

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL APPEAL No.989 of 2011

24.07.2018

Between:

Polapally Veera Laxmi and another
..Appellants/Accused Nos.1 and 2
and

The State of Telangana,
represented by its Public Prosecutor,
Hyderabad

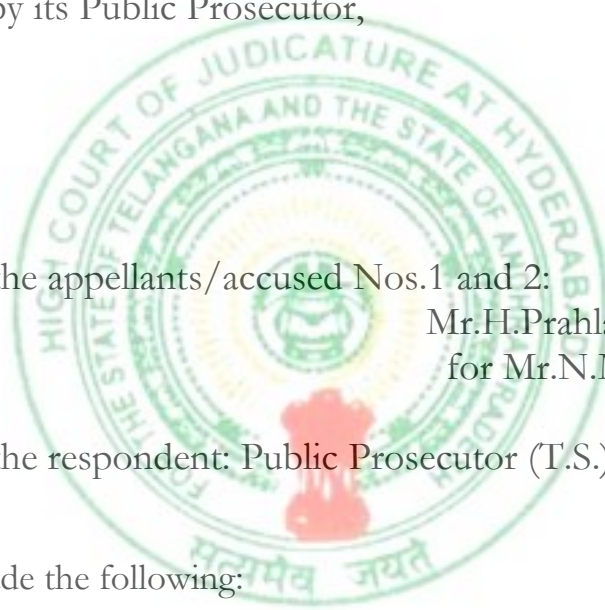
..Respondent

Counsel for the appellants/accused Nos.1 and 2:

Mr.H.Prahlada Reddy
for Mr.N.Manohar

Counsel for the respondent: Public Prosecutor (T.S.)

The Court made the following:



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

This appeal arises out of judgment, dated 28.04.2011, in Sessions Case No.73 of 2010 on the file of learned VI Additional District and Sessions Judge, Medak at Siddipet, whereby he has convicted the appellants/accused Nos.1 and 2 for the offence punishable under Section 302 I.P.C. read with Section 34 I.P.C. and sentenced them to suffer imprisonment for life and to pay a fine of Rs.1,000/- each and in default of such payment, to suffer simple imprisonment for three months.

2. The case of the prosecution as set out in the charge sheet filed by the Police, in brief, is stated hereunder:

(a) On 10.10.2009 at 4.00 hours, P.W.1 gave a written complaint at Siddipet-II (T) Police Station, wherein he stated that on the early hours of 10.10.2009 at around 1.30 a.m., when he was sleeping in his house, he heard some hue and cry from his neighbouring house, on which, he woke up; that meanwhile, his neighbours *viz.*, P.Ws.2 and 3 and L.W.3 -Md.Thaher came to his house and knocked the doors and he opened the doors; that all of them went to the house of accused No.2 and knocked the doors, but the latter did not open the doors and the lights were switched off; that immediately, P.W.1 along with the above persons went to the house of P.W.4, who was

working as a Home Guard, and woke him up and all of them went to the house of accused No.2 and knocked the doors, on which, the said accused opened the doors; that they all entered into the house of accused No.2, found the daughter of accused Nos.1 and 2 - Paavani (hereinafter referred to as 'the deceased') lying on the ground in the front room, suspected something adverse and telephoned to 108 ambulance; that the ambulance staff came to the spot, examined the deceased and declared that she was dead and that immediately, P.W.1 informed the incident to Siddipet-II (T) Police Station through phone. That P.W.1 further stated that previously, the deceased loved one Prashanth of the same locality and eloped with him; that the Police traced her, brought back and handed over her to the accused and that as the deceased eloped with a lower caste boy, the accused felt like their prestige getting lowered in the society and killed the deceased by strangulating her with a towel. Hence, P.W.1 requested for taking necessary action against the accused.

(b) On receipt of the complaint from P.W.1, P.W.12 – the Sub-Inspector, Siddipet-II Town Police Station, registered a case in crime No.120 of 2009 punishable under Section 302 read with Section 34 I.P.C., issued express F.I.Rs. and

dispatched them to all the officers concerned. That P.W.12 recorded the statement of P.W.1 and handed over the C.D. file to P.W.13 – the Circle Inspector, Siddipet Town Circle, for further investigation.

