

**THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM  
AND  
THE HON'BLE SMT. JUSTICE T. RAJANI**

**CRIMINAL APPEAL No. 313 OF 2013**

**J U D G M E N T** : *(per Hon'ble Sri Justice Challa Kodanda Ram)*

This Appeal is preferred against the judgment of the III Additional District Judge, Medak in S.C. No. 498 of 2012, dated 21.02.2013, by virtue of which, the said Court convicted the appellant / accused for the offence punishable under Section 302 of the Indian Penal Code (IPC) and sentenced him to undergo imprisonment for LIFE and also to pay a fine of Rs.500/- (Rupees five hundred only), in default to undergo simple imprisonment for two months.

The facts of the case, briefly, as reflected in the charge-sheet, are as follows:

A report was filed by the complainant - Sri Talari Balaiah, who is the 2<sup>nd</sup> son of Gangamma (hereinafter be called as 'the deceased') stating that the accused - Talari Narsimulu, who is his 3<sup>rd</sup> brother and who went in illetam to Amsanpally Village about 15 years back, came back to Rangampet Village and stayed with his mother. The complainant and his wife were residing in another house. His brother Narasimulu had been quarrelling with his mother and threatened to kill her. On 04.03.2012, at about 03.00 P.M., his mother was having lunch at her house, in the meantime, the accused came and quarrelled with her stating that she was taking good food and she was not giving good food to him. He snatched the meal plate of the deceased and threw it away. He further started beating her, stating that he would kill her. Then

the complainant and his wife interfered but his brother threatened to kill them. Then, the accused caught hold of his mother and dragged her out of the house and kicked her in her stomach and pressed her neck with his leg, till she died. Based on the said report, a case in Crime No. 13 of 2012 for the offence punishable under Section 302 IPC, was registered. After due investigation, charge sheet was laid against the accused for the same offence.

The Judicial Magistrate of I Class, Medak took cognizance of the case and by virtue of the order in P.R.C.No. 28 of 2012, and committed the case to the Principal District & Sessions Judge, Medak at Sangareddy, as the case is exclusively triable by the Sessions Judge. In turn, the learned Principal District & Sessions Judge made over the case to the III Additional District Judge at Medak, for trial and disposal.

The III Additional District Judge conducted the trial of the case, in the course of which, he examined P.Ws.1 to 10 and marked Exs.P1 to P6 and based on the evidence and material on record, passed the impugned judgment, against which, this Appeal is preferred on the grounds that the trial Court failed to see that the death was due to head injury and admittedly, the accused was not armed with any weapon. It also failed to see that the conduct of P.Ws.1 to 3, 5 and 6 in not interfering and not trying to intervene, when the accused was attacking the deceased, would show that they were not present at the time of the alleged incident. The trial Court failed to see that the circumstances indicate that there are property disputes between P.W.1 and the accused, as such, P.Ws.2, 5 and 6 deposed against the accused at the instance

of P.W.1. On the said grounds, the appellant seeks to set aside the judgment of the trial Court.

Heard Smt. Vasundhara Reddy, learned counsel for the appellant and the learned Public Prosecutor.

The counsel for the appellant reiterates the grounds taken in the grounds of Appeal and contends that motive that is proved in this case is not sufficient enough to drive any person to commit murder of a person. She further submits that even if the Court comes to a conclusion that the accused has committed the offence, it has to be taken within the purview of Section 304-II IPC, as he did not have any pre-meditation to commit the murder of the deceased and that it was only in a heat of passion, that he beat the deceased.

The Public Prosecutor, on the other hand, submits that the evidence of the witnesses would show that the accused had premeditation to kill the deceased, as it is not the first instance where he quarrelled with the deceased and also threatened to kill her, which proves his intention.

