

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

CRIMINAL APPEAL No.620 of 2011

DATED:09-03-2018

Between:

Kothareddi Aswartha Reddy
and another ... Appellants

And

State of Andhra Pradesh,
through Public Prosecutor
High Court of A.P.,
Hyderabad ... Respondent

COUNSEL FOR THE APPELLANTS: Mr. T. Niranjan Reddy,
for Mr. T. Nagarjuna Reddy

COUNSEL FOR THE RESPONDENT: Public Prosecutor (AP)

THE COURT MADE THE FOLLOWING:

JUDGMENT: *(per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)*

Accused Nos.1 and 2 in Sessions Case No.288 of 2009 on the file of the Additional Sessions Judge, Hindupur, have filed this appeal aggrieved by judgment dt.27.4.2011, whereby appellant No.1/accused No.1 was convicted for the offence under Section 302 of the Indian Penal Code (IPC) and appellant No.2/accused No.2 was convicted for the offence under Section 302 read with Section 34 IPC, and both the appellants were sentenced to suffer life imprisonment for the respective offences.

2. The case of the prosecution as reflected from the charge sheet is briefly stated as under. The houses of Balagonda Narayanappa (hereinafter referred to as "the deceased") and the appellants are situated behind each other in Basinepalli village, Anantapur District. There is a house site between these two houses and ill-feelings existed between regarding right over the said house site since a long time. On 30.1.2008 at about 10.00 a.m., when the appellants were digging a pit on western side of basement behind their house, the deceased and P.Ws.1 and 2 - sons-in-law and P.W.3 - daughter of the deceased, and L.W.3 went there and resisted the appellants. On hearing the altercation between both the parties, P.Ws.4 to 6 came to the

site, that appellant No.2 instigated his son – appellant No.1 to kill the deceased with a crowbar and on that appellant No.1 inflicted a piercing injury with the crowbar on the left side of chest near armpit of the deceased, by holding the crowbar with his both hands. On receipt of the injury, the deceased collapsed there itself. P.Ws.4 to 6 have witnessed the occurrence and P.W.4 tried to catch the appellants but they escaped with the crowbar. Later, the injured was shifted to the Government Hospital, Dharmavaram in an auto by P.Ws.1 to 6 and L.W.3 and as per the advice of the Doctor, the injured was shifted to the Government General Hospital, Anantapur, on the same day. On 31.10.2008, the injured was referred to the Government General Hospital, Kurnool, but he was taken to Bangalore and admitted in Saint John's Hospital at 8.00 p.m. While undergoing treatment, the deceased succumbed to the injury at 9.30 p.m. P.W.1 went to C.K. Palli Police Station on 01.11.2008 at 8.00 a.m. and lodged a written report. P.W.11 – Sub-Inspector of Police, C.K. Palli registered the case in Crime No.71 of 2008 under Section 302 read with Section 34 IPC on 1.11.2008 at 8.00 a.m. and took up the investigation.

3. During the course of investigation on 01.11.2008 P.W.11 visited the Saint John's Hospital, Bangalore and held inquest

over the body of the deceased from 1.00 p.m. to 4.00 p.m. in the presence of blood relatives, P.Ws.1 to 6, L.W.3 and panchayatdars - L.Ws.8 and 9, and P.W.7 and sent the body for autopsy. P.W.11 seized the bloodstained clothes of the deceased at the hospital on 1.11.2008 at 4.30 p.m. under Ex.P.3 - Mahazar attested by L.W.9 and P.W.7. On 2.11.2008 P.W.11 examined the scene of offence in Basinepalli Village in the presence of L.W.9 and P.W.7 and drafted Ex.P.4 - observation Mahazar of the scene at 7.00 a.m. During the course of investigation, P.W.12- Circle Inspector of Police arrested both the appellants on 06.11.2008 at 6.00 a.m. at N.S.Gate Tri-road Junction in the presence of P.Ws.8 and 9, and on interrogation the appellants voluntarily confessed to have committed the offence. P.W.12 drafted Ex.P.5 - Mahazar for arresting the appellants and incorporated the confessional statement in it. Based on the confessional statements made by the appellants and on being led by them, P.W.12 seized the crime weapon, i.e., M.O.1 - bloodstained crowbar in the garden land of appellant No.2 which was concealed by them in the hayrick and produced by them in the presence of P.Ws.8 and 9 under Ex.P.13 - Seizure Mahazar drafted on 6.11.2008 at 8.30 a.m. Later, P.W.12 sent both the appellants to the jurisdictional

