

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

AND

HON' BLE SMT. JUSTICE T. RAJANI

CRIMINAL APPEAL No.1213 OF 2011

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

1) The sole accused in Sessions Case No.620 of 2007 on the file of the III Additional District and Sessions Judge (Fast Track Court), Gadwal, is the appellant herein. He was tried for an offence punishable under Section 302 IPC, for causing the death of his wife by name Chakali Gokaramma (hereinafter referred to as "the deceased") on 01.03.2007 at about 2.45 a.m., at Quarter No.D-20, PJP Quarters, Revulapally. Vide judgment, dated 24.08.2011, the learned Sessions Judge, convicted the accused and sentenced him to suffer "imprisonment for life" and to pay fine of Rs.1000/-, in default to suffer simple imprisonment for a period of three months for the offence punishable under Section 302 IPC.

2) The facts as culled out from the evidence of the prosecution witnesses are as under:

i) Accused is the husband of the deceased, PWs.2 and 9 are the daughters of accused and deceased, while PW.3 is the brother of the deceased. PW.4 is the mother of the deceased and PW.1 is the neighbor of the deceased. The accused was working in P.J.P. Camp and was residing in Quarter No.D-20. The accused used to beat the deceased and the children, as the deceased gave birth to

four female children. On 28.02.2007 at 11.00 p.m., a galata took place in the house of the accused and the children of the accused came out of the house. Thereafter, the children of the accused came to the house of PW.1, while the deceased was sitting outside the house of PW.1. Then, the accused came and took the children and the deceased to his house stating that he will not do any harm to them. While the deceased and children were sleeping, the accused came with an axe and hacked the deceased. On seeing the same PW.2 raised cries. The accused threatened the children stating that if they raise cries he will also kill them. While the accused was escaping from the scene, the children raised cries. On hearing the same, PW.1 came and enquired PW.2, who informed about the incident. On the same day, PW.1 lodged a report with PW.10-the Sub-Inspector of Police, Dharoor Police Station, basing on which he registered a case in Crime No.13 of 2007 for the offence punishable under Section 302 IPC. Ex.P1 is the report and Ex.P10 is the first information report.

ii) Further investigation in this matter was taken up by PW.11-the Inspector of Police. On 01.03.2007 he received intimation from PW.10 and immediately thereafter he proceeded to the scene of offence, prepared an observation report and also drafted a rough sketch in the presence of PW.5 and others. Ex.P3 is the Crime Details Form. He then held inquest over the dead body of the deceased in the presence of PW.5 and others. Ex.P2 is the inquest report. During inquest, he examined and recorded the statements of PWs.1 to 4 and 9. Thereafter, he sent the dead

body to Government Hospital, Gadwal, for postmortem examination.

iii) PW.7-the Civil Assistant Surgeon, Government Area Hospital, Gadwal, conducted autopsy over the dead body of the deceased and issued Ex.P7-the postmortem certificate. According to the doctor, the cause of death was “due to hemorrhagic shock due to fracture of left zygoma, fracture of left maxilla, multiple abrasions right shoulder, left shoulder, right knee, right and left elbow”.

iv) On 04.03.2007 PW.11 arrested the accused at the house of his brother. On interrogation, he is said to have confessed about the commission of offence, which was recorded in the presence of PWs.6 and 8. Ex.P13 is the confessional statement. Pursuant to the said confession, the accused produced an axe which was hidden near the bushes, situated by the side of the residential quarters of the accused. After collecting all the material papers and after completing the investigation, PW.11 filed the charge sheet, which was taken on file as P.R.C.No.36 of 2007 on the file of the Judicial Magistrate of First Class, Gadwal, who inturn committed the case to Sessions Division under Section 209 of Cr.P.C. On committal the same came to be numbered as S.C.No.620 of 2007.

3) On appearance, charge under Section 302 IPC came to be framed, read over and explained to the accused, to which the accused pleaded not guilty and claimed to be tried.

4) To substantiate its case, the prosecution examined PWs.1 to 11 and got marked Exs.P1 to P15 and MOs.1 to 5. After the closure of prosecution 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. On behalf of the accused, no oral evidence was adduced but Exs.D1 and D2, relevant portions of 161 Cr.P.C. statements of PWs.1 and 9 respectively were marked.

5) After considering the oral and documentary evidence on record, the trial Court convicted the accused for the charge referred to above. Challenging the same, the present appeal came to be filed.

6) Learned counsel for the appellant mainly submits that the evidence of PW.1 cannot be accepted. It is pleaded that there was no evidence on record to show that PW.1 is the neighbour of the deceased as he is working as a Supervisor in VARKS Company.

7) Learned Public Prosecutor opposed the same. He submits that relying upon the evidence of PWs.1, 2 and 9, the trial Court convicted the accused. According to him, there is no reason to disbelieve the presence of PWs.2 and 9 in the house at the time of the incident.

