

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND TWENTY TWO**

PRESENT

**THE HON'BLE DR. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SMT JUSTICE JUVVADI SRIDEVI**

CRIMINAL APPEAL NO: 576 OF 2013

**Crl.Appeal Under Section 374 (2) R/w. Sec. 383 of Cr.P.C. aggrieved by
the Judgment dated 29-08-2012 in S.C.No. 581 of 2010 on the file of the Court
of the Principal Sessions Judge, Warangal.**

Between:

**Ramancha Komelu, S/o Mogili, Age About 23 years R/o Vankole Village, Warangal
District. ...APPELLANT/ Accused**

AND

- 1. State of Telangana, Rep. by its Public Prosecutor, High Court of A.P., at
Hyderabad.**
- 2. The State of Andhra Pradesh, Rep. by its Public Prosecutor, High Court of
A.P., at Hyderabad, through Inspector of Police Parkal, Warangal District.**

...RESPONDENTS/ Complainants

Counsel for the Appellant: SRI. P. SATYA MANJULA

Counsel for the Respondent Nos.1 & 2 : THE PUBLIC PROSECUTOR

The Court delivered the following: Judgment

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI**

CRIMINAL APPEAL No.576 OF 2013

JUDGMENT: (Per Hon'ble Dr. Justice Shameem Akther)

This Criminal Appeal, under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C'), is filed by the appellant/accused, aggrieved by the judgment, dated 29.08.2012, passed in S.C.No.581 of 2010 by the Principal Sessions Judge, Warangal, whereby, the Court below convicted the appellant/accused of the offence punishable under Section 302 of IPC and sentenced him to undergo imprisonment for life and to pay fine of Rs.5,000/-, in default, to undergo rigorous imprisonment for three months.

2. We have heard the submissions of the learned legal aid counsel for appellant/accused, the learned Public Prosecutor appearing for the respondent/State and perused the record.

3. The case of the prosecution, in brief, is as follows:

On 17.09.2009, PW.1-Doggela Komralah went to Parkal Police Station and lodged Ex.P1 complaint stating that on the same day at about 06:30 PM, his mother-Doggela Yellamma (the deceased) left the house with a tumbler, for attending nature call. After some time, his sister-in-law Doggela Manjula (PW.3) came running to him and informed that while the deceased was returning home after attending

the nature call, one Ramancha Kornelu (appellant/accused) beat her heavily on the head due to which, the deceased fell down with blood injuries and died. Though she made hues and cries not to beat the deceased, the appellant/accused did not heed to her words. On raising hues and cries, the appellant/accused fled away from there. While the appellant/accused was beating the deceased, Mootha Anasurya (LW.5), Doggela Komuraiah (PW.4) and Oruganti Lachamma (PW.5) witnessed the incident. Immediately PW.1 went to the place where her mother fell down, by which time, the deceased died. Previously, the appellant/accused used to wander in the village madly. Earlier also, he beat Bollam Karnakar Reddy, Doggela Ramesh and even his own sister, namely Saaviti Rajitha in the same manner with his mad behaviour. Though his villagers tried their level best to send the appellant/accused to Yerragadda mental hospital, it could not be possible and requested to take necessary action against the appellant/accused.

4. Basing on the report lodged by PW.1, PW.11-SI of police registered a case in Crime No.252 of 2009 for the offence under Section 302 of IPC and issued Ex.P8-Express FIR. He recorded the statement of the PW.1/complainant and handed over the investigation to PW.12-CI of Police. PW.12 visited the scene of offence, conducted scene of offence panchanama and inquest over the dead body of the deceased under Ex.P4, in the presence of PW.8,

LW.14 and LW.15, seized MO.4-blood stained stick, drawn rough sketch and sent the material objects to Forensic Science Laboratory through Court for report. On 21.09.2009, PW.12 arrested the appellant/accused, interrogated him in the presence of PW.9 and LW.16 during which, the appellant/accused confessed the commission of offence, recorded his confessional statements, and sent him to the Court for judicial remand. PW.12 also recorded the statements of PWs.2 to 7 and LWs.5, 7, 8, 9 and 11. On completion of investigation, PW.12 laid charge-sheet before learned Judicial Magistrate of First Class, Parkal, against the appellant/accused of the offence punishable under Section 302 of IPC.

