

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Crl.A.No.667 of 2011

Date: 07.03.2018

Between:

Smt.Majjeti Sabitha, W/o.Srinivas Yadav,
Age:32 years, Occ: House-hold and labour
in Bambino Factory, Karmanghat,
R/o.Badangpet village,
Saroornagar mandal,
R.R.District

... Appellant

And

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

... Respondent

Counsel for the Appellant : Mr.M.Achutha Reddy

Counsel for the Respondent: Public Prosecutor (TS)

The Court made the following:

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

Accused No.1 in Sessions Case No.230 of 2009 on the file of the I Additional District and Sessions Judge, Ranga Reddy District-cum-Metropolitan Sessions Judge, Cyberabad at L.B. Nagar, filed this appeal, feeling aggrieved by judgment dated 24.06.2011, whereby she was convicted for the offences under Sections 302 and 201 I.P.C. and sentenced to undergo imprisonment for life and also to pay a fine of Rs.5000/- and in default of payment of fine amount, to undergo two years simple imprisonment, for the offence under Section 302 I.P.C. and imprisonment for one year and also to pay a fine of Rs.1000/- and in default of payment of fine, to undergo simple imprisonment for 3 months, for the offence under Section 201 I.P.C.

2. The case of the prosecution as set out in the charge sheet, is as follows:

The appellant and the deceased who were natives of Kuncharam village of Medak district, were married 13 years ago and had two children. That from the date of the marriage, the deceased was harassing the appellant by consuming liquor and beating her under the influence of alcohol; that the deceased fell in debts due to his bad habits and migrated to Hyderabad along with the appellant and their children for ekeing out their livelihood, joined as a Night Watchman in Sri Krishnaveni Talent School, Badangpet village and

resided in the servant room in the said school and the appellant was working in Bambino company. That as there was no change in the attitude of the deceased, he continued to harass the appellant by consuming alcohol and PW-6 removed him from his job as Night Watchman. That on 13.12.2008, when the appellant returned from her job, the deceased picked up a quarrel with the appellant under the influence of alcohol and started beating their children; that when the appellant intervened, the deceased started beating her; that the appellant pushed the deceased on the iron grills and when he fell down on the ground, the appellant picked up the iron shutter lifting handle and beat the deceased on the head, due to which he became unconscious. That on receiving the information on mobile phone, A-2, the brother of the appellant, rushed to the scene of offence on his boxer motor cycle and after discussing with the appellant, picked up the same iron handle, beat on the head of deceased two or three times when the deceased was in unconscious state; that the appellant and A-2 dragged the deceased into the bath room of staff room and washed away the blood stains from the scene and also on the iron handle. That on 14.12.2008, at 06.00 hours, LW-1 noticed the deceased and shifted him to Gandhi hospital in 108 ambulance for treatment, and the duty doctor declared that he was brought dead. On 14.12.2008 at around 09.00 hours, LW-1 lodged a compliant about the death of the deceased. LW-17 registered a case in Crime No.752 of 2008 u/s. 302 I.P.C. and took up the investigation. During

his investigation, LW-17 examined and recorded the statement of LW-1 at the police station, visited the scene of offence, examined and recorded the statements of LWs-2 to 7, got photographed the deceased and the scene of offence by LW-8, duly recorded his statement, secured the presence of two mediators, LWs-9 and 10, conducted scene of offence panchanama, drew rough sketch of the scene and from the scene of offence, seized blood stained earth, control earth and blood stained shirt of the deceased under the cover of panchanama, conducted the inquest over the dead body of the deceased in the presence of the same mediators, shifted the dead body to Gandhi Mortuary room and subjected the dead body for post-mortem examination and later, the dead body of the deceased was handed over to the mother of the deceased for final rites. That while investigation was in progress, on 14.12.2008 at 21.00 hours, the appellant was taken into custody at her room in Sri Krishnaveni Talent School, Badangpet village, Saroornagar mandal; that LW-17 interrogated the appellant in the presence of two mediators, LWs-11 and 12, and during interrogation, the appellant confessed the offence and the confessional statement of the appellant was recorded by LW-17 in the presence of the same mediators. That in pursuance thereof, LW-17, seized the weapon of offence i.e. shutter lifter iron handle, at the instance of the appellant, from the administrative office of Krishnaveni Talent School and the accused was taken to the police station under proper escort of WPC 2377 and 2201 at about 23.30

