

**THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

CRIMINAL APPEAL No.978 OF 2012

JUDGMENT: (per Hon'ble Sri Justice T.Amarnath Goud)

This Criminal Appeal is filed against the judgment dated 07.12.2010 in Sessions Case No.343 of 2007 on the file of the Court of the Additional Metropolitan Sessions Judge, Cyberabad at NTR Nagar, Hyderabad (for short, trial Court). The appellant herein is the sole accused in S.C.No.206 of 2012. She was tried on a charge under Section 302 of IPC and convicted of the said charge and sentenced to undergo imprisonment for life and also to pay a fine of Rs.1,000/-, in default, simple imprisonment for three months.

2. The prosecution came into motion on the complaint (Ex.P.1) filed by P.W.1, Errravalli Ravi Kumar, who was the Village Secretary of Korremula Gram Panchayat. He stated that on 03.01.2006 at about 5 pm., the couple i.e., the deceased Surya and his wife Rangamma (appellant) came to Korremula with chillies, tamarind, etc., for sale as vendors. He noticed that a quarrel went between them upto 8 pm., at which time, the appellant/accused lifted a granite stone and hit upon the head of the deceased in a fit of fury, due to which, he received bleeding injuries on his head and died on the way to shifting him to hospital. The incident was said to have been witnessed by P.Ws.2, to 4 and 7 and other villagers.

3. Basing upon the above complaint, a case was registered in Crime No.5 of 2007 for the offence punishable under Section 302 IPC on the file of Ghatkesar Police Station. During the course of investigation, P.W.13, the Inspector of Police, Ghatkesar Police Station, recorded the statements of P.Ws.1 to 7 and 9 and conducted scene of offence panchanama (Ex.P.10) in the presence of P.Ws.8 and 9. He collected granite stone (M.O.1), blood stained and control earth and seized them. He prepared a rough sketch of scene of offence (Ex.P.11) and held inquest (Ex.P.14) over the dead body of the deceased in the presence of P.Ws.10 and 12 and seized the blood stained clothes of the deceased. Thereafter, he sent the body to the hospital for postmortem examination. P.W.11, Dr.Ramesh, Assistant Professor, Department of Forensic Medicine, Gandhi Medical College, Secunderabad, conducted autopsy over the dead body of the deceased and issued postmortem report (Ex.P.17) opining that the cause of death of the deceased was due to 'head injury'. Then P.W.13 arrested the appellant on 04.01.2007, recorded her confession statement in the presence of P.Ws.10 and 12 and remanded her to judicial custody. After completion of investigation, P.W.13 filed the charge sheet, which was taken on file as PRC No.21 of 2007 on the file of the Court of III Metropolitan Magistrate, Cyberabad.

4. On appearance of the appellant, the said Court furnished copies of the documents as required under Section 207 Cr.P.C. As the case is triable by a Court of Sessions, the same was committed, which came to be numbered as S.C.343 of 2007. Basing on the material available, a charge under Section 302 IPC.,

came to be framed, read over and explained to the appellant, to which, she pleaded not guilty and claimed to be tried.

5. In support of its case, the prosecution examined P.Ws.1 to 13 and got marked Exs.P.1 to P.19 and M.Os.1 to 4. None were examined on behalf of the appellant. After closure of the prosecution evidence, the appellant was examined under Section 313 Cr.P.C., with regard to the incriminating material appearing against her in the evidence of prosecution witnesses, to which she denied. Basing on the prosecution evidence, the trial Court found the appellant guilty for causing the death of the deceased and accordingly convicted and sentenced her for the offence punishable under Section 302 IPC. Challenging the same, the present appeal came to be filed.

6. Sri P.Vishnuvardhana Reddy, learned counsel for the appellant, would contend that there are no eye witnesses to the incident. The circumstances relied upon by the prosecution do not form chain of events so as to connect the appellant with the crime. He would further contend that these circumstances relied upon by the prosecution are not supported by any legal evidence and, as such, the same cannot be made the basis to convict the appellant. He would further contend that the trial Court erred in taking into consideration the evidence of P.W.2 who stated that on the date of incident, the appellant and her husband came to her house with chilly and tamarind bags, kept them in front of her house and sold the same; that on that night, some commotion took place between them; that on hearing the same, she came out

of her house and noticed the appellant and her husband were quarrelling. On the said evidence, applying the last seen theory by the trial Court is fatal to the case. He would further contend that the prosecution did not prove the motive of the appellant in killing the deceased and hence the judgment of the trial Court should be set aside.