5. The learned Magistrate had taken cognizance against the appellant/accused of the offence under Section 302 of IPC, registered the same as P.R.C.No.8 of 2010 and committed the same to the Court of Session, since the offence under Section 302 of IPC is exclusively triable by the Court of Session. On committal, the Court below numbered the case as S.C.No.581 of 2010 and on appearance of the appellant/accused, framed charge against him of the offence under Section 302 of IPC, read over and explained to him, for which, the appellant/accused pleaded not guilty and claimed to be tried.

6. To prove the guilt of the appellant/accused, the prosecution examined PWs.1 to 12 and got marked Exs.P1 to P9, besides case properties, MOs.1 to 6.

7. PW.1-Doggela Komuraiah is the complainant and the son of the deceased. PW.2-Doggela Rajaiah is the husband of the deceased and father of PW.1. PW.3-Doggela Manjula is the daughter-in-law of the deceased and an eye-witness to the occurrence of the incident. PW.4-Doggela Komuraiah, PW.5-Oruganti Lachamma and PW.6-Kore Komuraiah are the eye-witnesses to the occurrence of the incident.

PW.7-Pitta Tirupathi is the photographer who took Ex.P3-photographs of the corpse of the deceased. PW.8-Murala Madhusudhan is a panch witness to Ex.P4-inquest panchanama. PW.9-P.Sadanandam is a panch witness to Ex.P6-confession panchanama. PW.10-Dr.B.Venkatalaxmi is the doctor who conducted autopsy over the dead body of the deceased and issued Ex.P7-PME Report. PW.11-B.Mallalah is the SI of Police who registered the subject crime and issued Ex.P8-Express FIR. PW.12-G.V.Shyamsunder Reddy is the investigation officer who arrested the appellant/accused and laid charge-sheet before the Court. Ex.P1 is the complaint. Ex.P2 is 161 Cr.P.C. Statement of PW.6. Ex.P3 is photographs along with CD. Ex.P4 is inquest panchanama of the deceased. Ex.P5 is Crime Details Form along with rough sketch. Ex.P6 is Confession Panchanama of the appellant/accused. Ex.P7 is

PME Report of the deceased. Ex.P8 is FIR. Ex.P9 is FSL Report, dated 14.11.2009. MO.1 is the saree, MO.2 is the blouse, and MO.3 is the petticoat of the deceased. MO.4 is blood stained stick. MO.5 is blood stained earth and MO.6 is control earth.

8. When the appellant/accused was confronted with the incriminating material appearing against him and was examined under Section 313 of Cr.P.C., he denied the allegations. On behalf of the appellant/accused except marking Ex.D1-relevant portion of 161 Cr.P.C. statement of PW.2, no other evidence, either oral or documentary, was adduced.

9. The trial Court, having considered the submissions made and the evidence available on record, *vide* the impugned judgment, dated 29.08.2012, convicted the appellant/accused of the offence punishable under Section 302 of IPC and sentenced him as stated *supra*. Aggrieved by the same, the appellant/accused preferred this appeal.

10. Learned counsel for the appellant/accused would contend that the Court below ought not have convicted and sentenced the appellant/accused by placing reliance over the evidence of PWs.1 to 4, who are interested witnesses. The appellant/accused is not responsible for the death of the deceased. There are contradictions and material omissions in the evidence of PWs.1 to 4. There is no

motive on the part of the appellant/accused to commit the subject offence. The prosecution failed to prove the guilt of the appellant/accused of the offence punishable under Section 302 of IPC, beyond all reasonable doubt. Alternatively, it is vehemently contended that the appellant/accused is a person of unsound mind and not capable of understanding the acts committed by him. The same is also mentioned in Ex.P1 report lodged with the police. Some of the prosecution witnesses have also admitted in their evidence that the appellant/accused beat some people in the village and the villagers wanted to send him to Mental Hospital, but however, it was not materialised. Therefore, the appellant/accused is entitled for benefit of doubt under Section 84 of IPC and ultimately prayed to allow the appeal by setting aside the conviction and sentence recorded against the appellant/accused and acquit him of the said offence.

