

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

**SATURDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SMT JUSTICE P.SREE SUDHA

AND

THE HONOURABLE DR. JUSTICE D.NAGARJUN

CRIMINAL APPEAL NO: 302 OF 2014

Appeal under Section 374(2) of Cr.P.C 1973 against the Judgment dt.21.02.2014 in SC.No.475 of 2013 on the file of the II Additional Sessions Judge, Karimnagar at Jagitial.

Between:

Golepalli Ramulu, S/o.Mallaiah, aged about 46 yrs Occ:Toddy Tapper,
R/o.Lambadipalli (V), Karimnagar District.

Apellant/Accused -1

AND

The State of Andhra Pradesh, Through Public Prosecutor, High Court of A.P., at Hyderabad.

Respondent/Complainant

IA NO: 1 OF 2014 (CRL.A.M.P.No.451 of 2014)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the conviction & Judgment dt.21.02.2014 made in SC.No.475 of 2013 on the file of the II Additional Sessions Judge, Karimnagar at Jagitial, and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

Counsel for the Appellant: Sri. G JAYA REDDY

Counsel for the Respondent : PUBLIC PROSECUTOR

The Court made the following: JUDGMENT

**THE HON'BLE Smt. JUSTICE P.SREE SUDHA
AND
THE HON'BLE Dr. JUSTICE D.NAGARJUN**

CRIMINAL APPEAL No.302 OF 2014

J U D G M E N T

(Per Hon'ble Smt. Justice P.Sree Sudha)

1. By judgment dated 21.02.2014 passed in Sessions Case No.475 of 2013, the learned II Additional Sessions Judge, Karimnagar at Jagtial, held A1 guilty under Section 302 IPC and acquitted A2 to A6 of charges under Sections 498-A and 302 IPC. A1 was sentenced to life imprisonment and levied with a fine of Rs.2,00,000/- and in default of payment of fine, he was to suffer S.I. for a period of six months. Out of the fine amount of Rs.2,00,000/-, an amount of Rs.1,95,000/- shall be paid as compensation under Section 357 (1)(b) Cr.P.C. to the son of A.1 i.e. P.W.4 who is at present living with his maternal grandfather. It was also further observed by the trial Court that the period of judicial detention was from 04.02.2012 to 04.04.2012 and the first accused is entitled for remission in future under Section 433-A Cr.P.C. read with Section 428 Cr.P.C. Aggrieved by his conviction and the sentence imposed, A1 is in appeal under Section 374(2) Cr.P.C.

2. The charges framed against A1 and the other accused read thus:

FIRSTLY:- That you, A1 to A6 on or about prior to 31st day of January, 2012 at Lambadipalli being the husband and in-laws of deceased Padma subjected her to cruelty to bring additional dowry and that you thereby committed an offence punishable under Section 498-A IPC and within my cognizance;

SECONDLY:- That you, the A1 on or about 1st day of February, 2012 at about 05.00 a.m, at Lambadipalli committed murder intentionally (knowingly) causing the death of your wife Padma and daughter Swapna and that you thereby committed an offence punishable under Section 302 IPC and within my cognizance;

3. The accused however pleaded not guilty and claimed to be tried.
4. During the trial, the prosecution examined 15 witnesses and marked in evidence 23 exhibits and 18 MOs. The defence did not adduce any oral evidence. Upon consideration of the oral and documentary evidence, the Sessions Court convicted A1 as aforesaid and let off the other accused.
5. The gist of the prosecution's case is that the first accused killed his wife-Gonepalli @ Koyeda Padma and daughter-Gonepalli Swapna, aged 17 years, with a toddy tapping knife and threatened his son-Chandu who was studying Second Class and fled away from that place. Brother of the first deceased gave complaint under Ex.P1. P.W.2 was elder brother of P.W.1 and he deposed that the father of A.1 is alive;

