

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

CRL.A.NO. 48 of 2013

JUDGMENT: (Per Hon'ble Ms. Justice J. Uma Devi)

1. The appellant Naram Suresh @ Suri @ Charpati Suri s/o Gopal was tried for the offence under Section 302 IPC by the learned Special Judge for trial of cases under SCs/STs (POA)-cum-VIII-Addl. District and Sessions Judge, Nizamabad in Sessions Case No. 125 of 2012 for causing the death of one Puli Gangadar and was found guilty of the said offence vide judgment dated 5.11.2012, was convicted and sentenced to suffer rigorous imprisonment for life and to pay a fine of Rs.500/- in default to suffer simple imprisonment for one month. Aggrieved thereby, the appellant approached this Court by preferring the present appeal through the legal aid counsel appointed by the State Legal Services Authority.

2. The facts of the case to the extent necessary for disposal of the appeal are briefly stated as under,

That on 16.6.2011 at 10.00 P.M. a complaint was lodged by P.W.1-Puli Sarawati, the wife of the deceased Puli Gangadhar stating that on 16.6.2011 at about 7.00 A.M. when her husband Puli Gangadhar went near the public tap with an empty vessel to fetch water, the accused altercated with him without acceding to his request to allow him to take water in his vessel and threatened him with dire consequences. On the same day night while the complainant and her

husband were taking dinner in their house, at about 9.00 P.M. the accused entered into their house armed with a knife and stabbed her husband with the knife, caused multiple grievous injuries and ran away. Immediately after the alleged assault on him, he was taken to Government Hospital, Nizamabad and there he succumbed to the injuries caused to him. Based on the complaint given by the wife of the deceased, P.W.11, the Sub-Inspector of Police, Navipet Police Station registered a case in Cr.No. 155 of 2011 under Section 307 IPC and recorded her detailed statement. In the early hours of the next date of the alleged incident the deceased died while undergoing treatment in the Government Civil Hospital, Nizamabad due to stab injuries. On receipt of the death intimation of the deceased from the Government hospital, Nizamabad, the Sub-Inspector of Police altered the section of law from Section 307 IPC to Section 302 IPC and handed over the investigation to the Circle Inspector of Police.

3. The Inspector of Police, Nizamabad Rural (P.W.12) took up investigation on 17.6.2011 from P.W.11 and recorded the statements of P.W.1- complainant, P.W.2-Puli Shankar, P.W.3-Pogul Renuka, P.W.4-Kondengala Suresh, L.W.5-Kothapally Satyanarayana, P.W.5-S.Mogilaiah, Head constable who accompanied P.W.11, the Sub-Inspector of Police of Navipet Police Station to the scene of offence. P.W.12 held inquest over the dead body of the deceased Puli Gangadhar and took the photographs of the dead body of deceased with the assistance of P.W.9-Narsing Rathod. P.W. 6-Mulige

Gangadhar and P.W.7-Nalla Ganesh were the panch witnesses for the inquest held over the dead body of the deceased. The scene of offence panchanama was also prepared by P.W.12 in the presence of very same witnesses viz., PWs 6 and 7, and a blood stained mat, blood stained earth and control earth-M.Os. 5 and 6 were seized from the scene of offence. Based on the statements made by the witnesses during the course of inquest and on examination of the dead body of the deceased, it was opined by the panch witnesses to the inquest that the death of the deceased occurred due to stab injuries caused with a knife. The blood stained T-shirt and other wearing apparels found over the dead body of the deceased-M.Os, 2 to 4 were seized under the cover of inquest panchanama-Ex.P6 which was conducted in the presence of PWs 6 and 7. The Medical Officer who held autopsy over the dead body of the deceased on 17.6.2011 at 1.30 P.M. noticed three grievous injuries (i) on the center portion of chest, (ii) right side of the chest and (iii) left side of abdomen, issued Ex.P19-post mortem report opining that the deceased died due to multiple injuries about within 24 hours prior to conducting of post mortem examination.

4. The Circle Inspector of Police (P.W.12) who arrested the accused on 21.6.2011 recorded his confessional statement in the presence of P.W.8-Neeradi Gopal and L.W.10-Goli Srinivas. Based on the disclosure statement made by him in the presence of P.W.8 and another, M.O.1- knife said to be used in the commission of offence and M.O.7-blood stained shirt were seized under a seizure

panchanama-Ex.P8 prepared in the presence of P.W.8 and another from out of the house of the accused situated at Venkateshwara Colony, Abangapatnam of Navipet Mandal. M.O.1, knife and other material objects collected at the scene of offence and during the course of inquest were sent to Forensic Science Laboratory. The successor of P.W.12 filed the charge sheet after receipt of the report from Forensic Science Laboratory.

