

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

CRIMINAL APPEAL No.1342 of 2011

Date: 04.09.2018

Between:

Bangi Venkatramulu

... Appellant/ Accused

And

The State of A.P.rep.by the
Public Prosecutor,
High Court of A.P, Hyderabad

... Respondent

Counsel for the Appellants: Sri A.GAYATRI REDDY

Counsel for respondent : PUBLIC PROSECUTOR (TG)

The Court made the following:



THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

CRIMINAL APPEAL No.1342 of 2011

JUDGMENT: (per Hon'ble Sri Justice Gudiseva Shyam Prasad)

This criminal appeal arises out of the judgment, dated 07.09.2011, in Sessions Case No.288 of 2011, on the file of the III Additional District & Sessions Judge (FTC), Gadwal.

2. The appellant is the sole accused and he was convicted for the offences punishable under Sections 302 and 498A IPC and sentenced to undergo imprisonment for life and to pay a fine of Rs.500/- for the offence under Section 302 IPC and in default to suffer simple imprisonment for three months, and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- for the offence under Section 498A IPC and in default to suffer simple imprisonment for one month.

3. Brief facts of the prosecution case are as follows:

Smt.Bangi Padma (hereinafter referred to as "the deceased") is the resident of Elkur village. The accused is also resident of the same village. PWs 1 and 2 are brothers of the deceased, and PW 3 is her mother. PWs 4 to 8 are neighbours of the accused and the deceased. The marriage of the deceased with the accused took place about 16 years ago. The accused addicted to consume liquor and not to take any care to the family and used to harass the deceased for money. The deceased constructed a house by obtaining loan and she asked the accused to repay the debts. On 09.03.2011 at 12.30 p.m, when the deceased was at home, the accused came in drunken condition quarreled with the deceased and

disclosed that either he has to reside or the deceased has to reside in the house, poured kerosene on the deceased and set fire and went outside. The neighbours shifted the deceased to the hospital. PW 17, the Sub-Inspector of Police, Maldakal P.S. received information on 09.03.2011 at 1 p.m and he instructed the Head Constable to verify the matter and file a requisition before the learned Magistrate, Gadwal for recording dying declaration. PW 16, the learned Magistrate, on receiving requisition, went to the hospital and recorded the dying declaration of the deceased at 2 p.m under Ex.P18. On receiving Ex.P1 report from PW 1 on 09.03.2011 at 4 p.m, PW 17, the Sub-Inspector of Police registered a case in Cr.No.22 of 2011 under Section 498A and 307 IPC under Ex.P19 FIR. The deceased was shifted to the Government Hospital, Kurnool. PW 17 recorded the statement of the deceased at the Government Hospital, Kurnool under Ex.P24. On 10.03.2011, PW 11 visited the scene of offence and examined PWs 4 to 8 and recorded their statements. PW 17 conducted scene of offence panchanama in the presence of PWs 12 and 13. Ex.P22 is the confessional statement of the accused. On receiving death intimation on 14.03.2011 at 6 a.m, PW 17 altered the section of law from Section 307 IPC to Section 302 IPC. PW 19, the Inspector of Police, Gadwal took up further investigation and recorded the statements of PWs 1 to 3. He conducted inquest over the dead body of the deceased in the presence of PWs 14 and 15 and sent the dead body for postmortem examination. PW 18 conducted autopsy over the dead body of the deceased on 14.03.2011 and issued Ex.P25, opining that the cause of death is due to septicemia resulting from burns. After completion of the investigation, PW 19 filed the charge sheet.

4. In support of its case, the prosecution examined PWs 1 to 19 and marked Exs.P1 to P25 and M.Os.1 and 6. No oral or documentary evidence is adduced on behalf of defence.

5. On appreciation of the oral and documentary evidence, the Court below convicted the appellant/accused for the offences under Sections 302 & 498A IPC and sentenced him, as noted hereinbefore.

6. Heard the arguments of the learned counsel for the appellant and the learned Public Prosecutor, and perused the record.

7. Learned counsel for the appellant submits that the prosecution has not proved its case beyond all reasonable doubt, and there is inconsistency between the dying declaration and the statement recorded by the police. Ex.P18 is the dying declaration recorded by the learned Magistrate and Ex.P24 is the statement recorded by the police, and in view of the inconsistency between these two statements, the accused is entitled for benefit of doubt.

PW 16 is the Judicial Magistrate of First Class, Gadwal, who recorded Ex.P18 dying declaration from the deceased. Ex.P18 reveals that the deceased has stated to the learned Magistrate that her husband came in drunken state and quarreled with her. She asked her husband to repay the debts and then he quarreled with her and disclosed that either he has to reside or she has to reside in the house, and then poured kerosene on her body and set fire to her. She made noise and went outside and her neighbour Saradamma came there and rescued her and brought her to hospital in 108 Ambulance. She further stated that her husband used to consume liquor and harass her daily.

When we look into Sec.161 Cr.P.C statement recorded by the police under Ex.P24, it reveals almost similar facts in a detailed manner, as noted in Ex.P18 dying declaration. There is no inconsistency or improvement in the statement of the deceased recorded under Section 161 Cr.P.C. Therefore, there are no reasons to doubt the dying declaration recorded by the learned Magistrate, wherein, the deceased stated that her husband poured kerosene on her body and lit fire. The learned Sessions Judge has properly appreciated the evidence on record and rightly convicted the appellant/accused for the offences charged. There are no grounds to interfere with the findings of the learned Sessions Judge. We are of the considered view that the appeal is liable to be dismissed.

In the result, the Criminal Appeal is dismissed. The conviction and sentence recorded against the appellant/accused, vide judgment dated 07.09.2011 in Sessions Case No.288 of 2011 on the file of the III Addl.District & Sessions Judge (FTC), Gadwal, for the offences punishable under Sections 302 and 498A IPC, are hereby confirmed.

Vide orders, dated 01.08.2018, this court has recalled the order, dated 19.12.2016 and cancelled the bail granted to the appellant/accused, and directed the concerned police to take him into custody. Today, the Sub-Inspector of Police, Maldakal Police Station, Mahabubnagar District is present and stated that the appellant/accused will be produced tomorrow, i.e., on 05.09.2018.

In view of dismissal of the appeal, the Sub-Inspector of Police, Maldakal Police Station is directed to take the appellant/accused into

custody and handover him to the Superintendent, Open Prison, Chanchalguda, Hyderabad, for serving the remaining sentence.

C.V.NAGARJUNA REDDY,J

GUDI SEVA SHYAM PRASAD,J

Date: 04.09.2018
Dsr

