

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

CRIMINAL APPEAL Nos.828 OF 2013 AND 459 OF 2014

COMMON JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

These appeals, under Section 374(2) Cr.P.C., are directed against the judgment dated 26.08.2013 of the learned Sessions Judge, Nizamabad Division, Nizamabad, in Sessions Case No.17 of 2013. Thereby, the learned Sessions Judge held both the accused guilty of offences punishable under Sections 302 and 506 r/w Section 34 IPC. They were sentenced to rigorous imprisonment for life in relation to the conviction under Section 302 IPC and to pay a fine of Rs.500/- each, in default of which they were to suffer simple imprisonment for a month. Further, they were sentenced to rigorous imprisonment for a year in relation to their conviction under Section 506 IPC and to pay a fine of Rs.500/- each, in default of which they were to undergo simple imprisonment for a period of a month. Aggrieved by their conviction and the sentence, A2 filed CrI.A.No.828 of 2013 while A1 filed CrI.A.No.459 of 2014.

Be it noted that A1 and A2 are mother and son respectively. The charges framed against them by the Sessions Court read as under:

"Firstly:

That you accused No.1 is wife and you accused No.2 is son of deceased Pallikonda Govind and due to bad attitude of deceased, none coming forward to give their daughter to you accused No.2, and you accused No.1 and 2 used to quarrel with the deceased and hatched a plan to kill him and on 5th day of May, 2012 at about 9.30 P.M. you A1 and A2 quarreled with the deceased and with a common intention, you A1 picked up an axe and you A2 took out a curved knife (Kamma Katthi) and you A2 attacked Pallikonda Govind with kamma katthi and caused injury on his left shoulder due to which Govind, to save his life, he went to the house of LW1 Neeradi Sailoo, but you A1 and A2 chased him and dragged Govind towards your house and you A1 and A2

attacked him with axe and kamma katthi on his neck and you A2 attacked on his throat with kamma katthi and killed him and thereafter you A2 pulled out shirt of the deceased with kamma katthi and fled away and that A-1 and A2 thereby committed an offence of murder punishable u/s 302 r/w 34 of the Indian Penal Code and within my cognizance.

Secondly:

That on or about the same day, time and place as mentioned in the first charge supra and during the same transaction you accused A-1 and you accused No.2 with common intention criminally intimidated Lw1 Neeradi Sailu, Lw7 Kotla Gangaram, Lw9 Shaik Latif and Lw10 Neeradi Sai Kumar when Lw1 intervened to pacify you accused and that you accused A1 and A2 have thereby committed an offence punishable with 506 r/w 34 of the Indian Penal Code, and within my cognizance.”

Both the accused denied the charges and claimed to be tried. Thereupon, the prosecution examined ten witnesses and adduced ten exhibits in evidence. Material Objects 1 to 9 were also marked. The defence did not adduce any oral or documentary evidence.

The case of the prosecution was that M.Das, the Sub-Inspector of Police, Kotagiri Police Station (L.W.19), registered Crime No.42 of 2012 under Sections 302 and 506 IPC on the file of the said Police Station upon receiving Ex.P1 report dated 06.05.2012 from P.W.1. The said FIR (Ex.P9) was registered at 2.30 a.m. on 06.05.2012, recording that the offence had occurred at 21.50 hours on 05.05.2012. The same was received by the learned Judicial Magistrate of First Class, Bodhan, on 06.05.2012. There is no indication as to the time at which it was received. Investigation was thereupon taken up by P.W.10, the In-charge Circle Inspector of Police, Bodhan Rural, and he proceeded to the scene of the offence near the house of P.W.1 at Raikoor Village. There, P.W.10 got P.W.5 to take photographs of the dead body. Ex.P2 is the set of two photographs. P.W.10 then conducted the scene of offence panchanama (Ex.P4) in the

