

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR
AND
HON' BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

CRIMINAL APPEAL No.61 of 2012

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

1) The sole accused in Sessions Case No.12 of 2010 on the file of the VI Additional District and Sessions Judge, Machilipatnam is the appellant herein. He was tried for the offences punishable under Sections 302 and 309 IPC, for causing the death of his wife Madipalli Suseela (hereinafter referred to as "deceased") and for attempting to commit suicide after causing the death of his wife. By its judgment dated 31.10.2011, the learned Sessions Judge convicted the accused for an offence punishable under Section 302 IPC and sentenced him to suffer imprisonment for life and to pay fine of Rs.2,000/-, in default to suffer simple imprisonment for six months. He was further convicted under Section 309 IPC and was sentenced to suffer simple imprisonment for one year. Both the sentences were directed to run concurrently.

2) The gravamen of the charge against the accused is that on 29.04.2008 at 08.30 a.m, the accused is said to have caused death of his wife by name Madipalli Suseela, by hacking her with a sharp edged sickle on her face and body, in his land at Tunikipadu Village of Gampalagudem Mandal and thereafter attempted to commit suicide by taking insecticide poison.

3) The facts in issue are as under:

i) PW1 is the VRO of the Village. PW.2 is the daughter of the deceased. PW.3 is the son-in-law of the deceased. PWs.4 to 6 are the sons of the deceased. PWs.7 and 8 are the sisters of the deceased while PW.9 is the brother-in-law of the deceased.

ii) As per the evidence of the witnesses, the marriage of the accused and the deceased was performed about 20 years prior to the incident and out of wedlock, they were blessed with three male children and one female child, who were examined as PWs.2, 4 to 6 respectively. PWs.2 and 4 were already married, while PWs.5 and 6 were studying 10th class and Intermediate respectively. The accused owned land to an extent of Ac.02.50 cents in Tunikipadu Village and a house in an extent of Ac.0.10 cents, at Harijanawada of the Village. Prior to the incident, there were disputes between the accused and the deceased, because of the harassment in the hands of the accused. Unable to bear the said harassment, the deceased went to the house of her parents at Tutikuntla Village of Bonkal Mandal, Khammam District. The accused also left the village and his whereabouts were not known. Six months thereafter, the accused returned to the village along with another woman and started living with the said lady, by name Lakshmi, in Tunikipadu village. On coming to know about the same, the deceased placed the matter before the elders. The deceased wanted the elders in the panchayat to settle the said land in favour of her sons. Agreeing for the same, the accused kept Ac.0.50 cents

of land for himself and settled the balance of land admeasuring Ac.02.00 and the house in favour of PW.4. However, the deceased returned to her parents house. As per the evidence of PW.5, the accused is said to have told the deceased that if cash of Rs.5,000/- is paid to the said lady, she would go away and as such they can live happily again. It was also stated that the amount of Rs.5,000/- was paid and the said lady left the village. Some time thereafter, the accused went to the house of his in-laws, persuaded the deceased, made her believe that he has changed his attitude and also requested her to come along with him to lead a conjugal life. Believing the words of the accused, the deceased joined him about three days prior to the incident. On the date of incident, at about 8 a.m., the accused took the deceased to their agricultural land in Tuikipadu Village. The evidence of PW.2 would show that the accused took the deceased to their land for removing thorny bushes and while they were leaving the house, the accused took a sickle with him. At about 12.00 noon, PW.9 received a telephonic call from the accused informing him that an altercation took place in the agricultural field and he killed the deceased. Immediately, PW.9 informed the same to PW.3 and her husband. Then all of them went to the scene of offence, where they found the deceased lying dead with injuries on head and face, which appear to have been caused with a sickle. The accused was near the dead body pretending as if, he also consumed pesticide so as to commit suicide. At about 11 or 11.30 a.m, the accused also telephoned to PW.10, informing him that he killed his wife. As per the evidence

of PW.10, the accused is said to have called him thrice. First time, the accused took the cell phone number of his son by name Bosu, second time, took the cell phone number of the daughter of the deceased and third time he told that he killed his wife. PW.10, informed the same to PW.4 and 5, about the act committed by the accused. It is said that all of them went to the scene of offence, a little after the children of the deceased started from Tuntikuntla Village.

