

**THE HONOURABLE Dr. JUSTICE CHILLAKUR SUMALATHA
&
THE HONOURABLE SRI JUSTICE A.SANTHOSH REDDY**

CRIMINAL APPEAL No.842 OF 2014

JUDGMENT:- *(Per the Hon'ble Sri Justice A.Santhosh Reddy)*

This is an unfortunate incident of killing of mother by his son.

2. The sole accused in Sessions Case No.80 of 2014, on the file of the learned IX Additional Sessions Judge, Kamareddy, was convicted for the offence punishable under Section 302 IPC and was sentenced to undergo imprisonment for life and also to pay a fine of Rs.500/-, in default of payment of fine to undergo simple imprisonment for three months, by judgment dated 23.06.2014. Feeling aggrieved by the same, he has filed the present criminal appeal.

3. The prosecution case, in brief, is that Pochavva (hereinafter referred to as 'the deceased') is the mother of the appellant (hereinafter referred to as 'the accused'). P.W.1 is the elder brother; P.W.2 is the elder sister; P.W.4 is the daughter; P.W.7 is the daughter-in-law and P.W.8 is the son of the deceased.

On 03.06.2013 at about 01:30 A.M., P.W.1 lodged a complaint before the Station House Officer, Yellareddy Police Station alleging that on 02.06.2013 at about 10:40 PM., the accused demanded the deceased a sum of Rs.2,000/- and he threatened that if the amount is not given to him, he will kill the deceased. P.W.2 told the accused that the deceased will give the amount next day morning. The accused replied that he will kill the deceased if the amount is not provided and told P.W.2 that if you want to talk with the deceased, talk now itself otherwise the deceased would not be available, as he is going to kill the deceased. The accused assaulted the deceased with a pestle on her head. P.W.3 tried to snatch away the pestle from the accused, but he pushed her aside and again gave a blow on the head of the deceased. As a result of which, the deceased sustained bleeding injuries and fell down in a pool of blood. P.W.5 called 108 ambulance and the deceased was shifted to Government Hospital, Yellareddy. Based on such allegations, P.W.12, Sub-Inspector of Police, registered a case in Cr.No.139 of 2013 for the offence punishable under Section 302 IPC and P.W.13 Inspector of Police took up investigation.

4. During the course of investigation, P.W.13 examined the witnesses and recorded their statements under Section 161 Cr.P.C., visited the scene of offence, prepared the scene offence observation panchanama and rough sketch of scene of offence in the presence of mediators. Later, P.W.13 seized the blood stained earth, control earth, bloodstained boulder under a cover of panchanama and conducted inquest over the dead body of the deceased in the presence of mediators. P.W.11 conducted autopsy over the dead body of the deceased. P.W.13 arrested the accused on 07.06.2013 and seized the wooden pestle, which was used by him to assault the deceased, in the presence of the mediators under a cover of panchanama. After completion of investigation, P.W.13 filed charge sheet against the accused for the offence punishable under Section 302 IPC.

5. The learned Magistrate committed the case to the Court of Sessions. The learned Sessions Judge took cognizance of the case against the accused for the offence alleged. The accused denied the charge framed under Section 302 IPC. Thereupon, the prosecution

has examined P.Ws.1 to 13 and Exs.P-1 to P-10 were proved and M.Os.1 to 5 were marked.

6. The accused, in the course of trial, was examined under Section 313 Cr.P.C., and took up the defence of total denial. No defence evidence, oral or documentary, was adduced by the accused.

7. On appreciation of the oral and documentary evidence, the learned Sessions Judge came to the conclusion that prosecution has proved the complicity of appellant/accused. The learned Sessions Judge, accordingly, convicted and sentenced the appellant/accused in the manner as stated above.