presence of P.W.6 and Kotagiri Narayana (L.W.13). He prepared the sketch map (Ex.P5) in their presence. In that process, he collected blood-stained earth (M.O.3) and controlled earth (M.O.4). He also recorded the statements of P.W.2, K.Laxmi (L.W.3), K.Linguram (L.W.4), P.W.3, P.Laxmaiah (L.W.6), P.W.4 and others. He conducted an inquest over the dead body at the scene of the offence in the presence of P.W.6 and Kotagiri Narayana (L.W.13). Ex.P3 is the inquest report. He then got the dead body shifted to the Government Hospital, Bodhan, for autopsy. P.W.9 conducted the post mortem and Ex.P8 is the post mortem examination report. At about 5.30 p.m. on 06.05.2012, P.W.10 seized the clothes of the deceased in the presence of P.W.7 and B.Hanmanthu (L.W.15). M.O.5 is the cut-drawer and M.O.6 is the pant seized under Ex.P6 panchanama. On 07.05.2012 at 3.00 p.m., P.W.10 proceeded to the house of the accused at Raikoor Village and apprehended them. He interrogated them in the presence of P.W.8 and R.Gangaram (L.W.17). A1 confessed to the offence. Ex.P7 is the confessional panchanama. A1 thereupon went into the house and brought out the axe (M.O.1) and her blouse (M.O.7). The same were seized by P.W.10 in the presence of two mediators, as recorded in Ex.P7(a). A2 also confessed to the crime in the presence of P.W.10 and the mediators under Ex.P7(b). He then went into the house and brought out the kamma katthi (curved knife) (M.O.2) and his blood-stained shirt (M.O.9). The same were seized under Ex.P7(c). The accused then led P.W.10 and the mediators to the well situated near the scene of offence and upon their direction, P.W.10 recovered and seized the blood-stained shirt of the deceased (M.O.8). The same was recorded in Ex.P7(d). Thereupon, A1 and A2 were arrested and sent to judicial remand. P.W.10 sent the blood-stained earth (M.O.3), the

controlled earth (M.O.4), the axe (M.O.1), the blouse (M.O.7), the kamma katthi (M.O.2), the blood-stained shirt of A2 (M.O.9) and the blood-stained shirt of the deceased (M.O.8) to the Forensic Science Laboratory, Hyderabad, for examination. He then handed over the investigation to S.Srinivas Rao (L.W.21), the regular Circle Inspector of Police, Bodhan Rural. Upon receipt of the FSL Report (Ex.P10) on 03.08.2012 and after completion of the investigation, S.Srinivas Rao (L.W.21) filed the charge sheet.

Therein, the case of the prosecution was as follows:

The deceased was addicted to consuming liquor without doing any work and he did not take any responsibility towards his family. He sold their property and in this regard, A1 and A2, being his wife and son, used to quarrel with him. However, the deceased did not change his attitude and this reflected badly upon the family. No one came forward to give their daughter in marriage to A2. Disgusted with his activities, A1 and A2 decided to murder him. On 05.05.2012 at about 9.30 p.m., they put their plan into action and attacked the deceased. The deceased rushed to the house of P.W.1, the village servant of Raikoor Village, shouting that his wife and son were chasing him so as to murder him. P.W.1 noticed that the deceased already had bleeding injuries by that time and intervened when A1 and A2 also came there armed with the axe and the kamma katthi respectively and attempted to attack the deceased. They however did not heed his words and threatened him with dire consequences. They also threatened the other people who gathered there. They then caught hold of the deceased and dragged him towards their house and enroute, A1 hacked the deceased on the neck with the axe while A2 attacked him with the kamma katthi and afflicted an incised injury on his neck. They

pushed him to the ground and dragged him to some distance before throwing him upon a dung heap. A1 again afflicted a wound upon the throat of the deceased with her axe while A2 did so with his kamma katthi. They took off the torn shirt of the deceased and left the scene.

As per the prosecution's case, P.W.1, P.W.2 and P.W.4 were eye-witnesses to the commission of the offence.

