

HIGH COURT FOR THE STATE OF TELANGANA

**THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND**

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Appeal No.1618 of 2008

Date: 20.08.2019

Between:

State of A.P.
Rep. by the Public Prosecutor,
High Court of A.P.,
Hyderabad.

...Appellant

and

Ramveer, S/o.Rameswar,
N/o. Prahladpur Village, Deegh Post,
Ballabgadh Taluk, Faridabad District,
Haryana State.

...Respondent

**Counsel for the appellants: Ms. J. Sridevi,
Additional Public Prosecutor**

Counsel for the respondent:

The Court made the following:

JUDGMENT: *(per the Hon'ble Dr. Justice Shameem Akther)*

This Criminal Appeal, under Section 378 (3) & (1) of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C'), is filed by the State aggrieved by the acquittal recorded against the respondent-accused No.4 for the offences punishable under Sections 109, 302, 411 and 302 read with 120-B of I.P.C. *vide* judgment dated 17.04.2006 in Sessions Case No.429 of 2004 on the file of the learned I Additional Metropolitan Sessions Judge, Hyderabad.

2. In brief the case of the prosecution is that one Ravikant Maheshwari (hereinafter referred to as 'the deceased No.1'), who was an industrialist, and native of Kalindini Colony, New Delhi, was the Managing Director of M/s. Patancheru Steel Private Limited, Patancheru. He was residing alone in Flat No.301, Mount Nasir Apartments, situated by the side of Ravindra Bharathi, Saifabad, Hyderabad. He was having office in Flat No.302 in the said apartment. Dulla Sampath Rao (hereinafter referred to as 'the deceased No.2') was working as Security Guard-cum-servant, and cook for him. Giriraj Singh Vaghela, the accused No.1, is a native of D. Fatehpur, Ballabgadh Taluk, Faridabad District, Haryana, whereas Surendra Singh Chowhan, Naresh Kumar Paghat and Sri Ramveer, the accused Nos.2 to 4 respectively, are natives of Deegh Village, Ballabghadh Taluk, Faridabad District, Haryana State. The accused No.1 being an employee

of the deceased No.1 had a close opportunity regarding the financial transactions of the deceased No.1. The deceased No.1 had sold a part of the land to J. Vinayaka Rao (P.W.3). On 19.12.2003, P.W.3 paid a sum of Rs.25,00,000/- towards part of sale consideration to the deceased No.1 at his residence. The accused No.1 was present at that time. Having noticed the availability of huge cash with the deceased No.1, the accused No.1 informed about the same to N. Srinivas (P.W.5) and sought his help to commit theft. But, P.W.5 did not entertain the idea, and admonished him for that plan. Thereafter, the accused No.1 hatched a criminal conspiracy with the accused Nos.2 and 3 to commit the murder of the deceased No.1, and to rob the cash and valuable things from his possession. On 21.12.2003, the accused Nos.2 and 3 collected two sharp knives from the accused No.4, came to Hyderabad from their native village, and occupied a room in Hotel Grand Dish, Chanda Nagar. On 22.12.2003 at about 11.00 p.m, in furtherance of their criminal conspiracy, the accused No.1 along with the accused Nos.2 and 3 entered the flat of the deceased No.1, committed the murder of the deceased Nos.1 and 2 by stabbing and slaughtering, and sped away in the car of the deceased No.1 after taking huge cash and gold chains and other articles.

On 23.12.2003, Syed Abdullah Ghouri @ Asgar (P.W.1), who was the driver of the deceased No.1, came to the flat of the deceased No.1 as usual in the morning to attend his duty.

He found that the car of the deceased No.1 was not there in the parking place. Then, he went to Flat No.301 and found that the main door was bolted from outside. He opened the door and noticed the dead body of the deceased No.2 lying in the hall, and the dead body of the deceased No.1 in the bedroom in a pool of blood. He observed injuries on the dead bodies of the deceased Nos.1 and 2. Then, he informed the same to D.N. Mallikarjun Rao (P.W.25) over telephone. P.W.25 and Md. Salauddin Anwar (P.W.24), who is a friend of the deceased No.1, came to the scene of offence. Then, P.W.1 informed about the incident to the police on phone. On arriving at the scene of offence, Md. Salauddin Anwar (P.W.24) gave a report (Ex.P.51) to K. Laxmi Narayana, the Sub-Inspector of Police, Saifabad Police Station (P.W.21). On the basis of the said report, a case in Crime No.1176 of 2003 was registered for the offences under Sections 302 and 380 r/w 34 I.P.C. and F.I.R. (Ex.P.52) was issued. Thereafter, the C.D. file was handed over to Mr. Nelson, the Inspector of Police, CCS (P.W.41). Mr. Nelson (P.W.41) took up further investigation with the assistance of Y.Tulsiram Prasad (P.W.40) and V. Verrappa (P.W.44). P.W.40 inspected the scene of offence with the assistance of P.W.44, drafted observation panchanama (Ex.P.63) and rough sketch of the scene of offence (Ex.P.85), and photographed the scene of offence. He seized M.Os.6 and 19 to 22 under Ex.P.63, observation panchanama, in the presence of mediators, Shiv

Kumar (P.W.29) and another. Mr.Nelson (P.W.41) held inquest over the dead bodies of the deceased Nos.1 and 2 under Exs.P.10 and P.11 in the presence of panch witnesses, Azhar Altaf (P.W.7) and Shiv Kumar Modi (P.W.29), and thereafter, sent the dead bodies for post-mortem examination.

