

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY**

**AND**

**THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**Crl.A.No.697 of 2012**

**Date: 30.10.2018**

Between:

Tupakula Krishna Dasu,  
S/o. Raghavulu,  
Aged 35 years,  
Chatragaddapadu,  
Vinukonda mandal,  
Guntur district.

...

Appellant

And

The State of Andhra Pradesh  
rep. by its Public Prosecutor,  
High Court of A.P.,  
Hyderabad.

...

Respondent

Counsel for the Appellant : Mrs. A.Gayathri Reddy

Counsel for the Respondent: Public Prosecutor for A.P.

**The Court made the following:**

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

This appeal is filed by the sole accused in Sessions Case No.149 of 2012 on the file of the XIII Additional District and Sessions Judge, Narsaraopet. He stood trial on the following charge:

“That you accused on 06.11.2011 at about 03.30 a.m. at Andugula Kothapalem, Vinukonda within the limits of Vinukonda Police Station committed murder, intentionally causing the death of Tupakula Kalpana @ Rangamma in the manner that you armed with an axe came to Kalpana while she was sleeping and axed over her right jaw, below the jaw and on throat, due to which Kalpana @ Rangamma died on the spot, and that you thereby committed an offence punishable under Section 302 of the Indian Penal Code and within my cognizance”.

2. As the appellant pleaded not guilty, he was subjected to trial. In order to prove its case, the prosecution examined PWs.1 to 9, got Ex.P1 to P8 marked and produced MOs.1 to 3. On behalf of the defence, no evidence was let in. On appreciation of the oral and documentary evidence, the lower court found the appellant guilty of the charge and convicted him for the offence punishable under Section 302 I.P.C. Following his conviction, the appellant was sentenced to imprisonment for life and also to pay a fine of Rs.1000/- and in default of payment of fine, to undergo simple imprisonment for a period of 3 months.

3. We have heard Smt.A.Gayathri Reddy, learned counsel for the appellant and the learned counsel representing the learned Public Prosecutor for the State of Andhra Pradesh.

4. As per the prosecution version, the appellant along with his family comprising his deceased wife and two sons including PW-3, were living in S.C. community hall in Chatragaddapadu village. The appellant was diagnosed as suffering from AIDS. As per the medical advice, the deceased was not allowing the appellant to cohabit with her and the appellant has, developed grudge against the deceased for the said reason which eventually led to the murder.

5. The prosecution has examined PW-3, the son of the appellant and the deceased, aged 12 years. After putting relevant questions to this witness and on being satisfied that the witness had proper understanding of things, the court has permitted him to let in his evidence. In his chief examination, PW-3 stated that on the fateful night, the appellant came in a drunken state and quarreled with the deceased, that thereafter, PW-3 along with his younger brother and his mother slept on a double cot inside the house, while the appellant slept in the verandah. At about 3.30 a.m., he heard the cries of his mother, woke up and saw the appellant hacking the deceased with axe on the face and neck, resulting in heavy bleeding from the injuries. That immediately, due to fear, he and his younger brother went to PW-1, their grandmother and told her about the occurrence.

That, on hearing the same, PW-1, PW-2 and LW-3 came to the scene of offence and found the accused keeping the axe by the side of the door and running away from the scene, leaving the deceased dead. In the cross-examination, PW-3 stated that they used to sleep by keeping the light on, in the house. It was not even suggested to the witness that there was no light at the time of occurrence.

6. The evidence of PW-3 is amply corroborated by PW-1 and PW-2 – mother and sister-in-law respectively of the deceased. PW-1 deposed that at about 3.30 a.m, they heard cries of PW-3 and LW-6 in the house and they also came and told about the accused attacking the deceased and that immediately, they went to the house of the appellant, where they found the former keeping the axe by the side of the door and running away from the scene and that they also found axe injuries on the face and neck of the deceased, who succumbed to the said injuries. PW-1 further deposed that she gave Ex.P1 – report to the police and identified the axe as MO.1 In the cross-examination, a suggestion was put to the witness that the accused never lived with the deceased in the village and that she was deposing falsely, as the appellant has not transferred the property in the name of his sons, which was denied by her. PW-2 corroborated the evidence of PW-1 in all respects. In her cross-examination, she stated that a road separated between their house and the residence of the

appellant. Ex.P4 – postmortem examination certificate shows that the following injuries were found on the body of the deceased:

- “1. A lacerated injury over right medial side of pinna to medial side of right mouth measuring 10x1x3 cms.
2. A lacerated injury over the medial side of pinna 1 cm to No.1 to medial side of lower lip measuring 7x1x2 cm.
3. A lacerated injury 2 cm to No.2 measuring 5x1x1 cms.”

7. PW-7 who conducted autopsy deposed that all the injuries were possible with MO.1 – axe shown to him and the deceased appeared to have died of shock and hemorrhage due to injury to vital organs. In the cross-examination, he denied the suggestion that there is a possibility that the injuries were caused due to fall of a sharp edged weapon from a height. He also denied the suggestion that he held autopsy over the dead body of some male person and that he has issued Ex.P4 – postmortem certificate at the instance of the police. The postmortem certificate and the evidence of PW-7 amply support the ocular testimony of PW-3, who is a direct witness. Being the son of the appellant himself, he has no reason to falsely implicate his own father. The defence failed to elicit any contradictions or inconsistencies in the evidence of PWs.1 to 3. Though PWs.1 and 2 are not the direct witnesses, their testimony proves the presence of the appellant at the scene of offence and his escape therefrom immediately after the occurrence, by throwing the axe by the side of the door of the house. The above discussed evidence amply proves

the case of the prosecution that the appellant has caused the death of his wife.

8. The learned counsel for the appellant submitted that as the injuries were only lacerated in nature, it could be presumed that the appellant did not have the intention of killing his wife. We are afraid we cannot accept this submission. If the appellant did not have the intention of killing his wife, he would not have used axe, a deadly weapon and caused as many as three injuries on the vital parts of the body of the deceased. As opined by PW-7, the deceased died due to all the three injuries caused to the vital organs. Hence, we do not find any merit in the alternative submission of the learned counsel for the appellant.

9. For the aforementioned reasons, we do not find any merit in the appeal and the same is, accordingly, dismissed.

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**(C.V.Nagarjuna Reddy, J)**

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**(T.Amarnath Goud, J)**

Date: 30<sup>th</sup> October, 2018

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