P.W.1, the Village Servant of Raikoor village, stated to the following effect: The accused were natives of his village. They were the wife and son of the deceased. They murdered the deceased on 05.05.2012 between 9.30 PM and 10.00 PM. At that time, P.W.1 said that he was in his house in the same village at a distance of about 100 yards from the house of the deceased. 30 to 40 houses were there between their houses. Around 9.30 PM, the deceased came to his house. A1 was chasing the deceased with an axe while A2 was chasing him with a kamma katthi. He saw that the deceased had two injuries – one on the neck and one on the left arm. Both injuries were on the left side. He intervened and tried to prevent A1 and A2 from attacking the deceased but they threatened him with the weapons they were holding, i.e., the axe and the kamma katthi. The deceased informed him that A1 and A2 caused injuries to his neck and left shoulder and they wanted to murder him. At that time, A1 and A2 started assaulting the deceased with their weapons in his presence. They beat him on the leg and also on the hand. He tried to threaten and send them back to their house. They went back some distance and when they reached in front of the house of Balewar Narayana Rao, A2 hit the deceased with the kamma katthi. Then, A1 also hit him with the axe on his neck. The deceased collapsed on the ground and thereafter, A1 and A2 dragged him, by holding his legs, to a distance

of about 150 to 200 yards and threw him on the dung heap situated behind the house of P.W.7. The accused then left to their house. Many people had gathered there. A1 and A2 also threatened the people who gathered there with their weapons while dragging the deceased from his house to the dung heap. He went to the dung heap and saw the deceased having multiple injuries on the legs, hands, neck and other parts of the body. The deceased was wearing an orange colour shirt. It was torn. Around 11.00 PM on the very same day, he went to the police station at Kotagiri and lodged a written report (Ex.P.1). He was the scribe of Ex.P1. By 2.00 AM, he completed the formalities in the police station. The police immediately reached the village. A1, A2 and the deceased had one or two acres of land. All the three together sold that land about one and half or two years before the murder. A1 and A2 were blaming the deceased that he sold away the land and nobody was giving their daughter in marriage to A2 as they did not possess any agricultural land. The deceased was a fisherman and was also working as a labourer. He identified M.O.1-axe and M.O.2-kamma katthi as the weapons used in the commission of the offence by A1 and A2.

In his cross-examination, P.W.1 stated as follows: The deceased used to drink and there was a panchayat with regard to the sale of the land by the deceased. He himself did not act as a village elder. A2 did not continuously live in the village. A2 used to come to the village weekly or so. A1 was living with the deceased at that time. P.W.1 said that his wife was present at his house at the relevant time and he informed the same to the police. On that night, he called P.W.4 and three or four others to rescue the deceased. P.W.4 then came there. None else came forward to rescue the deceased. He stated the same to the police. He informed the

police that A1 and A2 attacked the deceased in his presence. He denied the suggestion that A1 and A2 did not attack and cause injuries to the deceased in his presence. He also informed the police that the accused was wearing an orange colour shirt. He denied the suggestion that he did not try to stop A1 and A2 from attacking and causing injuries to the deceased. He volunteered that A1 and A2 threatened him. He denied the suggestion that A1 and A2 did not murder the deceased and that he was deposing falsely.

P.W.2, a labourer residing at Raikoor Village, stated that he knew the deceased and the accused who were residents of his village. He said that their house was situated besides his house. A1, A2 and the deceased were living together in that house in their village. The deceased had two daughters and one son and there was a dispute between the deceased and A1 and A2 with regard to sale of land. About one year two months prior to his deposition, around 9.30 PM, there was a galata in the house of A1, A2 and the deceased. Upon hearing the galata, he along with others went to the house of the deceased. There he found A1 holding an axe and A2 holding a curved knife and they said that it was their family matter and nobody should interfere. They were chasing the deceased from their house and by that time, the deceased had injuries on his neck and his left arm. A1 and A2 chased the deceased towards the house of P.W.1. He also saw the dead body of the deceased on the cow dung heap which was situated by the side of their house. A1 and A2 had murdered the deceased. The deceased was murdered by A1 and A2 as he sold away the land and did not keep the land for his children. He also saw A1 and A2 dragging the deceased and throwing him on the cow dung heap on that night. He also saw A1 and A2 taking away the blood-stained shirt from the

dead body. He saw the dead body on the cow dung heap with injuries on the neck and shoulder.

