

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

CRIMINAL APPEAL No.287 OF 2013

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

The sole accused in Sessions Case No.45 of 2012 on the file of the Principal Sessions Judge, West Godavari at Eluru, is the appellant herein. He was tried for the offence punishable under Section 302 IPC, for causing death of Kantheti Ammanna (hereinafter referred to as "the deceased") by beating her with a pestle on her forehead and mouth. Vide its judgment, dated 09.05.2012, rendered in the afore-stated Sessions Case, the Sessions Judge, convicted the accused and sentenced him to suffer "imprisonment for life" and to pay fine of Rs.200/-, in default to suffer rigorous imprisonment for a period of one month.

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

i) PW.3 is the daughter of the deceased, while PWs.1, 2, 4, 5 and 6 are neighbours. On 28.10.2011 at about 6:00 AM, while P.W.1 was returning from bath room, he heard the cries of the deceased from her house, which was located on the east of his house. Then, he along with PW.2 rushed towards the said place and observed the accused beating the deceased with a pestle over her head. Then, PWs.1 and 2 raised cries.

When they raised cries, the accused attempted to escape from the said place, but PWs.1 and 2 resisted him, caught hold of him and tied to a pole. Thereafter, the neighbours telephoned to 108 ambulance, who, in turn, came there and declared that the deceased dead.

ii) Thereafter, PW.1 lodged a report before PW.10-the Sub-Inspector of Police. Ex.P1 is the report. Basing on the said report, a case in Crime No.265 of 2011 of Eluru III Town Police Station came to be registered under Section 302 IPC. Ex.P7 is the First Information Report.

iii) Further investigation in this case was taken up by PW.11-the Inspector of Police. On receipt of copy of the First Information Report, he visited the scene of offence and observed the scene in the presence of PW.8 and others. Ex.P3 is the scene of offence observation report. At that time, he seized M.Os.2 to 4. He also prepared a rough sketch of the scene of offence, which is placed on record as Ex.P8. He then held inquest over the dead body of the deceased in the presence of PW.8 and others. Ex.P4 is the inquest report. During inquest, he examined PWs.1 to 6 and others. Thereafter, the dead body was sent for postmortem examination.

iv) PW9-the Civil Assistant Surgeon, Government Head Quarters Hospital, Eluru, conducted autopsy over the dead

body of the deceased and issued Ex.P6-the postmortem examination certificate. According to him, the cause of death was due to “hemorrhage and shock”.

v) PW.11-the Inspector of Police arrested the accused on the same day at 12:45 PM and recorded the confessional statement of the accused in the presence of PW.8 and others. After obtaining necessary documents and examining the witnesses, he filed charge sheet before the II Additional Judicial Magistrate of First Class, Eluru, which was taken on file as P.R.C.No.69 of 2011. Later, the case was committed to the Court of Sessions, under Section 209 Cr.P.C., wherein it came to be numbered as S.C.No.45 of 2012.

3. On consideration of material placed on record, charge under Section 302 IPC was framed, read over and explained to the accused, to which he pleaded not guilty and claimed to be tried.

4. To substantiate their case, the prosecution examined PWs.1 to 11 and got marked Exs.P1 to P9, besides MOs.1 to 5.

5. 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 evidence of the prosecution witnesses, to which he denied.

No evidence, either oral or documentary, was adduced on behalf of the accused.

6. After considering the oral and documentary evidence on record, the trial Court believed the evidence of eye witnesses to the incident and convicted the accused in the manner referred to above. Challenging the same, the present appeal came to be filed.

7. Heard learned counsel for the appellant and the learned Public Prosecutor for the respondent-State.

8. As seen from the evidence on record, PWs.1, 2 and 4 to 6 were examined as eyewitnesses to the incident. Their evidence discloses that on 28.10.2011 at about 06:00 AM, on hearing the cries of the deceased from her house, they rushed towards the said house and observed the appellant/accused beating the deceased with a pestle over head. When they raised cries, the accused tried to escape from the scene. They tried to catch the accused, but he tried to beat them with the pestle. However, PWs.1 and 2 resisted, caught hold of the accused and tied him to a pole. Thereafter, 108 ambulance was called and the paramedical staff of 108 ambulance examined the deceased and declared her dead. When the accused was questioned about his name, he furnished it as 'G. Narayana Rao' belonging to Keratam Village of

Vijayanagaram District. Pursuant to the same, information was given to the police, who registered a case.

9. In order to appreciate the rival submissions, it would be appropriate to refer to the evidence of eyewitnesses, who were examined as PWs.1, 2 and 4 to 6.

10. PW.1, in his chief examination, deposed as under:

“I am a resident of Satrampadu and I live by plying Auto. I know the accused present in the court hall now so also the deceased herein. On 28-10-2011 at about 6-00 A.M. when I went to my Bath room and while returning from Bath room, I heard the cries of the deceased from her house located on the east of my house. Then I rushed to the said place along with L.W-2 Jitendra and observed that the accused was beating the deceased with a pestle over her head. Then we raised cries. When we raised cries the accused attempted to escape from the said place. Then we attempted to catch him. But the accused tried to beat us with pestle. Then myself and Jitendra resisted him and caught him and tied him to a pole. Thereafter my neighbours telephoned to 108 Service. People of 108 examined the deceased and declared that she died. The deceased was working as cook in Vidya Vikas School. I heard that accused also was doing job in the same school. When I enquired the accused about his name, he furnished his name as “G. Narayana Rao” and that he belongs to Keratam village of Vijayanagaram District. Neighbours informed the matter to police personnel. I gave a report to police personnel and it is marked as Ex.P-1. I was examined by police personnel. My father also was residing with me and he too was present at the time of incident.”