iii) Coming to the evidence of PWs.2 and 3, it is their case that at about 12.00 noon, PW.9 informed about the death of their mother and that their father was responsible for the death of the deceased. Pursuant thereto, PWs.2 and 3 went to the scene of offence and saw the dead body of the deceased. The evidence of PW.1, who is the Village Revenue Officer would show that on receipt of information from the Village Servant, he along with the Village Servant started proceeding to the scene of offence, and on the way to the scene of offence, the accused came opposite to them. When he asked the accused as to what happened, the accused informed him that he killed his wife with sickle and also consumed pesticide poison. The accused also told him that the body of the deceased was lying in the bamboo bushes of his Ac.02.00 land. So saying, the accused left the place. PW.1 along with the Village Servant found the dead body of a female lying in the bamboo bushes. After seeing the dead body, PW.1 went to Gampalagudem Police Station and lodged a report with the S.I. of

Police, which was scribed and signed by him. Ex.P.1 is the said report.

4) Basing on the said report, PW.15, the Sub Inspector of Police, registered a case in Crime No.49 of 2008 for the offences punishable under Section 302 IPC and issued Ex.P.9-FIR. Thereafter, he informed the facts to the C.I of Police, who instructed him to secure the mediators and photographer. After securing mediators and photographer, PW.16 came to the police station, perused the FIR and thereafter along with mediators and photographer reached the scene of offence at 03.00 p.m. At that time, the accused approached PW.15, the SI of Police and confessed about the commission of offence and handed over the sickle. He also disclosed that with an intention to die, he consumed pesticide poison. Immediately, the C.I of Police instructed PW.15 to shift the accused to Government Hospital, Tiruvuru for treatment. PW.16 conducted a panchanama of the scene of offence in the presence of PWs.1 and 12 and also prepared a rough sketch, which is placed on record as Ex.P.10. At the scene of offence he noticed blood stained light cement colour full hands polyester shirt having horizontal stripes and vertical stripes of thick green colour and one paper in the pocket of the said shirt, in which it was written with red ink as "nobody is responsible for the death" and the name of the accused was mentioned in Telugu. Ex.P.11 is the paper which was taken from the shirt. They also noticed, at a distance of one yard from the head of the dead body, a pair of white hawai chappals and on the

right side of the dead body, at a distance five yards, a sickle without a hilt. MO.4 is the pair of Hawai chappal. There were blood stains on the bamboo leaves and nearby earth. He seized blood stained leaves, earth, control bamboo leaves and control earth and a sickle under mediators report. Thereafter, he held inquest over the dead body of the deceased in the presence of PWs.1 and 12. Ex.P.15 is the inquest report. After completing the inquest proceedings, the dead body was sent for postmortem examination. PW.14-the Civil Assistant Surgeon, Community Health Centre, Tiruvur conducted autopsy over the dead body and issued Ex.P.6 postmortem certificate. According to PW.14, the cause of death was due to haemorrhage and shock followed by cardio respiratory arrest due to subdural haematoma and multiple injuries to vital organs. PW.14 also examined the accused, retrieved the contents of the abdomen and forwarded the same to FSL, Vijayawada for examination and report - Ex.P.7 shows that the accused consumed insecticide substance.

5) PW.16 continued with the investigation, sent the slip, which was seized from the shirt of the accused to the hand writing expert along with the admitted writings of the accused. The hand writing expert opined that the person, who wrote the red enclosed writings marked as S1 to S3 also wrote the red enclosed writings marked as Q. Ex.P.12 is the opinion of the expert. On 01.05.2008, the accused was arrested near Tiruvuru Panchayat Office and on interrogation, he confessed about the commission of offence which was reduced into writing. The confession of the accused lead to

recovery of MO.1 - cell phone and also MO2 ball point pen, which was seized under cover of panchanama. During the course of investigation, PW.16 obtained the call list made from the telephone of the accused to PW.9, 10 and others. After completing the investigation, a charge sheet came to be filed, which was taken on file as P.R.C.No.28 of 2008 on the file of the Judicial Magistrate of First Class, Tiruvuru.

