

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SMT JUSTICE T. RAJANI**

Crl.A.No.1121 OF 2011

JUDGMENT:

(per Hon'ble Sri Justice Suresh Kumar Kait)

The present appeal is preferred against the judgment dated 08.09.2011 passed in S.C.No.689 of 2007 by the IV Additional Sessions Judge, Ranga Reddy, whereby the appellants/A-1 & A-2 have been convicted and sentenced to suffer Imprisonment for Life and to pay fine of Rs.500/- each, IDSI for one month each, for the charge under Section 302 IPC. The remand period undergone by them from 10.08.2007 to 23.08.2007 shall be set off under Section 428 Cr.P.C.

2. The brief facts of the case are that on 07.08.2007 the appellants/A-1 & A-2 (accused Nos.1 & 2) summoned the deceased Konda Mahipal Reddy to Chintapatla to the agricultural field to discuss him with regard to sale of trees to him. When he reached there, all the accused beat him indiscriminately with hands and legs with an intention to kill him due to border disputes of the land between him and them. While undergoing treatment the deceased died on 08.08.2007 in Osmania Government Hospital. After investigation, the police filed charge sheet before learned Magistrate who took cognizance under Section 302 IPC in PRC No.66 of 2007. After appearance of the accused, copies of the documents were supplied to them and the case was

committed to Sessions for trial as the offence under Section 302 IPC is exclusively to be tried by the Court of sessions. Later, Chief Metropolitan Sessions Judge, Ranga Reddy made over the case to the Additional Metropolitan Sessions Judge, Ranga Reddy District after allotting S.C.No.689 of 2007 for trial. Subsequently this case was transferred to the Court of IV Additional Sessions Judge in Dis No.9070 of 2009 dated 16.12.2009. After hearing both sides, the trial Court framed charge under Section 302 IPC against A-1 to A-3. The said charge was read over and explained to them. They pleaded not guilty and claimed to be tried.

3. To prove guilt of the accused, the prosecution examined PWs.1 to 16 and marked Exs.P1 to P8 on behalf of prosecution. The indiscriminating circumstances were explained to the accused under Section 313 Cr.P.C and they denied the allegations made against them.

4. After considering the evidence and material available on record the learned trial Court has acquitted A-3-son of A-1 and convicted A-1 and A-2, who are appellants herein.

5. Learned counsel appearing on behalf of the appellants submits that at the time of incident, a person by name Bheema Naik was with the deceased and the said Naik has not been examined. Thus it is not proved that the deceased was beaten to death by the appellants. Moreover, as per the prosecution case, after beating, the deceased went

to his house by walk slowly. Therefore it cannot be said that the appellants beat the deceased and thereafter died on 08.08.2007 who succumbed to the injuries on 08.08.2007 in Osmania General Hospital. The appellants are falsely implicated due to some property disputes. On the same evidence, A-3-son of A-1 was acquitted, however on the same set off evidence A-1 & A-2/appellants herein are convicted. In addition, in the present case, no weapon of any kind was used and it is not known from where the deceased received injuries, however named the appellant due to property disputes. Thus, the appellants are falsely implicated in the present case and the appeal deserves to be allowed.

6. Learned Public Prosecutor appearing on behalf of the State submits that PWs.2 and 3 are eye witnesses in the present case who have supported the case of the prosecution. Though PWs.4 and 5 were also eye witnesses, but not supported the prosecution case, thus declared hostile. The deceased narrated the incident to PWs.6 and 7, his daughter and son respectively, and based upon the deposition of PWs.1 and 2, 9 and 14 eye witnesses, the learned trial Court has rightly convicted A-1 & A2/appellants herein. Thus the appeal has no merit and deserves to be dismissed.

7. We have heard the learned counsel for the parties and perused the material on record.

8. PW.1 Konda Alivelu the wife of the deceased gave Ex.P1 report to the police and set the law into motion. No doubt, she is not an eye witnesses to the offence but she is the circumstantial witness.

9. PWs.2 and 3- J. Lachiram and Lal Singh, who are the purchasers of trees from the deceased for Rs.1,000/- and eye witnesses for the offence.

10. PW.4-K.Keshavulu is the elder of the village. PW.5-S.Kamamma is one of the eye witnesses. PW.6-N.Chandrakala is the daughter of the deceased and eye witness to the offence. PW.7-K. Madhusudhan Reddy is the son of the deceased and he is a circumstantial witness. PW.8-K.Sugunamma, PW.9-Savithramma are eye witnesses to the offence.

11. PW.10-Pandu Ranga Reddy, who shifted the deceased to the hospital. PW.11 Konda Raghuma Reddy, Punch witness of preparation of Ex.P4 scene observation panchanama and Ex.P5 rough sketch. PW.12-L.Malla Reddy one of the punch witness of inquest over dead body, PW.13-R.Devender who received Ex.P1 report from PW.1 and registered a case and issued FIR. PW.14-M.Andallu is an eyewitness, PW.15-Dr Parvathi, who conducted post-mortem examination over the dead body of the deceased. PW.16 - V.Venkateswarlu the inspector of Police who examined the witness and investigated the case and filed charge sheet.