Magistrate, who remanded them to judicial custody. The seized bloodstained clothes of the deceased and the bloodstained crowbar were sent to the Regional Forensic Science Laboratory, Tirupati. P.W.10, who conducted the autopsy over the body of the deceased, issued Ex.P.8 – post-mortem report opining that the death was due to shock and hemorrhage, as a result of the injury sustained by the deceased. Based on the charge sheet, the Court below has framed the following charges.

“Charge No.1:

That A.1 of you along with A.2 of you on 30-10-2008 at about 10.00 a.m. while digging pit on western side of basement behind the house of the deceased B. Narayanappa, the deceased, K.K. Pedda Peddanna, B. Narasimhulu, B. Ganga Malamma, Veera Narayanamma came there and resisted them, due to which A2 grew wild, did commit murder of by intentionally and knowingly causing death of B. Narayanappa, instigated to A1 of you to kill the deceased, A1 of you armed with crow-bar inflicted pierced injury with the crow bar on the left side of chest near armpit of the deceased by holding crowbar with his both hands pierced forcibly and the deceased died while he was undergoing treatment and that A1 of you thereby committed an offence punishable under Sec. 302 of the Indian Penal Code and within my cognizance.

Charge No.2:

That A2 of you along with A1 of you on 30-10-2008 at about 10.00 a.m. while digging pit on western side of basement behind the house of the deceased B. Narayanappa, the deceased, K.K. Pedda Peddanna, B. Narasimhulu, B. Ganga Malamma, Veera Narayanamma came there and resisted them, due to which A2 grew wild, did commit murder of by intentionally and knowingly causing death of B. Narayanappa, A2 of you instigated A1 of you to kill the deceased and on the instigation of A2 of you, A1 of you who armed with crowbar inflicted pierced injury with the crowbar on the left side of chest near armpit of the deceased by holding crow-bar with his both hands pierced forcibly and the deceased died while he was undergoing treatment and that A2 of you thereby committed an offence punishable under Sec. 302 read with 34 of the Indian Penal Code and within my cognizance.”

4. As the plea of the appellants was one of denial, they were subjected to trial. In support of its case, the prosecution has examined P.Ws.1 to 14, got marked Exs.P.1 to 18 and produced M.Os.1 to 5. No evidence was let in on behalf of the defence. On consideration of the oral and documentary evidence, the lower Court has disposed of the appeal in the manner as stated above.

5. Mr. T. Niranjan Reddy, learned Senior Counsel, appearing for the appellants advanced the following submissions. (i) The prosecution failed to prove the genesis of the offence and the place of occurrence. (ii) While the incident has allegedly occurred at 10.00 a.m. on 30.10.2008, P.W.1, gave the Police report two days later, i.e., on 01.11.2008 and that the prosecution failed to explain the inordinate delay in giving the Police report and therefore the long and unexplained delay is fatal to the case of the prosecution. (iii) Though the deceased survived, conscious and coherent in Anantapur Hospital, his statement was not recorded either by the Judicial Magistrate or at least by the Police. (iv) The prosecution suppressed the earliest version spoken to by the attendants of the injured in their statements recorded by Dharmavaram Police at Dharmavaram Hospital. (v) P.Ws.1 to 4, the alleged