6) On appearance of the accused, copies of the documents were furnished as required under Section 207 Cr.P.C and as the case is triable by the Court of Session, the same was committed to the Court of Session, which came to be numbered as S.C.No.12 of 2010.

7) Charges for the offences stated above came to be framed, read over and explained to the accused, to which he denied and claimed to be tried.

8) To substantiate their case, the prosecution examined PWs.1 to 16 and got marked Exs.P1 to P17 and M.Os.1 to 13. 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 evidence was adduced on behalf of the accused in support of his defence, but Ex.D.1, relevant portion of 161 Cr.P.C. statement of PW.12 was got marked on behalf of defence.

9) The point that arises for consideration is whether the accused is responsible for the death of the deceased?

10) It is not in dispute that there are no eye witnesses to the incident and the case rests on circumstantial evidence. The issue that arises for consideration is whether the circumstances relied upon by the prosecution form a chain of events so as to connect the accused with the crime. It is also not in dispute that there were some disputes between the accused and the deceased pursuant to which she left the house along with her children and started staying with her parents. About six months thereafter, the accused came to the village with another woman and started staying with her. The evidence on record amply establish that on coming to know about the same, the deceased raised a dispute before the elders, for division of the property. Accordingly, PW.12 and other elders, directed the accused to give Ac.02.00 of land out of Ac.02.50 cents, to PW.5, which he did. Thereafter, the deceased returned back to her parents' village and started staying there. Few days later, the accused came to the house of his in-laws, convinced the deceased and took her back, stating that he has paid a sum of Rs.5,000/- to the said Lakshmi and that she left the village. Believing the words, the deceased joined the accused. Three days thereafter the incident in question took place.

11) As stated earlier, the question is whether the evidence adduced was sufficient to hold the accused guilty of murder. The evidence of PW.2 discloses that on the date of incident at about

08.00 am, the accused took the deceased to their agricultural land for removing thorny bushes. At that time the accused also took a sickle with him to the field. This was at about 08.00 or 08.30 a.m. Within two and half hours thereafter, the accused telephoned to PW.9 and PW.10 requesting them to furnish the telephone numbers of PW.4 and others. Thereafter, the accused informed them on phone that he killed the deceased and the body of the deceased was lying in the thorny bushes of his field. He further told them that he also consumed insecticide poison to commit suicide. The evidence of PW.4 discloses that on receiving the information, they went to the scene of offence, which was a distance of 15 to 20 kms from their village and at about 02.30 or 03.00 pm they noticed the accused pretending as if he consumed poison. Further the evidence of PW.1 discloses that he was informed by the Village Assistant, Tunikipadu village that the accused hacked the deceased at 10.30 a.m., pursuant to which he proceeded to the scene of offence. On the way, he met the accused and asked him as to what happened, for which he confessed about the commission of offence and also informed that the dead body was lying in the thorny bushes and that he has also consumed poison to commit suicide. Thereafter, PW.1 along with others went to the place as informed by the accused and found the dead body. The same was informed to the relatives of the deceased.

12) Immediately, thereafter, he went to the police station and lodged report and after registering the crime at about 02.00 or 02.30 p.m. PW.1 along with the police came to the scene of

offence and shifted the accused and the deceased to the hospital. At the scene of offence, they seized blood stained red shirt containing a slip with an endorsement stating as 'no one is responsible for the death'. The said slip was sent to the FSL for comparison of the hand-writing therein, wherein it was found that the writings on the slip were that of the accused. "Attempting to commit suicide stands established not only through the evidence of hand writing expert, but also through the evidence of doctor, who found some pesticide poison in the abdomen of the accused.

13) Coming to the incident proper, the evidence of PWs.1 to 4 and 9 to 11, play a crucial role in establishing the guilt of the accused. It would be useful to refer to the relevant portion of the evidence of PWs.1 to 4 and 9 to 11, which is as under:-

14) PW.1 in her evidence deposed as under:

"On 29.04.2008 at 1.00 p.m. my village Assistant Muchintala Krishna came to me and informed me that he came to know through villagers of Tunikipadu village that the accused hacked his deceased wife to death at 10.30 a.m. Then my village servant the said Krishna and I started to the scene of offence and on the way to the scene of offence the accused appeared to us. I asked the accused as to what happened. For which the accused told us that he killed his wife with a sickle and he would also consume pesticide and would die. The accused further told that the dead body of the deceased was lying, which was placed by him in Bamboo bush situated in his land and by saying so the accused went away. Then my Village Servant, Krishna and I went to the scene of offence and found the dead body of a female was lying in Bamboo bushes. We also observed the nose of the

deceased was cut at nose point and two inches of cut injury on the head of the deceased.”

