

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice Gudiseva Shyam Prasad

Criminal Appeal No.1145 of 2011

Date: 25.07.2018

Between:

Bakke Satyanarayana

... Appellant

and

The State of A.P.,
Rep. by its Public Prosecutor
High Court, Hyderabad

...Respondent

Counsel for the appellant:

Smt.C.Vasundhara Reddy

Counsel for the respondent:

Public Prosecutor (AP)

The Court made the following:



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

This Criminal Appeal is instituted by the sole accused in Sessions Case No.198 of 2009 on the file of the II Additional Sessions Judge, East Godavari District at Amalapuram (for short 'the lower Court'), whereby he has been convicted for the offences punishable under Sections 302 and 307 IPC. While, for the former offence, the appellant was sentenced to undergo Imprisonment for life and also to pay a fine of Rs.1,000/- and, in default of payment of fine, to undergo Simple Imprisonment for six months, for the latter offence, he was sentenced separately, for the injuries caused to PW.1 and PW.4, to undergo Imprisonment for seven years and also to pay a fine of Rs.1,000/- and, in default of payment of fine, to undergo Simple Imprisonment for six months. All the sentences were directed to run concurrently.

The case of the Prosecution, as stated in the charge sheet, is briefly set out hereunder:

Originally, one Bakke Narasimhamurthy, who is the husband of PW.2, was assigned five cents of land by the Government. They had three sons *viz.*, Bakke Sundara Rao

(hereinafter referred as 'the deceased'), the appellant and LW.4- Bakke Venkateswara Rao and a daughter- Bhudevi. The said Narasimhamurthy had purchased another five cents of land, which is situated adjacent to the aforesaid land, from one Subrahmanyam and gave it to LW.4- Bakke Venkateswara Rao. After the death of their father, the appellant and the deceased partitioned the land assigned by the Government horizontally. Later, the deceased demanded for vertical partition, in connection with which disputes arose between them. On 03.07.2008 at 10.00 a.m., a quarrel ensued between the appellant and the deceased, during which both of them pushed each other and the appellant went away stating that he knows how to put an end to the dispute. However, the matter was placed before the mediators (PW.7, LW.12- Palli Kumar Raja, LW.13- Kollati Dorayya and PW.8), who advised them to come to an understanding and construct their respective houses.

That on the intervening night of 3/4th July, 2008, after having dinner, the deceased and his wife- PW.1, slept on an earthen mound in the disputed site and PWs.2 and 3 slept on a folding cot by their side. That at about 12-00 midnight, the appellant came with a curved knife and hacked the deceased

on his neck and other parts of the body, due to which the latter died on the spot; that when PW.1 woke up, the appellant hacked her on her neck, left shoulder and left hand uttering in Telugu 'you bitch die'; that the left palm of PW.1 severed from her hand and fell down; and that as PW.1 raised cries, the appellant went away. That PWs.2, 3, 5 & 6, LW.4- Bakke Venkateswara Rao, LW.8- Make Krishna Murthy, LW.9- Bunga Baburao and LW.10- Sade Arjunarao, who came there on hearing the cries of PW.1, witnessed the same; that from there, the appellant went to the house of PW.4 and attempted on his life, but the latter warded off the blow, which fell on his left leg; that PW.4 raised cries, on hearing which, PW.9 came to his rescue, but the appellant chased him upto some distance; that LW.16- Kollati Sarojini, LW.17- Kollati Rattamma and LW.18- Kollati China Lakshamma witnessed the same; and that PWs.1 and 4 were shifted to the Government Hospital, Kothapeta, for treatment.