eyewitnesses were not present with the deceased in the hospital at the earliest point of time and B. Nagendra, and C. Lakshmi Narayana, son and one of the sons-in-law of the deceased respectively, who were present with the deceased along with the deceased in the hospital at Dharmavaram, were not examined. It can therefore be presumed therefrom that P.Ws.1 to 4 were planted witnesses. (vi) The lower Court has committed a serious error in convicting appellant No.2 for allegedly instigating appellant No.1 to commit the offence by overlooking the omissions of investigation from the evidence of P.W.12 - Investigation Officer. (vii) Alternatively, even if the evidence is accepted on its face value, the alleged offence falls within the five exceptions of Section 300 IPC and that therefore the appellants are liable only for conviction under Section 304 Part II IPC. In support of his submissions, the learned Senior Counsel relied upon the judgment in **Thulia Kali v. State of Tamil Nadu**¹.

6. Opposing the above submissions, learned Public Prosecutor (AP) submitted that as per the evidence of P.Ws.1 and 2, who were sons-in-law, and P.W.3, who was the daughter of the deceased, they have accompanied the deceased to the

¹ AIR 1973 SC 501

hospital and that the same was corroborated by P.W.13. With regard to the alleged delay in giving the Police report, the learned Public Prosecutor argued that as the two sons-in-law and the daughter of the deceased were anxious to save the life of the latter, they might not have given report at the earliest point of time and that therefore the delay is not fatal to the prosecution case. He further argued that several defects pointed out by the learned Senior Counsel for the appellants in the investigation would not automatically lead to the acquittal of the appellants when proper evidence is brought on record pointing to the guilt of the appellants beyond all reasonable doubts. In support of his submissions, he has relied upon the judgment in **Gulzari Lal v. State of Haryana**².

7. We have carefully considered the respective submissions of the learned counsel for the parties with reference to the evidence on record.

8. Apropos the first submission of the learned Senior Counsel, the charge against appellant No.1 is that while the deceased was digging a pit on the western side of basement behind his house, he inflicted injury in the armpit of the deceased with a crowbar by piercing forcibly. It is specifically

² (2016) 4 SCC 583

alleged in the charge sheet filed by the Police that on receipt of the injury the deceased collapsed at the place of attack itself. P.W.1, one of the sons-in-law of the deceased, deposed that after the appellants left the scene along with the crowbar, himself, P.W.2, L.W.3 – wife of the deceased, and P.Ws.3 and 4 and others took the injured in an auto to the Government Hospital, Dharmavaram. P.W.2, another son-in-law, deposed that they carried the deceased with the support of their hands into an auto and he, P.W.1, L.W.3 and P.W.3 accompanied the injured to the Government Hospital, Dharmavaram, by sitting along with the injured in the auto. He further deposed that blood was coming out from the injury when the deceased was admitted in Government Hospital, Dharmavaram and all the four persons, including himself, carried the injured to the Government Hospital, Dharmavaram in the auto. P.W.11, the Sub-Inspector of Police, who conducted the main part of the investigation, deposed that he did not find any bloodstain marks at the scene of offence. He further admitted that none of the witnesses produced their bloodstained clothes during the inquest panchanama of the deceased. He did not ask the witnesses to produce their bloodstained clothes for having allegedly carried the deceased, during the inquest panchanama

of the deceased. He further admitted that he did not make any enquiry on the possibility of P.Ws.1 to 3 receiving bloodstains on their clothes.

9. P.W.13, the Civil Assistant Surgeon, Community Health Centre, Dharmavaram, deposed that he found an injury of 3 Cms. in length, $\frac{1}{2}$ Cm. in width and 5 Cms. in depth on the body of the deceased and that he controlled the bleeding after first aid. The above evidence would clearly show that the deceased was profusely bleeding and he fell on the ground after the attack.