(c) P.W.13 took up the further investigation. He visited the scene of offence, examined the scene of offence, got photographed the scene of offence with the help of P.W.10 – the photographer, prepared the scene of offence panchanama in the presence of the mediators – P.W.6 and L.W.10 – Mohd. Yousuf, recovered towel and bangle pieces under the cover of panchanama, held inquest over the dead body of the deceased in the presence of the mediators – P.W.6, L.W.10 and L.W.11 - Smt.Beebi and after the inquest, the dead body was sent to the Government Area Hospital, Siddipet for post mortem examination to know the exact cause of death and that the duty doctor – P.W.7 held autopsy over the dead body and furnished opinion that the cause of death was due to strangulation. After the post-mortem examination, P.W.13 seized the clothes i.e., saree and blouse of the deceased under the cover of panchanama and also examined and recorded the statements of the witnesses – P.Ws.2 to 5 and L.W.3 and collected the evidence regarding the offence.

(d) During the course of investigation, on 11.10.2009 in the early hours, having received the information that the accused were proceeding by road near Balaji Talkies, Siddipet, P.W.13 along with P.W.12 and their men rushed to the spot, apprehended both the accused near Balaji Talkies at around 4.30 a.m., took them to Siddipet-II (T) Police Station and interrogated them thoroughly and on interrogation, both the accused admitted their guilt. That P.W.13 secured the presence of two mediators – P.Ws.8 and 9 and in their presence, he recorded the confessional statements of both the accused individually and in pursuance of the confessional statement of accused No.1, P.W.13 along with the mediators and the said accused visited the house of the latter and seized the rolled gold *pustela tadu*, which was removed from the neck of the deceased and was kept in a box in the kitchen, under the cover of panchanama before the aforesaid mediators and that after recovering the rolled gold *pustela tadu*, they returned to the Police Station at 11.30 a.m. and effected the arrest of the accused by issuing arrest memoes against them, duly informing the grounds for their arrest complying with the provisions under Section 50 Cr.P.C. and sent them for judicial remand. That the case property including towel and bangle pieces, which

were seized from the scene of offence and during the confession and seizure panchanama of the accused, were deposited in the Court of Judicial Magistrate of First Class, Siddipet.

(e) The investigation revealed that accused Nos. 1 and 2 were the mother and father of the deceased; that they belong to Gandla caste; that the deceased, who was aged 16 years, fell in love with one Prashanth, who belongs to Harijana caste, and both of them used to move closely; that once accused No.1 noticed a cell phone with the deceased and when questioned, the deceased told that the same was gifted by Prashanth, on which, accused No.1 reprimanded the deceased and returned the cell phone to the parents of Prashanth and warned them to restrict their son from contacting the deceased. That accused Nos.1 and 2 decided to perform the marriage of the deceased to avoid unpleasant things and searched for an alliance and the alliance people were supposed to come to their house to fix the marriage on 25.09.2009 and that on coming to know this, the deceased requested her parents - accused Nos. 1 and 2 that she wanted to continue her studies and that she will get married only thereafter. That however, on the said day, when accused No.1 went to the market and accused No.2 went

out to attend his works, taking it as an advantage, the deceased eloped with Prashanth. That at around 11.00 a.m., accused No.1 returned back to the house and found that the deceased was not present in the house; that after search, accused Nos.1 and 2 filed a complaint at Siddipet-II, Police Station about missing of their daughter and also expressed their suspicion over Prashanth kidnapping their daughter; that the Police traced the deceased along with Prashanth on 09.10.2009 and they were brought to Siddipet-II Police Station; that as the deceased declined to go to her parents' house and conveyed her intention to live with Prashanth as they got married, she was produced before the jurisdictional Magistrate on the same day; that the parents requested the Magistrate to send their daughter – the deceased, along with them as she was the only daughter to them and she was only 16 years old. That however, the deceased agreed to go along with her parents on condition that they shall agree to perform her marriage after her attaining 18 years of age. That accused Nos.1 and 2 agreed for the said condition of the deceased and gave written undertaking to that effect, on which, the Magistrate handed over the deceased to accused Nos.1 and 2 with instructions to keep her in their safe guardianship; that the accused took the deceased on the night of 09.10.2009; that the accused, having got disgusted with the