That on receipt of intimation from the Hospital authorities, PW.13- Head Constable, Kothapeta Police Station, visited the Hospital, recorded the statement of PW.1 and registered Crime No.67 of 2008 under Sections 302 and

307 IPC; and that PW.14- Inspector of Police, Ravulapalem Circle, investigated into the case.

During the course of investigation on 04-07-2008, PW.14 inspected the scene of offence in the presence of LW.21- Kamisetti Ammanna and PW.10, seized the blood stained earth, control earth and other material objects therefrom under the cover of Ex.P.3- Scene Observation Report, got the scene of offence photographed by PW.11, prepared Exs.P.13 and P.14- rough sketches of the scene of offence, held inquest over the dead body of the deceased in the presence of the above said mediators under the cover of Ex.P.5- Inquest report, examined and recorded the statements of PWs.3 to 6 and LW.4- Bakke Venkateswara Rao, sent the dead body of the deceased for Postmortem Examination and recorded the statements of PWs.7 to 9, LW.12- Palli Kumar Raja, LW.13- Kollati Dorayya, LW.16- Kollati Sarojini, LW.17- Kollati Rattamma and LW.18- Kollati China Lakshamma.

On 04-07-2008 at 5.15 p.m., PW.14 arrested the appellant near Muktheswaram Canal Road at Sanghampalem Canal Bridge in the presence of PW.10 and LW.22- Balla

Satyanarayana, got his confessional statement recorded by them, seized the blood stained crime weapon, which was secreted by the appellant under the Sanghampalem Canal bridge, and sent him to judicial custody.

PW.12- Civil Assistant Surgeon, who conducted autopsy over the dead body of the deceased, issued Ex.P.8- Postmortem Examination Report, opining that 'the deceased died due to shock and cerebral anoxia due to incised cut of neck'; and Exs.P.9 and P.11- Wound Certificates of PWs.1 and 4 opining that the injuries of PW.1 are grievous in nature; that the injuries of PW.4 are simple in nature; and that both the injuries might have been caused by a sharp object.

Based on the chargesheet filed and the material gathered by the Prosecution during the course of investigation, the lower Court framed the following charges against the appellant:

“Firstly:

That you on the intervening night of 3/4 -7-2008 at about 12.00 midnight at Gandhi Nagar: Vanapalli Mandal, committed murder by intentionally caused the death of Bake Sundararao by hacking on his neck and other parts

of body with curved knife and that you thereby committed an offence punishable U/S 302 I.P.C. and within my cognizance.

Secondly:

That you on the same date, place and time as noted under charge No.1, when LW.1 Bakke Mariyamma woke up, at the time of incident under charge No.1 you hacked with the same curved knife on her neck, left shoulder and left wrist and that her left palm amputated and with such intention and under such circumstances, that if by that act you had caused the death of LW.1 Bakke Mariyamma you would have been guilty of murder and thereby you committed an offence punishable under Section 307 IPC and within my cognizance.

Thirdly:

That you on the same date, after the incident under charge No.1 and 2, you went to the house of LW.2 Kollati Ramudu and attempted to his life with the same knife, but he warded the said blow, which fell on his right leg and with such intention and under such circumstances that if by that act you had caused the death of LW.2 Kollati Ramudu you would have been guilty of murder and thereby you committed an offence punishable under section 307 IPC and within my cognizance.”

As the plea of the appellant was one of denial, he was subjected to trial, during which the Prosecution has examined PWs.1 to 14, got Exs.P.1 to P.15 marked and produced MOs.1 to 6.

On appreciation of the oral and documentary evidence, the lower Court has disposed of the case in the manner as noted herein before.

We have heard Smt.C.Vasundhara Reddy, learned Counsel for the appellant, and the learned Public Prosecutor appearing for the State of Andhra Pradesh.