In his cross-examination, P.W.2 stated that there were disputes between the deceased and A1 and A2 and so he thought that the deceased was murdered by A1 and A2. The deceased used to drink and he was not going for work. There were disputes between the deceased and A1 and A2. A2 was residing in Hyderabad. He denied the suggestion that A1 and A2 were not responsible for the death of the deceased and that they did not murder him. Many villagers gathered and witnessed the commission of the offence and he informed the same to the police. He denied the suggestion that he was deposing falsely at the instance of the police.

P.W.3 is the older sister of the deceased. She stated that there were about ten houses between her house and the house of her brother, A1 and A2. Her deceased brother had two daughters and one son. One daughter died some time back while another daughter was married but A2 was not married as yet. She further stated that A1 and A2 had murdered her brother one year two months back at their village at about 10.00 PM. There were disputes between the deceased and A1 and A2. She saw her brother's body after the post-mortem examination.

In her cross-examination, P.W.3 denied the suggestion that A1 and A2 did not murder her brother.

P.W.4, the Gram Panchayat Waterman at Raikoor Village, stated to the following effect: He knew the deceased, P.Ws.1 to 3, A1 and A2 as they belonged to the same village and they all resided there. About fourteen months back at about 9.30 PM, he was returning to his house after closing the Gram Panchayat water supply valve and when he

reached the house of P.W.1, he saw a galata there. He saw A1 holding an axe and A2 holding a curved knife and chasing the deceased. A2 was rotating the curved knife. The accused stated that it was their family matter and nobody should interfere. Some other people also gathered there. The deceased had fallen down. Then, A1 and A2 hacked him with the weapons they were holding. A1 and A2 beat him on the neck and on the left shoulder. They also beat him on the right shoulder with their weapons on the Gram Panchayat road in their village. At that place, the houses of B.Narayana Rao, Kammari Viswanatham and Kammari Lingaiah were all situated. The deceased succumbed to the injuries caused by A1 and A2. A1 and A2 dragged the body of the deceased from there to the cow dung heap belonging to P.W.7. Thereafter, A1 and A2 left for their house. He, P.W.1, P.W.8, P.W.7 and others witnessed the commission of the murder by A1 and A2. The deceased had sold his land. The deceased used to drink now and then. He could not give the reason for the murder.

In his cross-examination, P.W.4 stated that he closed the water supply valve at 8.30 PM and went towards his house. There were electricity lights. The deceased was not holding anything. A2 was holding the curved knife while A1 was holding the axe. The deceased was working as a labourer. A1 and A2 dragged the deceased by holding his hands. There were about 50 to 60 people gathered on that night. People tried to prevent A1 and A2 from hacking the deceased. P.W.1 and he also tried to prevent A1 and A2 from hacking the deceased. He denied the suggestion that A1 and A2 did not hack the deceased to death and that he was deposing falsely to support the prosecution.

P.W.5 is the photographer and nothing useful was elicited in his evidence.

P.W.6 is an inquest witness. He is an agriculturist residing at Raikoor Village and knew the deceased, A1 and A2. He said that when he was called as a panch witness for the inquest, the body of the deceased was on the cow dung heap belonging to Raju Patel, who was also called Thate Rajeswar Rao (P.W.7). Kotagiri Narayana (L.W.13) was also called to act as a panch witness. They saw the injuries on the body of the deceased. There were injuries on the neck. The police prepared the inquest panchanama (Ex.P3). The contents thereof were read over and explained to them. He signed on Ex.P3. The inquest was conducted between 7.00 and 10.00 AM. The police conducted the scene of offence panchanama (Ex.P4). They seized blood-stained and controlled earth under cover of this panchanama. The contents of Ex.P4 were also read over to him. He and the other mediator signed on Ex.P4. Ex.P5 is the sketch map of the scene of offence which was also prepared in their presence and bore their signatures. M.O.3 was identified by him as the blood-stained earth and M.O.4 as the controlled earth which was seized in their presence under Ex.P4.