7. On the other hand, the learned Public Prosecutor would contend that, when the prosecution proves each and every circumstance of the case, more particularly, all the links in chain of circumstances, the Court can record conviction of the accused. That apart, P.Ws.1 to 5 are independent witnesses and there was nothing to prove that they are interested witnesses. He would further contend that the theory of last seen the deceased in the company of accused soon before his death is sufficient to find the appellant guilty for the offence punishable under Section 302 IPC. Therefore, the proved facts before the trial Court completed the links in the chain of circumstances and in such case, conviction of the appellant for the offence punishable under Section 302 IPC cannot be faulted. Therefore, this Court should not interfere with the fact findings recorded by the trial Court, unless the findings are manifestly perverse or without any evidence by exercising power under Section 374(2) Cr.P.C and requested this Court to confirm the conviction and sentence imposed against the appellant for the offence punishable under Section 302 IPC.

8. It is crucial to refer to the deposition of P.W.2. She deposed that the appellant and her husband came to her house with chilly

and tamarind bags, kept them in front of her house and sold the same; that on that night, some commotion took place between them; that on hearing the same, she came out of her house and noticed the accused and her husband were quarrelling.

9. P.W.6, father of the deceased, deposed that the accused got telephoned to him and stated that his son was in serious condition and was admitted in Gandhi Hospital and that she beat the deceased with a boulder and caused his death. On such information, he went to hospital and saw the dead body of the deceased with injury on his head.

10. As per the postmortem report/Ex.P-17, conducted by P.W-11, the following injuries are found on the dead body of deceased:

- “1. A laceration measuring 2 cm x 0.5 cm present on the helix of the left ear.
2. An abrasion measuring 5 cm x 2 cm present on the left maxilla.
3. An abrasion measuring 2 cm x 1 cm present on the left frontal region of the scalp.
4. An abrasion measuring 5 cm x 2 cm present on the Right frontal region of the scalp.
5. A laceration measuring 4 cm x 1 cm x muscle deep present over left occipital region of the scalp.
6. A contusion measuring 8 cm x 4 cm present on the left parietal region of the scalp.
7. A fissured fracture present on left parietal region extending to left occipital region of the skull.
8. A sub-dural haemorrhage present all over the brain.
9. A comminuted fracture present in both Anterior and middle irania foss of the base of the skull.”

11. In the cross-examination, P.W.11 has deposed that all the injuries are on head only. He denied the suggestion that the injuries referred under Ex.P.17 are not possible by a fall from bullock cart. Some of the injuries may be possible from a fall from height but all the injuries are not possible by such fall. Keeping in view the injuries mentioned above, it is clear that the appellant not only hit the deceased once, however, caused 9 injuries as mentioned above. All the injuries are on head, which is a very vital part of the body. Thus, while causing injuries, she was pre-determined to kill the deceased, therefore, she caused 9 injuries upon the deceased. Had the appellant hit the deceased once or twice due to some commotion, position would have been different. But, she continued to hit the deceased till he died.

12. Further, though the appellant and deceased were together in a market, she failed to explain as to why she left the deceased alone and went to her house, had there been no scuffle between them. She has not examined any witness to show that there was no commotion between herself and the deceased and that at the relevant time, she was not at all with the deceased. P.W.2 deposed that some commotion took place between the appellant and deceased and on hearing the same, when she came out of her house, she noticed that the appellant and deceased were quarrelling. Further, P.W.6 deposed that the appellant telephoned him and stated that his son was in serious condition and admitted in Gandhi hospital and that she beat the deceased with a boulder and caused his death.

13. In view of above discussion, we are of the considered opinion that the learned trial Court has rightly convicted the appellant. Finding no merit in the present appeal, the same is accordingly dismissed.

14. Since the appellant is on bail pursuant to order dated 12th June 2017, she is directed to surrender before the trial Court within one week from the date of receipt of this order. On such surrender, the trial Court shall send the appellant to concerned jail for serving the remaining sentence.

SURESH KUMAR KAIT, J

T.AMARNATH GOUD, J

Date: 27.09.2018
TJMR