10. The judgment in **Gulzari Lal** (2 supra), relied upon by the learned Public Prosecutor, turned on its own facts. In that case, the High Court having pointed out the laxity on the part of the investigation agency in seizing the bloodstained earth, however, confirmed the conviction based on the dying declaration of the deceased and the ocular evidence of the witnesses. The Supreme Court accepted the reasoning of the High Court while confirming the conviction. While non-seizure bloodstained earth is not a standalone criterion to throw out the case of the prosecution, in the absence of credible evidence, this plays a vital role in the Court forming the opinion as to whether the occurrence took place at the place and the

manner as set up by the prosecution. In the instant case, not only that bloodstained earth was not seized, but also P.W.11 stated that he did not see any bloodstains at the scene of offence. If the deceased was attacked at the place and in the manner alleged by the prosecution, when the injured was profusedly bleeding, there would have been pool of blood at the scene of offence. The absence of even bloodstains, let alone the marks of pool of blood at the scene of offence, would raise any amount of doubt as to whether the deceased was attacked at the place set up by the prosecution.

11. Coming to the second and fourth submissions of the learned Senior Counsel, the case of the prosecution is that when the offence took place at 10.00 a.m. on 30.10.2008, P.Ws.1 to 4, L.W.3 and others took the injured to the Government Hospital, Dharmavaram, that on the advice of the Doctors of the said hospital they have taken the injured to the Government Hospital, Anantapur for better treatment, that later the injured was taken to Saint John's Hospital, Bangalore, and that at about 9.30 p.m. on 31.3.2008, the injured succumbed to the injuries. P.W.11 deposed that on 01.11.2008 at about 8.00 a.m. P.W.1 came to the Police Station and presented Ex.P.1 written complaint based on which Crime

No.71 of 2008 was registered for the offences under Section 302 read with Section 34 IPC. P.W.1 has admitted that for reaching Government Hospital, Dharmavaram, one has to pass in front of the Town Police Station, Dharmavaram, that there is a Police Outpost in the Government Hospital, Anantapur, and that they did not give any report in either of the Police Stations. He has further admitted that to go to Bangalore from Anantapur, one has to pass through Chennethapalli Police Station and they did not try to give any report at the Police Station on their way from Anantapur, while taking the deceased for expert treatment to Bangalore. The learned Public Prosecutor has tried to justify this conduct of the family members of the deceased by submitting that they might have been anxious to save the life of the deceased. But such a justification is found lacking in the testimonies of any of the witnesses.

12. P.W.13, the Civil Assistant Surgeon, Community Health Centre, Dharmavaram, deposed in his cross-examination that he has intimated about the admission of the injured in the Government Hospital, Dharmavaram and obtained acknowledgement for having sent M.L.C. intimation to the Police and that the Police came to the Hospital and examined

the ‘attendant’ and recorded his statement. This statement of P.W.13 remained uncontroverted. The prosecution has not re-examined the witness to elicit clarification on the said statement. It has also not examined Dharmavaram Police to speak to the correctness or otherwise of the statement of P.W.13. We therefore have no hesitation to conclude that for the reasons best known to them, the Police have neither registered the crime based on the alleged statement of the “attendant” of the injured recorded pursuant to the MLC intimation given by P.W.13, nor produced the statement before the Court.

13. The effect of suppression of the earliest version, was considered by the Supreme Court in **Abdul Razak and Others Vs. State of Karnataka rep. by Station House Officer, Hutti Police Station**³. In that case, the Sub-Inspector of Police, PW-19, has initially recorded the statement of PW-1, disclosing the death of the deceased. However, the said report was destroyed by PW-19 after another statement in writing, was given by PW-1. Considering those facts, the Supreme Court held as under:

“It is difficult to appreciate how PW-19 could have destroyed the original complaint given to him by

³ (2015) 6 Supreme Court Cases 282

Hanumantha, PW-1. This implies that the earliest version about the incident was destroyed by PW-19 and a new story stated in the fardbeyan was tailored to suit the prosecution version. **This has the effect of completely demolishing the prosecution case and rendering its version wholly unacceptable.**