In his cross-examination, P.W.6 stated that he was present at the scene of the offence when the police reached there. He stated that he could not read the contents of Exs.P3 and P4 but the police read over the contents to him. He denied the suggestion that he signed on Exs.P3 to P5 in the police station and that M.Os.3 and 4 were not collected in his presence.

P.W.7 stated that he was called by the police to the Government Hospital, Bodhan, at 5.00 or 5.30 p.m. more than a year before his deposition. Bunga Hanmanthu (L.W.15) was also called. The police conducted a panchanama and seized the clothes from the body of the

deceased, i.e., his pant and cut drawer. He identified M.O.5 as the cut drawer and M.O.6 as the pant seized under the cover of the panchanama (Ex.P6). He stated that Ex.P6 bore his signature and that of Bunga Hanmanthu (L.W.15).

In his cross-examination, he stated that there was no shirt on the dead body. It took half an hour to complete the panchanama and he signed on it. He did not read the contents of Ex.P6 panchanama but denied the suggestion that he did not see anything and that M.Os.5 and 6 were not seized in his presence.

P.W.8 stated that he was the Village Revenue Officer of Raikoor Village and that he was called to act as a panch witness on 07.05.2012 at about 4.00 PM at the house of the deceased situated at Raikoor Village. Rajapuram Gangaram (L.W.17) was also called. A1 and A2 were present there along with police personnel. A1 and A2 confessed in their presence to the commission of the offence with an axe and a curved knife. They also informed them that they had thrown the blood-stained shirt of the deceased in a well situated near their house. A1 went inside the house and brought out a green colour blood-stained blouse and the police seized the same under cover of a panchanama. A1 and A2 also showed them the axe and the curved knife used in the commission of the offence. The police seized the axe and the curved knife along with the green colour blood-stained shirt. The blood-stained shirt of the deceased was also recovered from the well. The police prepared the panchanama mentioning the seizure of these articles. Ex.P7 is the confession panchanama of A1. P.W.8 identified the articles seized on that day, viz., M.O.1-axe, M.O.2-kamma katthi, M.O.7-blouse and M.O.8-orange colour shirt of the deceased. Ex.P7(a) pertained to the seizure of M.O.7-blouse and M.O.1-

axe made pursuant to the confession of A1. Ex.P7(b) is the portion of the confession panchanama of A2 while Ex.P7(c) is the relevant portion of the seizure of M.O.2-kamma katthi. Ex.P7(d) was identified by him as relating to seizure of M.O.8-blood-stained shirt of the deceased, which was recovered from the well pursuant to the confession of A2. The contents of the panchanama were read over to him and thereafter he signed on the panchanama. Rajapuram Gangaram (L.W.17) also signed on the panchanama.

In his cross-examination, P.W.8 stated that the Circle Inspector of Police was also present at that place. A1 and A2 were brought to the house of the deceased by the police and the confession was made by them in the presence of the police. The accused had shown the shirt thrown in the well. He denied the suggestion that the accused did not show them M.O.1, M.O.2, M.O.7 and M.O.8. He denied the suggestion that A1 and A2 did not confess in their presence. He stated that the panchanama was prepared in their presence and that the police personnel themselves wrote the panchanama under Ex.P7. He denied the suggestion that being the Village Revenue Officer, he was deposing falsely to help the police.

P.W.9, the Civil Assistant Surgeon, Area Hospital, Bodhan, who conducted the post mortem examination, stated that he was given the requisition to do so on 06.05.2012 at 10.30 AM. He spoke of the following ante-mortem injuries which he found on the body of the deceased.

‘1. Incised wound on the left side of the neck 3 x 2 x 1.5 cm extending from mid point of the neck to the left sterno cleidomastriod by sharp object.

2. Incised wound on the left side of neck 4.5 x 3 x 1.5 cm from below left ear to the mid point of the neck made by sharp object.

3. Incised wound on the left side of neck measuring 9 x 4 x 1 extending one cm above the clavicle extending up to left supra clavicle made by sharp object.

