

**THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SMT JUSTICE T. RAJANI**

CRIMINAL APPEAL No.683 OF 2013

JUDGMENT: (Per The Hon'ble The Chief Justice Sri Thottathil B. Radhakrishnan)

This is an Appeal is by the sole accused in Sessions Case No.269 of 2012 of the Court of Session, Chittoor, against the conviction and sentence handed down by that Court finding the appellant guilty of having committed offences punishable under Section 302 of I.P.C., for two counts, and under Sections 201 and 364 of I.P.C. He stands convicted and sentenced to undergo life imprisonment and to undergo different terms of rigorous imprisonment and simple imprisonment; and has also to pay fine, with default sentence on non-payment of fine.

2. Heard the learned counsel for the appellant and the learned Public Prosecutor for the State of Andhra Pradesh.

3. The substance of the allegations against the accused is as follows: Lasya (deceased No.1), aged about 7 years, and Hema Sai (deceased No.2) were studying in 3rd standard and in 1st standard respectively in Vishnu Priya English Medium School. They were found dead on 11.10.2011. Investigation brought out that they were kidnapped or abducted in order to murder and that they were murdered by the accused and their dead bodies were attempted to be destroyed by him.

4. On the strength of the above oral and documentary evidence adduced, the Court below found the accused guilty on two charges under Section 302 IPC and one charge each under Sections 201 and 364 IPC. The prosecution is able to establish the guilt of the accused beyond any shadow of reasonable doubt. It was held that the sheet anchor of the defence of the accused was one of the total denial about his complicity

while contending that the case has been foisted at the instance of Reddeppa, Police Constable with whom he has disputes.

5. The learned counsel for the appellant argued that there is no legal evidence connecting the accused to the alleged occurrence and there is no sustainable live link between the various items of circumstantial evidence which are sought to be put against the accused. It was thus argued that the discovery of the material objects and the examination of such objects were carried contrary to law. Accordingly, it is argued that there is no ground to hold that the accused is guilty and at any rate; he is entitled to benefit of doubt.

6. The prosecution examined 17 witnesses, i.e., P.Ws.1 to 17, and got marked Exs.P1 to P17 and M.Os.1 to 19.

7. The material evidence on record and the emanating circumstances can be analysed leading to the following material facts, which emanate out of the evidence on record. The assimilation of those material facts and particulars will also establish the chain of events, which has a continuous live link on the basis of which the Court below held that the accused is guilty.

(a) P.W.2 married P.W.3, the daughter of his younger sister. The accused married P.W.2's elder sister's daughter. The accused became revengeful to P.W.3, upon her unwilling to continue with illicit intimacy that she had with him; she having withdrawn from such relationship at the instance of her husband-P.W.1. Therefore, the accused proceeded with preparation to kill one of the children of P.Ws.2 and 3, and purchased cotton thread/rope from the shopkeeper-P.W.8 two or three days prior to 10.10.2011, and kidnapped the deceased No.2 from the school and also

allowed the deceased No.1, who insisted to accompany the deceased No.2, and took them in an auto-rickshaw, recovered and marked as M.O.13.

(b) P.W.6-Boosireddy Krishnavenamma and P.W.7-Aramsetti Ramesh, the villagers of Chennareddipalli, adjacent village of the above said school found the accused and deceased 1 and 2 on 10.10.2011 at about 9.30 a.m. while going in M.O.13-autorickshaw, near Bharatam Gudi at the outskirts of their village.

(c) The accused while taking away the deceased 1 and 2 in his M.O.13-autorickshaw towards Palamaner side on Chittoor – Palamaner road on 10.10.2011 at about 10.30 a.m. purchased two litres of petrol in a bottle (M.O.12) from P.W.9-Talari Bhaskar, pump boy of Tirumala Petrol bunk and went away in the said auto towards Palamaner.

(d) On the same day at about 11.30 or 12.00 noon P.W.10-Aganeti Ekambaram, Cashier of Ganga Wines Shop, Mogili on Chittoor – Palamaner road, saw the accused at their shop when he purchased one quarter bottle of Mansion House Whiskey, consumed and then leaving the place in his auto-rickshaw in a hurried manner towards Chittoor.

(e) On the same day, at about 4.00 or 4.30 p.m., P.W.1, the father of Lasya (deceased No.1), his wife and P.W.3-Sangeetham Hemalatha, the mother of Hemasai (deceased No.2), having noticed that their children did not return from the school as usual, and questioned P.W.5, the driver of the school van while returning after dropping the school children, and came to know that the deceased 1 and 2 did not board the school van to go to the village at the school. P.W.1, his wife and P.W.3 went to Vishnu

Priya English Medium School, Yadamari, and, on enquiry, came to know that their children came to the school and afterwards not to be seen.