Based on the above arguments and the material on record, we frame the following points for determination:

- 1) *Whether the evidence of the prosecution witnesses inspires confidence and whether the guilt of the accused stands proved beyond all reasonable doubt.*
- 2) *To what result.*

**P O I N T No.1:** P.W.1 is the son of the deceased and the brother of the accused. He stated that the accused went in illetam to Amsanpally Village. After few years, he came back to their

village and started living with their deceased mother. Speaking about the incident that occurred on the date of offence, he stated that the accused brought their deceased mother, along with the food served to him, by her saying that she was not providing sufficient food to him. Then, he told him that he is not concerned and asked him to go away. On that, he kicked the deceased and beat her. Then, P.W.1 went to bring the village elders, but by the time he came back, the deceased died. The cross-examination of P.W.1 is very cryptic and does not succeed in eliciting any fact that would belie the evidence given in the chief-examination. It was only stated that he was sleeping at the time of incident due to fever, which may not be construed as a statement, which would imply that he did not witness the incident, as he was very much present in the house and would in all probability witness the incident. Moreover, he was the person, to whom the accused made the complaint against the deceased.

P.W.2 is the sister-in-law of the accused and daughter-in-law of the deceased. She was also present at the time of the incident and she stated about the quarrel that the accused had with the deceased, on the ground that she was not providing good food to him. She further stated that the accused caught hold of the neck of the deceased and kicked her in stomach. She tried to rescue the deceased, but the accused beat her also and pushed her away. Later, the deceased died. The cross-examination of P.W.2 is similar to the cross-examination of P.W.1, which does not succeed in eliciting any fact which would belie her evidence.

P.W.3 is a witness, who was informed by P.W.1 about the accused besting the deceased on the ground that she was not providing proper food to him. On that, he went to the scene of offence and found the deceased with injuries. In the cross-examination, it was only elicited that the fact of the dead body being with injuries is not stated by him before the police. Even if that is considered as an omission, that would not at all affect the case of the prosecution or the credibility of P.W.3, as it is not the case of the prosecution, that there were no injuries on the body of the deceased.

P.W.4 is the photographer, who took photographs of the dead body of the deceased. P.W.5 is a neighbour of the accused and the deceased. He speaks about the incident in which the accused beat the deceased. He also speaks about the reason for the accused beating the deceased, which corroborates the reason stated by the other witnesses. He further tried to save the deceased from the accused and due to fear, he stood without interfering. He also spoke about the presence of P.W.6 and P.Ws.1 and 2 at the time of the incident.

P.W.6 corroborates the evidence of P.W.5. She is also a neighbour of both the accused and the deceased. She also speaks about the quarrel that took place on the date of incident and about the reason for quarrel, which later became the reason for the accused to beat the deceased which resulted in her death. P.W.7 is a witness for the scene of offence panchnama. The evidence of P.W.7 is not very material. He only speaks about panchnama that

was conducted at the scene of offence. He is also a witness for the inquest conducted over the dead body of the deceased.

P.W.8 is the doctor, who conducted post-mortem examination on the body of the deceased. He speaks about the head injury which resulted in massive haematoma in right cerebral hemisphere. He opined that the said injury is ante-mortem in nature and it is the cause of death of the deceased. The proximate time stated by him with regard to the death is 24 to 30 hours prior to post-mortem examination.

P.W.9 is the Inspector of Police, Medak Rural Police Station, who, after receiving CD file from the Sub-Inspector of Police, Kulcharam, verified the investigation and having found it on proper lines, proceeded with the further investigation. He visited the scene of offence and posted one police constable at the scene of offence, to safeguard the same. On the next day, i.e. on 05.03.2012, he again visited the scene of offence and conducted panchnama. He recorded the statements of the witnesses. He also conducted inquest and referred the dead body to Government Hospital, Medak for post-mortem examination. On the same day, he effected arrest of the accused and produced him before the Court. He recorded the statements of P.Ws.5 and 6 and after concluding the investigation, filed the charge sheet. In the cross-examination, it was elicited that he did not examine anyone from Amsanpally Village. But he gives a reason stating that as the accused came back to Rangampet Village about eight years back, he did not chose to examine any witnesses from the said village. He further admitted that Ex.P1 did not show other names except the names of

P.Ws.1 and 2. P.W.10 is the Sub-Inspector of Police, Kulcharam, who registered the case based on the report given by P.W.1.

