

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and
The Hon'ble Smt. Justice Kongara Vijaya Lakshmi
Criminal Appeal No.1434 of 2011
Date: 07.08.2018

Between:

Byagari Nagaiah

... Appellant/accused

and

The State of AP,
Rep. by its Public Prosecutor,
High Court, Hyderabad

...Respondent

Counsel for the Appellant: Mrs.C.Vasundhara Reddy

Counsel for the respondent: Public Prosecutor (TG)

The Court made the following:



Judgment: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Criminal Appeal is filed against Judgment, dated 08.12.2011, in SC.No.229 of 2011, on the file of the Principal Sessions Judge, Medak at Sangareddy, whereby the appellant/sole accused was convicted for the offence punishable under Section 302 IPC and sentenced to undergo Imprisonment for Life and also to pay a fine of Rs.10,000/-, and in default of payment of fine, to suffer Rigorous Imprisonment for six months.

The case of the Prosecution, in brief, is stated hereunder:

That one Agamma was the first wife of one Begari Ramappa @ Ramaiah (hereinafter referred to as 'the deceased'); that they had two daughters and one mentally handicapped son; that the deceased and his family used to stay in the house of his father-in-law at Jeerlapalli Village as the latter had no male issues; that the appellant is the illatom son-in-law of the deceased, having married their younger daughter- Lakshmi; that about fifteen years prior to the date of occurrence, the deceased married PW.1 as his first wife- Agamma died due to ill health; that the deceased had a son and a daughter through PW.1; that while so, disputes crept in between the deceased and the appellant regarding certain ancestral property inherited by Agamma; that

therefore, PW.1 and the deceased went to Mansanapally Village to live separately; that a case was filed by the deceased in the Zaheerabad Court regarding the disputed property; that in connection with the said case, on 09.12.2010 and 16.12.2010, when the deceased along with PW.1 attended the Court, the appellant asked the deceased to withdraw the said case and threatened him with dire consequences; that on 23.10.2010 morning at about 10.30 a.m., when PW.1 and the deceased reached the Tahsil Office at Zaheerabad, the appellant came with a knife from the Court side, stabbed the deceased in his stomach, injured him on his temple and slit his throat, due to which he fell down; that on hearing the hue and cry raised by PW.1, PWs.5 and 9 tried to catch the appellant, but he escaped; that PW.1, with the help of PWs.5 and 9, shifted the deceased to Zaheerabad Government Hospital where the latter succumbed to injuries.

That on a report given by PW.1 at 11-00 a.m., PW.19- Sub-Inspector of Police, Zaheerabad Town, registered a case in Crime No.236 of 2010 for the offence punishable under Section 302 IPC and sent express FIRs to all the concerned; that on receipt of the same, PW.17- Circle Inspector of Police, Zaheerabad Town, visited the scene of offence, conducted the scene of offence panchanama in the presence of PWs.10 and 11, prepared the

rough sketch of the scene of offence and seized the blood stained and control earth therefrom under the cover of Ex.P.25- Scene of Offence Panchanama. That PW.17 visited the Government Hospital, Zaheerabad, secured the presence of PWs.1 to 5 and 9, recorded their statements, conducted inquest over the dead body of the deceased in the presence of PWs.12 and 16, got photographed the scene of offence and the dead body of the deceased with the help of PW.18 and subjected the dead body for Post-Mortem Examination; that PW.15 held autopsy over the dead body of the deceased and issued Ex.P.19- Post-Mortem Examination report opining that the cause of death of the deceased was 'due to shock and hemorrhage due to multiple injuries with sharp weapon'; that PW.17 seized the blood stained clothes of the deceased; and that thereafter, he secured the presence of PWs.6 to 8 and recorded their statements.

That during the further course of investigation on 27.12.2010, PW.17 apprehended the appellant at Zaheerabad, recorded his confessional statement in the presence of mediators- PWs.13 and 14, recovered the knife used by him in commission of the offence from his house in the presence of the said mediators and sent him for judicial remand.

That PW.17 sent the material objects seized by him during the course of investigation to the Forensic Science Laboratory, Hyderabad, obtained a report therefrom and filed the charge sheet.

Based on the charge sheet filed and the material collected during the investigation by the Police, the Court below has framed the following charge:

“That, you, on or about 23rd day of December, 2010, at about 10.30 hours in front of Tahsil Office, Zaheerabad, committed murder by intentionally (or knowingly) causing the death of Begari Ramappa @ Ramaiah s/o Veerappa, aged 60 years, r/o Mansanpally (v) by stabbing him and by slitting his throat with a knife, due to land dispute and that you thereby committed an offence punishable under section 302 of Indian Penal Code and within my cognizance.”

As the plea of the appellant was one of denial, he was subjected to trial, during which the Prosecution examined PWs.1 to 19, got Exs.P.1 to P.16 marked and produced MOs.1 to 8.

On consideration of the evidence on record, the Court below has disposed of the case in the manner as noted herein before.