P.W.3 is the elder brother of the first deceased; P.W.4 is son of first deceased and own brother of second deceased and also an eye witness to the occurrence; P.W.5 is cousin of P.Ws.1 and 2; P.W.6 is Ex-Sarpanch of Lambadipalli Village; P.W.7 is the brother-in-law of P.W.1; P.W.8 is the photographer and he filed photographs under Exs.P3 to P10; P.W.9 is the mediator for Inquest panchanama of the first deceased under P.12 and the second deceased under Ex.P3 and she is the daughter of P.W.2; P.W.10 is the Civil Assistant Surgeon at Area Hospital, Jagtial, who conducted post-mortem on the first deceased and gave report under Ex.P.15 and P.W.13 is the Doctor who conducted post-mortem of the second deceased under Ex.P.18 and P.Ws.11 and 12 are panch witnesses for the confessional and seizure panchanamas of A.1, but both of them turned hostile and did not support the case of the prosecution. P.W.6 who is the Ex-Sarpanch also turned hostile and he has not stated as in Ex.P.2. P.W.14 registered the complaint in a case in Crime No.22 of 2012 for the offences under Sections 302, 498-A IPC and under Section 4 of Dowry Prohibition Act and sent express FIR under Ex.P19. P.W.15 is the Investigating Officer who conducted entire investigation and filed charge-sheet against the accused.

6. P.Ws.1 and 2 are elder brothers of the first deceased. They deposed that A.1 went to Muscat and returned to India four months

back and he performed the marriage of his elder daughter-Malleshwari with one Prashanth and at the time of marriage a cash of Rs.3,00,000/-, two tulas of gold apart from other household articles were presented. Out of which P.W.1 gave Rs.60,000/- for the marriage expenses and in fact he spent Rs.1,00,000/-. Thereafter A.1 started abusing and beating his sister-first deceased with a demand to get an additional amount of Rs.1,00,000/- on the pretext that he incurred lot of expenditure upon which P.W.1 along with others came to A.1 and requested not to harass their sister on the ground of additional amount. P.Ws.1 and 2 further deposed that after fifteen days, they received a phone call and came to know that A.1 hacked his wife-Padma and daughter. A.1 killed his daughter as he has to perform her marriage by giving dowry. They further deposed that A.2 to A6 harassed their sister and also abetted to kill the deceased. A2 is elder brother of A1, A3 is elder sister, A4 is the husband of A3, A5 is younger sister of A2 and A3 and A6 is the son of A5. In the cross-examination, he admitted that they have not given any complaint when A1 threatened and beat his sister. It was suggested to him that the son of the deceased was not residing at Lambadipalli and he was staying at Potharam and was going to school, but he denied the same. P.W.2 is also deposed on the same lines. But it seems that he has not attended the mediation along with P.W.1. He further deposed that though A2

separated from A1, they are living separately since long time, A3 and A4 resided at Suddapalli and they came to Lambadipalli for the marriage of Malleshwari. A5 and A6 are residents of Potharam. It was suggested to him that A1 was not in the house at the time of offence and he went to Vemulawada and some unknown thieves entered into the house and committed murder of wife and daughter of A1 but a false complaint was given by P.W.1 and he denied the same.

7. P.W.3 is the daughter of the deceased, aged 21 years. She deposed regarding the quarrel between her mother and father. She also deposed that her father came from Dubai and performed her marriage on 04.12.2011. The marriage was performed by her parents, P.Ws.1 and 2 and maternal grandfather. Her grandfather has given Rs.60,000/- as dowry to her husband. She further deposed that A.1 was harassing her mother to get Rs.1,00,000/- from her grandfather on the ground that he has incurred huge expenditure in performing the marriage. P.W.1 along with elders tried for settlement on 01.02.2012. She received a phone call stating that her father committed murder of her mother and sister and immediately she rushed to the place of offence and when she questioned her brother he said that her father murdered her mother and sister. She studied upto 10th class. She further deposed that her educational expenses were incurred by her father and her deceased sister was also studying 10th class and her

parents were providing education to her deceased sister. Her younger brother was also studying in English Medium School at Malial. She further deposed that pustelatadu, necklace and ear studs were prepared by their father and presented to her at the time of her marriage. Though they agreed to pay Rs.2,00,000/- towards dowry, Rs.1,90,000/- was paid. She further stated that many times panchayats were held before the elders for sorting out the differences between her parents. She denied the suggestion that her father was having sufficient properties and he has not indebted to any one by performing her marriage.