5. After the case was committed to the Court of Sessions, a charge under Section 302 IPC was framed against the accused, for which he pleaded not guilty and claimed to be tried.

6. As the plea of the accused was one of denial, he was subjected to trial during which time the prosecution examined P.Ws. 1 to 12 and marked Exs. P1 to P22 and M.Os 1 to 7. After completion of the trial, the learned Sessions Judge heard the arguments of both sides and found that substantial material is placed on record by the prosecution for establishing the guilt of the accused, accordingly opined that the prosecution successfully proved the guilt of the accused for the offence under Section 302 IPC and convicted and sentenced him as mentioned above. Being aggrieved thereby, the present appeal is filed by the accused through legal aid counsel.

7. The learned counsel for the appellant, while assailing the legality and correctness of the impugned judgment, contended that except the interested testimony of P.W.1 who was none other than the wife of the deceased, no other legally acceptable evidence was

adduced by the prosecution to prove the complicity of the appellant in the commission of offence. The evidence of P.W.3 would in no way lend any support to the evidence of P.W.1 since she deposed only to the extent that she saw the deceased with injuries. The trial Judge ought not to have relied on the evidence of P.W.3 who appeared to have given false evidence that she saw the appellant stabbing the deceased, though as a matter of record, her evidence was only to the effect that by the time she reached the house of the deceased, he was lying with injuries. P.W.3 in her cross-examination deposed that she had not seen the accused stabbing the deceased. Though the evidence of P.W.1 was not supported in any manner by any of the witnesses, the trial Judge relied on her evidence and arrived to a conclusion that the appellant was responsible for causing the death of the deceased and the conclusion so arrived was contrary to law.

8. Opposing the aforementioned submissions of the learned counsel for the appellant, the learned Public Prosecutor would contend that the ocular testimony of P.W.1 was fully supported by the medical evidence. The learned Public Prosecutor, by referring to the evidence of the witnesses examined in the court below, contended that on close scrutiny of the evidence of each and every witness examined by the prosecution, the learned trial Judge had taken the right view that ample material was placed on record by the prosecution to hold that the accused was having motive to kill the deceased and that the evidence given by P.W.1 would clinchingly establish the fact that her

husband was assaulted by the accused who came to her house armed with a knife while she was taking food with him during night hours at about 9.00 P.M. The testimony of P.W.1 was believed by the learned Sessions Judge for recording of conviction as her evidence was consistent and no material discrepancies were found in her evidence.

8. Having regard to the respective submissions of the learned counsels of both sides, the point that emerges for our consideration is,

Whether the reasonings and conclusions recorded by the learned Sessions Judge for convicting the appellant for the offence under Section 302 IPC are legal and sustainable in law?

9. We have carefully considered the respective submissions of the learned counsel for the parties and perused the evidence on record.

10. The Medical Officer, Civil Assistant Surgeon, Government Head Quarters Hospital, Nizamabad (P.W.10) who held autopsy over the dead body of the deceased on 17.6.2011 at 1.30 P.M. noticed three grievous injuries (i) on the center portion of chest, (ii) right side of the chest and (iii) left side of abdomen. The aforementioned injuries in his opinion were possible by a sharp edged weapon and all of them were grievous in nature. Ex.P19 was the post mortem report issued by him opining that the deceased died due to multiple injuries about within 24 hours prior to conducting of examination. The aforementioned evidence of P.W.10 would indicate that the death of the deceased was homicidal in nature. On careful consideration of the evidence on record particularly the evidence of P.W.10, we have no hesitation to

hold that the death of the deceased occurred under unnatural circumstances and it is homicidal in nature.

11. Since the prosecution case mainly hinges on the evidence of P.W.1-Puli Saraswathi for establishing the involvement of the appellant in the commission of offence, we feel it appropriate to extract her evidence. It is testified by P.W.1 that on 16.6.2011 at about 7.00 A.M. when her husband Puli Gangadhar (deceased) had been to the public tap in the locality, where she and her husband were residing, in order to bring water in a vessel, a request was made by her husband to the accused to allow him to take water in his vessel, as the accused had already fetched water in four of his vessels. His request to remove the bucket from the tap was bluntly rejected by the accused and he was asked to wait. Her husband though repeatedly requested the accused to allow him to take water, he was not allowed to take water and was threatened with dire consequences. Keeping the incident that took place near the public tap in mind, the accused came to their house with a knife in his hand during night hours at about 9.00 P.M. while she was taking food with her husband and stabbed her husband (deceased) him with the knife. Though this witness was cross-examined at length by the defence counsel, no information useful to the accused was elicited. No major contradictions or improvements in the deposition of P.W.1 were noticed by us. We also did not notice discrepancies in her evidence. The evidence given by

her regarding the assault made on the deceased by the accused was fully corroborated with the contents of the complaint given by her.

