

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

AND

HON' BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

CRIMINAL APPEAL No.1084 of 2011

JUDGMENT : (per Hon' ble Sri Justice C.Praveen Kumar)

The sole accused in Sessions Case No. 109 of 2011 on the file of the Additional Sessions Judge, Hindupur is the appellant herein. He was tried under Section 302 IPC for causing the death of his sister-in-law by name, Pitta Pullamma by hacking her with an axe on her left side of the neck on 01.12.2000. Vide judgment dated 12th May, 2011, the learned Sessions Judge convicted the accused and sentenced him to suffer "imprisonment for life".

2. The facts, as culled out from the evidence of the prosecution witnesses, are as under:

PW1 is the daughter-in-law of the deceased, while PW2 is the son of the deceased. PWs 3 and 4 are the sons-in-law of the deceased, and PW5 is a resident of Dharmavaram village. On the date of incident, i.e., 01.12.2010, at about 1.30 p.m., when the deceased was standing on the cement road in front of the house of the deceased, the accused hacked her with an axe on her left side of the neck, resulting in instant death. PW1 further deposed that the accused used to quarrel with the deceased for money for

having sold the property at Nagalur village, and when the deceased did not reply, he hacked her with an axe on the date of incident, causing her death. PWs 2 to 5 also deposed that on the date of the incident, they noticed the accused creating galata in front of the house of PW1 for want of money, and subsequently, the accused hacking the deceased with an axe on the left side of her neck, causing instant death.

3. Immediately after the incident, PW1 proceeded to the police station at 02.30 P.M and lodged a report, which is brought on record as Ex.P1. Basing on the said report, PW-9-Inspector of Police registered a case in Crime No. 320 of 2010 for the offence punishable under Section 302 IPC, and issued the first information report, which was marked as Ex.P6. On receiving the F.I.R., PW9-the Inspector of Police visited the scene of offence and recorded the statements of PWs 1, 2, 4 and 5. He also prepared a panchanama of the scene and conducted inquest in the presence of PWs 1, 2, 4, 5 and 7 and seized M.Os 1 to 8. Exhibit P2 is the inquest panchanama. Thereafter, he sent the dead body for postmortem examination.

4. PW8-the Civil Assistant Surgeon, Primary Health Centre, Srpur Village, Adilabad district conducted autopsy over the dead body on 02.12.2010 at about 12.10 p.m. Ex.P5 is the Postmortem Report. According to him, the cause of death was “due to hemorrhagic shock due to injury to major blood vessel in the neck, probably due to attack by sharp edged weapon”.

5. PW9-Inspector of Police arrested the accused on 02.12.2010, interrogated him in the presence of PW7 and recorded the confession statement of the accused. Pursuant to the confession made, the weapon alleged to have been used in the commission of offence was recovered from the accused. After completion of investigation, PW9 filed the charge sheet, which was taken on file as PRC No. 3 of 2011 on the file of the Judicial First Class Magistrate at Dharmavaram, who inturn committed the case to Sessions Division under Section 209 Cr.P.C., on committal which came to be numbered as Sessions Case No. 109 of 2011.

6. On appearance, a charge under Section 302 IPC was framed, read over and explained to the accused, to which he pleaded 'not guilty' and claimed to be tried.

7. In support of its case, the prosecution examined PWs. 1 to 9 and got marked Exs.P1 to P9 and M.Os 1 to 8. After the closure of evidence, the accused was examined under Section 313 Cr.P.C., with reference to the incriminating circumstances appearing against him in the evidence of the prosecution witnesses, to which he denied. No oral or documentary evidence was adduced by the accused in support of his defence.

8. Relying on the evidence of PWs.1 to 5, the Sessions Judge convicted the accused under Section 302 IPC. Challenging the said conviction and sentence, the present appeal came to be filed.

9. The learned counsel for the appellant mainly contended that PWs.3 to 5 are not eye witnesses to the incident and the said

witnesses have been tutored by the prosecution to speak about the incident. He further contends that since the version of all the witnesses is that there was a galata between the accused and the deceased and the incident occurred as a result of the said galata, the accused cannot be convicted for the offence under Section 302 IPC and the nature of offence can be scaled down.

10. On the other hand, the learned Public Prosecutor would contend that PWs 1 to 5 are eye witnesses to the incident. According to him, the evidence of PWs.1 to 5 is not only consistent with each other but their version gets corroboration from the contents of the First Information Report, which is sufficient to convict the accused.

11. In order to appreciate the rival contentions, it would be useful to extract the evidence of PWs 1 to 5.

PW1 deposed as under:

“The deceased my mother in law was standing on a cement road in front of our house. The accused hacked her with an axe on her left side neck resulting instant death. My mother in law sustained severe bleeding injury and died on the spot. L.W.2 to 9 who were present there, witnessed the incident. The accused used to quarrel with my mother in law for the money for having sold the property at Nagalur village. In this connection the accused demanded my mother in law to pay amount for having sold the property in Nagalur village. When my deceased mother in law did not give reply the accused hacked her with an axe resulting her instant death. She sustained bleeding injury because of hacking injury. She fell down on the cement road. The accused after having hacked my mother in law with an

axe ran away from that place with an axe used by the accused in the commission of offence.”