8. Before us, learned counsel for the appellant/accused and learned Public Prosecutor have advanced detailed arguments.

9. Learned counsel for the appellant/accused contends that the prosecution has not proved the offence against the accused with any cogent evidence. Learned counsel further submits that P.Ws.1 to 4, 7 and 8 are very close relatives of the deceased and no independent witnesses from the locality were examined and the relationship between P.W.7 and the accused is not cordial and she

deposed against the accused. Therefore, the accused is entitled to the benefit of doubt and prayed to acquit the accused.

10. Learned Public Prosecutor, on the other hand, contends that the prosecution had proved the alleged offence against the accused with cogent and reliable evidence and there is no room for reasonable doubt and prayed to dismiss the appeal.

11. We have considered all the relevant inputs. This appellate judgment is intended to be read and ought to be read in continuation of the judgment of the trial court. In that view of the matter, we do not think it necessary to re-narrate the oral and documentary evidence placed before the learned Sessions Judge. Suffice it to say that we have been meticulously thorough with the oral evidence of P.Ws.1 to 13 and Exs.P-1 to P-10.

12. The motive pleaded by the prosecution is that the accused decided to kill his mother as she was not giving Rs.2,000/-, as demanded by him. The prosecution had mainly relied on the ocular testimony of eye-witnesses to the occurrence.

13. According to the prosecution, P.Ws.1 to 4, 7 and 8 are eye-witnesses to the incident. Among these witnesses, P.W.1 is

the elder brother, P.W.2 is the elder sister, P.W.3 is the relative and P.W.4 is another sister of the deceased, P.W.7 is the wife of the accused and P.W.8 is another brother of the accused. The scene of offence is situated at Yerramannukucha, Yellareddy.

14. P.W.1 is the maternal uncle of the accused. In his evidence, he stated that the accused, who is son of the deceased, beat the deceased two times with a pestle on the head of the deceased and she sustained bleeding injury. The accused beat the deceased as she has not paid money of Rs.2,000/- as demanded by him on the date of incident at about 10:00 P.M. P.W.1 further stated that at the time of incident, P.Ws.2 and 3 were present. After assaulting the deceased with the pestle, the accused fled away from the scene of offence. The deceased was shifted to Government Hospital, Yellareddy and she succumbed to injuries at the scene of offence itself. A complaint in Ex.P-1 was lodged by P.W.1. P.W.1 categorically stated that the deceased was attacked with a pestle and in his cross-examination, nothing material is elicited to disbelieve his testimony.

15. P.W.2 is the sister of the deceased and she deposed that on the day of incident at about 10:00 PM., the accused demanded a sum of Rs.2,000/- for his expenses. The accused threatened the deceased that if she did not give the amount, he will kill her. P.W.2 stated that she intervened and stated to the accused that she will arrange the amount next day morning, but the accused demanded money to be paid immediately. Interestingly, P.W.2 further deposed that the accused told her that if she wants to talk with her sister, talk with her during night itself, as he is going to kill the deceased if the amount is not paid in the night itself. Meanwhile, when the deceased was moving out of the house to inform the same to the village elders, the accused attacked her with the pestle M.O.1 and beat on her head. When P.W.3 tried to intervene, the accused pushed her aside. The deceased sustained bleeding injury to her head and fell down in front of the house and died on the spot. P.W.2 identified the weapon i.e., pestle M.O.1 used in the commission of the offence with which he assaulted the deceased. In her cross-examination, P.W.2 stated that the deceased fell down at a distance of 50 feet from her house and nothing material was elicited to discredit her testimony.

16. P.W.3 is an independent eye-witness. P.W.4 is the sister of the accused. P.Ws.3 and 4 narrated the whole incident and they are eye-witnesses to the occurrence. P.W.3 stated that on the day of incident at about 10:00 PM a quarrel took place between the accused and the deceased, as the accused demanded Rs.2,000/- from the deceased. P.W.3 also tried to convince the accused, but he demanded the amount to be paid immediately otherwise he will kill his mother. When the deceased was moving out of her house to inform the matter to the elders, the accused beat her on the head with the pestle M.O.1 and the deceased sustained bleeding injury and fell down outside the house. The accused pushed P.W.2 aside and assaulted the deceased. P.W.4, who is sister of the accused, also deposed on similar lines and corroborated the entire testimony of other eye-witnesses.