act of the deceased eloping with the lower caste person and felt like their prestige lowered in the society and decided to do away with her life; that accordingly, they awoke during that night and at around 1.30 midnight, and having found the deceased in deep sleep, killed her by strangulating her with a towel and escaped from the house to evade Police arrest. Thus, accused Nos.1 and 2 committed the murder of their daughter – the deceased, with their common intention by strangulating and thereby, committed the offence punishable under Section 302 read with Section 34 I.P.C.

3. Based on the charge sheet and the material collected by the Police during the investigation, the Court below framed the following charge.

“That you A1 and A2 are the parents of the deceased Kum Polapally Pavani aged 16 years. She (Pavani) eloped with one Prashanth belonging to S.C. community (Madiga) on 25.09.2009 and they were traced on 09.10.2009 and brought to Siddipet II Town Police Station. When Pavani (deceased) has declined to come to your house stating that she had already married Prashanth and she intends to live with him. As Pavani was minor, she was produced before Judicial Magistrate of First Class, Siddipet on 09.10.2009. You A1 and A2 made a request to the Judicial Magistrate of First Class, Siddipet to give custody of your daughter to you as she is only daughter to you A1 and A2. Your

daughter Pavani has agreed to come to your house on condition that you should not perform her marriage till she attains 18 years of age. You A1 and A2 have agreed for the said condition and gave a written undertaking to the Court that you will not perform her marriage till she attains 18 years of age and so representing you A1 and A2 have taken your daughter Pavani to your house. On account of elopement of your daughter with a person of different caste you felt annoyed and insulted that your prestige has gone down in the society on account of the act of your daughter and you A1 and A2 have decided to do away with the life of your daughter and on the same night i.e., on the intervening night of 9/10-10-2009 at about 1.30 A.M. in your house bearing H.No.2-3-218, Sajidpura, Siddipet town when the deceased was in deep sleep you A1 and A2 tied a towel around the neck of the your daughter Pavani and throttled her to death and thereby committed an offence punishable under Section 302 I.P.C. r/w 34 I.P.C. and within my cognizance.”

4. As the plea of the accused was one of denial, he stood trial, during which, the prosecution examined P.Ws.1 to 13, got Exs.P-1 to P-18 marked and produced M.O.Nos.1 to 7. On appreciation of the oral and documentary evidence, the Court below has disposed of the case in the manner as stated hereinbefore.

5. We have heard Mr.H.Prahlada Reddy, learned counsel representing Mr.N.Manohar, learned counsel for the

appellants/accused and the learned Public Prosecutor (T.S.) appearing for the respondent/State.

6. The case as set up by the prosecution discloses honour killing. It has come out in the evidence of the prosecution witnesses that after the deceased eloped with one Prashanth, the Police were successful in tracing their whereabouts on 09.10.2009; that though the deceased was not willing to go along with her parents (the accused) and instead, preferred to live with her lover, finding that the deceased was aged only 16 years and a minor, the jurisdictional Magistrate, before whom the deceased was produced, informed the accused that they should agree to perform the marriage of the deceased after she attains majority and that after giving undertaking to the above effect, the accused took the deceased to their house. On the same day, at about 1.30 hours, the deceased was done to death by strangulation with a towel.

