

**THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

CRIMINAL APPEAL NO.847 OF 2012

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

The accused, Thokala Anjaneyulu, is alleged to have caused the death of his own wife. He has been convicted by the learned I Additional Sessions Judge, Adilabad, by his Judgment dated 08.08.2012, in S.C.No.150 of 2012, for offence under Section 302 of the Indian Penal Code (IPC). He has been sentenced to life imprisonment, imposed with a fine of Rs.2,000/-, and in default, to undergo a simple imprisonment for six months.

2. Briefly stated, the facts of the case are that on 05.02.2012 at about 16:10 hours, Talla Bhumanna (P.W.1), the father of the deceased, Gangamani, lodged a complaint (Ex.P.1) before the Police Station, Echoda, wherein he stated that about eight months back, he had performed the marriage of his daughter, Gangamani with the accused. They led a happy marital life for a period of two months. Thereafter, the accused started harassing the deceased stating that she is not beautiful, and that he would marry another woman. Upon knowing the same, P.W.1 and his wife Talla Laxmi (P.W.2) counseled and convinced the accused. While so, on 05.02.2012 at about 3:00 pm., there was an argument between the deceased and the accused over the issue of accused marrying another woman. In a fit of anger, the accused pick up a knife, and stabbed the deceased over her right abdomen. On hearing the cries of the deceased, Saganti Venkatesh (P.W.3), Jinka Narsimlu

(P.W.4), Jella Bhumanna (L.W.6), Jinka Gangadhar (P.W.5) and Jinka Ramesh (P.W.6) rushed there. While shifting the deceased to the hospital, the deceased succumbed to the injuries on the way.

3. On the strength of the complaint (Ex.P.1), the Sub-Inspector of Police, Echoda Police Station (P.W.10), registered a case in Crime No.14/2012 for the offence punishable under Section 302 of IPC. The Circle Inspector of Police, Boath (P.W.11), during the course of investigation, recorded the statements of the witnesses, seized the blood stained maroon colour kurtha (M.O.1) and blood stained white petty coat (M.O.2) and sent the dead body for post-mortem examination. Dr. K. V. Swamy (P.W.9) conducted the autopsy of the deceased, and opined that the cause of death is due to '*intra abdominal hemorrhage due to stab injury in the abdomen caused cardio respiratory failure and death*'. On 07.02.2012, the Circle Inspector of Police, Boath (P.W.11) arrested the accused. At the instance of the accused, he seized a knife (M.O.3) used for committing the offence. On the strength of the evidence collected during the course of investigation, P.W.11 filed the charge sheet against the appellant.

4. In order to support its case, the prosecution examined eleven witnesses, and exhibited nine documents. After the closure of the prosecution evidence, the accused was examined under Section 313 Cr.P.C., with regard to the incriminating material appearing against him in the evidence of prosecution witnesses; he denied the same. After appreciating the evidence brought on record, the trial Court found the accused guilty. Accordingly, the learned trial

Court convicted and sentenced the appellant as aforestated. Challenging the same, the present appeal came to be filed.

5. Mr. T. Pradyumna Kumar Reddy, the learned counsel for the appellant, has contended that entire case is based on circumstantial evidence, as there is no eye-witness to the alleged crime. He has further pleaded that Jinka Narsimlu (P.W.4), Jinka Gangadhar (P.W.5) and Jinka Ramesh (P.W.6) did not witness the accused actually stabbing the deceased with a knife; their evidence is only to the effect that they rushed to the house of the accused, and found the deceased with bleeding injuries. Therefore, the possibility of the deceased committing suicide cannot be ruled out. Therefore, based on such testimony of such highly interested witness, recording conviction is illegal. Additionally, it is contended that the learned trial Court failed to accept the contention that the prosecution was unable to establish each and every linking circumstances to complete the chain of circumstances, without giving any scope for any other hypothesis. Thereby, the learned trial Court has committed a grave error in finding the appellant guilty. Therefore, the learned counsel has prayed that this Court should set-aside the findings recorded by the trial Court, and should acquit the accused for the offence punishable under Section 302 IPC.