The only inference which can, in the circumstances, be drawn is that Basavaraj was done to death and his dead body left at the spot from where it was picked up by the police after they arrived around 10.00 p.m. The complaint presented to the Sub-Inspector perhaps did not say what the police intended to present as its case. The same was, therefore, destroyed and a new version brought in, according to which Basavaraj was shown to be alive when the police reached the spot. The fact of the matter, however, appears to be that Basavaraj was dead when his brother, mother and father discovered the body, for otherwise there was no question of the parents of the deceased and his brother leaving him alone in the condition, which they are alleged to have done. The conclusion drawn by the trial court that the prosecution had not proved the charges against the appellants beyond reasonable doubt, was, in our opinion, correct, no matter the judgment and order is not as happily worded as it ought to be, especially coming from a senior judicial officer of the level of Additional Sessions Judge. Inasmuch as the High Court has overlooked all these aspects, we are constrained to set aside the order passed by it and acquit the appellants of the charges framed against them.”

(emphasis added)

14. As held by the Supreme Court in **Abdul Razak and Others** (3 supra), suppression of earliest version in the instant case has the effect of completely demolishing the prosecution case and rendering its version wholly unacceptable. Added to this, there is a delay of more than two days in giving the Police report and the registration of the FIR. It is trite that FIR is an extremely vital and valuable piece of evidence and the object of insisting upon prompt lodging of the report to the Police in

respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of eyewitnesses present at the scene of occurrence. The delay in lodging the FIR quite often results in embellishments which are creature of afterthought. On account of delay, the report not only gets bereft of the advantage of spontaneity, but also danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of deliberations and consultations [See **Thulia Kali** (1 supra), **State of Andhra Pradesh v. Punati Ramulu**⁴ and **Meharaj Singh v. State of U.P.**⁵]. In **Thulia Kali** (1 supra), the Supreme Court held that when an occurrence is not reported for more than twenty hours after such occurrence even though the Police Station was only two miles away from the alleged place of occurrence, it is not safe to base the conviction upon the evidence.

15. As regards the third submission of the learned Senior Counsel, while the offence took place in the morning hours of 30.10.2008, the deceased was alive till 9.30 p.m. on 31.10.2008. The deceased was taken to Dharmavaram and Anantapur

⁴ 1993 CrI.LJ 3684

⁵ (1994) 5 SCC 188

Government Hospitals before he was shifted to Bangalore. P.W.14 is the Assistant Professor of Surgery in Head Quarters Hospital, Anantapur. In his chief examination he has stated that the injured was admitted in Government Hospital, Anantapur on 30.10.2008 at 1.00 p.m. In his cross-examination he has admitted that the injured was coherent and conscious and he disclosed his name on his enquiry apart from his complaint of pain. No effort was made by the prosecution to elicit any clarification from the aforementioned statement of the witness. Curiously, no one has recorded the statement of the injured. Had the statement of the deceased been recorded at least by the Police, if not by the Judicial Magistrate, proper light would have been thrown on the real assailants, the place and the manner of occurrence. In the light of the finding that the Police were aware of the incident, their failure to record the statement of the injured while he was in Anantapur Hospital, where he was found conscious and coherent, raises serious suspicion about the case set up by the prosecution.

16. As for the fifth submission of the learned Senior Counsel, P.Ws.1 to 3 claimed to be the eyewitnesses and they along with L.W.3 and others have shifted the injured initially to the Hospital at Dharmavaram and later to the Hospitals at

Anantapur and Bangalore. Ex.P.16 is the outpatient slip and Ex.P.17 is the accident register maintained by the Government Hospital (Community Health Centre), Dharmavaram. A perusal of Ex.P.16 – outpatient slip of the Government Hospital, Dharmavaram shows that the letters “MLC” were written on the top of the slip. It was endorsed on Ex.P.16 as under:

“Alleged to have been hit by an iron rod.”

