

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Crl.A.No.623 of 2011

Date: 27.02.2018

Between:

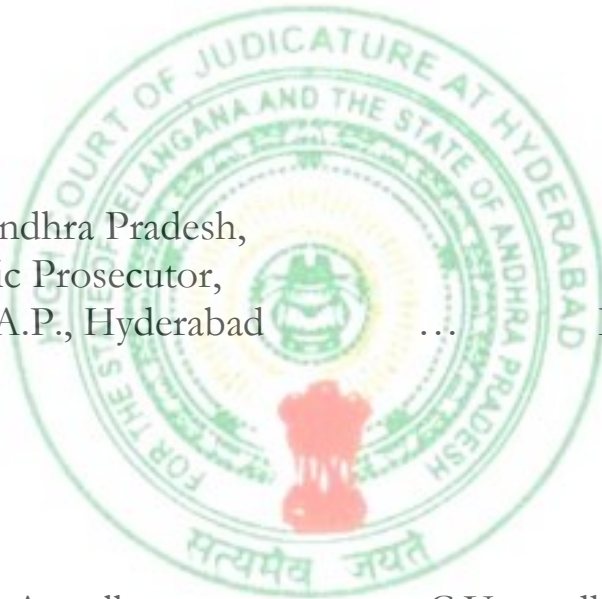
Narala Ravi @ Ravinder,
S/o.Hanmandlu, aged 23 years,
R/o. Chinna Bonala of
Siricilla mandal.

... Appellant

And

The State of Andhra Pradesh,
rep. by its Public Prosecutor,
High Court of A.P., Hyderabad

... Respondent



Counsel for the Appellant : C.Vasundhara Reddy

Counsel for the Respondent: Public Prosecutor (TS)

The Court made the following:

Judgment: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The accused in Sessions Case No.637 of 2006 on the file of the III Additional District and Sessions Judge, Karimnagar, filed this appeal against his conviction for the offence under Section 302 I.P.C. and sentencing to suffer rigorous imprisonment for life and also to pay a fine of Rs.5000/- and in default, to suffer simple imprisonment for a period of five months.

2. Originally, charge sheet was filed against A-1 and A-2 and as A-1 was absconding, the case against A-2 was split up and numbered as S.C.No.653 of 2004 and he was acquitted in the said case. The substance of the charge against the accused is that, on 02.08.2000 at about 7 p.m. in between Narsingpoor and Pochammaputtapalli, in pursuance of the abetment made by A-2, A-1 caused the death of one Chinthapanti Srinivas by stabbing him with a knife. After the appellant/A-1 was traced and arrested, a separate trial was conducted.

3. The case of the prosecution as stated in the charge sheet, is as under:

PW-1 and PW-2 are the parents of the deceased. A-1 is the son-in-law of A-2 and the deceased was teasing the wife of A-1, who is the daughter of A-2 and on that issue, a panchayat was held in the presence of PWs-7 to 10 and elders advised them to lead their lives without quarrelling. Subsequently, A-2 beat the deceased and on that,

when PW-1 tried to give complaint, PW-9 prevented him from lodging a complaint against A-2. On the date of the incident i.e. on 02.08.2000 at about 5 p.m., the deceased left the house to attend the Yellamma Jathara at Narsingapur and at around 7 p.m., while PW-4 was returning to his house, the deceased came walking in the opposite direction and asked him to inform his parents that he was stabbed by a close relative of A-2. PW-4 immediately rushed to the house of the deceased, but as his parents were not available, he informed the same to the junior parental uncle of the deceased, who was present there. On receiving the said information, PW-1 and 2 rushed to the scene of offence and the deceased informed them that he was stabbed by A-1. Then PW-1 immediately shifted the injured in the tractor driven by PW-6 to the Government hospital, Siricilla. On 02.08.2000, on receiving requisition from S.H.O., Chendurthy Police Station, to examine the injured, PW-19, the then Civil Assistant Surgeon, Government Civil Hospital, Siricilla, examined the injured and issued wound certificate marked as Ex.P-25. That, on 02.08.2000 on receiving a requisition at 11.30 p.m. (Ex.P-23) from S.H.O., Siricilla, to record the dying declaration, PW-18, the then Junior Civil Judge, Siricilla, proceeded to the Government Hospital, Siricilla and recorded the dying declaration of the deceased at 11.45 p.m., marked as Ex.P-24, and thereafter, the injured was referred to the Head Quarters Hospital, Karimnagar, for further treatment. On 03.08.2000 at 7 a.m., on receiving the report from PW-1, PW-22, the then Sub-