6. On the other hand, Mr. C. Pratap Reddy, the learned Public Prosecutor for the State, has contended that when the prosecution proved each and every circumstance of the case, more particularly, all the links in chain of circumstances, the Court can record

conviction of the accused/appellant. Jinka Narsimlu (P.W.4), Jinka Gangadhar (P.W.5) and Jinka Ramesh (P.W.6) are independent witnesses, and there is nothing to prove that they are interested witnesses. Hence, the trial Court is right in convicting the accused based on their testimonies. Further, the evidence of last seen, of the deceased in the company of accused, soon before her death, is sufficient to find the accused/appellant guilty for the offence punishable under Section 302 IPC. Therefore, the proved facts before the Court complete the links in the chain of circumstances. Hence, the conviction of the accused for the offence punishable under Section 302 IPC cannot be faulted. Therefore, this Court should not interfere with the conviction recorded by the trial Court.

7. A perusal of the impugned judgment clearly reveals that it has believed the evidence of Jinka Narsimlu (P.W.4), Jinka Gangadhar (P.W.5) and Jinka Ramesh (P.W.6), who are independent witnesses. Therefore, it is necessary to refer to the evidence of Jinka Narsimlu (P.W.4), Jinka Gangadhar (P.W.5) and Jinka Ramesh (P.W.6) to test the correctness of the impugned judgment of the learned trial Court.

8. Jinka Narsimlu (P.W.4), in his evidence, has stated that *'on the date of death, myself, PW.3, LW.9 Ramesh were near Hanuman temple of Sirikonda village. At about 3 P.M. we heard cries of woman from the house of accused, on hearing the same we rushed to the house of accused, entered into the house. We found the deceased with stab injury on her stomach, before we reached there LW-6 and 7, Jella Bhomanna and Gangadhar, were present along*

with accused. Immediately we have shifted the deceased in a jeep to the hospital at Ichoda. On the way in the jeep the deceased informed us 4 or 5 times that the accused stabbed her with knife. When the deceased was in my hands in the jeep she died. The deceased also informed in the jeep that the accused intends to marry another woman on that she questioned as to how he will marry another woman when she is alive on that the accused stabbed her with a knife. On the way the deceased was shifted into 108 Ambulance and she was taken to the hospital where she was declared as dead by the doctors.”

9. Jinka Gangadhar (P.W.5), in his evidence, has stated that ‘About 6 months back i.e., on 5th day of 2nd month of this year the deceased died on that day. While I was proceeding from my house to the house of LW-6 Bhoomanna, I heard the cries from the house of father of the accused. On hearing the same, I rushed to that house. I found the deceased with bleeding injury there was profuse bleeding from her stomach, she was found stabbed, the accused was standing near by her. Thereafter, myself, PW-4, LW-6 Bhoomanna, and LW-9 Ramesh shifted her to the hospital in a jeep. On the way in the jeep, the deceased informed us that the accused stabbed her with knife with an intention to kill her alleging that she was not beautiful and he intends to marry another woman. On the way on reaching near Madhapur the deceased died in the jeep. From the jeep, she was shifted into the Ambulance to the govt. Hospital, Ichoda, where she was declared as dead.

10. Jinka Ramesh (P.W.6), in his evidence, has stated that *'the accused is resident of my village and he is husband of deceased Gangamma. She died about 6 months back. On the date of her death, myself, PW-4 were at Hanuman temple of Sirikonda village. About 3 PM, we heard the cries from the house of accused; on that we rushed to that house and found the accused and the deceased with bleeding stab injury on her stomach in the house. Later myself and PW-4 shifted the deceased in a jeep to the hospital. On the way in the jeep, the deceased informed me that the accused stabbed her with a knife on her stomach with an intention to kill her since he is not interested in her and he intends to marry another woman. Earlier to this incident also the deceased informed her parents that the accused was ill treating her, stating he is not interested in her, and he intends to marry another woman. But her parents have convinced the accused and deceased and sent her to his house. On the way reaching near Madhapur, the deceased died in the jeep. From there, she was shifted in an Ambulance to the Govt. Hospital, Ichoda. The accused killed the deceased by stabbing her on her stomach.'*