12. P.W.3-Pogula Renuka who was residing two houses away from the house of the deceased, corroborated the testimony of P.W.1 in all aspects as to the incident which took place near the public tap in between the accused and the deceased, which was the motive for the accused to kill the deceased, and also as to her seeing the accused running from the house of the deceased during the night hours at about 9.00 P.M.

13. The evidence of P.W.2-Puli Shanker, the younger brother of the deceased was only to the effect that he came to know about the altercation that took place between the accused and the deceased in the morning hours and the assault on the deceased by the accused during night hours through P.W.1.

14. The evidence of P.W.4-K. Suresh was only to the effect that on seeing the deceased in a pool of blood, he along with other people residing his colony contacted for a medical Ambulance and as the ambulance did not come, they shifted the deceased in an auto to take him to the hospital at Nizamabad and on the way to hospital they shifted him in the ambulance which came in their opposite and took him to Government Hospital, Nizamabad for treatment.

15. P.W.5- S. Mogulaiah was the Head Constable of Navipet police station accompanied the Sub-Inspector of Police to Venkateshwara colony who got information about the incident. P.W.11, the Sub-

Inspector of Police, Navipet initially registered a case under Section 307 IPC based on the complaint given by the wife of the deceased and altered the section of law from Section 307 to Section 302 IPC on the next day of registering of the case based on the death intimation of the deceased received from Government Hospital, Nizamabad.

16. P.W.1 gave evidence regarding the quarrel that took place in the early hours of 16.6.2011 at 7.30 A.M. near the public tap in between her husband and the accused. She also spoke about the incident that took place in her house during night hours and about shifting of her husband to the Government Hospital, Nizamabad in ambulance for providing treatment to the grievous injuries he received in the hands of the accused. The deceased died of the stab injuries in the early hours of 17.6.2011. We did not notice major inconsistencies in her statement made to the police while reporting the incident to the police and in the evidence given by her before the court. Her evidence throughout the cross-examination remained unshattered and no major discrepancies were found. P.W.1 being the wife of the deceased, her presence at the time of incident cannot be doubted.

17. Upon combined reading of the complaint said to be given by P.W.1 Saraswati and the evidence given by her before the trial Court, we have not noticed much variance in them. It was reported by P.W.1 in her complaint that there was a quarrel between her husband and the accused on the morning of 16.6.2011 at 7.30 A.M. near the public tap during which time the accused threatened him with dire consequences,

and on the same day night at about 9.00 P.M. while she was taking food with her husband, the accused entered into their house with a knife and gave blows with it. The injuries as found from the post mortem certificate were on vital organs i.e., center of chest, right side portion of chest and left side of abdomen. The accused entering into the house of the deceased during night hours armed with a sharp edged weapon like knife and causing injuries on the vital organs by itself would show his intention of killing the deceased. Complaint in the present case was given by the wife of the deceased within one hour after the incident. Before lodging of the complaint, telephonic intimation about the incident was also given in the nearest police station as understood from the evidence of P.W.5, the Head Constable who accompanied the Sub-Inspector of Police to whom telephonic information was given. A report regarding the incident was given at 10.00 P.M. and there was no delay in lodging of the complaint. The Sub-Inspector of Police (P.W.11) rushed to the hospital where the deceased was admitted for treatment recorded his statement on the same day night at 10.55 P.M. and that a statement similar to the statement made by P.W.1, was given by him too. The statements of other material witnesses were recorded by the Inspector of Police (P.W.12) who took up investigation from P.W.11 on the next day of the incident.

18. As can be seen from the oral evidence of which a brief narration is made by us in the preceding paras, it is clear that a galata that took

place in the morning near the public tap was the root cause for the appellant for nursing grudge against the deceased and this led to the killing of the deceased by the accused by inflicting blows with the knife with which he went to his house during night hours.

19. In the case on hand, the tenor of evidence of P.W.1 appears to be natural, and we have not seen any substantial grounds to doubt her testimony. It is not placed on record by the accused that the deceased was having prior animosity or ill-will with anybody else in their village including the accused with whom a galata took place near the public tap only in the morning hours of the date of incident. There may be some discrepancies in the prosecution case particularly non-marking of FSL report through investigating officer which may be relevant piece of evidence to have a clue as to the assailant in the cases where the prosecution rests on circumstantial evidence, but not in cases where direct evidence is available.