7. P.Ws.2 and 3 and L.W.3, who are the tenants of the accused, are the circumstantial witnesses. They had categorically deposed about their hearing the cries of a lady saying 'rescue me'. P.W.2 further deposed about his coming out of the rented portion belonging to the accused and seeing L.W.3 and P.W.3 - the co-tenants – also coming out of their respective

portions also belonging to the accused and all of them hearing the cries from the house of the accused. He further deposed that on their discussions being overhead, the lights in the portion of the accused were switched off and again the witnesses heard the cries of a lady saying 'rescue me'; that all the three witnesses knocked the doors of the house of the accused, but the latter did not open the doors; that P.W.1, whose house is located opposite to the house of the accused, also came and banged the doors of the portion of the accused; that thereafter, all of them went to the house of P.W.4, who was working as a Home Guard, with a request to come out of the house and find out the matter; that on P.W.4 disclosing his identity to the accused from outside the house and insisted on them to open the doors, the accused opened the doors; that after the witnesses entered the house of the accused, the latter switched on the bed light (zero bulb); that accused No.1 was sitting on a cot and accused No.2 was sitting on a chair with the deceased lying on the floor; that they noticed a towel around the neck of the deceased and the latter without any movement; that P.W.4 touched the deceased with a stick in order to test whether she was alive or not and as there was no response from the deceased, they telephoned for 108 service; that the people from 108 service came, examined the deceased and

declared her dead and that after hearing the same, the witnesses came out due to fear. The evidence of P.W.2 is corroborated with that of P.Ws.1, 3 and 4 on every respect. Nothing was suggested to these witnesses that there was any animosity between them and the family of the accused or that they were speaking falsehood. The ocular evidence of the circumstantial witnesses was duly corroborated by the medical evidence comprised in Ex.P-6 – post mortem examination report, wherein the following injuries were referred to have been found on the dead body of the deceased.

- “1. Irregular ligature mark around neck, more prominent on front of the neck. Multiple abrasions associated with few irregular contusions seen over the ligature mark.
2. Multiple petechial haemorrhage seen over the face.
3. Multiple abrasions are seen over and adjacent to ligature mark (above and below).
4. Multiple irregular abrasions and scratch marks seen over upper part of chest, left shoulder and abdominal wall.
5. Multiple irregular abrasions over both upper limbs below the elbow level.”

P.W.7 - the Doctor, who conducted autopsy over the dead body of the deceased, deposed that she was of the opinion that injury No.1 was fatal and was sufficient to cause death in the ordinary course of nature and that the deceased must have

struggled for life before her death. She further opined that injury Nos.1 to 3 can be caused by soft material like M.O.No.1 – towel. She also deposed that the deceased was done to death by strangulation. In the cross-examination, she ruled out hanging as the cause of death and reiterated that it was only a case of strangulation in view of the fracture of thyroid cartilage and trachea and the presence of ligature mark around the neck. She further deposed that petechial haemorrhage also suggests strangulation. The only suggestion put to P.W.7, which was denied by her, was that the opinion given by her with regard to the cause of death was false.

8. The heinous murder took place in the house of the accused. In their examination under Section 313 Cr.P.C., both the accused stated that their daughter was sleeping in another room, that they do not know as to how she died and that she might have committed suicide on the apprehension that they may perform her marriage with someone else. The above mentioned stand taken by the accused does not sound convincing in the face of the medical evidence and also the positive evidence of P.Ws.1 to 4, who are the neighbours and the tenants of the accused, as the case may be, who have no axe to grind against the accused. Considering the fact that the

accused could retrieve the custody of their minor daughter, who evidently eloped with a person of inferior social *strata* against their will, and the further fact that they were seen in the same room bolted from inside, where the deceased was found lying and were forced to open the doors at the instance of P.Ws.1 to 4, we have no hesitation to hold that the accused failed to discharge the burden placed on them under Section 106 of the Indian Evidence Act, 1872. The Court below has, therefore, rightly disbelieved the stand taken by the accused who feigned innocence and appropriately convicted and sentenced them. Hence, we do not find any merit in this appeal.

9. In the result, the Criminal Appeal is dismissed. The conviction and sentence recorded against the appellants/accused Nos.1 and 2 in judgment, dated 28.03.2011, in Sessions Case No.73 of 2010 on the file of learned VI Additional District and Sessions Judge, Medak at Siddipet are accordingly confirmed.

C.V.NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

24th July, 2018

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