8) In order to appreciate the rival submission, we refer to the evidence of PWs.1, 2 and 9. PW.1, who was working as Supervisor in VARKS Company, was residing in Quarter No.D-19, PJP

Quarters, Revulapally. The accused was also working in P.J.P.Camp and staying in Quarter No.D-20. The deceased is the wife of the accused and PWs.2 and 9 are daughters of the accused. Adinarayanamma (not examined) is the wife of PW.1. On 28.02.2007 at about 11.00 p.m., a galata took place in the house of the accused. Pursuant to which, the children and wife of the accused came out of the house. It is said that the children of the accused came inside the house of PW.1, while the deceased was sitting outside the house of PW.1. At that time, the accused came and took the children and his wife with a promise to look after them well. At about 2.45 a.m., he heard cries, woke up and came out of the house. He saw the accused going towards thorny bushes by holding an axe. The children of the deceased came out crying and his enquiries revealed that the accused hacked the deceased with an axe. Then he went into the house of the accused and noticed the deceased lying with injuries in a pool of blood. Though PW.1 was cross-examined at length, the defence could not elicit anything suspicious to show his presence and witnessing the accused leaving the house with blood stained axe and also the information furnished by PW.2.

9) PW.2 is the daughter of the deceased and the accused. Her evidence is to the effect that on 28.02.2007, the accused killed her mother by hacking with an axe. Her evidence further shows that the accused used to beat them and her mother daily. On the date of incident also the accused beat the deceased and PW.2 and thereafter necked them out of the house. Her evidence

also discloses the enquiry made by PW.1 when they were crying in the house. It is said that when she was sleeping by the side of the deceased, accused came with an axe and hacked the deceased. When she raised cries, her sisters woke up. She further stated that the accused threatened them stating that if they raise cries he will also kill them. When her father was escaping from the scene, they raised cries. At that point of time, PW.1 came and enquired as to what happened. Though the argument of the learned counsel for the appellant was that PW.2 who was aged about 17 years could not have deposed in the manner she did, but a perusal of the evidence of PW.2 would show that she was matured enough to inform PW.1 about the incident. The suggestions given to her were all denied and nothing incriminating came to be elicited except stating that her earlier versions are silent about her elder sister and younger sister waking up on hearing her cries.

10) PW.3 is the brother of the deceased. His evidence is to the effect that on the date of incident at about 4.00 p.m. he was informed on phone about the incident. Immediately he informed the same to Venkatramul (not examined) and thereafter all of them reached the house of the accused and noticed the dead body of the deceased in the house.

11) PW.4 is the mother of the deceased. In her evidence she deposed that the accused used to harass the deceased as the deceased gave birth to four female children. After receiving the information, they went to PJP Camp Quarters at 6.00 a.m., and

noticed the dead body of the deceased. Similar is the evidence of PW.5.

12) PW.9 is another daughter of the deceased and accused. She was examined as an eye witness to the incident. According to her, on the date of incident the accused quarreled with her mother; beat her mother and neck them out of the house, while they were standing in front of their house PW.1 took them into his quarter. Thereafter the accused came and took them to their house. In the night she woke up on hearing the cries of PW.2 and noticed the accused beating the deceased with an axe. Thereafter, the accused left the place threatening them with dire consequences. She further deposed that the accused used to harass her mother and used to beat her daily since she gave birth to four female children.

13) From the above, it is clear that PWs.2 and 9 were present in the house at the time of the incident. No contra evidence has been adduced by the accused nor elicited anything from these witnesses doubting their presence in the house at the time of the incident. In fact, the evidence of PW.1 corroborates the case of prosecution with regard to the presence of PWs.2 and 9 in the house at the time of the incident. Since nothing adverse came to be elicited in the cross-examination of these witnesses, we feel that the trial Court was right in believing the presence of PWs.2 and 9 in the house and witnessing the incident.

14) One other circumstance relied upon by the prosecution is that the accused left the house with an axe which was blood stained. During the course of investigation and after arrest of the accused the police recovered the axe-M.O.1 used in the said commission of offence. The said axe was sent to F.S.L. The report of the R.F.S.L. which is placed on record Ex.P15 would clearly show that the blood on the axe is not only human blood but the blood group found on the axe is 'A' positive, which is the blood group of the deceased. Hence, we see no grounds to interfere with the findings arrived at by the trial Court.

15) Accordingly, the Criminal Appeal is dismissed confirming the conviction and sentence recorded against the appellant/ accused in S.C.No.620 of 2007 on the file of the III Additional District and Sessions Judge (Fast Track Court), Gadwal.

16) As a sequel to it, miscellaneous petitions, if any, pending shall stand closed.

C.PRAVEEN KUMAR, J

T. RAJANI, J

18.06.2018
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