8. P.W.5 is cousin brother of deceased. In the cross-examination he deposed that he do not know personally whether there are any differences between A.1 and the deceased wife prior to the performance of marriage of P.W.3.

9. P.W.7 deposed that his sister was given marriage to P.W.1. He deposed that he along with P.W.1 requested the accused not to harass the deceased Padma and they came to know about the incident through P.W.4, son of the deceased. He further admitted that A.2, A.3 and A.5 are residing separately from A.1.

10. P.W.4 is the son of the deceased who was studying in 2nd class at the time of the incident and he is an eyewitness to the occurrence.

He clearly deposed that the first deceased is his mother and the second deceased is his sister. He deposed that about 23 months back while he along with his sister were sleeping in front room of their house at Lambadipalli, his father and mother slept in the bed room of their house. When he heard the sounds at about 4.00 AM, woke up and at that time his father came out by holding a knife in his hands and he inflicted a cut injury on the neck of his sister and she died. Then his father thrown away the knife, washed his hands and changed his dress in the meanwhile he went inside the bedroom and saw his mother dead with injuries on the neck. His father threatened him not to reveal the incident to anybody, took him on a bicycle dropped near the school and fled away from that place. He deposed that he informed the incident to his maternal aunt and also to A.2, A.3 and A.6 and they all in turn informed the incident to the village Sarpanch-A.5. His statement was recorded by the Magistrate under Section 164 Cr.P.C. The trial Court after putting preliminary question to the witness who is aged about 10 years ensured that he was capable of understanding the sanctity of oath. It was suggested to him that before the Investigating Officer he has not stated that he intervened when his father was killing his sister and he has not stated that his father has thrown away the knife used by him in committing the murder on the heap of dung in front of the house. It was also suggested to him that he gave

statement before the Magistrate upon tutoring of P.W.1 and by the Police, but he denied. It was suggested to him that he was in a deep sleep and he do not know what happened in the night and he denied it.

11. P.W.6 was the ex-sarpanch of Lambadipalli village, but he turned hostile and deposed that when they went to the house of the deceased and found the dead bodies of Padma and Swapna and A.1 was found missing, and there upon he collected the phone number of A.1 and informed him about the death. A.1 stated that he was attending temple at Vemulavada and he also stated that P.W.4 did not disclose anything to him and he was under shock.

12. Perusal of the entire evidence on record shows that all the witnesses, except Sarpanch, are relatives of the deceased. Their main grievance is that accused was harassing the first deceased for additional dowry. As the first accused performed his eldest daughter's marriage, he along with other accused demanded for additional dowry and in that course he hacked the first deceased with a knife and also hacked his daughter aged about 17 years and fled away from the scene of offence. There is no eye witness to the occurrence, except the son of the deceased who was aged about 10 years at that time. The incident occurred on 01.02.2012. Police also filed memo before filing of the charge-sheet for recording the statement of all material witnesses

including the son of the deceased under Section 164 Cr.P.C. on 28.03.2012 and accordingly the evidence of child witness was also recorded by the Magistrate under Section 161 Cr.P.C. In the 164 Cr.P.C. statement also the child witnesses stated that his father hacked his sister, thrown away the knife. He went inside and found his mother dead in the meantime his father changed his dress, took him away on a cycle left him near by the school and threatened him not to reveal anybody and fled away from that place. He informed the same to his maternal uncle and also to others. The trial Court observed that there is no reason for the minor son and elder daughter to depose against her father and relied upon their evidence and convicted A.1 for the offence under Section 302 IPC. Admittedly the panch witness for confessional-cum-seizure panchanama turned hostile and thus the recovery of knife was not established by the prosecution.

13. Now it is for this Court to scrutinize the evidence of the child witness for arriving to the conclusion whether the judgment of the trial Court is correct or not.

14. P.W.3 daughter of deceased was also stated regarding quarrel between A.1 and the first deceased with regard to demand of additional dowry by her father to her mother. She further stated that her grandfather was alive and he gave Rs.60,000/- at the time of her

marriage but P.W.1 stated that he gave the said amount. She further stated that the marriage was performed by their parents though the agreed amount was Rs.3,00,000/-, Rs.1,90,000/- was given and her parents gave puthalatadu, necklace and ear studs at the time of marriage.

