petrol bunk, and he noticed one woman, he did not know the jeep number and he did not give descriptive particulars of the driver of the jeep as well as that woman, simply he stated that after ten minutes, the jeep left the place and proceeded back towards

Hanamkonda, at that time, he found driver only in the jeep and he did not give date or month of finding the appellant at petrol bunk or passing by that area. P.W.13 clearly and categorically admitted that he saw the appellant on the date of alleged incident and again only on 24.02.2010. In this case, Ex.P.1 was lodged with the police on 27.04.2007 and the death in question was said to be caused on 18.04.2007 around 4-30 a.m. If that is the case, in the darkness, it is not possible for P.W.13 to identify the person passing in that area. The sole circumstantial evidence relied on by the prosecution is P.W.13. Admittedly, P.Ws.3 and 4, who are daughter and brother of B.Laxmi did not see the appellant and B.Laxmi together before her missing. Both of them came to know about the alleged death of B.Laxmi after the so-called confession made by the appellant to the police. Admittedly, there are no direct witnesses to connect the appellant with the commission of the so-called death of B.Laxmi in this case. The evidence of P.W.3 is shabby and discreditable and it is not free from doubt. P.W.5 is not a reliable witness. The circumstances from which the inference of guilt is sought to be drawn, must be cogently and firmly established the guilt of the appellant. Those circumstances should be of definite tendency unerringly pointing towards guilt of the appellant. The circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the appellant and none else. The circumstantial evidence, in order to sustain

conviction, must be complete and incapable of explanation of any other hypothesis than that of the guilt of the appellant and such evidence should not only be consistent with the guilt of the appellant but should be inconsistent with his innocence. [See: *Gambhiriv v. State of Maharashtra* (1982) 2 SCC 351 : AIR 1982 SC 1157]. No such evidence is available on record either to hold that the dead body in question belongs to B.Laxmi or the appellant had caused death of B.Laxmi. The trial Court, while determining the charge under Section 302 I.P.C., had relied on the evidence of P.Ws.3 and 4 and the evidence of P.W.8, who is said to be the mediator for confession of the appellant before the police at the police station. It is inadmissible under Section 24 of the Indian Evidence Act, 1872. The trial Court also believed the evidence of P.W.13, which is inspiring no confidence to act as there was no identification parade of the appellant and he has deposed before the Court after three years of the incident.

16. It is apt to refer the decision of the Hon'ble Supreme Court in **Dasari Siva Prasad Reddy v. Public Prosecutor, High Court of Andhra Pradesh**², wherein it was held that a strong suspicion, no doubt, may exist against the appellant but such suspicion cannot be the basis of conviction, going by the standard of proof required in a criminal case and the distance between 'may be true' and 'must be true' shall be fully covered by reliable evidence adduced by the prosecution. In the instant case, there is no such proof and standard of evidence. The evidence of P.W.13 is not inspiring confidence to

² 2004(2) ALD (CrL.) 677 (SC)

believe the commission of death of B.Laxmi in this case. P.W.13 is not trustworthy witness. Though the defence of the appellant is that he is innocent and denied the incriminating evidence when he was examined under Section 313 Cr.P.C. stating *Abaddham* (false), in the circumstances of the case, he cannot be called to rebut the same, as required under Section 106 of the Indian Evidence Act, 1872. The prosecution failed to establish the complete chain of circumstances beyond reasonable doubt. There is also no DNA test conducted to prove that the dead body belongs to B.Laxmi. The evidence of P.W.10-doctor reveals only the death of the deceased in this case was due to drowning and there is no oral or documentary evidence to prove the death in question was a homicidal. Further, there is no legally acceptable evidence to hold that the dead body in this case belongs to B.Laxmi. Even the prosecution could not prove the death of B.Laxmi by leading convincing and cogent evidence and so also the commission of alleged murder in this case.