11. *Per contra*, the learned Public Prosecutor would submit that absolutely there is no evidence on record to substantiate that the appellant/accused was insane at the time of commission of the subject offence or has exhibited any signs of insanity, to grant benefit under Section 84 of IPC. There are direct witnesses to the commission of the subject offence by the appellant/accused. Further, when there is direct evidence with regard to commission of an offence, motive loses its significance. The injuries were inflicted

on the deceased with an intention to do away with her life, which resulted in her instantaneous death. There is medical evidence to substantiate the same. There is no inconsistency between the evidence of direct witnesses and medical evidence. The prosecution proved the guilt of the appellant/accused beyond all reasonable doubt of the offence under Section 302 of IPC and ultimately prayed to dismiss the appeal by confirming the conviction and sentence recorded against the appellant/accused *vide* the impugned judgment.

12. In view of the above submissions made by both sides, the points that arise for determination in this appeal are as follows:

- 1) *Whether the appellant/accused caused the death of the deceased-Doggela Ellamma by beating her on the backside of her head with a stick?*
- 2) *Whether the appellant/accused was suffering from insanity at the time of commission of the subject offence?*
- 3) *Whether the prosecution is able to prove the guilt of the appellant/accused beyond all reasonable doubt?*
- 4) *Whether the conviction and sentence recorded against the appellant/accused of the offence punishable under Section 302 of IPC is liable to be set aside?"*

POINTS:

13. The case of the prosecution is that on 17.09.2009, at about 6.30 p.m., while the deceased was returning after attending the natural call and when she reached near the house of the appellant/accused, the appellant/accused beat her with a

stick on the backside of her head, as a result of which, she suffered head injury and succumbed to the injury on the spot. Hence, the appellant/accused is guilty of committing murder of the deceased.

14. PW.1 and PW.2 are the son and husband of the deceased. They are not eye-witnesses to the occurrence of the incident. PW.1 deposed that at about 06:30 PM on the date of the incident, PW.3 came and informed that the appellant/accused beat the deceased with a stick while she was returning after answering natural call, due to which the deceased fell down near the house of the appellant/accused. Immediately, himself, his father (PW.2) and PW.3 went to the scene of offence and found that the deceased was lying dead and blood was oozing from her head.

15. PW.2 deposed that at about 06:30 PM, while he was at his house, PW.3 informed him that the appellant/accused was beating the deceased with a stick near the house of the appellant/accused, while the deceased was returning to the house after attending the nature call. Then, himself, PW.1 and PW.3 went to the scene of offence and found the deceased lying dead in a pool of blood. PW.2 further deposed that they

found a stick with which the deceased was beaten by the appellant/accused, near the house of the appellant/accused.

16. PW3 is a direct witness to the occurrence of the incident. She deposed that on the date of incident, at about 06.30 PM, she went to a bore well to fetch water, situated on Chinthalapally road near to the house of Ilamma. While she was carrying water pot, she noticed that the appellant/accused was beating the deceased with a stick on the backside of her head. When she intervened to stop beating, the appellant/accused raised the stick on her also. The deceased fell down due to injury on her head. Then she went to the house of PWs.1 and 2 and informed the same to them and all of them went to the scene of offence and by that time, they found the deceased died due to injuries. She further deposed that PWs.4 to 6, who were coming after attending their work, also witnessed the incident.

17. PW4 is another direct witness. He deposed in his evidence that on the date of incident at about 6.30 PM, after attending labour work, while he was returning to his village through Chinthalpally Road and when he reached near to the house of the appellant/accused, he noticed that the appellant/accused was beating the deceased with a stick on the backside of her head. PW.3, who was present there, tried to

resist the appellant/accused. In spite of the same, the appellant/accused beat the deceased, due to which, the deceased fell down and died. Then PW.3 went to the house of PWs.1 and 2 and brought them to the scene of offence. PW.4 further deposed that he was at the scene of offence till the arrival of PWs.1 to 3. He further deposed that PWs.5 and 6 also witnessed the incident.

