

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

AND

THE HON' BLE SRI JUSTICE T. AMARNATH GOUD

CRIMINAL APPEAL NO.155 OF 2012

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

The sole accused in Sessions Case No.200 of 2010 on the file of the Court of IX Additional District & Sessions Judge, (Fast Track Court), Visakhapatnam (for short, trial Court) is the appellant herein. He was tried for an offence punishable under Section 302 IPC, for causing the death of one Vanthala Nanni Buddi (hereinafter referred to as "the deceased") on 14-6-2010 at about 8.00 AM. Vide judgment dated 09-12-2011, the learned Sessions Judge convicted the appellant/ accused for the offence punishable under Section 302 IPC and sentenced him to undergo 'imprisonment for life' and to pay a fine of Rs.500/-, in default to suffer simple imprisonment for one month.

2. The case of the prosecution as culled out from the evidence is as under:-

PW.1 is the husband while PW.2 is the daughter-in-law of the deceased. Accused is the cousin of the deceased. All of them are residents of Nandiguda Village of Araku Valley Mandal. There was a land dispute between them to an extent of Ac.28.16 cents, situated in Nandiguda village. As the Revenue Court passed orders in favour of the deceased, the accused bore grudge against the deceased and was waiting for an opportunity to do away with her

life. On 14.06.2010 at about 8.00 A.M., when the deceased and her daughter-in-law V.Goramma-Pw.2, were returning home after collecting water from the well, the accused is said to have attacked the deceased with a knife and hacked on her neck, shoulder and left hand, as a result of which, the deceased sustained several bleeding injuries and died on the spot. The said incident was witnessed by Pws.2, 4 and 5. On 14.06.2010 at about 11.00 A.M., Pw.1 presented a report (Ex.P.1) before the police, basing on which, a case in Crime No.37 of 2010 came to be registered by the Sub Inspector of Police, Paderu Police Station. Ex.P14 is the first information report.

Pw.8, the Circle Inspector of Police, Araku Valley took up investigation, visited the scene of offence, got photographed the scene of offence, observed the same, prepared a rough sketch of the scene and observation report, and seized material objects in the presence of Pw.7. He then conducted inquest over the dead body of the deceased which is placed on record as Ex.P12. Later the dead body was sent to the Hospital for post mortem examination. Pw.9, the Civil Assistant Surgeon, Primary Health Centre, Bathili, conducted autopsy over the dead body of the deceased and issued Ex.P7-the postmortem examination report. According to him, the cause of death was "due to spinal shock, due to spinal transaction and a cut to the large vessels.

On 14-06-2010, PW.8 arrested the accused. On interrogation, the accused is said to have confessed about the

commission of offence, which was recorded in the presence of the mediators. Pursuant to the said confession, PW.8 recovered a knife (M.O.1), used in the commission of offence. He then, sent the material objects to the RFSL for analysis. After completion of the investigation, Pw.8 filed a charge sheet against the accused, which was taken on file as P.R.C.No.28 of 2010, on the file of the Judicial Magistrate of First Class, Araku. On appearance, copies of the documents were furnished as required under Section 207 Cr.P.C. As the case is exclusively triable by a Court of Sessions, the same was committed to the District and Sessions Judge, Visakhapatnam, which came to be numbered as S.C.200 of 2010 and made over the same to the Court of IX Additional District and Sessions Judge, (FTC) Visakhapatnam. Basing on the material available, a charge under Section 302 IPC came to be framed, read over and explained to the accused to which, he pleaded not guilty and claimed to be tried.

3. In support of its case, the prosecution examined P.Ws.1 to 9 and got marked Exs.P.1 to P.17 and M.Os.1 to 8. After the closure of evidence, the accused was examined under Section 313 Cr.P.C., with reference to the incriminating circumstances appearing against them, in the evidence of the prosecution witnesses, to which they denied. On behalf of the accused, neither oral nor documentary evidence was adduced. On behalf of the accused D.Ws.1 to 3 were examined and Ex.D1 was marked.

4. On appreciation of the evidence available on record, the trial Court found the accused guilty of the offence punishable under Section 302 IPC, and sentenced him as stated supra. Challenging the same, the present appeal came to be filed.