Smt.C.Vasundhara Reddy, learned Counsel for the appellant, submitted that the sole testimony of PW.1 remained

uncorroborated by other Prosecution Witnesses and that therefore, the lower Court ought not to have relied upon such uncorroborated evidence. She further submitted that the incident had, allegedly, occurred at about 10.00 a.m. and Ex.P.1-complaint was given at 11.00 a.m., but PW.1, in her cross-examination, stated that she went to the Police Station at about 10.00 a.m., and that from this contradiction, it appears that PW.1 is not speaking the truth.

The learned Public Prosecutor supported the judgment of the lower Court.

We have carefully considered the submissions of the learned Counsel with reference to the record.

In her evidence, PW.1 stated that she had accompanied her husband to the Zaheerabad Court on the fateful day; and that when they were approaching the Court, the appellant, who is the son-in-law of the deceased through his first wife, stabbed the latter with a knife in his stomach and slit his neck. She also set out the reason for the appellant killing the deceased as existence of land disputes between them. She further deposed that the deceased was taken to the Government Hospital, Zaheerabad, where he succumbed and then, she went to the Zaheerabad

Police Station and gave Ex.P1- report. No doubt in the cross-examination, PW.1 stated that she went to the Police Station at about 10.00 a.m. A perusal of Ex.P.1 report given by PW.1 shows that the same was prepared at 11.00 a.m. PW.19- Sub-Inspector of Police, Zaheerabad, deposed that on 23-12-2010, PW.1 came to the Police Station and orally reported about the death of the deceased; that he recorded her statement, registered Crime No.236 of 2010 for the offence punishable under Section 302 IPC and issued Ex.P.27- First Information Report. Significantly, this witness was not even cross-examined on any aspect. PW.15- Civil Assistant Surgeon, Government Hospital, Zaheerabad, who conducted autopsy, deposed that he received requisition from PW.17- Circle Inspector on 23-12-2010 and in pursuance of the same, she held autopsy over the dead body of the deceased at 2.00 p.m.

From the fact that PW.1 has put her thumb impression on Ex.P.1 and also on her deposition, it is evident that she is an illiterate. Therefore, her statement that she went to the Police Station at 10.00 a.m., cannot be taken in its literal sense, because, an illiterate woman living in a rural area is not expected to know the exact time. Moreover, in her chief-examination, she has stated that the incident occurred at 10.00 a.m., and the deceased

appeared to have succumbed to injuries by the time he was taken to the Hospital. Zaheerabad being a small town, it was quite possible for PW.1 to first take the deceased to the Government Hospital and then, proceed to the Police Station, following the death of her husband, by 11.00 a.m. Within a few hours thereafter, the Post-Mortem examination of the dead body of the deceased was held at 2.00 p.m. In the light of these facts, we do not find any reason to doubt the veracity of the testimony of PW.1, who is a natural witness, having accompanied her husband to the Court, and in whose presence, the offence was committed by the appellant.

The law is well settled that the testimony of the sole witness could be accepted by the Court provided it is natural and free from concoctions and exaggerations. In her earliest version reflected from Ex.P.1, PW.1 categorically named the appellant as the assailant. There was hardly any time for PW.1 to think of false implication of the appellant as, within one hour of the incident, she gave Ex.P.1- report to the Police.

Ex.P.19- Post-Mortem Examination report is corroborated by medical evidence. PW.15- Civil Assistant Surgeon, who conducted autopsy over the dead body of the deceased, found

incised wound on the front of the neck, forehead, right side of chin and below naval exposing intestines. Thus, the overt acts spoken to by PW.1 were completely supported by the medical evidence.

The oral testimony of PW.1 is further supported by the recovery of MO.1- knife from the appellant in the presence of PWs.13 and 14, which corroborated the case of the Prosecution. Ex.P.26- FSL report revealed that human blood was detected on item Nos.1 and 3 to 9. Item Nos.3 to 8 are the wearing apparel of the deceased while item No.9 is the knife seized from the possession of the appellant. The FSL report also reveals that the blood stains on item Nos.3 to 9 belong to 'O' group, which shows that the blood on MO.1- knife matched with that on items Nos.3 to 8. No further evidence is required to connect the appellant to the offence alleged against him.

In the light of the above circumstances of the case, the Court below has rightly convicted the appellant for the offence punishable under Section 302 IPC. Hence, we do not find any reason to interfere with the judgment of the lower Court.

In the result, the Criminal Appeal is dismissed. The conviction and sentence recorded against the appellant/accused

for the offence punishable under Section 302 IPC in the Judgment, dated 08.12.2011, in Sessions Case No.229 of 2011, on the file of the learned Principal Sessions Judge, Sangareddy, are hereby confirmed. The bail bonds of the appellant/accused shall stand cancelled and the appellant/accused shall surrender before the Superintendent, Central Prison, Cherlapalli, within one week for serving the remainder of sentence.

(C.V.Nagarjuna Reddy, J)

(Kongara Vijaya Lakshmi, J)

Dt: 7th August, 2018
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