In Ex.P.17 in the column “Nature of injury & treatment” it was mentioned as “Alleged to have been hit by an iron instrument”. Further, the name of C. Laxminarayana, son-in-law of the injured, was shown against the column “By whom brought”. It can be presumed therefrom that the Police were intimated as the case was treated as a Medico Legal Case (MLC). The evidence of P.W.13 regarding treating the case as MLC and his intimation to Police is thus amply supported by Exs.P.16 and P.17. Ex.P.18 is the case sheet comprising seven documents, which include photo copies of the relevant pages of Accident Register. The last of the documents is a copy of the Accident Register. Though it did not contain the name of the hospital, from the words “RMLC” and the time mentioned on it, it appears that the case was referred by Dharmavaram Hospital to

Anantapur Hospital and therefore it was referred as 'RMLC' which means "Referred Medico Legal Case". On the first page of the case sheet, the signature of B. Nagendra was shown against the words "Brought by". At the bottom of one of the pages of the accident register, the signatures of "B. Nagendra and B. Anjaneyulu" described as 'son' and 'brother' are found. Though a contention was raised that it has not come on record as to the fact of the deceased having a son, irrespective of whether B.Nagendra was son of the deceased or not, the fact remains that in the accident register maintained by Dharmavaram Hospital and the case sheet and accident register maintained by Anantapur Hospital, only the names of either C. Lakshmi Narayana, or B. Nagendra and B. Anjaneyulu have been mentioned as the persons who brought the deceased to the hospital. Nowhere the names of P.Ws.1 to 3 have been mentioned. Moreover, it has clearly come out in the evidence of P.W.1 that blood oozed out on to the earth. P.Ws.1 and 2 and other eyewitnesses also spoke about the bleeding injury and it was corroborated by the evidence of P.W.13 that he controlled the bleeding after the first aid. It is also the version of P.Ws.1 and 2 that they along with P.Ws.3, 4 and 6 have carried the bleeding injured in an auto to the hospital.

Therefore, there would have been not merely bloodstains on the clothes of the alleged witnesses who handled the injured and carried him to the hospital, but their clothes might have been soaked in blood. The clothes of none of the alleged eyewitnesses were seized which also casts a serious doubt on the presence of the alleged eyewitnesses. Non-seizing of the clothes of any of the eyewitnesses casts a serious doubt on the version of the prosecution that P.Ws.1 to 4 are the eyewitnesses. Had they been the eyewitnesses and accompanied the injured to the hospitals, the names of one or more of these persons would have found a place in the hospital record. The above discussed reasons persuade us to hold that P.Ws.1 to 6 are not eyewitnesses and instead they are planted witnesses.

17. P.W.10, the Doctor who conducted the autopsy, admitted that if a person falls on a sharp pointed object on upside, the injury found on the body of the deceased is possible and that if a person falls on a sharp stump while cutting also such injury is possible. The defence has suggested to P.W.1 that the MLA of Penukonda at that relevant time is his caste man and that he also belongs to the TDP Party, which was admitted by the witness. It was further suggested to P.W.1 that the appellants

are sympathizers of Congress Party and that there is a political rivalry between the two groups for a long time. Though the witness denied the said suggestion, he, however, admitted that there were disputes between the two groups for two or three years prior to the incident. The suggestions were put to the witness that because of the group rivalry false case was foisted to grab the property of the appellants taking advantage of the death of the deceased and that after the death of the deceased Ex.P.1 came into existence following due deliberations and consultations with Penukonda MLA to harass the appellants. It was also suggested to the witness that the deceased sustained injury by falling on a sharp peg while attending agricultural work in the fields. These suggestions were, however, denied. In the face of the serious defects and the lacunae in the case of the prosecution as discussed above, a reasonable doubt would arise that the deceased might have sustained the injury by falling on a sharp object and taking advantage of the same the appellants might have been falsely implicated.

