

HONOURABLE SRI JUSTICE C. PRAVEEN KUMAR
AND
HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL APPEAL No. 1080 OF 2012

JUDGMENT: (per HON'BLE SRI JUSTICE C. PRAVEEN KUMAR)

1. The sole accused in S.C.No.29 of 2012 on the file of the 1st Additional District and Sessions Judge, Guntur is the appellant herein. He was tried for the offence punishable under Section 302 IPC, for causing the death of his father-Mulpuri Sambhi Reddy. By its judgment dated 23.07.2012, the Sessions Judge convicted and sentenced the accused to suffer imprisonment for life and to pay fine of Rs.2,000/-.

The facts as culled out from the record are as follows;

2. The accused is the son of the deceased-Mulpuri Sambhi Reddy. P.W.2 is the wife of the deceased while P.W.1 is the daughter of the deceased. P.W.3 is neighbour of the deceased. The deceased while working as a Draftsman in Pulichintala Project retired from service. The accused worked in Indian Navy, at Chennai. His mother, P.W.2 worked as a Government teacher. About five years prior to the incident, the marriage of the accused was performed with one Silpa and they lived together happily for some time and thereafter differences arose between them and as such they were living separately. After deserting his wife, the accused used to insist his father to bring back his wife to lead a conjugal life. On one occasion, the

deceased went to the house of parents of wife of the accused, but they informed the accused stating that as he used to beat his wife indiscriminately, they are not willing to send his wife with him to lead a marital life. In the early hours of 13.08.2011, when the deceased was sleeping in the company of P.W.1, somebody knocked the eastern side door. P.W.1 and her father/deceased woke up and opened the door. The accused entered into the room, took a coconut cutting knife and hacked his father/deceased on his neck. When P.W.1 tried to interfere, the accused pushed her aside and again hacked his father/deceased with same knife indiscriminately on various parts of his body. On witnessing the same, P.W.1 raised cries. Hearing the same, P.W.3 and others came there. On seeing them, the accused ran away by keeping the knife in a bag. Pursuant thereto, P.W.2, who is the wife of the deceased, returned to Mangalagiri at about 10.00 AM and then P.Ws.1 and 2 went to the police station and lodged a report, Ex. P.1 with P.W.10- the Sub Inspector of police, who registered the same as a case in Crime No.107 of 2011 for the offence punishable under Section 302 IPC and issued FIR-Ex.P.11. On receipt of the copy of FIR, P.W.9- the Inspector of Police took up investigation of the case. He proceeded to the scene of the offence which was situated in the house of the deceased bearing Door No.1-336 of Pedavadhapudi village. In the presence of P.W.4-Mediator and L.W.10, he observed the scene of offence and found the body of the deceased in a pool of blood with bleeding injuries. He prepared a rough sketch of scene of

offence, Ex.P.9, and seized M.Os. 4 and 5 under the cover of observance report, Ex.P.2, in the presence of mediators. Thereafter he held inquest over the dead body of the deceased in the presence of P.W.5 and others. During inquest, P.W.9 examined P.Ws. 1 to 3 and others and recorded their statements. After completion of inquest, he sent the dead body for post-mortem. P.W.6-the Medical Officer in the Government Hospital, Mangalagiri conducted post-mortem and opined that the cause of death was due to multiple injuries by sharp object and issued Ex.P.10 the post-mortem certificate. On 15.08.2011, P.W.8-the Deputy Superintendent of Police arrested the accused. During interrogation in the presence of P.W.5 and others, the accused is said to have confessed about the offence, leading to recovery of the weapon used in the commission of offence. After completion of investigation, P.W.9 filed the charge sheet, which was taken on file as PRC.No.38 of 2011 on the file of the Additional Judicial Magistrate of First Class, Mangalagiri. After compliance of Section 207 Cr.P.C, and as the alleged offence was exclusively triable by the Court of Sessions, the case was committed to the Court of sessions, which came to be numbered as SC No. 29 of 2012.

3. Basing on the material available, a charge under Section 302 IPC came to be framed, read over and explained to the accused, to which, the appellant-accused denied and claimed to be tried.

4. To substantiate its case, the prosecution examined P.Ws.1 to 10 and got marked Exs.P.1 to 11 and MOs 1 to 7. After the closure of prosecution evidence, the accused was examined under Section 313 Cr.P.C. with reference to the incriminating circumstances appearing against him in the prosecution evidence, to which, he pleaded not guilty and claimed to be tried. No oral and documentary evidence was adduced on behalf of the accused in support of his defence.

5. On appreciation of entire evidence on record, the learned Sessions Judge convicted the accused in the manner referred to above. Challenging the same, the present Criminal Appeal came to be filed.

