

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

CrI.A.NO. 217 of 2013

JUDGMENT: (Per Hon'ble Mr. Justice C. Praveen Kumar)

1. Sole accused in Sessions Case No. 9 of 2012 on the file of the I-Addl. Sessions Judge, East Godavari at Rajahmundry is the appellant herein. He was tried for the offence punishable under Section 302 IPC for causing the death of his wife Gandikota Rani on 14.4.2011 at about 4.30 A.M. at Mangamma street, Tapeswsaram village, Mandapeta Rural. By judgment dated 18.1.2013 the learned Sessions Judge convicted the accused of the offence punishable under Section 302 IPC and sentenced him to undergo rigorous imprisonment for life and to pay a fine of Rs.2,000/- in default to suffer simple imprisonment for three months. Assailing the same, the present appeal came to be filed.

2. The facts of the case, as summarized from the evidence of the prosecution witnesses, are as follows,

The deceased Gandikota Rani was the wife of the accused. Their marriage was performed about 12 years prior to the incident and the accused was taken as illutom son-in-law. He began living with the deceased at the house of his mother-in-law-P.W.2. Out of wedlock, they were blessed with two sons, P.W.3 being eldest son. Since four years prior to the incident, the accused started harassing the deceased and P.W.2, demanding to sell the house of P.W.2. About one and half year back, on one day, the accused came in a drunken condition,

harassed the deceased and P.W.2, and demanded them to sell away the house and pay the sale proceeds to him. Thereafter the accused slept in the bed room. P.W.2, the deceased and P.W.3 slept in the kitchen on a mat covered with bed (bontha). At about 4.30 A.M. the accused hacked the deceased on her head with an axe, due to which the deceased sustained bleeding injury. The deceased came out of the house to the door way. Then the accused again hacked her on her throat with the axe, as a result of which the deceased died instantaneously. This was witnessed by PWs 2 and 3. The evidence on record further shows that on hearing the cries from the house of P.W.2, their neighbours P.Ws. 1, 4 to 6 came out of their houses and saw the accused hacking the deceased with an axe on her throat at the door way of the house of P.W.2. On the same day at about 5.00 A.M., P.W.1 informed P.W.8 over telephone about the incident. P.W.8 went to the scene of offence and saw the dead body of the deceased at the door way of the house of P.W.2 with two cut injuries on the fore head and on the chin. He scribed a report-Ex.P1 to the dictation of P.W.1, who, in turn, handed over the same to P.W.12, the then Sub-Inspector of Police, Mandapeta Rural Police Station on 14.4.2011 at about 8.30 A.M. Basing on the said report, he registered a case in Cr.No. 37 of 2011 under Section 302 IPC, issued FIR to all concerned. Ex.P13 is the said FIR. Further investigation in the matter was taken up by P.W.13, the Inspector of Police, Mandapet Circle. On receipt of copy of FIR, he proceeded to the scene of offence i.e., the house of P.W.2 situated at Tapeswaram, verified the investigation done by P.W.12,

examined P.W.1 and recorded his statement, conducted scene of offence panchanama in the presence of P.W.10 and another and seized M.Os. 2 and 3. Ex.P8 is the observation report. He also got the scene of offence and dead body of the deceased photographed with the help of P.W.9. Exs.P3 to P6 are the positives and Ex.P7 is the corresponding C.D. He also examined PWs 2 to 9 and recorded their statements. He then held inquest over the dead body of the deceased on the same day in the presence of P.W.10 and two others. Ex.P9 is the inquest proceedings. Thereafter he sent the dead body to the Government Hospital for post mortem examination. P.W.11, the Civil Assistant Surgeon, Government Civil Hospital conducted autopsy over the dead body of the deceased on 14.4.2011 at about 3.30 P.M. and issued post mortem certificate-Ex.P12. In his opinion, injuries 1 and 2 are sufficient to cause death in the ordinary course of nature. P.W.13 continued with the investigation and on receipt of reliable information, he arrested the accused on 15.4.2011 at about 10.30 A.M. at the bridge near Z-Medapadu, when he tried to run away, on seeing the police party. On interrogation, in the presence of P.W.10 and another, the accused confessed to have committed the offence. Ex.P10 is the admissible portion in the statement of the accused. Thereafter the accused led the police party to a canal bridge between Tapeswaram Z-Medapadu village, where from he produced the weapon used in the commission of offence i.e., axe-M.O.1, P.W.13 seized the same in the presence of mediators under Ex.P11, the mediators report. After completing the investigation and collecting

necessary material documents, he filed the charge sheet which was taken on file as PRC NO. 20 of 2011 on the file of the Judicial Magistrate of First Class, Alamuru. On appearance, copies of documents were furnished to the accused, as required under Section 207 Cr.P.C. and the case was committed to the Court of Sessions for trial. On committal, the case was registered as S.C.No. 9 of 2012 and a charge under Section 302 IPC came to be framed against the accused, who denied the same and pleaded not guilty. In support of its case, the prosecution examined PWs 1 to 13 and got marked Exs.P1 to P13 and M.Os. 1 to 7. Out of 13 witnesses examined by the prosecution, P.W.7 did not support the prosecution and was declared as hostile. After closure of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. with reference to the incriminating circumstances appearing against him, to which he denied. However, he did not adduce any oral or documentary evidence on his behalf. Basing on the direct evidence of PWs 1 to 6, the trial Court convicted and sentenced the accused. Assailing the same, the present appeal came to be filed.