15. Learned counsel for the appellant would argue that A.1 was residing in Muscat, earning the amount and sending to the family and there is no reason for him to demand additional dowry; the defence of the accused is that he was not in the house and he went to Vemulavada and some thieves might have intruded into the house and killed the deceased. Further, P.W.1 and others tutored the son of the accused and got implicated him and filed a false complaint against him. If at all A.1 has not committed any offence when ex-sarpanch called the accused over phone and informed about the death of his wife and daughter and why he did not turned up immediately, was not explained by the defence and as per the evidence on record the accused was arrested by the Police on 03.02.2012 while A.1 was at Mallial cross roads. P.W.4 stated that his father cut the throat of his sister, thrown away the knife, changed his dress in the meanwhile he went inside and seen his mother with cut injuries in the neck. His father thereupon threatened him to kill if he reveals the same to others and has taken him on a bicycle near the school and he went away. As

observed by the trial Court there is no reason for the minor child to depose falsely against his father by implicating him. He clearly stated that his father hacked his sister and found his mother with cut injuries. Moreover, immediately after the offence he fled away from that place and his subsequent conduct immediately after the offence also supports the version of the prosecution. As per the evidence of the other witnesses, there was quarrel between wife and husband; though their marriage took place about 21 years back, when he performed the marriage of his elder daughter, he again demanded dowry and picked up quarrel with his wife and it led to hacking his wife to death and also hacking his daughter aged about 17 years without any reason and fled away from that place. There is no reason for P.Ws.3 and 4 to speak against the accused even at the instance of other relatives. Before the Magistrate P.W.4 clearly stated regarding happening of the events in his own words and it was recorded by the Magistrate in Telugu. The Magistrate and also the trial Court ensured whether P.W.4 was competent to depose before the Court or not by putting preliminary questions and only after satisfying themselves that he is competent to give the statement, they proceeded to record the statement/deposition and as such it cannot be said he was not competent to depose before the Court.

16. No doubt, there is every possibility to tutor the eye witness but in this case immediately after the incident when his father dropped him near the school and fled away, the boy himself revealed about the incident to his maternal aunt and also to A.2, A.3 and A.6 who are the relatives of his father but not to the relatives of his mother. All of them proceeded to the Sarpanch and from there to the house of the deceased and found the dead bodies in the house. Therefore, it cannot be said that there is scope for the relatives of the deceased to tutor the child witness in the interregnum. Even P.W.3 sister of the second deceased ensured the facts from her brother P.W.4 and deposed against her father especially when her father was so responsible and performed her marriage on 04.12.2011 there is no reason for her to depose falsely against her father after two months. A.1 hacked his daughter aged about 17 years without any reason. The trial Court observed that it is a case of **Uxoricide** and **Filicide** and very heinous crime and inflicted life imprisonment to A.1 along with compensation. It is a case of double murder, at least there was quarrel between wife and husband before hacking her, but A.1 also hacked his grown up daughter without mercy and any reason. As the testimony of child witness is an eye witness to the incident and inspired the confidence of Court, the trial Court believed the same and his evidence was amply corroborated by the evidence of other witness regarding the quarrel

between A.1 and his wife, the trial Court rightly convicted A.1 and it needs no interference.

17. The appeal therefore fails and is accordingly dismissed, confirming the conviction and sentence imposed upon the appellant/A1.

//TRUE COPY//

Sd/- K.SRINIVASA RAO
JOINT REGISTRAR

23/1/23
SECTION OFFICER

To,

1. The Additional Sessions Judge, Karimnagar at jagtial.
2. One CC to SRI. G JAYA REDDY , Advocate [OPUC]
3. Two CCs to the Public Prosecutor, High Court For the State of Telangana at Hyderabad (OUT)
4. Two CD Copies

PR

PMG.

HIGH COURT

PSSJ

&

Dr. DNRJ

DATED:19/11/2022

JUDGMENT

CRLA.No.302 of 2014



DISMISSING THE CRIMINAL APPEAL

⑦ pma.
12/1/22