18. PW.5 is another direct witness. He deposed that on the date of incident at about 06:30 PM, while she was returning from agricultural work, she noticed that PW.3 was raising hue and cry not to beat the deceased, as the appellant/accused was beating the deceased with a stick on the backside of her head. Herself, PW.4, LW.5, PW.6 and LW.11 have seen while the appellant/accused was beating the deceased. After beating, the appellant/accused went away from the place by throwing the stick. Thereafter, PW.3 informed the incident to PWs.1 and 2 and they came there.

19. PW.6 deposed in his evidence that on the date of incident at about 6.30 PM, while he was returning home along with goats, when he reached near the house of the appellant/accused in S.C.Colony, he noticed that there was a gathering and somebody died, that one lady by name Yellamma

died. He did not go near the crime place. He went away to his home along with the goats. PW.6 was declared hostile and cross-examined by the Public Prosecutor. In his cross-examination, PW.6 stated that on the date of incident at about 6.30 PM, while he was returning to his house along with his goats and when he reached near S.C. Colony, he noticed that the appellant/accused was beating the deceased with a stick on her head, due to which, she fell down and PW.3 was also there and she tried to stop the appellant/accused from beating. Then, PW.3 went to the house of the deceased and informed the same and PWs.1, 2 and 3 came there and that PWs.4 and 5 and LW.5 also witnessed the incident. He categorically denied the suggestion that he is speaking falsehood to help the accused.

20. Though PW.6 did not support the case of prosecution, his evidence goes to show that an incident occurred near the house of the appellant/accused in which, the deceased died due to head injury. Admittedly, PW.3 is related to the deceased as her daughter-in-law by courtesy. It is settled law that the evidence of an interested witness cannot be discarded in toto. It is the duty of the Court to be more careful in scrutinizing the evidence of interested witness and if, on such a scrutiny, it is found that his/her evidence is otherwise trustworthy, it can be acted upon.

It is the totality of the evidence that matters and if the same inspires confidence of acceptability, the question of rejecting the evidence on the ground of 'interested witness' would not be justifiable. In the instant case, on a close scrutiny of the evidence of PW.3, it is found to be reliable, trustworthy and creates a confidence of acceptability, for the reason that her presence at the scene of offence is not improbable and unnatural. Her presence is witnessed by PWs.4, 5 and other witnesses and injuries spoken by her corroborates the medical evidence on record.

21. Further, as rightly held by the Court below, the presence of PWs.4 to 6 at the place of occurrence cannot be considered as improbable, since usually in villages, people go out in the morning for various works and return to home in the evening hours. PWs.4 to 6 have stated that while they were returning home from labor work, agricultural work and grazing cattle respectively, they saw the commission of the offence by the appellant/accused.

22. PW.10-doctor deposed in his evidence that he received a requisition from the police, Parkal, on 18.09.2009 to conduct Post-Mortem Examination over the dead body of the deceased. Accordingly, he commenced the PME at 02:00 PM and while

conducting PME, he noticed the following ante-mortem injuries over the dead body of the deceased.

1. *Fracture of skull bones present.*
2. *Lacerated injury over the occipital region of skull and brain lobe.*

PW.10 opined that the cause of death was due to "shock and hemorrhage due to skull injury". He issued Ex.P7-PME Report. There is consistency and corroboration in the evidence of PW.10-doctor and Ex.P7-PME report. PW.10-doctor, in his evidence, clearly stated that the death of the deceased was due to 'shock and hemorrhage due to skull injury'. The same is mentioned in Ex.P7-PME report also. He also deposed that a lacerated injury was found over the occipital region of skull and brain lobe of the deceased. The same is also mentioned in Ex.P7-PME report. Such injury can be caused when a person is hit by a stick on the backside of his/her head. MO.4-blood stained stick was seized from the scene of offence by PW.12-investigating officer. The evidence of PWs.3 to 5 discloses that the deceased was beaten by the appellant/accused on the backside of her head with MO.4-stick. The evidence of PWs.3 to 6 corroborates with the medical evidence. There are no material omissions or contradictions in the evidence of PWs.3 to 6. Their evidence is cogent, convincing, and inspiring confidence to act upon it. They are the natural witnesses to the subject incident.