3. The learned counsel for the appellant/accused submits that there is any amount of doubt as to whether PWs 1 to 6 could have really seen the incident more so when the entire incident took place in darkness, as the evidence of P.W.2 shows that she switched on the lights after the attack.

4. On the other hand, the learned Public Prosecutor contends that there is no dispute that the accused was staying in the house of P.W.2

which consists of one bed room and one kitchen and the possibility of their wrongly identifying the assailant would not arise, more so when the accused is a known person. He submits that when the evidence of these eye-witnesses and the evidence of PWs 4 to 6 who saw the second part of the incident that took place at the door way from outside, the question of disbelieving them would not arise.

5. The point that arises for consideration is,

Whether the accused is responsible for the death of the deceased?

6. In order to appreciate the same, it would be useful to refer to the evidence of PWs 2 and 3 who are the inmates of the house where the incident occurred and PWs 4 to 6 who on hearing the cries of the deceased from the house of P.W.2 came out of their houses and saw the accused hacking the deceased at the door way.

7. P.W.1 in his evidence deposed about the marriage between the accused and the deceased and also about he going to the house of P.W.2 on hearing the cries from the said house. There he saw the accused hacking the deceased with an axe on the neck and the deceased lying dead on the spot. He also spoke about the accused running away along with the axe. In his evidence he categorically states that he saw the incident in the street light. Though he was cross-examined at length, nothing useful was elicited. A suggestion was given to him that there was no power supply at the time of the incident which was denied by him. Another suggestion given to him was that

he had given a false report against the accused with a view to help P.W.2 to retain the house for herself, which was denied. A suggestion given to him that M.O.1-axe which was kept on the sunshade of the window accidentally fell on the deceased was also denied. The cross-examination of this witness does not in any way suggest the absence of the accused in the house at the time of incident.

8. P.W.2 is no other than the mother-in-law of the accused and mother of the deceased. Her evidence is as under,

“About one and half year back the accused came in a drunken state to the house and picked up quarrel with myself and deceased to sell away the house and pay the proceeds to him. Accused slept in the bed room. Myself, deceased and L.W.3 (P.W.3) slept in the kitchen on a mat covered with bed (bontha). At about 4.00 A.M. on the same day the accused hacked the deceased on her head with an axe and the deceased sustained bleeding injury. Then the deceased came out of the house to the door way. Then the accused again hacked her on her throat with the axe. The neighbours gathered at the scene of offence. The deceased died instantaneously. I switched on the light in the hall.”

9. Even though P.W.2 was cross-examined at length, the accused failed to elicit answers to throw doubt on the credibility of the witness. A suggestion was put to this witness that M.O.1-axe accidentally fell on the deceased which was kept on the sunshade of the window, which was denied. At the same time, another suggestion was put to the witness that the deceased and the accused alone slept in

the house on the date of incident. In fact such a suggestion appears to be fatal to the accused for the reason that by suggesting the same, the accused is admitting his presence in the house at the time of incident. If that being so, there is no explanation from the accused as to how the deceased died.

10. P.W.3 is the minor son of the accused and the deceased. His version is that on 13.4.2011 at about 8.00 P.M. the accused came to the house in a drunken state and demanded to sell the house and pay the sale proceeds to him, or else he will kill them. At about 4.30 A.M. the accused switched on the light, came armed with an axe and hacked his mother with the axe on her head causing bleeding injury. On hearing the same, he and P.W.2 woke up and his mother started raising cries. At that point of time, the accused again hacked the deceased on her throat and also on her chin with the axe, due to which she died. The accused is said to have ran away with the axe. P.W.3 who is a child witness was also cross-examined. All the suggestions given to him were denied.

11. From the evidence of these two witnesses it is clear that the accused was present in the house and at about 4.30 A.M. he got up and hacked the deceased with an axe causing instantaneous death of the deceased. Both these witnesses are said to have seen the incident.

12. Coming to the evidence of PWs 4 to 6, their evidence discloses that at about 4.30 A.M. they heard cries from the house of P.W.2. Then all of them came out of their houses and went towards the house of P.W.2. There, they saw the accused hacking the deceased with an

axe leading to her death on the spot. Thereafter the accused fled away from the scene along with the axe. Though P.W.4 in his evidence deposed that he had not stated before the police about the existence of street light, but P.W.1 in his evidence spoke about the existence of street light. Another suggestion given to the witnesses is with regard to the axe falling on the head of the deceased from the 'attaka', which was denied. Therefore, from the evidence of this set of witnesses, it is clear that on hearing the cries, they came out of their houses and saw the accused hacking the deceased at the door way. Though a comment is sought to be made stating that when the incident took place inside the house, the possibility of PWs 4 to 6 witnessing the incident is doubtful, it is to be noted that PWs 2 and 3 in their evidence deposed that after the initial attack the deceased ran away out of the house and at the door way the accused again hacked her with the axe. Such being the evidence, which remained unimpeached, the possibility of PWs 4 to 6 seeing the second part of the incident cannot be doubted. Having regard to the evidence of PWs 1 to 6, which, in our view, is cogent and convincing, we find no reason to interfere with the judgment of the trial Court.

13. The appeal is accordingly dismissed. Miscellaneous applications, if any pending, shall stand closed.

Dt. 20.2.2018
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C.PRAVEEN KUMAR, J

J. UMA DEVI, J