4. Incised wound on right side of neck 7 x 6 x 6 cm mid point of the neck to the occipital region, right side, made by sharp object.

5. Incised wound on the right shoulder 7 x 4 x 3 cm made by sharp object.'

He stated that he conducted the autopsy at the Government Area Hospital, Bodhan, and the cause of death was haemorrhagic shock due to cut throat injury in front of the neck cutting the oesophagus, trachea and major blood vessels of the neck. He said that the time of death would be 12 to 24 hours prior to the conduct of the autopsy. He further stated that the injuries found on the dead body were possible with M.O.1-axe and M.O.2-curved knife. He identified Ex.P8 as the post-mortem examination report given by him. He further stated injury Nos.2, 3 and 4 were sufficient to cause death in the normal course.

In his cross-examination, he admitted that he did not state in Ex.P8 about the possibility of injuries being caused with M.O.1 and M.O.2. He stated that the injuries were possible with sharp edged weapons and that he had seen the inquest panchanama before commencing the autopsy. He stated that he gave his opinion independently and not on the basis of the inquest panchanama.

P.W.10, the Investigating Officer, spoke of the various steps taken by him during the investigation.

In his cross-examination, P.W.10 stated that generally, the Village Revenue Officer would inform about the commission of the offence in the village to the police but in this case, the Village Revenue Officer did not do so. He however denied the suggestion that Ex.P1 was a false complaint

and that there were strained relations between P.W.1 and A1 and A2. He said that P.W.1 stated to him that A1 and A2 took away the shirt of the deceased but did not give the colour of the shirt taken away by them. He stated that the deceased used to drink. He stated that P.W.4 informed him that A2 threatened them with the knife. He denied the various suggestions put to him with regard to the recoveries and seizures made by him and that he was deposing falsely.

This was the oral and documentary evidence on the strength of which the Sessions Court convicted the accused.

Smt.Thakur Roopa Singh, learned counsel for A1, and Sri Bandi Sai Vamshi, learned counsel representing Sri Challari Nageswara Rao, learned counsel for A2, would contend that the discrepancies in the accounts of the so-called eye-witnesses should be taken note of and the benefit of doubt should be extended to the accused. In the alternative, they would submit that this Court should take a sympathetic view in so far as the sentencing is concerned, keeping in mind the facts and circumstances of the case.

Learned Assistant Public Prosecutor, State of Telangana, would however assert that this is a case resting on the cast-iron ocular testimony of independent eye-witnesses and therefore, no interference is warranted with the convictions and sentences under appeal. She would further state that minor discrepancies in the accounts of eye-witnesses would, in fact, add to their authenticity as there are bound to be lapses in recalling long past events at the time of the deposition before the Court. She would also point out that the recoveries made pursuant to the confessional statements of the accused stand protected by Section 27 of the Indian Evidence Act, 1872 (*for brevity*, 'the Act of 1872'), and the same further

strengthened the prosecution's case that the accused committed the offence.

Having given our earnest consideration to the evidence, oral and documentary, we have to agree with the learned Assistant Public Prosecutor. The discrepancies, which are pointed out by the learned counsel for A1 and A2 are – (1) that there was no injury on the left shoulder of the deceased but P.Ws.1 and 4 both spoke of the same; (2) that there was no consistency as to how A1 and A2 dragged the body of the deceased. According to P.W.1, they did so by holding his legs but as per P.W.4, they dragged the deceased by holding his hands; and (3) P.W.1 spoke of going to the dung heap where he saw the body of the deceased. He specifically stated that the deceased was wearing an orange colour shirt which was torn. However, P.W.2 stated that he saw A1 and A2 taking away the blood-stained shirt from the dead body. P.W.7, the panch witness, also confirmed that there was no shirt on the dead body, while P.W.8 spoke of recovery of the blood-stained shirt of the deceased from the well. According to the learned counsel, these are the discrepancies which should earn the accused the benefit of doubt.