17. In these circumstances, the prosecution failed to prove the charge under Section 302 I.P.C. framed against the appellant and the impugned judgment dated 13.01.2011 passed by the trial Court in Sessions Case No.106 of 2008 is liable to be set aside.

18. In every trial for manslaughter or for the offence of causing hurt to human body, opinions of medical officers are invited to ascertain the cause of death, injuries, whether the injuries are anti-mortem or post-mortem, the probable weapon

used, the effect of injuries, medicines, poisons, the consequences of wounds whether they are sufficient in the ordinary course of nature to cause death, the duration of injuries and the probable time of death and also to identify the dead body. In this regard, DNA test is very helpful. In such trials sometimes the plea of unsoundness of mind or minority is taken by the accused. In trials for offences of kidnapping and rape, the question invariably in dispute is the age of the person kidnapped or of the girl raped. In all such cases the medical opinion is adduced to establish insanity and minority. In rape cases apart from showing the minority of the girl, the medical opinion is tendered to establish the offence of rape.

19. The word DNA stands for deoxyribonucleic acid. It is a biological blueprint of life DNA fingerprinting profile is unique to each individual and hence the DNA profiling is used to identify an individual and his lineage. The technological device is used to identify a person in criminal and civil cases. The main advantage of this device is that the test can be done on small samples and can accurately establish their originals with a high degree of certainty. DNA is hardly affected by the environmental factors. DNA is stable and therefore much resistance to degradation caused by the environmental changes. It shows the same genetic pattern irrespective of the biological material like hair, seminal stains fresh blood, soft tissues, hard tissue etc. DNA finger printing can connect the crime scene or a body to another particular individual. Dry blood stains and sperm can

also be used for DNA test. These tests are highly useful in various criminal investigations involving offences like rape, murder, kidnapping, exchange of babies, infanticide, abandonment of newborn child, illegal abortion, paternity related disputes, immigration, inheritance, assignation etc. DNA test results are very reliable. Control samples are provided with the main sample to avoid error in test and reporting. However in order to make DNA evidence most successful, there must be a strong and robust legislation and reputed elaboration with standardized operational procedures. The laboratories engaged in DNA testing must be well equipped and technicians must be highly qualified and skilled. DNA test is such a new scientific invention which is used for scientific investigation in criminal case. This technique is particularly much useful in cases where eye witnesses are not available.

20. The whole case is based on circumstantial evidence. A highly decomposed dead body was floating in a well. Even at the time of inquest, there were no witnesses to identify the dead body. Under these circumstances, the investigating officer ought to have collected blood samples, soft tissues, hard tissues, hair, etc., from the dead body and preserved the same and in the course of investigation, could have sent them along with the admitted blood samples, etc., of the relatives, to the Forensic Science Laboratory to establish the identify of the dead body. No such efforts were made in this case. In the cases of similar circumstances, all the investigating

officers are required to subject the dead body for its proper identification by following the required procedures to conduct DNA test. The Director General Police shall direct all the Subordinate Officers, particularly the Investigating Officers, to collect the samples from the dead body, i.e., hair, tissues, blood, bloodstains, etc., and send them for DNA test for authentic identification of the deceased persons. The Registry is directed to communicate the copy of judgment to the Director General Police, State of Telangana and the State of Andhra Pradesh, who in turn, shall communicate the same to all their Subordinate Officers including the Investigating Officers for compliance.

21. In the result, the appellant is acquitted of the charge framed against him under Section 302 I.P.C., and consequently, the conviction and sentence recorded against the appellant for the said charge by the trial Court in Sessions Case No.106 of 2008, vide judgment dated 13.01.2011, is set aside. The Criminal Appeal is allowed accordingly. Since the appellant is on bail, he is directed to report before the Superintendent, Central Prison, Warangal, forthwith to set him free as per the procedure established, if he is not required in any other case.

22. As a sequel, miscellaneous petitions, if any pending in this appeal, shall stand closed.

SANJAY KUMAR, J

Dr. SHAMEEM AKTHER, J

Date: 11th August, 2017
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