20. Based on the evidence given by P.W.1 who is the direct witness to the assault on the deceased by the accused coupled with the recitals in Ex.P4 panchanama prepared at the time of scene of offence panchanama in the presence of PWs 6 and 7 it is enough to hold that the incident of assault on the deceased occurred in the house of the deceased. The seizure of blood stained mat and other incriminating material such as blood stained earth under Ex.P4 by the Inspector of Police in the presence of PWs 6 and 7 fully support the testimony of P.W.1 that her husband was assaulted in the house bearing No. 6-46/2

at Abhangapatnam, Venkateshwara colony where she was residing with her husband. Besides this, there is substantial material on record regarding recovery of M.O.7-blood stained shirt and the knife-M.O.1 from the house of the accused where he concealed them pursuant to the disclosure statement made by him. This also can be an incriminating circumstance through the Court can infer the guilt of the accused. The absconding of the accused immediately after the incident and his stay away from the village till his arrest also can be an incriminating circumstance through which an inference of guilt can be drawn against him.

21. It is true that P.W.3 who in fact did not see the incident of assault on the deceased appears to have stated that she saw the accused assaulting the deceased out of over enthusiasm and that the Subs-Inspector of Police to whom the incident that took place during night hours was informed through telephone did not speak about the said fact, but the Head Constable (P.W.5) who accompanied the Sub-Inspector of Police to the scene of offence at Venkateshwara colony, Navipet spoke about the said fact. The above discrepancies, in our opinion, do not in any way damage the established case of the prosecution. The discrepancies pointed out above in any way impair the evidentiary value of the witnesses especially P.W.1 whose evidence appears to be reliable and trustworthy. The evidence on record clinchingly establishes the fact that the accused went to the house of the deceased during night hours with a determined mind of

killing the deceased by carrying a knife with him and inflicted knife blows on vital parts such as, center and right side of chest and left side of abdomen etc. The aforementioned fact which is established by the prosecution itself indicates his intention of killing the deceased.

22. The testimony of P.W.1 enjoys highest credibility and that her presence at the scene of offence along with the deceased cannot be doubted. She being the wife of the deceased, though can be termed as interested witness, it cannot be expected that she makes a false complaint against an innocent person who is unconcerned with the offence. Her evidence is clear and categorical so as far as the assault made on the deceased by the accused who entered into her house, armed with a knife while both of them were taking their night meal. The law is well settled that the evidence of sole eye-witness can be relied upon for convicting the accused if it is satisfied by the Court that the evidence of such witness is natural and is not suffering from serious contradictions.

23. The only test to be applied for relying on the testimony of sole eye-witness is whether her evidence is credible and trustworthy. On appreciation of the entire evidence of P.W.1 who is the direct witness to the occurrence, we have not noticed any major infirmities to discard her testimony. Her evidence appears to be coherent and consistent and is fully corroborated by the medical evidence and thus it can safely be held by us that the prosecution is able to prove the charge under Section 302 IPC against the accused beyond all reasonable doubt. To

supplement our aforementioned view, we intend to rely on the observations made by the Supreme Court in *Sunil Kumar Vs. The State Govt of NCT of Delhi* ¹, by referring to its views in an earlier case law in *Jagdish Prasad and Ors. v. State of M.P.* ²,

“.....as a general rule the court can and may act on the testimony of a single witness provided he is wholly reliable. There is no legal impediment in convicting a person on the sole testimony of a single witness. That is the logic of Section 134 of the Indian Evidence Act, 1872. But, if there are doubts about the testimony the courts will insist for corroboration. It is for the Court to act upon the testimony of witnesses. It is not the number, the quantity, but the quality that is material. The time honoured principle is that evidence has to be weighed and, not counted. On this principle stands the edifice of Section 134 of the Evidence Act. The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy, or otherwise.”

24. In another decision reported in *Namdeo Vs. State of Maharashtra* ³, the Supreme Court, while reiterating the same view, observed that it is the quality of evidence and not the quantity of evidence which is necessary for proving or disproving a fact. The legal system has always laid emphasis on value, weight and quality of evidence rather than on quantity, multiplicity or plurality of witnesses.

¹ (2003) 11 SCC 367

² 1994 Cri L J 1106

³ 2007 (2) ALT (Cri) 237 (SC)

It is, therefore, open to a competent court to fully and completely rely on a solitary witness and record conviction.

25. On holistic consideration of the entire evidence available in the case record, we have no hesitation to hold that the learned trial Judge has rightly convicted the accused for the offence under Section 302 IPC.

24. In the light of our aforementioned view, the appeal filed by the appellant fails and the same is hereby dismissed.

Dt.23.2.2018
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C.PRAVEEN KUMAR, J

J. UMA DEVI, J