23. PW.12, the then inspector of Police, Parkal, deposed in his evidence that on 18.09.2009, he took up investigation in this case, visited scene of offence, conducted inquest over the dead body of the deceased under Ex.P4 and seized MOs.1 to 3, i.e., saree blouse and petticoat respectively, of the deceased, in the presence of PW.8, LW14-Mutha Ravi and LW15-Oonapakala Radha. He further deposed that he conducted scene observation in the presence of above mediators and seized MOs.4 to 6, i.e., blood stained stick, blood stained earth and control earth, respectively and drawn rough sketch under Ex.P5. The evidence of PW.8-panch witness corroborates the evidence of PW.12 with regard to seizure of MOs.1 to 3 under Ex.P4-inquest panchanama and MOs.4 to 6 and other material objects under Ex.P5-crime details form along with rough sketch. PW.12 further deposed that on 21.09.2009, he arrested the appellant/accused at his residence and recorded his confessional statement in the presence of PW.9 and LW.16-Parsha Ravi, wherein, the appellant/accused confessed the commission of offence with a stick and further stated that he has thrown the said stick at the crime scene. The evidence of PW.9 corroborates the evidence of PW.12. There is no much cross-examination of PW.9 with regard to Ex.P6-confession panchanama. MO4-blood stained stick was recovered from the scene of offence. Though PW.8 was cross examined, nothing was elicited to disprove his testimony in chief examination.

24. The evidence of PW.12-investigating officer further shows that he has forwarded the seized material objects to Forensic Science Laboratory for analysis and report. Ex.P9 is the FSL Report, dated 14.11.2009, which shows that human blood was detected on MOs.1 to 5, except MO.6-control earth, and the blood group of the blood found on MO.1-saree, MO.2-blouse and MO.4-blood stained stick is "O" group. Thus, Ex.P9-FSL Report, dated 14.11.2009, supports the prosecution case.

25. Further, it is settled law that motive is of no consequence and pales into insignificance, when direct evidence establishes the crime. In the instant case, since there is ocular evidence of PWs.3 to 5 who consistently narrated that the appellant/accused beat the deceased with MO.4-stick on the backside of her head resulting in her instantaneous death, motive on the part of appellant/accused to cause death of the deceased is hardly relevant. The manner in which the deceased was beaten by the appellant/accused with MO.4-blood stained stick and causing her instantaneous death substantiates that the injuries were caused by the appellant/accused with an intention to do away with the life of the deceased and all the requirements of the offence under Section 302 of IPC are proved beyond all reasonable doubt against the appellant/accused.

26. Learned counsel for the appellant/accused alternatively contended that the appellant/accused was insane at the time of commission of the subject offence and therefore, the appellant/accused is entitled for benefit of doubt under Section 84 of IPC.

27. Section 84 of IPC reads as follows:

84. Act of a person of unsound mind – *Nothing is an offence which is done by a person, who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.*

28. The standard to be applied in a case where a plea of insanity is taken is whether, according to the ordinary standard adopted by a reasonable man, the act was right or wrong. An accused who seeks exoneration from liability of an act under Section 84 of IPC is to prove 'legal insanity' and not 'medical insanity'. The expression "unsoundness of mind" has not been defined in the IPC. But the term 'insanity' carries different meaning in different contexts and describes varying degrees of mental disorder. Every person who is suffering from mental disease is not *ipso facto* exempted from criminal liability. The burden to prove insanity is on the accused. Even if the accused establishes unsoundness of mind, Section 84 of IPC would not come to his rescue, in case it is found that the accused knew that what he was doing was wrong or that it was contrary to law. In order to ascertain the same, it is imperative to take into

consideration the circumstances and the behavior preceding, attending and following the crime. In a recent judgment in **Santosh Maruti Mane Vs. The State of Maharashtra**¹, the Hon'ble Apex Court held as follows:

