

IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

**TUESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY**

PRESENT

HONOURABLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HONOURABLE SRI JUSTICE B.VIJAYSEN REDDY

CRIMINAL APPEAL NO: 1125 OF 2014

Criminal Appeals under Section 374 (2) of Cr.P.C., against the Judgment and Order dated.25.08.2014 S.C. No. 463 of 2013 on the file of the Court of the VI Additional Sessions Judge, at Mahabubabad Warangal District.

Between:

Chilakamari Yadagiri, S/o. Gopaiah, C.T.No. 6529, Central Prison, Warangal, Telangana State.

...Appellant (Accused In Jail)

AND

The State of Telangana, represented by the Public Prosecutor, High Court, at Hyderabad.

...Respondent

Counsel for the Appellant: SMT T. BALA JAYASRI

Counsel for the Respondent: PUBLIC PROSECUTOR

The Court made the following: JUDGMENT

JUDGMENT: (Per Hon'ble Sri Justice B. Vijaysen Reddy)

This criminal appeal is filed aggrieved by the conviction recorded by the VI Additional Sessions Judge, Mahabubabad, vide judgment dated 25.08.2014 in S.C.No.460 of 2013 whereunder the appellant was convicted for the offence under Section 302 IPC and sentenced to undergo life imprisonment and also to pay fine of Rs.5,000/- and in default to undergo simple imprisonment for a period of six months.

2. In brief, the case of the prosecution is that:

(a) The accused, Chilakamari Yadagiri, committed murder of his mother, Chilakamari Lachamma, on 12.01.2012 at about 11.00 hours by strangulation and thereby committed the offence under Section 302 IPC.

(b) The daughter of the deceased, Yenagandula Venkatalexmi, W/o. Venkateshwarlu, Wardhannapet village, lodged a report in Cr.No.6 of 2012 before Thorrur stating that the accused might have committed murder of her mother as there were disputes between them and the accused used to threaten to kill her mother. The Inspector of Police, Thorrur, conducted inquest on the dead body of the deceased and also sent the dead body for post mortem examination and recorded the statements of the witnesses including the defacto complainant, P.W.1 and after receipt of post mortem certificate and other report, investigation officer filed charge sheet against the accused for the offence under Section 302 IPC.

(c) The prosecution examined P.Ws.1 to 16, marked Exs.P1 to P16 and M.Os.1 and 2.

3. The trial Court convicted the accused under the impugned judgment and sentenced the accused to undergo life imprisonment. Hence, the appeal.

4. Learned counsel for the appellant submitted that the trial Court fell in error by recording conviction based on inconclusive circumstantial evidence. The accused did not live in the house at Gunnepally Village since three days prior to the death of the deceased. There was no corroboration of evidence of P.Ws.1 and 2 by the evidence of P.Ws.7 and 8. The learned trial Court Judge erred in believing that the accused/appellant was absconding from the scene of offence since morning of 12.01.2012. P.Ws.9 and 10 are declared hostile and thus, their evidence stating that they have seen the accused by the side of the canal could not have been believed by the trial Court. Since the accused was not present in the house three days prior to the death of the deceased, there was no occasion for the accused to lodge a complaint with the police about the death of the deceased. There is no evidence to show that the accused used to quarrel with his mother; thus, the motive theory as projected by the prosecution does not exist. M.O.1 rope which allegedly used for strangulation of the deceased is not the rope allegedly used by the accused since there is discrepancy in the evidence of P.W.8 with regard to the colour of the rope.

5. On the other hand, the learned Public Prosecutor has vehemently contended that the evidence of P.Ws.7 and 8 is very clear, clinching and conclusive. The same is corroborated by the evidence of P.Ws.1 and 2. P.Ws.7 and 8 are the residents of Gunnepally village where the accused and the deceased used to reside. They have stated that they have seen the accused moving out of the house at about 10.30/11.00 AM on 12.01.2012. Further, P.Ws.7 and 8 also stated that the accused used to frequently quarrel with the deceased demanding the deceased to sell the land and the accused was addicted to alcohol. Since the accused was last seen in the company of the deceased, there

was no way by which it can be inferred that any other person could have gained entry into the house and the burden under Section 106 of the Indian Evidence Act, has not been discharged by the accused. Thus, the conviction recorded by the trial Court needs to be sustained.

6. P.Ws.3, 4, 5, 6, 9, 10 and 11 turned hostile. This is a case based on circumstantial evidence.

7. P.W.1 deposed that *"One Ramaiah Carobar of VRO of Gunnepalli Village informed me by phone that my mother died. Then I along with my husband Venkateshwarlu (LW-2) came down to Gunnepalli Village and found the dead body of my mother with a rope around her neck by the side of a cot in her house at Gunnepalli Village and there was bleeding from the back of her head. My deceased mother was living along with my younger brother who is accused in the said house. I gave complaint to the Sub-Inspector Narsimhulapet on 13-01-2012 at about 2.00 PM. Ex.P-1 is my complaint. Police examined me. We suspected that the accused might have killed my mother since the accused used to harass the deceased for money for his drinking alcohol."*

8. P.W.2 corroborated the evidence of P.W.1 and spoke on the same lines.

9. P.W.3, though declared hostile by the prosecution, deposed that *"...One Radhamma (LW3) informed me that the doors of the house of the deceased were opened since previous night. I telephoned to PW-1 about the same. I informed the same to village servant and in turn he informed the same to the police. I know the accused."*

In the cross-examination by the prosecution, P.W.3 stated that *"...the deceased came to me and reported that the accused was harassing her for money for his bad habits."*