Inspector of Police, registered the same as Crime No.45 of 2000 under Section 307 r/w. 34 IPC and issued F.I.R., which is marked as Ex.P-35, and then proceeded to the scene of offence, prepared an observation report and rough sketch of the scene in the presence of PW-11, which are marked as Ex.P-11 and Ex.P-37 respectively, and then rushed to the Government Head Quarters Hospital, Karimnagar, and recorded the statement of the injured, which is marked as Ex.P-38. That on 04.08.2000, on receiving information of death from the District Head Quarters Hospital, Karimnagar, PW-22 altered the section of law and issued altered FIR, marked as Ex.P-36 and subsequent investigation was taken over by PW-21, the then C.I. of Police, Vemulawada. PW-21 held inquest over the dead body of the deceased in the presence of LW-18 and LW-19, which is marked as Ex.P-30, and forwarded the dead body for post mortem examination. That on 04.08.2000, on receiving information from PW-21, PW-20, the then Civil Assistant Surgeon, Government Head Quarters Hospital, Karimnagar, held autopsy over the dead body of the deceased and opined that the cause of death was due to hemorrhage shock, also associated with septicemia. The post mortem report was marked as Ex.P-29. That on 22.08.2000, A-1 was apprehended and he led the police to the house of A-2, whereat, underneath from an almarah, he picked up a plastic cover from which a knife was recovered at his instance in the presence of PWs.-12, 13

and 16 under Ex.P-31 – panchanama and forwarded all the material object to RFSL. Ex.P-34 is the FSL report.

4. Based on the charge sheet and the other material filed by the police, the Court has framed the following charge:

“That you Accused No.1 on or about 2.08.2000 at about 7.00 p.m., in between Narsingapoor and Pochammaguttapalli, did commit murder by intentionally or knowingly causing the death of Chinthapanti Srinivas S/o.Venkati, 18 years, R/o.: Pochammaguttapalli, by stabbing with a knife, as the deceased was teasing the wife of you A.1 and daughter of A.2 (Anegangla Hanumandlu (accused in S.C.No.653 of 2004) in pursuance of abetment made by A.2 and that you A.1 thereby committed an offence punishable u/sec. 302 of Indian Penal Code and within my cognizance”.

5. As the plea of the appellant was one of denial, he was tried for the offence under Section 302 I.P.C. During the trial, the prosecution has examined PWs-1 to 22 and got exhibits P-1 to P-38 marked. On behalf of defence, only D1 – portion of contradiction under Section 161 Cr.P.C. of PW-2 was marked. On appreciation of the oral and documentary evidence, the lower court has disposed of the case in the manner as stated herein before.

6. At the hearing, Smt.C.Vasundhara Reddy, learned counsel for the appellant, submitted that the prosecution has based its case on Ex.P-24 – dying declaration recorded by PW-18 and on the evidence of PW-3, who was an eye witness. That however, PW-3 has turned

hostile and that, therefore, Ex.P-24 has not been corroborated by reliable evidence and hence, the Court below fell into an error in convicting the appellant. The learned counsel for the appellant alternatively submitted that the fact that the injured died more than 50 hours after his receiving injuries, shows that the appellant did not have the intention of causing his death and that, therefore, the offence committed by the appellant constitutes culpable homicide, not amounting to murder.

7. Opposing the above submissions, the learned Public Prosecutor for the State of Telangana, submitted that even though PW-3, the eye witness has turned hostile, the accused is liable to be convicted if the dying declaration does not suffer from un-naturalness, improbability or tutoring and in the instant case, PW-18 has recorded the dying declaration of the victim, which does not suffer from any of the aforementioned defects and that, therefore, the court below has rightly convicted the appellant for the offence under Section 302 I.P.C.

8. We have carefully considered the respective submissions of the learned counsel for both the parties. Bereft of unnecessary discussion, we propose to examine Ex.P-24 – dying declaration recorded by PW-18. A perusal of Ex.P-24 shows that PW-18 after putting preliminary questions such as the name of the injured, his age,

name of his father, etc., and after being satisfied that the injured was in a fit state of mind to answer all the questions, questioned the injured as to what happened and how he sustained injuries. The answers given by the injured were recorded by PW-18 to the effect that, when he went to Yellamma Jathara, A-1 came and stabbed him on abdomen, thighs and hands and left the place after throwing the knife on him. He also stated that on the allegation that he has said something against his wife, A-1 has attacked him. After careful analysis of its contents, the dying declaration sounds very natural, shorn of unnecessary details and exaggerations. The defence has not suggested to any of the witnesses, including PWs-1 and 2, who are the parents of the deceased, that they have tutored the deceased to falsely implicate the appellant. The learned counsel for the appellant, however, submitted that the contents of Ex.P-1 – report given by PW-1, is completely at variance with that of Ex.P-24, and that, in Ex.P-24, there is no reference to the presence and participation of A-2, as alleged in Ex.P-1.