(f) When P.Ws.1 and 3 and others were searching for the missing children at Chennareddi palli, P.Ws.6 and 7 informed about noticing the accused with one boy and girl with Vishnu Priya English Medium School uniform at about 9.30 a.m.

(g) At about 6.00 p.m., P.W.1 accompanied by his wife and P.W.3 went to Yadamari police station and lodged Ex.P1-written report before P.W.16 – G.Ravindra, the then Sub-Inspector of Police, about the missing of their children, while suspecting the complicity of the accused.

(h) On the strength of the Ex.P1, P.W.16 registered a case in Crime No.139 of 2011 under the head “Boy and Girl missing”, issued Ex.P-11 First Information Report, took up investigation, examined and recorded the statements of P.Ws.1 and 3. P.W.16 accompanied by P.Ws.1, 3 and others proceeded to Vishnu Priya English Medium School, Yadamari, prepared Ex.P-12 rough sketch, examined and recorded the statements of P.Ws.4 and 5. P.W.16 accompanied by P.Ws.1, 3 and others went to Chennareddi palle, examined and recorded the statements of P.Ws.6 and 7.

(i) On 11.10.2011, P.W.17 – P.Sreekanth, Inspector of Police, Chittoor Rural West Circle, who received information from P.W.16 about the commotion and tension prevailing in Perakuru village due to missing of school going children pertaining to Crime No.139 of 2011, went to Yadamari Police Station at about 6.00 am. At about 8.30 a.m., the accused came to Police Station, introduced himself and orally informed that he has taken away the deceased 1 and 2 from Vishnu Priya English

Medium School, Yadamari to Microwave Repeater Station at Boothalabanda near Chittoor – Palamaner Road, killed them by strangulation with a rope, hang them to the branches of a tree, poured petrol and set them ablaze. P.W.17, who took up investigation, secured the presence of P.W.11 – Ashok Reddy, Village Revenue Officer of Gollapalle and T.B. Naresh Kumar, Revenue Inspector, Yadamari Village, panch witness, P.W.1, P.W.3 and others, interrogated the accused in the presence of the said witnesses and recorded his confessional statement, including Ex.P2 disclosure statement made by the accused that he would show the dead bodies of the deceased, crime scene and the place where he burnt books and school bags of Hemasai, one of the deceased, if they accompany. The accused led the police party, panch witnesses and the parents of both children and other villagers to Microwave Repeater Station at Boothalabanda near Chittoor – Palamaner road and they reached the said place at about 11.00 am. The accused has shown the dead bodies of deceased 1 and 2 lying on the ground near a tree locally known as 'Adavi Kalli'. P.Ws.1, 3, 11 and P.W.17 noticed the dead bodies of the deceased in tightened position. P.W.17 conducted Ex.P3 crime scene observation panchanama in the presence of P.W.11 and another and got Ex.P6 photographs of the crime scene observation through P.W.2 photographer and prepared Ex.P13 rough sketch of the crime scene. P.W.17 returned to the police station along with accused and altered Section of law from "boy and girl missing" to Sections 364, 302 and 201 of I.P.C. and issued Ex.P14-altered First Information Report.

(j) P.W.17 after keeping the accused in the police station again went to the crime scene at Boothalabanda and conducted inquest over the dead bodies of the deceased Lasya (deceased No.1) in the presence of

P.W.14 and others under cover of Ex.P9 inquest report and during inquest seized M.Os.6, 14 and 15 from body of the Lasya (deceased No.1). P.W.17 also conducted inquest over the dead body of the deceased Hemasai (deceased No.2) in the presence of P.W.15 and another under cover of Ex.P10 inquest report and seized M.Os.7, 8, 16, 17 to 19 pertaining to the deceased Hemasai. During the above said inquests, P.W.17 examined and recorded the statement of witnesses.