5. The learned counsel for the appellant would submit that the witnesses examined by the prosecution are interested witnesses and as they are inimical to the accused, they are made to speak against the accused. It is urged that the testimony of the prosecution witnesses is most untrustworthy, and basing on their evidence, recording of conviction by the trial Court is erroneous. She submits that in view of the contradiction marked as Ex.D-1, in the evidence of Pw.5 and without there being any corroboration to the evidence of Pws.2, 4 and 5, the trial Court ought to have acquitted the accused. She further submits that due to civil disputes between the family of the appellant and deceased, the appellant was implicated in this crime. She further submits that the prosecution has not proved any motive for the accused to kill the deceased and sought to set aside the judgment of the trial Court. In support of her contentions, the learned counsel for the appellant relied on a decision reported in Pullareddigari Venkataramana Reddi Vs. State of A.P.¹.

6. On the other hand, the learned Public Prosecutor would submit that the evidence of P.Ws.1 to 9 coupled with Exs.P.1 to P17 is sufficient to found the accused guilty of the offence

¹ 2002 (1) ALD (CrI) 491 (AP)

punishable under Section 302 IPC, in view of the motive behind the murder. He further submits that basing on the evidence of P.Ws.2, 4 and 5, who are the eye witnesses, the trial Court has rightly convicted the accused. He further submits that the prosecution has proved the guilt of the accused beyond reasonable doubt and hence there are no grounds to interfere with the judgment of the trial Court.

7. In order to appreciate the rival contentions, it is necessary to refer to the evidence of necessary witnesses.

8. P.W.1, who is the husband of the deceased deposed that on 14-06-2010 at about 8.00 AM., while he was at his house, Pw.2 Goramma came to him and informed that the accused hacked and killed his wife. He further stated that he went to the scene of offence and found his wife dead with a cut injury over the neck and a deep cut injury on the left shoulder. Her fingers were also cut with a sliced injury to the left palm. He further deposed that he informed about the incident to the village elders and then went to Araku Valley Police Station between 10.30 A.M., and 11.00 A.M., and presented Ex.P.1-the report. He further stated that there was a land dispute between his wife and the accused for the last 14 years and about four or five years prior to the death of his wife, the District Collector gave a finding in respect of the land to an extent of Ac.28.16 cents in favour of his wife and aggrieved by such finding, the accused developed grudge and committed the offence.

9. In the cross examination, Pw.1 denied the suggestion that with the connivance of Pws.3 to 5, he implicated the accused by taking advantage of the murder of the deceased by somebody and that the accused is no way concerned with the murder of his wife.

10. Pw.2 Vanthala Goramma, who is the daughter-in-law of the deceased and Pw.1, stated that while herself and the deceased were returning with water and at about 8.00 A.M., when they reached near Seema garuvu, the accused hacked the deceased with an axe on the neck, left shoulder and on the fingers of left hand which lead to the death of the deceased on the spot. She further stated that she went to the house and informed Pw.1 and her husband about the incident. The weapon with which the accused hacked her mother-in-law was in a curved shape. In the cross examination, she denied the suggestion that as per the instructions of the police, she identified M.O.1 as weapon used by the accused. At the time of recording her statement by the police, she described M.O.1 as jagada kathi.

11. Pw.3 Vanthala Chinnayya, in his evidence deposed that about one year prior to the date of his examination, he heard that the accused killed the deceased near the field of Korra Seema. He further deposed that there were disputes between the deceased and accused for the last 14 years in connection with agricultural land. In the cross examination, he denied the suggestion that a false case is foisted against the accused, in order to get the entire

land of the deceased and as he was influenced by Pw.1, he is deposing falsehood.

12. Pw.4 Korra Raju deposed that there were land disputes between the accused and deceased and that on 14.06.2010 at 8.00 A.M., the accused killed the deceased near Seema garuvu. According to him, at that time, he was going to his field and deceased and Pw.2 were coming from gedda. He noticed the accused hacking the deceased with gadaga kathi on the neck, left shoulder, left hand etc. In the cross examination, it has been elicited that he raised loud cries on seeing the accused hacking the deceased.