"...In the instant case, the High Court has discussed the entire evidence on this issue including the one referred to by the appellant and after analysing the same has held this aspect against the appellant. It is not necessary to reproduce the evidence discussed by the High Court in this behalf. Suffice is to mention that, in defence, the appellant had produced two witnesses, namely, DW-1, Dr. Dilip Shankar Burte and DW-2, Mr. Shrivnanand Gangadhar Shete, Pharmacist. However, testimonies of both of them could not advance the case. It may also be mentioned that the High Court has specifically dealt with and analysed the subject matter under the following heads: (i) conduct of the appellant a day prior to the incident; (ii) conduct of the appellant immediately prior to the incident; (iii) conduct of the appellant during the incident; (iv) evidence to show that the appellant was aware of what he was doing during the incident; and (v) defence evidence of the appellant.

29. In the instant case, there is no evidence showing that the appellant/accused was insane at the time of commission of offence. The Court below discussed the entire evidence on this issue and after analyzing the same, held this aspect against the appellant/accused. During the course of examination of the appellant/accused under Section 313 of Cr.P.C., the appellant/accused has filed a medical note book to establish the plea of unsoundness of mind. A perusal of the said note book reveals that the appellant/accused took treatment for the period between 14.11.2007 and 07.05.2009. The subject death was caused on 17.09.2009, i.e., much after the treatment for mental illness. Furthermore, there is evidence of PWs.3 to 5 to demonstrate that the appellant/accused beat the deceased on the

¹ (2019) 19 SCC 797

backside of her head with a stick and ran away from the scene by throwing the stick at the crime scene itself. When PW.1 reached the scene of offence, the appellant/accused was not there. There is clear evidence of PW.5 that after beating, the appellant/accused went away from that place by throwing the stick. On this issue, the Court below held that if really the appellant/accused was having unsound mind at the time of commission of offence, he would have beaten PW.3 also, as she tried to stop the appellant/accused from beating the deceased and that till the trial is concluded, the appellant/accused did not commit any act of insanity and gave appropriate replies to the questions put to him during examination under Section 313 of Cr.P.C, and that the conduct of the appellant/accused reveals that he knew the nature of his act. We concur with the said findings recorded by the Court below. Further, when the prosecution has established its case, it is incumbent upon the appellant/accused, under Section 105 of Evidence Act, to establish the case of his private defence, though not beyond all reasonable doubt, but on the preponderance of probabilities. The appellant/accused failed to discharge his onus by producing any evidence, much less cogent and convincing evidence. In view of the same, we are of the considered opinion that the alternative plea that the appellant/accused was insane at the time of commission of the



subject offence and therefore, the appellant/accused is entitled for benefit of doubt under Section 84 of IPC, is unsustainable.

30. The Court below had meticulously dealt with the entire evidence on record and arrived at just conclusion, including the plea of insanity, and rightly found the appellant/accused guilty of the offence under Section 302 of IPC. There is nothing to take a different view. None of the grounds raised on behalf of the appellant/accused merit consideration. The appeal is devoid of merit and is liable to be dismissed.

31. Accordingly, the Criminal Appeal is dismissed, confirming the conviction and sentence recorded against the appellant/accused of the offence under Section 302 of IPC *vide* judgment, dated 29.08.2012, passed in S.C.No.581 of 2010 by the learned Principal Sessions Judge, Warangal.

Miscellaneous petitions, if any, pending in this appeal, shall stand closed.

//TRUE COPY//

SD/-K.SRINIVAS RAO
JOINT REGISTRAR
SECTION OFFICER

To

1. The Principal Sessions Judge , Warangal.
2. The Judicial First Class Magistrate, Parkal., Warangal
3. The Station House Officer, Parkal Police Station, Parkal.
4. The Superintendent, Central Prison, Warangal.
5. Two CCs to Public Prosecutor, High Court at Hyderabad for the State of Telangana (OUT)
6. One CC to SRI. P. SATYA MANJULA, Advocate [OPUC]
7. Two CD Copies
8. One Spare Copy



HIGH COURT

DATED:30/06/2022

JUDGMENT

CRLA.No.576 of 2013



DISMISSING THE CRL.APPEAL

(10) VVW
12/9/22