11. In their testimonies, Jinka Narsimlu (P.W.4), Jinka Gangadhar (P.W.5) and Jinka Ramesh (P.W.6) have stated, in one voice, that on the date of the incident, on hearing the cries of the deceased, they rushed to the house of the deceased; they found the deceased with stab injury on her stomach; they have also seen the accused there; while they were shifting the deceased, she informed them that the accused stabbed her with a knife due to the intention

to marry another woman. There are no contradictions in the evidence of Jinka Narsimlu (P.W.4), Jinka Gangadhar (P.W.5) and Jinka Ramesh (P.W.6). It is to be noted that Jinka Narsimlu (P.W.4), Jinka Gangadhar (P.W.5) and Jinka Ramesh (P.W.6) are independent witnesses; there is no material on record to show that they are interested witnesses. Therefore, there is no reason to disbelieve their testimonies.

12. In view of the judgment of the Supreme Court in **Trimukh Maroti Kikran**⁹, if the offence takes place in the house of the accused, then, the burden is upon him to explain under what circumstances the offence has taken place in view of Section 106 of Indian Evidence Act, since it is within his exclusive knowledge. In the absence of any explanation, it can be concluded safely that the accused was responsible for the commission of the offence.

13. In the present facts of the case, the scene of offence is admittedly inside the house of the accused. The accused and the deceased were in exclusive possession and enjoyment of the same. The prosecution examined the Investigating Officer and Panchayatdars who were present at the time of observation of the scene of offence. Jinka Narsimlu (P.W.4), Jinka Gangadhar (P.W.5) and Jinka Ramesh (P.W.6) categorically testified that the deceased was found with stabbed injuries, inside the house, along with the accused. Therefore, the consistent evidence on record clinchingly establishes that the scene of offence is inside the house of the accused. Apart from that, on examination of bloodstains on item Nos.1 to 4, which were seized from the scene of offence, the

Forensic Science Laboratory in its report (Ex.P.9), detected human blood on item Nos.1 to 4. In such circumstances, in the absence of any explanation by the accused, the Court can cogently draw an inference that the accused is responsible for causing stab injuries on the body of the deceased. Thus, the prosecution proved the circumstances by cogent and satisfactory evidence.

14. The other circumstances relied on by the prosecution is the confession of the accused, which lead to the recovery of weapon used in commission of offence. In the present facts of the case, according to the prosecution, Circle Inspector of Police (P.W.11) arrested the accused on 07.02.2012, and at the instance of the accused, he seized the knife (M.O.3) used for committing the offence. Therefore, the confession leading to discovery of M.O.2 is another strong link in the chain of circumstances. Therefore, the Court below rightly appreciated the evidence of Jinka Narsimlu (P.W.4), Jinka Gangadhar (P.W.5) and Jinka Ramesh (P.W.6). The conclusions drawn by the trial Court cannot be interfered by this Court while exercising power under Section 374(2) Cr.P.C.

15. Coming to the motive aspect, from the beginning, it is the consistent case of the prosecution, as seen from the evidence of Jinka Narsimlu (P.W.4), Jinka Gangadhar (P.W.5) and Jinka Ramesh (P.W.6), that the accused was not interested in the deceased, and he wanted to marry another woman. In that connection, the accused stabbed the deceased with a knife, resulting in her death. Thus, the prosecution has clearly established the motive behind the offence. In his statement under

Section 313 Cr.P.C., the accused has not explained anything about the incident, except denying the charges leveled against him. When the Court re-appreciated entire evidence and tested by touchstone of law relating to circumstantial evidence, we find no error in the finding recorded by the learned trial Court. For besides the motive, each and every circumstance relied upon by the prosecution, forms a complete chain of events so as to connect the appellant to the crime beyond a reasonable doubt.

16. For the reasons stated above, this Court does not find any merit in the present appeal; it is, hereby, dismissed. The impugned Judgment, dated 08.08.2012, in Sessions Case No.150 of 2012, on the file of the I Additional Sessions Judge, Adilabad, is hereby confirmed. The appellant's bail bonds are cancelled and the appellant shall forthwith surrender before the Superintendent, Chanchalguda Open Prison, Hyderabad.

RAGHVENDRA SINGH CHAUHAN, J

T.AMARNATH GOUD, J

Date: 20.03.2019
TJMR