13. Pw.5 Vanthala Gundu deposed that about one year two months prior to his evidence before the trial Court, in the morning time, the accused by coming in the opposite direction, hacked the deceased with gadaga kathi on the neck, left shoulder, left hand and on the left fingers. According to him, he was at a distance of 10 feet from the place of incident and Pw.2 was present by the side of the deceased. He further deposed that he went into the village and informed the villagers about the incident and again returned to the scene of offence. M.O.1 is the knife used by the accused in the commission of offence. In his cross examination, Pw.5 stated that he has not stated to the police as in Ex.D1, wherein it is mentioned as "having been scared, I did not reveal the incident to anyone".

14. From the above, it is clear that there were land disputes between the deceased and the accused for the last 14 years. Pws.2, 4 and 5, who were examined as eye witnesses to the incident, spoke about the land disputes between the accused and deceased. According to them, when the Collector decided the dispute in favour of the deceased, the accused bore grudge, and killed the deceased. It is to be noted that the deceased and Pw.2 went together to Gedda to fetch water from the well and while they were returning to the house through the land of Lw.9 Korra Seema, the accused armed with M.O.1, hacked the deceased at the neck, shoulder etc., and thereby she succumbed to the injuries at the spot. Pw.2 categorically stated in her chief examination that while they were returning to the house and when they reached the scene of offence at about 8.00 AM., the accused hacked the deceased with an axe and the weapon used by the accused i.e., M.O.1 is called as Jagada kathi. Though PW.2 was cross-examined at length, nothing useful came to be elicited. The presence of PW.2 along with the deceased is also spoken to by PW.5.

15. PW.9, the doctor, who conducted autopsy over the dead body of the deceased, noticed the following injuries (1) total transaction of the neck including Oesophagus, trachea, spinal cord, with spinal column and great vessels with sparing some soft tissue over back of neck, (2) avulsion injury over left shoulder measuring 10 x 6 x 4 cm., (3) amputation of left hand middle, ring and little fingers, (4) avulsion injury over left fore arm measuring 8 x 5 x 2 cm. In the postmortem report, he opined that the cause of death is spinal

shock due to spinal transaction and cut of large vessels and Ex.P17 is the post mortem report.

16. P.Ws.2, 4 and 5, who are the eye witnesses to the incident, in their evidence, deposed in one voice that the accused killed the deceased with M.O.1. There are no contradictions in their evidence, to disbelieve the same. P.Ws.4 and 5 are independent witnesses, and they cannot be treated as interested witnesses, as contended by the learned counsel for the appellant. Apart from the same, there is no material on record to disbelieve the version of P.Ws.2, 4 and 5. It was also not the case of the accused that he was not present at the scene of offence at the time of the incident. Moreover, the evidence of P.Ws.1, 2, 4 and 5 is consistent with the injuries noted in the postmortem report (Ex.P17) issued by P.W.9, the doctor who conducted post mortem examination over the dead body of the deceased. Nothing is elicited from the evidence of Dws.1 to 3 to the effect that the accused has not participated in the commission of offence.

17. Coming to the judgment cited by the learned counsel for the appellant in Pullareddigari Venkataramana Reddi's case (supra), the prosecution witnesses were found to be interested and also inimical to the accused therein, and that they appear to be planted witnesses. Under those circumstances, the Court disbelieved the evidence of interested witnesses and set aside the Judgment of the trial Court. But, in the instant case, Pws. 4 and 5 were found to be independent witnesses and there is no material

to show that they are inimical to the accused. Therefore, as the facts in the above case are different from the facts of the present case, the said Judgment may not be of any help to the appellant.

18. In the above circumstances, it can be said that the trial Court has rightly convicted the accused and has not committed any error in coming to the conclusion that the accused committed the offence punishable under Section 302 IPC. Hence, the findings recorded therein warrant no interference by this Court.

19. Accordingly, the Judgment dated 9.12.2011 of the learned IX Additional District and Sessions Judge (FTC), Visakhapatnam in S.C.No.200 of 2010 is therefore confirmed and the appeal is dismissed. Consequently, miscellaneous petitions, if any, pending in this appeal, shall stand closed.



C.PRAVEEN KUMAR, J

T.AMARNATH GOUD, J

Date: 13.04.2018
Shr/ gkv