9. The prosecution case was based on the contents of Ex.P-1. When the contents of the dying declaration are found natural, without giving scope for any suspicion, the Court is bound to believe the same and merely because Ex.P-1 – report, contains an improved version, the Court cannot ignore the dying declaration and acquit the accused. The court after carefully scrutinizing the evidence on record,

has to accept that portion of the evidence which is acceptable and trustworthy, while rejecting the remaining part of the case of the prosecution. As observed herein before, the dying declaration does not suffer from any defects such as artificiality, tutoring or self contradictions. On the contrary, it sounds natural. A boy of 16 or 18 years of age, is ordinarily not expected to carry any vengeance or grouse against anybody, to falsely implicate in an offence, more so, when he received extensive injuries.

10. In criminal jurisprudence, the testimony of an injured witness has high evidentiary value, for, ordinarily a person who suffered injuries at the hands of another would not shield the real offender and falsely implicate an innocent. This view of ours is supported by a catena of judgments (Vide **Ramlagan Singh v. State of Bihar**¹, **Malkan Singh v. State of U.P.**², **Machhi Singh v. State of Punjab**³, **Appabhai v. State of Gujarat**⁴, **Bonkya v. State of Maharashtra**⁵, **Bhag Singh v. State of Punjab**⁶, **Mohar v. State of U.P.**⁷, **Dinesh Kumar v. State of Rajasthan**⁸, **Vishnu v. State of Rajasthan**⁹, **Annareddy Sambasiva Reddy v. State of A.P.**¹⁰, and **Balraje v. State of Maharashtra**¹¹).

¹ (1973) 3 SCC 881

² (1975) 3 SCC 311

³ (1983) 3 SCC 470

⁴ 1988 Supp SCC 241

⁵ (1995) 6 SCC 447

⁶ (1997) 7 SCC 712

⁷ (2002) 7 SCC 606

⁸ (2008) 8 SCC 270

⁹ (2009) 10 SCC 477

¹⁰ (2009) 12 SCC 546

¹¹ (2010) 6 SCC 673

11. In the light of the aforementioned reasons, it is wholly unnecessary for us to delve into any other aspect of the case. The court below has not committed any error in rendering the finding that the appellant was responsible for causing of injuries to the deceased.

12. Coming to the alternative submission of the learned counsel for the appellant, PW-20, the doctor who conducted autopsy over the dead body, opined that the cause of death is multiple stab injuries over the body leading to hemorrhage, shock and death and also associated septicemia. We also find from Ex.P-29 – postmortem report, as spoken to by PW-20, that there were four laceration injuries on left ear, left fore-arm and parietal area of scalp region and 8 stab injuries on arms, thighs, thoracic and spine areas, apart from aberration in front of the left ear. This part of evidence would show that the appellant has caused multiple injuries to the deceased, the cumulative effect of which, caused septicemia, which evidently led to the death of the deceased. The only extenuating circumstance in the present case is that, the deceased did not die instantaneously or within a few hours of the attack. He survived for more than 56 days. This obviously shows that none of the injuries caused to the deceased was so serious as to cause instantaneous death and that the accused did not have the intention of causing his death, but he was surely

having the knowledge that the injuries he was inflicting on the deceased, are likely to cause death in the ordinary course.

13. In the facts and circumstances of the case, we are of the opinion that it is a fit case to treat the offence committed by the appellant, as falling under Section 299 r/w. Section 304 Part-II I.P.C. i.e., causing injuries to the deceased without intention, but with the knowledge that the injuries he was causing in ordinary course, were likely to cause death. Considering the fact that more than 10 injuries were caused by the appellant, we feel that imprisonment for a period of 10 years prescribed under part-II of Section 304 IPC, would meet the ends of justice. Ordered accordingly.

14. The judgment of the lower Court is accordingly, modified. The criminal appeal is partly allowed.

15. The bail bonds are cancelled and the appellant shall forthwith surrender before the Superintendent, Central Jail, Warangal Jail.

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad, J)

Date: 27th February, 2018

msb