15) PW.2, who is the daughter of the deceased and accused, deposed as under:

“Three days prior to the death of my deceased mother, my mother coming to Tunikipadu village believing the words of my father for leading conjugal life with him. On 29.04.2008, my mother was died. On the date of incident at about 8.00 a.m. my father took my deceased mother to our land for removing the thorny bushes. At that time my father took a sickle with him to the field. Later, my junior paternal uncle telephoned to us at 12.00 noon and informed about the death of my deceased mother. My junior paternal uncle told us that my father killed my mother. Then we all went to the scene of offence and we observed my deceased mother was lying dead at the scene of offence with injuries on head and face. My father killed my mother suspecting her fidelity and also for the reason that my deceased mother made the accused to settle Ac.2.00 of his land in the name of my younger brother.”

16) PW.3, who is the son-in-law of the deceased and accused deposed as under:

“The deceased was my mother-in-law and accused is my father-in-law. PW.2 is my wife. Accused used to quarrel with the deceased. Accused used to harass my mother-in-law suspecting her fidelity. Then my mother-in-law went to her parents house with her daughter and son. My father-in-law (accused) left Tunikipadu village to some other village. My father-in-law brought one woman to Tunikipadu village latter. Accused possessed agricultural land. I do not know the extent of the land. Accused killed my mother-in-law with a sickle. My wife (PW2) and I went to the scene of offence and saw the dead body of the

deceased. There were injuries on the head and face on the body of the deceased."

17) PW.4, who is another daughter of the deceased, deposed as under:

"Accused used to quarrel with the deceased suspecting her fidelity. Then my deceased mother went to her parents house along with my younger sister and son to Tutikuntla village. Then accused left to some other village and six months thereafter, he returned to Tunikipadu village with some other woman. Accused was living with her at Tunikipadu and leading marital life with her. Knowing the fact that the accused was living with some other woman at Tunikipadu village, my mother placed the matter before the elders in a panchayat demanding the accused to settle the property ie. Ac.2.50 cents of agricultural land in the name of my younger brother Bosu, as she apprehended that the woman, with whom accused was leading conjugal life may snatch away the said property. Accused settled the said property in favour of my younger brother. Two months thereafter, accused went to my mother and expressed before her that he would live with her as he changed his attitude and made my mother to believe his words.

On the date of incident accused telephoned to P.Krishna, who is a resident of Tutikuntla village and asked him to give phone to my younger brother Bose as he wanted to talk to him and we replied that Bose was not there. Accused again telephoned to Krishna and informed him that he killed the deceased. Then we went to the scene of offence, where my deceased mother was lying dead with injuries on the head, mouth and on the neck which appeared to have been caused with a sickle. Accused was near the dead body of my deceased mother and he was pretending as if he consumed pesticide poison.

The accused developed grudge against the deceased as she made the accused to settle his agricultural land in the name of my younger brother, and due to the same and also by suspecting the fidelity of my mother, the accused killed my deceased mother."

18) PW.9, who is the co-son-in-law of the accused deposed as under:

"Accused was suspecting the fidelity of the deceased and he used to quarrel with the deceased. Due to unbearable harassment of the accused, the deceased and her children returned to her parents house. The accused brought some other woman to Tunikipadu village and living with her. Having come to know the above fact, the deceased got a panchayat held by the elders for the property which is agricultural land and house of the accused, to be written in the name of her son. In the said panchayat the property of the accused was settled in the name of PW.5.

After the Panchayat, the deceased returned to her parents house. Accused was living with the other woman. Subsequently, the accused came to the deceased and told her that bygone of things happened by gone and expressed before her that he would live with her for abandoning the some other woman. The accused made the deceased believe him of his version and by that he took the deceased from her parents house to his house at Tunikipadu village.