12. PW.1, the wife of the deceased, specifically deposed that on 07.08.2007 while her husband was at their agricultural well, two Lambada people came and asked her husband to come to Chintapatla village to discuss with the accused through elders. Her husband and two lambada people went on a scooter to Chintapatla village. She started to Chintapatla village on foot and on reaching she noticed public gathering in Chintapatla village. She found her daughter Chandrakala in the gathering. On enquiry through her daughter she was informed that the appellants beat her husband. Immediately she, with the help of her daughter shifted Mahipal Reddy to Ankitha Hospital, Ibrahimpatnam. The doctors on examination declared that he was brought dead. Then she gave Ex.P1 report to police. She was cross-examined by the learned counsel for the accused at length. However no material came out from her cross-examination.

13. PW.2-Lachiram deposed that deceased sold 3 Neem trees and one Neelagiri tree for Rs.1000/- and while he was loading the cut pieces of trees into a lorry, the appellants/A-1 & A-2 came there and questioned him who sold the trees to him? Then he along with Bheema Naik went to agriculture well of the deceased and brought to the place of lorry on a scooter. While the deceased was getting down from the scooter, without any discussion, the appellants/A-1 & A-2 attacked the deceased and beat him indiscriminately. This witness and others tried to separate them. The accused left

the place. The daughter of the deceased gave water to her father. Sometime later he heard that the deceased was taken to Ibrahimpatnam hospital and died there. This witness was also cross-examined at length, however, no help to the appellants/ A-1 & A2.

14. PW.3 –J. Lal singh also deposed that while he was loading the logs into a lorry, the appellants came there and questioned him about cutting of the trees. Bheemanaik and PW.2 went and brought the deceased on a scooter. While the deceased was stepping down from the scooter, the appellants beat him. Later he came to know that the deceased died while he was being taken to hospital. His evidence is fully corroborated to the evidence of PW.2 without any contradiction.

15. PW.4- K.Keshavlu before whom the deceased was summoned to discuss for selling of trees by him to PWs.2 and 3. He did not support the prosecution case but he admitted that he came to know that the deceased died due to quarrel with regard to sale of trees. A part of statement recorded by police under Section 161 Cr.P.C is marked as Ex.P2.

16. PW.5-Kamalamma, the eye witness to the offence, also did not support the prosecution case. Her statement recorded by the police under Section 161 Cr.P.C. is marked as Ex.P3.

17. PW.6-N. Chandrakala is the daughter of the deceased Mahipal Reddy. She deposed that on 07.08.2007 in the noon time while she was at the house of PW.5, she was informed that the appellants beat her father near of the house of PW.4. She rushed there and saw the accused were beating her father with hands and legs. The public gathered there separated his father from the hands of the accused. She gave water to her father meanwhile PW.1 came there and they took the deceased to their house. She telephoned to her brother-PW.7 and then shifted her father to the hospital. She further deposed that her father informed her brother that the accused beat him severely. Her father was shifted to Ankitha Hospital, Ibrahimpatnam in 108 Ambulance. There, the Doctor declared her father was brought dead. This witness was cross-examined minutely. But she was consistent to her statement though she was not an eye witness to the incident.

18. PW.7-K. Madhuker Reddy, son of the deceased, is not an eye witness for the offence occurred on 07.08.2007. He was taking treatment in a hospital at Hyderabad to his fractured leg. He received a phone call at 1.00 p.m. from his sister-PW.5 that her father was beaten by the accused. He talked with his father also on phone and his father informed him that the appellants beat him indiscriminately and he was not in a position to stand. At about 3.00 p.m., he came to know his father died. His circumstantial evidence also supporting the prosecution case.

19. PW.8-Sugunamma deposed that her well is abutting to the well of the deceased. She was at her well when two Lambada people came to Mahipal Reddy and took him to the house of Keshavulu. She does not know the reason for the death of the deceased. Her evidence has no help to the prosecution, but she witnessed taking of deceased by two lambada people from well.

20. PW9-S.Savithramma deposed that on the date of incident the deceased, A-1 & A-2 quarrelled, she saw the beating of the deceased by appellants/A-1 & A-2 with hands and legs but she failed to say on particular parts of the body of the deceased caused injury.

21. PW14- M.Andallu deposed that she saw the deceased and the appellants quarrelling. The appellants beat the deceased with hands. The deceased was taken to hospital and he died. In cross-examination she admitted that she heard about the quarrel and not seen the quarrel also. Her evidence has not been believed and relied upon by the trial Court.