6. Learned Counsel for the appellant-accused would submit that no reliance can be placed on the evidence of P.Ws.1 to 3 who are the interested witnesses. Insofar as the extra judicial confession made by the accused to P.W.8 in Ex.P.4, it is urged that the same was made while he is in custody of police and hence the same cannot be made a basis to convict the appellant-accused. He therefore contends that the judgment of the trial Court in convicting the appellant is invalid and improper.

7. On the other hand, the learned Public Prosecutor would contend that merely because the witnesses are related is not a ground to discard their evidence. He submits that if the testimony of P.W.1 inspires confidence of the Court, it can be

relied upon, more so when it is corroborated by independent evidence of P.W.3 who is not related to the deceased and accused. He submits that the evidence of P.W.1 is corroborated by medical evidence and other circumstantial evidence. Hence pleads that the judgment of the trial Court is perfectly based on appreciation of evidence available on record and there are no grounds warranting interference by this Court.

8. In view of the rival submissions, the issue that arises for consideration is whether there is cogent and sufficient evidence to convict the appellant-accused for the offence punishable under Section 302 IPC.

9. From the evidence available on record, it is clear that P.W.1 is the direct witness to the occurrence. According to her, there were some quarrels between accused and his wife and as such they were living separately. Her brother/accused used to insist her father/deceased to bring back his wife to lead a marital wife. The efforts put forth by the deceased became futile as her parents refused to send her with the accused on the ground that the accused used to beat his wife. On 13.08.2011, when the deceased was sleeping in his house along with her daughter (P.W.1), the accused knocked the door. Then herself and the deceased-father woke up and opened the door. Immediately, the accused picked out a coconut cutting knife and hacked his father/deceased on his neck. When P.W.1 tried to interfere, she was pushed aside by the accused and again the accused hacked

the deceased with the same knife indiscriminately on various parts of his body. On seeing the incident, P.W.1 raised cries. On hearing the same, the neighbours-P.W.3 and others came there. The accused ran away from the house keeping the sickle in a bag on seeing the neighbours coming to his house. During the cross examination, P.W.1 clearly admitted that her brother-accused killed her father-deceased. Nothing incriminating has been elicited in the entire cross examination, to disprove her presence at the time of incident and no suggestion was put to her denying her presence at the time of incident. Therefore P.W.1 is a natural witness, who was inside the house along with her father and her presence was not even disputed in the cross examination. Her evidence in the cross examination shows that she witnessed the incident of hacking of her father by the accused. If the accused was not responsible for causing injuries on his father-deceased, there was no need for him to escape from the scene of offence. Further, no enmity or ill will was established between the accused and P.W.1 to contend that P.W.1 having grudge deposed against the accused. The accused is her own brother and all of them were living under one roof. Thus the evidence of P.Ws.1 and 3 and other circumstantial evidence including the medical evidence are sufficient to come to a conclusion that the accused was the perpetrator of the crime.

10. Apart from that P.W.3 who is the neighbour of the deceased, deposed that on hearing the cries of P.W.1, he came to the house of deceased and noticed that the accused leaving the

house with M.O.1 and he also found the deceased lying in a pool of blood with injuries. It is clear from her evidence that PW.3 witnessed while the accused leaving the house holding MO1 keeping MO2 inside on seeing the persons gathered at the scene of offence. When P.W.3 was cross examined, nothing adverse to the prosecution was elicited.

11. Therefore, the evidence of P.W.1 coupled with the evidence of P.W.3 clearly established that the accused is the person who caused fatal injuries on his father-deceased and left the scene of offence when neighbours gathered there.

12. Coming to the extra judicial confession made by the accused to P.W.8, it is to be noted that P.W.8 arrested the accused in the presence of P.W.5 at railway station when he was moving with blood stained cloths. P.Ws.5 and 8 deposed that during interrogation the accused disclosed his identity and assured that he will show the weapon used for commission of offence . Accordingly he disclosed the weapon which was kept in the bushes and the same was seized in the presence of P.W.5 and other mediators under the cover of Ex.P.5. Thus the words spoken to by the witnesses are clear, unambiguous and unmistakably convey that the accused was the perpetrator of the crime and nothing is omitted by the Witness-P.W.8 which may militate against it.

13. Considering the evidence of P.Ws. 1 and 3 coupled with medical evidence and seizure of MOs. 1 and 2, we hold that the prosecution has proved its case beyond reasonable doubt against the accused and the same was rightly considered by the Sessions Judge by appreciating the evidence in proper perspective.

14. Accordingly the Criminal Appeal is dismissed.

15. Miscellaneous petitions pending consideration if any in the Criminal Appeal shall stand closed in consequence.

JUSTICE C. PRAVEEN KUMAR

JUSTICE N. BALAYOGI

Dated 21st November, 2017.
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