A bare reading of the above evidence would suffice to come to a quick conclusion that there needs no interference with the verdict of the Court below. The contention of the defense counsel that the witnesses did not try to intervene when the accused beat the deceased and hence, their presence could be disbelieved, needs to be dismissed on more than one count. The contention is factually incorrect, is the first reason. The witnesses have stated that they intervened, but due to the accused threatening them, they did not go beyond a particular point of intervention in the quarrel. Even if that is taken as factually correct statement, it would only depict the hands off attitude of a witness for crime, which has become the present order of the society, which fails to summon the feelings of empathy or responsibility of the witnesses. Trivial feelings of fear may also stop the witnesses from going beyond a particular point of intervention. The insulting method adopted by the accused, to express his grievance about the deceased not providing proper food to him, prompts us to opine that the treatment that he meted out to his mother, deserves more severe a punishment than the one prescribed for murdering a person. A mother, with all her heart and soul brings up her children, with the only concern of their well-being. She does not count upon any lack of reciprocation, but ill-treatment would unnerve her and drain out all her confidence in humanity, for the existence of which, she is the sole cause. A child is expected to extend a decent treatment to its parents in their old age. Here is a

case, where, apart from not showing any semblance of gratitude, the son kicks a mother so brutally that she dies due to such beating. We are disturbed by the obnoxious and outrageous manner and method adopted by the accused in treating the deceased. It would not have, perhaps, been as disturbing, even if he had rather murdered the deceased, by hacking her or otherwise. The insulting way of beating, for that matter the beating itself, by the accused, is a matter of concern for the society and everyone. A mother beats a child, to put it in the right path. But here is a son, who loses his path of rightness and beats a mother. He beats her on the ground that she is taking good food but is not providing good food to him, being ignorant of all the hymns, sung in praise of the sacrifices that a mother makes for the sake of children. The gravity of such beating can be perceived from the reaction of P.W.1, who ran to call his neighbours. The neighbours, who came to the spot, also tried to rescue the deceased, but being threatened by the accused, they could not go ahead of the point to which they could go. The contention of the counsel for the appellant that there is no premeditation on the part of the accused is not found merited. The report, Ex.P1, would show that the accused, apart from beating the deceased and kicking her, pressed her neck with his foot, till she died. However, P.W.1 does not reiterate the same in his evidence. Though the post-mortem examination report shows that it is the head injury which lead to the death of the deceased and it may be inferred from the said report that pressing of the neck by the accused is not the reason for the death of the deceased, the intention of the accused can be gathered from such of his act and

it cannot be said that he has done the act in a bit of emotion, as the evidence of P.W.1 shows that the accused brought the deceased to the house of P.W.1 along with the food served to him and thereafter, he committed the alleged offence. Hence, he had sufficient time to kill his passions, if any, but he carried his emotions for a long time and executed his intention to kill her, by kicking the deceased. The deceased, as can be seen from the post-mortem examination report, is a frail woman of 5 feet height and 48 Kgs weight. Her age, though was noted as 60 years seems to carry a correction from 70 years, which shows that age was only approximately assessed and could have been 70 years. The accused, who is aware of the age of the deceased, is expected to have knowledge that the beating is likely to result in her death. He does not have the benefit of any doubt, that the case falls under Section 304 IPC. Hence, we do not find any reason to interfere with the judgment of the lower Court which is rendered on proper appreciation of the evidence on record.

**P O I N T No.2** In the result, the Appeal is dismissed.

**CHALLA KODANDA RAM, J**

**T. RAJANI, J**

23<sup>rd</sup> April, 2018

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