(k) P.Ws.14 and 15 panchayatdars upon hearing the statements of the witnesses examined during the inquest and on seeing the dead bodies of the deceased unanimously opined that the deceased 1 and 2 were killed by strangulation and then set the dead bodies ablaze by pouring petrol and that the deaths were homicidal. P.W.17 forwarded the dead bodies of deceased 1 and 2 to Government Headquarters Hospital, Chittoor, for autopsy and returned to police station. At about 6.30 p.m. when P.W.17 effected the arrest of the accused, he volunteered that he parked the auto rickshaw, used for kidnapping and killing the deceased at Bala Tripurasundari temple, Iruvaram, Chittoor. Pursuant to Ex.P2 disclosure statement made at the time of arrest and after P.W.17 secured the presence of P.W.11 and Naresh Kumar, the accused led them to K.M. stone of 178/4 on Chittoor – Palamaner road near Seshapuram village and has shown a place near 'Ippamanu' tree while informing that he burnt away the school bag of Hemasai (deceased No.2) with books and the place where he has thrown away the empty two litres bottle. P.W.17 who observed ash at the foot of 'Ippamanu tree' indicating the traces of burnt books and bag and also observed clip of school bag in the said ash. In the presence of panch witnesses seized M.O.10-ash, M.O.11-clip of school bag and M.O.12-two litres empty plastic bottle under the cover of

Ex.P4 seizure panchanama. The accused then led the police and panch witnesses to Balatripura Sundari temple at Iruvaram, Chittoor and has shown the auto bearing Registration No.AP-03-U-8047 stating that it is the vehicle, that was used for the commission of offences, P.W.17 seized M.O.13 – auto under cover of Ex.P5-seizure panchanama. On 12.10.2011 P.W.17 seized M.Os.1 to 5 collected from the dead bodies of the deceased 1 and 2 brought by the police constable, who attended postmortem examination under cover of Ex.P15 police proceedings.

(l) On 13.10.2011 P.W.17 visited Vishnu Priya English Medium School, Yadamari, secured the presence of P.Ws.4 and 5, examined and recorded their statements and then visited Chennareddipalle and secured the presence of P.Ws.6 and 7, examined and recorded their statements. On 14.10.2011 P.W.17 visited the shop of P.W.8 in Church Street, Chittoor, examined and recorded his statement. On the same day, he visited Tirumala Petrol Bunk at Balaji Palli on Chittoor – Palamaner Road, examined and recorded the statement of P.W.9. Then, P.W.1s7 visited the Ganga Wines, Mogili village on Chittoor – Palamaner road, examined and recorded the statement of P.W.10.

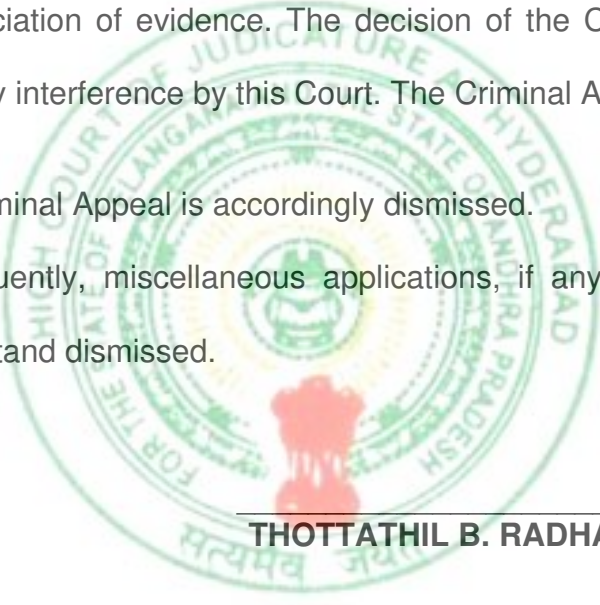
(m) P.W.17 forwarded the material objects to Forensic Science Laboratory, Hyderabad under the cover of Ex.P-16 letter of advice through Committal Court and received Ex.P17 report from Forensic Science Laboratory. On completion of investigation, P.W.17 laid charge-sheet, which resulted in trial.

8. The Court below came to the conclusion that the medical evidence consisting of P.W.13 and Exs.P.7 and P.8 and the evidence of P.Ws.14 and 15 inquest panchayatdars coupled with the contents of Exs.P.9 and

P.10 would corroborate the fact of discovery of crime scene and dead bodies of the deceased 1 and 2 as well as seizure of material objects. The prosecution was able to prove the guilt of the accused beyond any reasonable doubt and the circumstantial evidence forms complete chain and incapable of coming to other conclusion than that of the guilt of the accused. This Court is of the view that the Court below has considered the evidence in proper perspective and the reasoning given while convicting the sole accused is in accordance with law. The Judgment of the Court below does not suffer from any illegality or error of reasoning, including as regards appreciation of evidence. The decision of the Court below does not warrant any interference by this Court. The Criminal Appeal fails.

9. The Criminal Appeal is accordingly dismissed.

Consequently, miscellaneous applications, if any pending in this Appeal, shall stand dismissed.



THOTTATHIL B. RADHAKRISHNAN, CJ

SMT T. RAJANI, J

28.12.2018
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