This is a case based on the evidence of PWs.1 and 4, who are the injured witnesses. Though, in a case of this nature, motive may not play significant role, yet the admitted facts of the case amply prove motive. It has come out in the evidence of PW.1- the widow of the deceased that there was a serious dispute between the appellant and the deceased regarding the method and manner of division of five cents of land belonging to their father; that in connection with the same, a quarrel has taken place between them on 03-07-2008 at 10.00 a.m., wherein both of them pushed each other; that the deceased and PW.1 proceeded to go to Kothapeta Police Station along with PW.3- mother of the appellant and the deceased; and that on their way, PW.3 and the deceased went to the house of PW.7 while PW.1 alone went to the Kothapeta Police Station. She further deposed that while

she was waiting at the Police Station, the deceased and PW.2 came to the Police Station and informed her that the matter was compromised with the intervention of PW.2; that therefore, they came back to their respective houses; that after return from the Police Station, the appellant started hurling abuses against the deceased and PW.1; and that the deceased told her not to retort to those abuses. Except making certain suggestions, nothing material could be elicited from PW.1 to negate her version regarding the altercation stated to have taken place at 10.00 a.m., on the date of occurrence. Even PW.2- mother of the appellant and the deceased, who did not support the case of the prosecution but yet not declared hostile, also admitted that there was a dispute between the appellant and the deceased regarding the five cents of land. PW.3- son of the deceased also spoke about the dispute. PW.4- father-in-law of the deceased, who is also an injured witness, corroborated the evidence of PWs.1 to 3 as regards the dispute. Thus, all the Prosecution Witnesses consistently spoke about the existence of dispute between the deceased and the appellant. In the light of this fact, the Prosecution was able to prove

that the appellant had a strong motive to do away with the life of the deceased.

With the above background in view, we shall re-appreciate the evidence of the Prosecution Witnesses so as to consider whether the Prosecution was able to prove the guilt of the appellant beyond all reasonable doubts.

In her evidence, PW.1- widow of the deceased gave a detailed description of the events that have taken place both prior to the occurrence during the day time, as already noted above while discussing on the motive, and also as to what transpired on the fateful night. As regards the manner in which the deceased was attacked by the appellant, she has deposed that on the night of occurrence, herself and her deceased husband were sleeping on a mat covered with quilt; that by their side, PWs.2 and 3 were sleeping on a folding cot; that when all of them were asleep, she heard whisper of her husband; that immediately, she woke up and noticed the appellant; that as she was about to raise from the bed, the appellant hacked her with a knife on her left shoulder; that again, he gave another blow at the same place; that he has given another blow on her left hand wrist, as a

result of which, her palm severed from her hand and fell down at the scene of offence; and that the appellant has dealt another blow on her back below the neck (In the lower Court, PW.1 has shown her amputated left hand and the scar of the injury on the right side below her neck).

PW.1 further deposed that, on hearing her cries, PWs.2 and 3 woke up and raised cries; that LW.8- Make Krishna Murthy, who is their neighbour, rushed to the scene of offence; that meanwhile, the appellant ran away from the scene of offence by abusing PW.1 in Telugu as 'you bitch die'; that PW.3 went to her parents' house and brought PW.4, PW.9 and LW.9- Bunga Baburao to the scene of offence; that her neighbour telephoned for 108 ambulance service, which took some time to reach the scene of offence; and that after seeing PW.1 and her deceased husband, PW.4, PW.9 and LW.9- Bunga Baburao went back to their respective houses for bringing their children to the scene of offence. She further deposed that at that time, she heard that the appellant hacked PW.4 at his house and chased PW.9 with an intention to inflict injuries on him, but the latter escaped. She further deposed that she noticed the

appellant wearing only an underwear without any pant or shirt on his body. When MO.1- knife used by the appellant was shown to this witness, she identified the same. She further deposed that she was shifted to Kothapeta Government Hospital where she was given treatment and that the Police came there and recorded her statement, marked as Ex.P.1. Nothing material could be elicited from the cross-examination of PW.1 to discredit her testimony. Though the defence tried to emphasize that due to darkness, she could not have identified the assailant, PW.1 elucidated in her cross-examination to the effect that the offence had taken place at about 12.00 midnight and that though it was dark at that time, a country lamp was burning near the hearth arranged outside their house under a palm leaves pandal. The suggestions put to PW.1, that her husband has murdered one Sattibabu with whom she had illegal intimacy; that the kith and kin of the said Sattibabu were waiting for an opportunity to wreck vengeance against her husband; and that in pursuance of the same, they murdered her husband, were denied by her.