11. Similarly, PW.2, in his chief examination, deposed as under:

“I am a resident of Satrampadu. I am studying M.Com. I know the accused present in the court hall now. I know the deceased also as her house is located opposite to my house. About six months back i.e., on 28-10-2011 at about 6-00 A.M. I heard the cries of “Ammanna”. Then myself, my brother i.e., P.W-1 and our father rushed to the house of deceased and found that the accused was beating the deceased with pestle over her head. When myself and P.W-1 tried to catch the accused he came against us also to beat. Then we caught him and tied him to a pole. Then I telephoned to officials of 108 Ambulance. The people of 108 Ambulance inspected the deceased and declared her dead. After catching the accused when we questioned him about his particulars he gave his name as “Gade Narayana Rao” and that he belongs to one village by name “Kaikaram” or so of Vijayanagaram District. Later police personnel came and arrested the accused. People of Ambulance informed the matter to police officials who rushed to the scene of offence. I was examined by police personnel. M.O.1 is the pestle with which the accused beat the deceased.”

12. PW.4, in her chief examination, deposed as under:

“I am a resident of Adarsanagar, Satrampadu. I know the accused herein by face. I know the deceased “Ammanna” herein. My house and the house of deceased are located side by side. The deceased was aged 50 years to 60 years by the date of incident. She was working in “Vidhya Vikas School”. On 28-10-2011 at about 6-00 A.M., when I was in my house while sleeping I heard the cries of the deceased from her

house. Then myself and my husband came out side of our house and observed that accused was beating the deceased with a pestle over her head. Then I raised cries and fell down. On account of such beating blood oozed from deceased and later she fell down. M.O.1 is the pestle with which accused beat the deceased. I was examined by the S.I. of police thereafter. Police personnel inspected the scene of offence and held inquest over the dead body of the deceased.”

13. PW.5, in his chief examination, deposed as under:

“I am a resident of Adarsanagar of Satrampadu. By the side of the house of deceased on west, my house is located. Ammanna was working in a Mess by the date of incident. I know the accused by face as I have seen him on the date of offence. On 28-10-2011 at about 6-00 A.M., while I was coming outside of my house, I heard the cries of deceased Ammanna from her house. Then I have seen what had happened. At that time I observed that the accused was beating the deceased over her head with a pestle at her house. M.O.1 is the said pestle with which the accused beat the deceased. When the accused was attempting to escape from the said place we caught him. On account of such beating the deceased died. I was examined by the police personnel.”

14. Similarly, PW.6, in his chief examination, deposed as under:

“I know the deceased herein whose house is located by the side of my house in Adarsanagar of Satrampadu. I have been working as M.N.R. in C.R.R. College, Eluru. During leisure time I attend caste profession as washer man. On 28-10-2011 at about 6-00 A.M. when I was in my house while doing work I heard the cries of

deceased from her house. Then I rushed to the house of deceased and observed that the deceased was lying in a pool of blood. At that time the accused was found standing with a pestle in his hand. Then I raised cries due to which PWs.1 and 2 came and tied the accused to a pole. In the meantime other neighbours also came. When we enquired, the accused told us that he was working in "Vidya Vikas School" as cook. The distance between the house of deceased and "Vidhya Vikas School" is about ½ K.M. and such school is located in our area only. I was examined by police personnel. M.O.1 is the pestle with which the accused was found at that time."

15. Though PWs.1, 2 and 4 to 6 were cross-examined at length, nothing useful was elicited to discredit their testimony. Though the accused tried to elicit some contradictions with regard to the time and the presence of the person, who lodged the report, but the answer given do not go to the root of the matter, so as to disbelieve the evidence of eyewitnesses, who are all independent witnesses and have no grudge to speak falsehood against the accused. In fact, the accused was apprehended at the scene of offence itself. Apart from that, PW.9, the Civil Assistant Surgeon, who conducted post mortem examination over the dead body of the deceased, noticed injuries on the forehead, upper lip, nasal bridge, and on the scalp of the deceased, which corroborates the oral evidence of PWs.1, 2 and 4 to 6.

16. Having regard to the above, we are of the opinion that the prosecution succeeded in establishing the guilt of the

appellant/accused beyond all reasonable doubt. Hence, the findings recorded by the trial Court in convicting the accused require no interference.

17. In the result, the appeal fails and it is accordingly dismissed, confirming the conviction and sentence imposed vide judgment, dated 09.05.2012, rendered in S.C.No.45 of 2012 on the file of the Principal Sessions Judge, West Godavari at Eluru.

18. This Court, vide its order dated 27.06.2017 in Crl.A.M.P.No.1214 of 2017 released the appellant/accused on bail on the terms and conditions mentioned therein. At the time of hearing the appeal on 07.03.2018, the appellant was not present before this Court and the enquiries made by the learned Public Prosecutor revealed that the appellant did not comply with the order, dated 27.06.2017, in reporting before the Station House Officer concerned. Hence, the bail granted to the appellant was cancelled and N.B.W. was issued against the appellant, directing the authorities concerned to execute the same and produce the appellant before this Court. Pursuant thereto, the police, Eluru III Town Police Station, arrested the appellant/accused and produced him before this Court.

19. In view of dismissal of this appeal confirming the conviction and sentence imposed by the trial Court, the

police, who have arrested the appellant/accused now, shall hand over the accused to the Superintendent of the concerned prison, for serving the remaining sentence.

Miscellaneous Petitions, if any, pending in this Criminal Appeal shall stand closed.

JUSTICE C.PRAVEEN KUMAR

JUSTICE J. UMADEVI

March 13, 2018.
gkv/MD