hours and her arrest was effected by issuing arrest memo. That as per the confessional statement of the appellant, A-2, her brother, was taken into custody on 15.12.2008 at 08.00 hours by LW-17 along with his staff; that A-2 was interrogated in the presence of two mediators i.e. LWs-13 and 14 and during his interrogation, A-2 voluntarily confessed that on 13.12.2008 at about 20.30 hours, he along with A-1, beat the deceased with shutter lifter iron handle several times and caused head injury, due to which the deceased became unconscious; that later A-1 dragged the deceased into the staff room near bathroom with his help and washed the scene of offence area, with an intention to conceal the offence and that after washing himself, A-2 went to Meerpet Peddacheruvu and burnt his clothes with petrol by leaving A-1 at the school. That in pursuance of his confession, A-2, led the police and the mediators to Peddacheruvu at Meerpet and shown the burnt shirt cloth pieces at Pedda cheruvu, Meerpet and the same along with the boxer motor cycle of A-2, were seized under the cover of seizure panchanama in the presence of the same mediators by LW-17. A-2 was brought to the police station at about 11.00 hours and his arrest was effected by issuing arrest memo, and he was produced before the Court for judicial remand. That, LW-15, who conducted the autopsy over the dead body, opined, that the cause of death is due to head injury. LW-16 examined the material objects and issued C.E. report.

3. Based on the charge sheet filed by the police, the court below has framed the following charges:

“Firstly: That you/accused 1 and 2 on or about 13.12.2008 at Krishna Veni Talent School, Badangpet village, committed murder knowingly causing death of the deceased M.Srinivas Yadav by beating with iron shutter lifting handle, that thereby committed an offence punishable under Section 302 IPC and within my cognizance.

Secondly & Lastly: That you/accused 1 and 2 on the above date, time and place mentioned in the first count, knowing or having reason to believe that the offence namely murder of the deceased punishable with life imprisonment has been committed, caused certain evidence connected with the said offence namely dragged the dead body into the bathroom of the staff room and washed the blood stains from the scene and also washed the blood from iron handle to disappear with intention to screen the offender from legal punishment and thereby committed an offence punishable under section 201 IPC and within my cognizance.”

4. As the plea of the appellant was one of denial, she was made to stand trial. In order to prove its case, the prosecution has examined PWs 1 to 11 and marked exhibits P1 to P12. On behalf of the accused, no evidence was adduced. On appreciation of oral and documentary evidence, the Court below has acquitted A-2 and convicted and sentenced A-1, as noted herein before.

5. At the hearing, Mr.M.Achutha Reddy, learned counsel for the appellant, while not disputing the finding of the lower court, to the extent that the appellant was held guilty for the offence committed by her, leading to the death of her husband, however, urged that the act

committed by the appellant falls under the provisions of Section 304 Part-II I.PC.

6. After hearing the learned Public Prosecutor for the State of Telangana and perusing the record, we find ourselves, in agreement with the submission of the learned counsel for the appellant. Even as per the charge sheet filed by the police, the deceased was harassing the appellant by consuming liquor and beating her, under the influence of alcohol. That, later the deceased fell in debts due to his bad habits and migrated to Hyderabad along with the appellant and their children, to eke their livelihood and that he joined as Night Watchman in Sri Krishnaveni Talent School, Badangpet and was residing in a servant room in the said school along with the appellant and their children. It is the further case of the prosecution that the deceased did not change his attitude and continued to harass the appellant by consuming alcohol and his conduct eventually led to PW-6 removing him from the night watchman job. That, on 13.12.2008, when the appellant had returned from her duty, the deceased picked up quarrel with her under the influence of alcohol and started beating their children and when the appellant has intervened, the deceased started beating her also, whereby the appellant pushed the deceased on an iron grill and when the deceased fell down on the ground, the appellant picked up the iron shutter lifter handle and beat the deceased on his head, leading to the latter

becoming unconscious. PW-2, who is none other than the daughter of the deceased and the appellant, has deposed, as alleged in the charge sheet. Thus, the admitted case of the prosecution shows that the deceased has provoked the appellant by his conduct and obviously, under the grave and sudden provocation caused by the deceased, the appellant has hit the deceased on his head and caused his death. The circumstances pleaded by the prosecution also suggest that the appellant acted in the said manner, in order to protect herself and her children from being beaten and tortured by the deceased, without there being any intention of causing the death of the deceased. Therefore, in our opinion, the acts of the appellant, which led to the death of the deceased, fall under exceptions 1 and 4 of Section 300 I.P.C. Accordingly, the appellant is liable for conviction under Section 304 Part-II I.P.C.

7. In the light of the aforementioned reasons, the conviction of the appellant is modified to the offence under Section 304 Part-II I.P.C. and she is accordingly, sentenced to undergo rigorous imprisonment for 7 years, while confirming the fine imposed by the lower Court. The judgment of the lower Court is accordingly, modified and the criminal appeal is partly allowed, to the extent indicated above. As the appellant is on bail, she is directed to surrender herself before the Superintendent, Central Jail, Chanchalguda (Women Prison), Hyderabad, for completing the

formalities for her release, if she has served the sentence after being given the benefit of admissible remissions and if she is not required in any other case or crime.

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad,J)

Date: 07th March, 2018

msb