Even PW.2, who did not fully support the case of the Prosecution, corroborated the evidence of PW.1 to the extent of their sleeping outside and herself and PW.3 waking up on hearing the cries of PW.1. She, being the mother of both the appellant and the deceased, obviously, did not support the case of the Prosecution by stating that she could not identify any person as her vision was poor. She further stated that one hour after the occurrence, she came to know through PW.4 that the deceased was murdered by the appellant.

PW.3- the thirteen year old son of the deceased and PW.1 supported the latter's version by stating that when he woke up on hearing the cries of his mother, he saw the appellant hacking PW.1 by uttering in Telugu 'you bitch die'; that he identified the assailant as his senior paternal uncle, who was standing in the dock in the Court; and that he also noticed that the deceased had an injury on the right side of his temple upto the lower jaw and that he died. He also spoke about the manner in which PW.4 was attacked by the appellant at the former's house.

PW.4- another injured witness, who is the father of PW.1 and the father-in-law of the deceased, described the manner in which the appellant has attacked him. He deposed that after waiting for ambulance for 1 to 1½ hours at the scene of offence, he alone went to his house and was standing near the coconut tree by placing his hand against it and abusing the appellant for committing the murder of his son-in-law and hacking his daughter; that at that time, the appellant, armed with MO.1, came to his house and gave a blow on his neck; that he averted the same by going behind the coconut tree, but MO.1 landed on his right knee cap. The suggestions given to this witness that the deceased was apprehending danger from the kith and kin of Bandaru Sattibabu and that the appellant did not kill his son-in-law or caused injuries to himself and PW.1 were denied by him.

PW.6- wife of PW.4 supported the latter's version.

PW.14- Inspector of Police, Ravulapalem, stated that during the investigation, he along with his staff apprehended the appellant on 04-07-2008 at 5.00 p.m., near Muktheswaram Canal Road at Sanghampalem Bridge; that he recorded the confessional statement of the appellant in the

presence of PW.10 and LW.21- Balla Satyanarayana; and that thereafter, he prepared Ex.P.6- mediators report wherein the appellant, on being questioned, went under the Sanghampalem Bridge, took out MO.1 and handed it over to them. PW.10, who is one of the mediators, has supported the version of PW.14 regarding the recovery of MO.1. Ex.P.15- FSL report shows that MO.1 contained human blood.

The ocular testimony of the Prosecution Witnesses, as discussed above, is amply corroborated by the medical evidence in the form of Ex.P.8- Postmortem Examination Report and the testimony of PW.12- Deputy Civil Surgeon, who held autopsy over the dead body of the deceased and issued Ex.P.8 to the effect that four external injuries and one internal injury were found on the dead body of the deceased and that the deceased might have died of Hemorrhage and shock and cerebral anoxia due to incised cut of the neck about 12 to 24 hours prior to the Postmortem Examination. Exs.P.9 and P.11- Wound Certificates pertaining to PWs.1 and 4 respectively fortified their oral testimony, which

proved not only the attack on the deceased, but also their sustaining injuries at the hands of the appellant.

Except making suggestions to the effect that the kith and kin of one Sattibabu might have killed the deceased, the defence failed to substantiate the same by producing any evidence. On a holistic consideration of the case in its entirety, we have no reason to interfere with the well-considered judgment of the lower Court.

Accordingly, the Criminal Appeal is dismissed. The conviction and sentence recorded against the appellant/accused for the offences punishable under Sections 302 and 307 IPC in the Judgment, dated 28.07.2011, in Sessions Case No.198 of 2009, on the file of the learned II Additional Sessions Judge, Amalapuram, are, accordingly, confirmed.

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad, J)

Dt: 25th July, 2018
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