10. P.W.7 is a resident of Gunnepally Village. He stated that *"I know the deceased Lachamma and also the accused. The deceased died about two years ago. I saw the accused going out of the house at 11.00 a.m. on the previous day of the death of the deceased. The accused used to harass the deceased to purchase auto rickshaw for him or to sell away his share of two acres of land. The accused was absconding from the previous day of the day on which we saw the dead body of the deceased."*

11. P.W.8 is a resident of Gunnepally Village. He deposed that *"...I am a auto rickshaw driver by profession, I know the accused and also the deceased Lachamma who died about two years ago. I am residing by the side of the house of the accused in Gunnepally village. The accused and the deceased were alone living in the house. On 12.01.2012 I saw the accused going out of his house at about 1.30 or 11.00 a.m. and then I went out with my auto rickshaw and returned to Gunnepally village at about 7.30 p.m ... Then I came to know that there was murder at my village Gunnepally and so I came back to Gunnepally and found the police in the house of the deceased. I went and saw the dead body of the deceased Lachamma. There were disputes between the deceased and accused for money when he returned from Surath before six months of the death of the deceased. The mother of the accused requested me to give training to the accused to drive the auto rickshaw but I refused for the same. The accused was not doing any work. Then the deceased purchased a second hand auto rickshaw at Peddamupparam village and gave it to the accused. The accused had run the auto rickshaw for about six months and then the auto rickshaw met with an accident wherein a passenger was injured. Then the accused out of fear consumed insecticide to commit suicide. The mother of the accused (deceased)*

paid an amount of Rs.5000/- as compensation to the injured passenger. The accused used to tell me that he would kill his mother (deceased) as she was not giving money to him. The deceased used to earn by doing labour work and also her two acres of land was given on lease ..."

12. P.W.9 is resident of Gunnepalli village. He stated that *"...About 1 year ago I along with my friend Srinivas went to Khammam to purchase pillows and then I noticed the accused by the side of the canal and then I passed on information to the Sub Inspector about the presence of accused. Then the Sub Inspector Narsimhulapet came by jeep immediately and took the accused into his custody and went away."*

13. P.W.10 corroborated the statement of P.W.9. P.W.11 is the witness to the scene of offence panchanama under Ex.P7. Though P.W.11 was declared hostile, in the cross-examination, he stated that he attested Ex.P7. P.W.12 is the witness to inquest panchanama under Ex.P8. P.W.13 is the Doctor, Civil Assistant Surgeon, Area Hospital, Mahabubabad, who gave PME report under Ex.P9 stating that the cause of death is due to strangulation. P.W.14 is the Investigating Officer, who filed charge sheet. P.W.15 was the then Sub Inspector of Police, Dharmasagar, Warangal District, who registered the FIR under Ex.P16.

14. The main point which needs to be addressed is whether the accused lived in the house of the deceased at Gunnepally village. In the cross-examination, the defence counsel suggested that the accused was not present in the house for three days before the date of the incident of death. It is not in dispute that the house of the deceased at Gunnepally Village is the permanent residence of the

accused. There is no evidence either direct or otherwise to draw an inference that the accused did not live in the house on the day when the deceased died. The death of the deceased is by strangulation as per the evidence of P.W.13 under Ex.P9 report. Except the accused, no other person could have had access to the house of the deceased.

15. P.Ws.1 and 2 and P.Ws.7 and 8 have all categorically deposed that the accused was addicted to alcohol and harassing the deceased for money and for selling two acres of land. The relations between the deceased and the accused were not cordial. Thus, the accused had grudge against the deceased for not acceding to his request to sell the land. This is the principal motive for the accused to do away with the life of the deceased. Though P.Ws.1 and 2 are sister and brother-in-law of the accused, their statement cannot be looked with any suspect since there is not reason as such for P.Ws.1 and 2 to falsely implicate the accused in the murder case. Though suggestion is given by the defence counsel that P.W.1 was interested in knocking away the property of the deceased, such suggestion appears to be without any basis. The evidence of P.Ws.1 and 2 is corroborated by the statements of P.Ws.7 and 8. P.Ws.7 and 8 stated that on the previous day they have seen the accused coming out of the house of the deceased at about 10.30/11.00 AM. Thus, it cannot be doubted that the accused was last seen in the company of the deceased. In the 313 Cr.P.C. examination, the accused was not able to explain that he did not live in the house of the deceased on the previous day i.e. on the day of the death of the deceased. Since the accused was living with the deceased and he was last seen in the company of the deceased, the burden was on the accused under Section 106 of the Indian Evidence Act to prove that he did not reside in the house of the deceased for the last three days. There is no cross-examination in that regard. There is no

explanation in the 313 Cr.P.C statement as to his whereabouts for three days prior to the death of the deceased. The accused has not pointed out any lacunae in the case of the prosecution. The circumstances leading to the death of the deceased has been conclusively established by the prosecution by adducing evidence of P.Ws.1, 2, 7 and 8, which is clear, trustworthy and unshakable.

16. In view of the above observations, this Court does not find any merit in the appeal, as there is no error or infirmity whatsoever in the judgment of the trial Court and the same is confirmed. The criminal appeal is accordingly dismissed.

As a sequel, the miscellaneous petitions, pending if any, shall stand closed. There shall be no order as to costs.

Sd/-K.GANGADHAR RAO
JOINT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The VI Additional Sessions Judge, at Mahabubabad Warangal District.
2. The Judicial First Class Magistrate, at Thorrur.
3. The Station House Officer, Narsimhulapet, Police Station Thorrur.
4. Two CCs to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
5. The Superintendent, Central Prison, Warangal.
6. One CC to Smt T. Bala Jayasri, Advocate [OPUC]
7. Two CD Copies

MMK



HIGH COURT

RSCJ
&
BVRJ

DATED:10/11/2020



JUDGMENT

CRLA.No.1125 of 2014

DISMISSING THE CRIMINAL APPEAL

9
MMA
24/12/2020