22. PW.15-Doctor Parvathi, who conducted autopsy over the dead body of the deceased on 08.08.2007 and found 6 anti-mortem injuries. She stated that all internal organs were contused. There is a laceration of spleen, both the lobes of liver was contused, right and left kidneys and adrenals were contused, both the testicles and penis were with contusions. She opined that the deceased died due to blunt

injuries on Testicles, Penis and Abdomen. Ex.P3 is the post-mortem examination certificate issued by her.

23. In the cross-examination she admitted that there are no corresponding external injuries to injury Nos.2 to 7 except injury No.5. She stated that the above injuries are possible by first depending upon the force used. All the injuries are not possible if a man is pushed to the ground.

24. From the evidence, it is on record that the appellants got disputes with the deceased over border of the land. When the deceased sold trees to PWs.2 and 3 and the trees were cut and loaded in the lorry, the appellants objected and summoned the deceased to the house of PW.4 keshavulu. When the deceased was getting down from the scooter, the appellants started beating him indiscriminately on the vital parts. The deceased fell down but not died immediately. He died on 08.08.2007 in Osmania General Hospital.

25. PW.15-Doctor Parvathi, opined that the deceased died due to injuries on his vital parts and that is on Testicles, Penis and Abdomen. The deceased received injuries caused by the appellants, as under:

“Injuries :

The following ante-mortem injuries present in the body.

- 1) *An abrasion measuring $\frac{1}{2} \times \frac{1}{2} \times$ cm over lateral aspect side of right upper high eyelid in colour.*
- 2) *Laceration of spleen measuring 4×2 cms $\times$ spleen deep.*

- 3) *Right lobe and left lobe of liver contused.*
- 4) *Right and left kidneys and adrenals contused*
- 5) *Contusion of both testicles and pennies*
- 6) *Defused contusion of momentum with blood clots*
- 7) *About 800 cc of partially clotted blood in peritoneal cavity.”*

26. In view of the injuries caused to the deceased, it is proved that the appellants got sufficient knowledge that any beating on such vital parts, leads to death of a man. The appellants beat the deceased intentionally on his vital parts to see his end. As per their defence, the deceased was sick and walking with the help of a stick. But the fact remains that beating of such nature on the vital parts of body, any normal person definitely leads to death.

27. It is not the case of the appellants that the deceased had attacks them and to defend them they beat the deceased without any pre-plan. The deceased was not so young and a strong man to with stand the blows caused by the appellants. But he was aged about 50 years old. The plea of the appellants cannot be accepted that they had no ill intention to kill the deceased. If the appellants had really no ill intention they might have beat the deceased on certain unimportant body parts but they chose the vital parts and beat him indiscriminately. As per evidence of PW.15, the deceased died due to blunt injuries on Testicles, Penis and Abdomen.

28. PW.2 deposed that the deceased sold 3 Neem trees and one Neelagiri tree for Rs.1000/- while he was loading cut pieces of the trees into a lorry, the appellants came there and questioned him who sold the trees to him. Then he along with Bheema Naik went to agricultural well of the deceased and brought him to the place of lorry on a scooter. While the deceased was getting down from scooter without any discussion, the appellants attacked the deceased indiscriminately and caused injury on vital parts of the body.

29. PW.3 has supported the version of PW.2. From the evidence PW.6-daughter of the deceased, it is established that on 07.08.2007 in the noon time while she was at the house of PW.5, she was informed that the appellants beat her father near of the house of PW.4. She rushed there and saw the appellants were beating her father with hands and legs. The public gathered there separated his father from the hands of the appellants. She gave water to her father meanwhile PW.1 came there and they took the deceased to the house. She telephoned to her brother-PW.7 and then shifted her father to the hospital. PW.7 also admitted that he received a phone call regarding beating and death of his father.

30. From the deposition of PW.14, it is established that he saw the deceased and appellants quarrelling and the appellants beat the deceased with hands.

31. From the evidence discussed above, it is established that the appellants and the deceased had land border disputes. Therefore on selling the trees to Bheema Naik and others for Rs.1000/-, the appellants/A-1 & A-2 called the deceased and beat indiscriminately on vital parts intentionally so that he would see end of his life.

32. Keeping in view the case of the prosecution, who successfully proved their case by examining the witnesses mentioned above, whose depositions are consistent, therefore we find no substance in the arguments of the learned counsel for the appellants. Thus the appeal is deserves to be dismissed.

33. We find no illegality or irregularity in the judgment dated 08.09.2011 passed in S.C.No.689 of 2007 by the IV Additional Sessions Judge, Ranga Reddy, we hereby confirm the same.

34. Finding no merit in the instant appeal, the same is accordingly dismissed.

Miscellaneous Petitions, if any pending, shall stand closed.

SURESH KUMAR KAIT, J.

SMT T. RAJANI, J.

Date : -04-2018
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