On 29.04.2008 at about 11.00 or 12 noon during day time, the accused telephoned me and told me that an altercation took place between him and the deceased at his agricultural land and he killed the deceased. Then I went to the children of the deceased and enquired them as to whether they know the act of the accused killing the deceased which fact accused told me on phone. Then we all together went to scene of offence and found that the deceased was lying dead there with cut injuries on her

head, mouth, face and back of the neck. Just beside the dead body of the deceased, the accused was lying on the ground turning his body from this side to that side as if he consumed pesticide poison.”

19) PW.10, who is the relative of the father of the deceased deposed as under:

“The accused himself telephoned me and told that he killed his wife at his agricultural land. As I have the cell phone with me accused telephoned to my cell phone at about 11 or 11.30 a.m. and told me that he killed his wife. On that day accused telephoned to my cell phone for three times and on the first occasion he asked me to give my cell phone to his son Bose and on the 2nd time PW.4-Jalpa, who is the daughter of deceased and accused and who talked to the accused on my cell phone when he rang. The accused rang to my cell phone for third time and then told me that he killed his deceased wife.”

20) PW.11, who is resident of Tunikipadu village, deposed as under:

“On one day in the year 2008 as the villagers were saying that accused killed the deceased, I telephoned to PW.1 and informed him about the same. The witness again says I went to PW.1 and informed him about the same, as the office of V.R.O. is situated in the village. PW.1 and I went to the scene of offence. On our way to the scene of offence, accused was coming to our opposite direction and told us that he killed the deceased with a sickle. PW.1 and I went to the scene of offence and found that the deceased was lying dead with bleeding injuries. Then PW.1 and I returned to the office. PW.1 scribed the report and told me that he would go to Gampalagudem Police Station for lodging the report. The above incident was taken place at about 12.30 or 1.00 p.m. on that day.”

21) Though all these witnesses were cross examined nothing useful was elicited to discredit their testimony. The suggestions given with regard to innocence of the accused were denied by all the witnesses.

22) The evidence of PWs.9 and 10 coupled with evidence of PWs.2, 3, and 4 would establish that the accused made number of calls to PWs.9 and 10 and informed them about commission of offence and consumption of poison. PWs.9 and 10 informed about the same to PWs.2,3 and 4 and thereafter all of them travelled to a distance of 15 to 20 kms from their village and reached to the scene of offence, where they found the body of the deceased and also the accused who informed them about consuming poison. The fact that the accused made telephone calls to PW.9 and PW.10 gets ample corroboration from the evidence of PW.10-the investigating officer, who after seizing the cell phone collected the call data from the office of the service providers, which tallied with the evidence of PWs.9 and 10. The evidence of PW.1 also show that the accused confessed about the offence and also told him as to the place where he kept the body. Further, the evidence of PW.11, with regard to accused informing about the incident get corroboration from the evidence of PW.1, whom he was accompanying, while proceeding to the scene of offence. The above evidence make it clear that only on information given by the accused, all of them proceeded to the scene of offence and found the dead-body. The accused was also present at the scene. As seen from the record, the accused and the deceased together left

the house at 08.00 A.M. and thereafter, the body was found in the land of the accused. No explanation is forthcoming from the accused as to how the deceased died. On the other hand, the accused informed PW.9, PW.10, PW.1 to PW.4, about his complicity in the commission of offence, which made them to come over to the scene of offence, where the accused after killing the deceased attempted to commit suicide. In the absence of any explanation and having regard to the above evidence, we feel that the circumstance of last seen coupled with the statements of the accused leading to recovery of dead-body and the evidence of PWs.1 to 4, 9 to 11 and 16 establish beyond doubt the culpability of the accused in the commission of offence and this itself is sufficient to confirm the finding of the Sessions Judge.

23) Hence, the Criminal Appeal is dismissed confirming the conviction and sentence dated 31.10.2011 passed in Sessions Case No.12 of 2010 by the VI Additional District and Sessions Judge, Machilipatnam. Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

JUSTICE KONGARA VIJAYA LAKSHMI

05.01.2018
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