18. One other aspect left to be considered is the alleged seizure of M.O.1 – crowbar. P.Ws.8 and 9, the Village Revenue Officer and the Sarpanch respectively, are the panch witnesses to Ex.P.13 – Seizure Mahazarnama. Both of them though

admitted their signature on Ex.P.13, deposed that the Police have not seized any weapon in their presence. They have denied the suggestion by the Public Prosecutor that they are speaking falsehood. The lower Court has relied upon the circumstance of P.Ws.1 to 6 identifying the M.O.1 during the course of their giving evidence. No Identification Test of the weapon as contemplated under Rule 35 of the Criminal Rules of Practice and Circular Orders, 1990 (for short, “the Rules”), was held. A perusal of the evidence of these witnesses shows that they have deposed that they can identify the weapon if it is shown to them. Accordingly, on being shown the crowbar, they have deposed that the same weapon was used by appellant No.1 in the commission of the offence. This procedure looks to us to be very strange. When only one weapon was produced by the prosecution in the Court without being mixed up with other weapons, that by itself is suggestive of the fact that the prosecution seeks to project the same as crime weapon. Therefore, it is not difficult for any prosecution witness to take the hint and identify such weapon as the crime weapon. Indeed, to avoid such a situation, Rule 35 of the Rules envisaged the Identification parade of the properties in the presence of the Magistrate. Such a test does not appear to have

been conducted. When the very presence of these witnesses is disbelieved, their purported identification of M.O.1 in the Court cannot be given any credence. Therefore, the alleged identification of M.O.1 by P.Ws.1 to 6 is of no evidentiary value and the Court below has committed a patent error in relying upon such evidence, ignoring the testimony of P.Ws.8 and 9.

19. For all the aforementioned reasons, we have no hesitation to hold that the prosecution has failed to establish the guilt of the appellants beyond all reasonable doubts and consequently they are entitled to acquittal. In the light of this finding, we find it not necessary to deal with submission Nos.(vi) and (vii) advanced by the learned Senior Counsel for the appellants.

20. On the analysis as above, the impugned judgment of the Court below is set aside. The appellants are acquitted of the charges framed against them. Consequently, the appellants shall be set at liberty forthwith, if they are not required in any other case or crime.

21. By order dated 30-11-2016 in Crl.A.M.P. No.1888 of 2016 the appellants, having completed five years of their sentence, were granted bail in terms of the order of this Court

in **Batchu Ranga Rao v. State of A.P.**⁶ Therefore, appellant No.1 is directed to surrender before the Superintendent, Open Air Central Prison, Ananthapur District, and appellant No.2 is directed to surrender before the Superintendent, Central Prison, YSR Kadapa District, for completion of the legal formalities for their release from those jails.

22. The appeal is accordingly allowed.

C.V. NAGARJUNA REDDY, J

KONGARA VIJAYA LAKSHMI, J

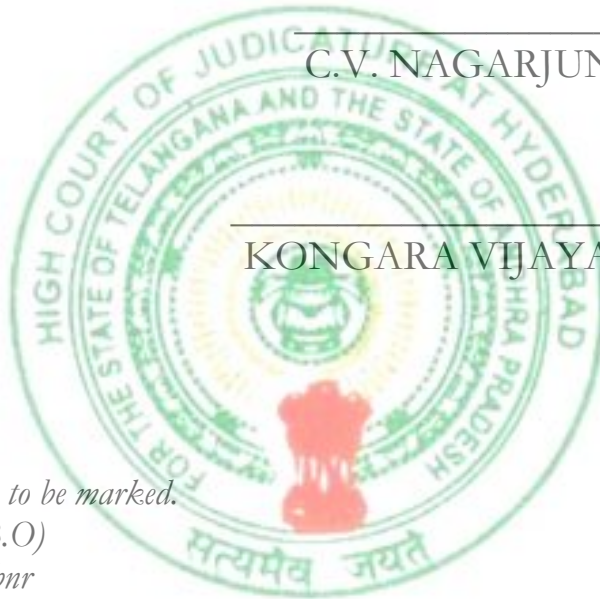
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⁶ 2016 (3) ALT (CrI.) 505 (DB)(AP)