12. The evidence of PW2 reads as follows:

“The accused is my junior paternal uncle. My mother was killed by accused 6 months ago on one day. The accused demanding my mother for a share in the property sold in the village. My mother refused to give any share to the accused. The accused was also staying in the house along with my mother. The accused killed my mother with Axe. On the date of the incident I came to my deceased mother's house along with L.W.2 my sister, L.W.4 my brother in law and L.W.5 my husband. The accused hacked my mother at about 2-00 p.m. on her left side neck resulting her instant death in front of her house. After murdering the accused, he ran away along with Axe M.O.4 used by him in the commission of offence. The accused was sole responsible for the murder of my mother.”

13. PW3 deposed as under:

“The accused is brother of my father in law. My mother in law was killed on 1-12-2010 at about 2-00 p.m. in Dharmavaram. On that day I came to the house of my mother in law along with my family members and family members of L.W.5 my co brother to see my mother in law. The accused started galata with my mother in law for want of money. At that time we were taking lunch. Immediately the accused hacked my mother in law with Axe on her left side neck in front of the deceased house resulting her instant death. The accused was sole responsible for the death of my mother in law. The accused killed my mother in law due to property disputes. After killing my mother in law the accused left the place along with Axe used by him in the commission of offence. M.O.4 is the Axe used by the accused in the commission of offence.”

14. The evidence of PW4 reads as under:

“The accused who is the brother of my father in law. The incident had happened on 1-12-10 at about 2-00 p.m. in front of the deceased house, Dharmavaram. At that time I was present in the house of deceased. On that I came to the house of my mother in law along with my family members and members of my co-brother to see my mother in law. The accused started galata with my mother in law for want of money. At that time we were taking lunch. Immediately the accused hacked my mother in law with Axe on her left side neck in front of the deceased house resulting her instant death. The accused was sole responsible for the death of my mother in law. The accused killed my mother in law due to property disputes. After killing my mother in law the accused left the place along with Axe used by him in the commission of offence. M.O.4 is the Axe used by the accused in commission of offence.”

15. PW5 deposed as under:

“On the date of incident I along with LW.7 my wife were proceeding from my house at 2-00 p.m. I found the accused making galata on the road in front of the house of the deceased and hacked the deceased with an Axe on her left side neck, resulting her instant death. M.O.4 is the Axe used by the accused in the commission of offence. On seeing me and LW.7 my wife and others the accused ran away along with M.O.4 Axe used by him in the commission of offence. The accused killed the deceased due to money disputes.”

16. Though all the witnesses were subjected to cross-examination, nothing useful was elicited in the cross-examination except suggesting that they were not present at the scene of offence and have not seen the incident, which was categorically denied by all witnesses.

17. As seen from the record, there are five witnesses who spoke about the incident. The version of each of these witnesses corroborates the manner in which the incident took place. All the witnesses are eye witnesses to the incident and all of them have seen the accused hacking the deceased with an axe, causing instantaneous death. It is also to be noted here that immediately after the incident that took place at 2.30 p.m. on 01.12.2010, PW1 lodged a report with the concerned police station, in which she narrated the manner in which the incident took place. Apart from that, in the inquest, which was conducted at 3.30 p.m., the names of the five witnesses, who witnessed the incident, do find place. Therefore, the argument of the learned counsel for the appellant that none of these witnesses have witnessed the incident or that PWs 3 to 5 were tutored to speak about the incident, cannot be accepted. In fact, as already stated, the F.I.R was lodged at 2.30 p.m., and inquest was conducted at 3.30 p.m. There was absolutely no delay in giving the report and there was no possibility of fabricating an FIR, and lodging a false report at the instance of others. Hence, the version of these witnesses cannot be doubted. Though all these witnesses were subjected to cross-examination, nothing useful was elicited to discredit their testimony, except suggesting that they were not present at the scene. Hence, we see no reason to disbelieve the evidence of PWs 1 to 5, more so, when their evidence gets corroboration from the contents of the first report which was lodged without any delay.

18. The next ground urged by the learned counsel for the appellant is that since all the witnesses, in one voice, say that there was a galata and since the incident took place due to the said galata, the nature of offence can be scaled down.

19. It is to be noted here that though PWs 1, 2, 3, 4 and 5 stated in their evidence about the accused causing galata in the street, it does not mean that there was any quarrel between the accused and the deceased or with any members of the prosecution party. The accused himself raised a galata and subsequently, gave a blow on the left side of the neck of the deceased with an axe, causing instantaneous death. At this stage, it is to be noted that on the same day, at about 10 a.m., the accused warned the deceased and others, stating that if his share in the property is not given, he would eliminate the deceased. So saying, he left the place. Thereafter, he came back, armed with an axe and started creating nuisance in front of the house of the deceased. Taking a cue from the word 'galata' used in the evidence of all the witnesses, the learned counsel for the appellant would contend that there was a quarrel between the accused and the deceased and because of the quarrel, the incident took place. However, none of the witnesses in their evidence deposed about the existence of any quarrel between the two parties. It was a one-man show, where the accused himself created nuisance in front of the house of the deceased, and thereafter, gave a blow on the neck of the deceased with an axe, causing her death.

20. Taking into consideration the above facts and circumstances of the case, the request of the appellant that the nature of offence has to be scaled down, since the incident occurred as a result of the quarrel between the accused and the deceased, cannot be accepted.

21. Having regard to the above, the conviction of the accused for the offence under Section 302 IPC imposed by the Additional Sessions Judge, Hindupur in Sessions Case No. 109 of 2011 dated 12.05.2011 warrants no interference.

22. Accordingly, the Criminal Appeal is dismissed.



JUSTICE C. PRAVEEN KUMAR

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03.01.2018
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