

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL APPEAL No.1055 OF 2014

JUDGMENT: (Per Hon'ble Dr.SA,J)

This Criminal Appeal, under Section 374 (2) of the Code of Criminal Procedure, 1973, is filed by the appellant/A1 challenging the Judgment, dated 11.07.2014, passed in S.C.No.126 of 2014 by the VIII Additional Sessions Judge, Mahabubnagar, whereby, the appellant/A-1 was convicted of the offence punishable under Section 302 I.P.C. and sentenced to undergo imprisonment for life and to pay a fine of Rs.500/-, in default, to undergo rigorous imprisonment for a period of three(3) months.

2. Heard the learned counsel for the appellant/A1, learned Additional Public Prosecutor appearing for the respondent-State and perused the record.

3. In the course of submissions, it is brought to the notice of this Court by the learned Additional Public Prosecutor that the subject death is homicidal, however, the Doctor, who conducted post-mortem examination over the dead body of the deceased, or any person, who has acquaintance with the writing of the said Doctor, was not examined, but the post-mortem examination report was marked as Ex.P10 through PW.12-Investigating Officer.

4. As seen from the material placed on record, there is no dispute with regard to marking of the post-mortem examination report of the deceased as Ex.P10 through PW.12-the Investigating

Officer. But, the Doctor, who issued the post-mortem examination report, was not examined. Examination of the Doctor, who conducted post-mortem examination over the dead body of the deceased, or any person, who has acquaintance with the writing of the said Doctor, is necessary to find out whether the subject death is homicidal or not, the time of death etc. Under these circumstances, the impugned Judgment, dated 11.07.2014, is liable to be set aside.

5. In the result, the impugned judgment, dated 11.07.2014, passed in Sessions Case No.126 of 2014 by the VIII Additional Sessions Judge, Mahabubnagar, is set aside, and the matter is remanded to the trial Court with a direction to dispose of the subject Sessions Case afresh, after recording the evidence of Doctor concerned etc., as indicated above and providing opportunity to both sides to lead evidence, if any. The appellant/A1 shall be set at liberty forthwith, if he is not required in any other case and further, he is directed to appear before the trial Court, on all the dates when the case is taken up as indicated above.

6. Accordingly, the Criminal Appeal is allowed.

Miscellaneous Petitions, if any, pending in this Criminal Appeal shall stand closed.

A. RAJASHEKER REDDY, J

Dr. SHAMEEM AKTHER, J

March 22nd, 2021.
MD