We are however not persuaded to agree that the aforestated discrepancies are of such vital importance as to discredit and demolish the case of the prosecution. As regards the discrepancy with regard to the deceased suffering an injury on the left shoulder, it may be noticed that P.W.1 stated that the deceased informed him that A1 and A2 had caused injuries on his neck and left shoulder and that they wanted to murder him. He himself did not speak of seeing such an injury. P.W.2, the other eye-witness, spoke of seeing injuries on the neck and left arm of the deceased. P.W.4 spoke of A1 and A2 beating the deceased on the neck

and left shoulder apart from the right side of the shoulder with their weapons. The medical evidence shows that the injuries on the left side extended from the mid-point of the neck to the sternum and the clavicle. A lay person would therefore not be wrong in saying that the shoulder was also affected when the left supra clavicle was also injured. There is no major discrepancy in this regard.

As regards the second discrepancy, it may be noted that P.W.1 stated that A1 and A2 dragged the deceased a distance of about 150 to 200 yards which is not a short distance, being about 500 feet. It is therefore possible that they dragged him some distance by the feet and for some distance by his hands. The discrepancy in this regard between the depositions of P.W.1 and P.W.4 is therefore not fatal.

So far as the deceased's shirt is concerned, perusal of P.W.1's cross-examination reflects that the question put to him at one stage was whether he had gone to the dung heap and as to what he saw there - to which he replied that he went to the dung heap and saw the deceased lying dead with multiple injuries on legs, hands, neck and other parts of the body. The next question seems to have been whether the deceased wore a shirt or not. To this question, the witness answered that the deceased was wearing an orange colour shirt and it was torn. The two answers are separate and disjointed. Therefore, the continuity, which is now sought to be imported and asserted by the learned counsel, does not flow from the answers given by the witness during the cross-examination. Further, during his cross-examination, the Investigating Officer (P.W.10), specifically said that P.W.1 told him that A1 and A2 took away the shirt of the deceased. This fact, elicited during the cross-examination of P.W.10, puts it beyond doubt that P.W.1's statement during his cross-examination

cannot be taken to mean that he saw the body of the deceased on the dung heap with the shirt on.

The so-called discrepancies are therefore not of vital significance. That apart, the recovery of M.O.1-axe and M.O.2-kamma katthi, apart from the blood-stained clothes of the accused and the deceased, based on the confessional panchanamas of the accused remained unshaken.

Section 27 of the Act of 1872 provides that when any fact is deposed as discovered in consequence of the information received from a person accused of any offence, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved. As the murder weapons were recovered from the custody of the accused and the eye-witness testimony of no less than three direct and independent witnesses clinches the fact that the accused committed the murder of the deceased, their conviction under Section 302 IPC read with Section 34 IPC is unassailable.

The evidence of the eye-witnesses also brings out the fact that though several people collected there, they were prevented from coming to the aid of the deceased by the accused, who brandished their weapons and threatened people not to interfere as it was their own family matter. The evidence of the eye-witnesses in this regard remained unshaken. The act of criminal intimidation, as defined under Section 503 IPC, is clearly made out fully justifying the conviction of the accused under Section 506 IPC read with Section 34 IPC.

Both the convictions therefore stand.

Though Smt.Thakur Roopa Singh, learned counsel, would argue that this Court should take a sympathetic view in these appeals in so far as the sentencing of the accused is concerned, we find no mitigating

circumstances warranting such lenity. It is not even the case of the accused that there was any grave and sudden provocation from the deceased or that they were in a state of inebriation, whereby they could not be held fully accountable for their brutal actions. Be it viewed from any angle, we find none of the exceptions to Section 300 IPC applicable to the case on hand. We therefore find no grounds to interfere with the life sentences imposed upon the accused.

The appeals therefore fail in all respects and are accordingly dismissed confirming the judgment dated 26.08.2013 of the learned Sessions Judge, Nizamabad Division, Nizamabad, in Sessions Case No.17 of 2013.



SANJAY KUMAR, J

ABHINAND KUMAR SHAVILI, J

30th NOVEMBER, 2018
IBL/ PGS