Dr. T. Mahender Reddy (P.W.15) held autopsy over the dead body of the deceased No.1 and issued the Post-mortem Examination Report, Ex.P.43. D. Durdana Begum (P.W.32) held autopsy over the dead body of the deceased No.2 and issued the Post-mortem Examination Report, Ex.P.65.

On 23.12.2003, Karim Ishak Baig Mirza, the S.I. of Police (P.W.36) had seized Scoda Octavia Car (M.O.1) and also M.Os.3 to 5 and 29 under the cover of Ex.P.64, seizure report, in the presence of Chandu Gajananda Rao Deshmukh (P.W.31) and another. On 18.01.2001, the accused No.1 was apprehended by P.W.44 and on the basis of the information furnished by him, the accused Nos. 2 and 3 were also apprehended on the same day at about 11.45 p.m. On 20.01.2004, the accused No.4 produced gold chain (M.O.23) before Md. Ismail (P.W.45) and the same was seized under seizure report (Ex.P.62) in the presence of mediators. Thereafter, the accused Nos.1 to 4 were produced before the Magistrate concerned, who sent them to judicial remand. On completion of investigation and receipt of the FSL reports, Md. Ismail (P.W.45) filed charge sheet against the accused

Nos.1 to 4 for the offences punishable under Sections 302, 397, 379, 380, 404, 411 r/w 120 (b) I.P.C.

3. During the course of trial, the prosecution examined PWs.1 to 47 and got marked Exs.P.1 to P.109, besides the material objects MOs.1 to 36.

4. After closure of prosecution evidence, when the accused were examined under Section 313 Cr.P.C explaining the incriminating material appearing against them, they denied the same and contended that they were falsely implicated in the case. On behalf of the accused, though no oral evidence has been adduced, Exs.D.1 to D.3, marked portions of 161 Cr.P.C statements of P.Ws.1, 27 and 28, were marked.

5. The trial Court, on analysis of both oral and documentary evidence and the submissions put-forth before it, by the judgment dated 17.04.2006, while acquitting the accused No.4 for the offences under Sections 109, 302, 411 and 302 r/w 120-B I.P.C, held that the prosecution was able to prove the guilt of the accused Nos.1 to 3 beyond all reasonable doubt for the offences punishable under Sections 302, 302 r/w 120-B, 397 and 380 I.P.C., and accordingly, convicted and sentenced them to undergo life imprisonment each for causing the death of the deceased No.1 and to pay fine of Rs.5,000/- each in default to suffer rigorous imprisonment for two years each for the offence punishable under Section 302 I.P.C.; to undergo life imprisonment each

for causing the death of the deceased No.2 and to pay fine of Rs.5,000/- each in default to suffer rigorous imprisonment for two years each for the offence punishable under Section 302 I.P.C; to undergo life imprisonment each and to pay fine of Rs.5,000/- each in default to suffer rigorous imprisonment for two years each for the offence punishable under Section 302 r/w 120-B I.P.C; to undergo rigorous imprisonment for seven years and to pay a fine of Rs.2500/- each in default to suffer rigorous imprisonment for one year each for the offence punishable under Section 397 I.P.C. Since the offence under Section 380 I.P.C. is merged with Section 397 I.P.C., no separate sentence was awarded for the offence under Section 380 I.P.C. The sentence of imprisonment imposed against the accused Nos.1 to 3 for the offences punishable under Sections 302 r/w 120-B and 397 I.P.C and the imprisonment imposed against them for causing the death of the deceased No.2 were directed to run concurrently with the substantive sentence imposed against them for the offence under Section 302 I.P.C for causing the death of the deceased No.1.

6. Challenging the acquittal recorded against the accused No.4 for the offences punishable under Sections 109, 302, 411 and 302 read with 120-B of I.P.C., the State preferred the present appeal.

7. Heard arguments of Smt. J.Sridevi, learned Additional Public Prosecutor for the appellant/State and perused the record.

8. Smt. J.Sridevi, learned Additional Public Prosecutor, would submit that there is direct evidence constituting the offences against the respondent-accused No.4 for the offences punishable under Sections 109, 302, 411 and 302 read with 120-B of I.P.C. However, without advertng to the evidence on record, the trial Court erred in acquitting the accused No.4 for the said offences and ultimately prayed to set aside the acquittal recorded against the accused No.4 and to convict him for the said offences.

9. In the course of submissions, it is brought to the notice of this Court that challenging the conviction and sentence recorded against the accused Nos.1 to 3 for the offences punishable under Sections 302, 302 r/w 120-B, 397 and 380 I.P.C., they filed CrI.A.No.624 of 2006 before this Court and the same was dismissed confirming the conviction and sentence recorded. Aggrieved by the same, the accused Nos.1 to 3 approached the Hon'ble Supreme Court and filed CrI.A.Nos.1339, 1662 and 1342 of 2009. The Supreme Court held that the High Court did not err in affirming the judgment of the conviction and sentence passed by the trial Court, and accordingly, dismissed the criminal appeals.

10. The specific allegation made against the accused No.4 is that he had supplied knives to the accused Nos.1 to 3 and thereby, aided to commit the subject death. As seen from the entire material on record, there is no direct evidence to show that the knives were supplied by the accused No.4 to the accused Nos.1 to 3. Furthermore, there is no evidence of conspiracy as set up by the prosecution against the accused No.4.

11. Under these circumstances, the trial Court is justified in acquitting the appellant-accused No.4 for the offences under Sections 109, 302, 411 and 302 read with 120-B of I.P.C. There is no infirmity as such in the impugned judgment warranting interference.

12. The appeal is devoid of merits and it is dismissed accordingly.

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(Dr. SHAMEEM AKTHER, J)

Date: 20.08.2019

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