17. Interestingly, the wife of the accused P.W.7 also deposed that on the date of incident, the accused demanded amount from the deceased and when she refused to give the money and was going out of the house to inform the matter to the elders, the accused beat her with the pestle on her head and she fell down outside her house.

When P.W.3 tried to intervene, the accused pushed her aside. Again the accused beat the deceased with pestle on her head, as a result of which the deceased sustained bleeding injuries and died. In cross-examination, P.W.7 also stated that the accused used to assault her and she is not in cordial relationship with the accused due to his harassment. Though there is no cordial relationship with her husband, they were living in the same house. P.W.8, who is brother of the deceased, deposed on similar lines and corroborated the testimonies of eye-witnesses.

18. On perusing the evidence of P.Ws.1 to 4, 7 and 8, nothing material was elicited in their cross-examination to discredit their testimonies. Apart from that, their evidence about the incident and the accused attacking the deceased armed with a pestle when the deceased refusing to give Rs.2,000/- as demanded by him, is corroborating with each other and their evidence is consistent and no contradictions are recorded to disbelieve their testimonies. Though P.Ws.1 to 4, 7 and 8 are related to each other and particularly P.Ws.2 to 4, 7 and 8, being blood relatives of the deceased, we do not find any justifiable reasons to disbelieve their

testimonies due to the fact that they deposed with an intention to implicate the accused with the alleged offence.

19. It is not in dispute that the death of the deceased is homicidal which is quite evident from the testimony of P.W.11 Dr.Raghupathi, Civil Assistant Surgeon, Community Health Centre, Yellareddy. He deposed that on 03.06.2013, he received requisition from Police, Yellareddy to conduct post-mortem examination over the dead body of the deceased and on the same day, at about 11:00 AM, he held autopsy over the dead body of the deceased and noticed the following ante-mortem injuries:

- i) Bleeding from nose is seen.
- ii) Bleeding from both ears is seen.
- iii) Fracture of right temporal bone.
- iv) Fracture of occipital bone.

P.W.11 opined that the cause of death of the deceased is due to intracranial bleeding due to blunt injury on head. He also stated that the injuries sustained by the deceased could be possible with M.O.1. Ex.P-8 is the post-mortem certificate of the deceased. The evidence of the doctor categorically proves the fact that the death of the deceased was not natural and she died due to head injuries

and as such, the prosecution has proved that the death of the deceased is homicidal.

20. A careful analysis of the entire evidence, particularly the evidence of P.Ws.1 to 4, 7 and 8, does not reveal any contradictions in their testimonies on material aspects. All these witnesses in unison clearly narrated the incident without any contradictions. Their evidence reveals that on the day of incident at about 10:00 PM, the accused started quarrelling with her mother and demanded her to give Rs.2,000/- and when she refused to give and was moving out of the house to inform the elders, the accused attacked her with a pestle and caused head injuries, as a result of which she sustained bleeding injuries and succumbed to the same.

21. As per the testimony of P.Ws.1 to 4, 7 and 8, the deceased was hit with a pestle on her head and Ex.P-8 post-mortem examination report also shows that the deceased sustained head injuries. The evidence of the doctor P.W.11 is completely supported by the evidence of eye-witnesses P.Ws.1 to 4, 7 and 8, both with respect to the place and the nature of injuries sustained by

the deceased. The material object i.e., pestle was recovered at the instance of the accused behind his house and the same was recovered in the presence of P.W.10 and another. M.O.1 was sent to FSL and Ex.P-10 is the FSL report and it is stated that human blood is detected on the wooden pestle M.O.1, but the blood group could not be determined. The material object used in the commission of the offence is also shown to the eye-witnesses P.Ws.1 to 4, 7 and 8 and they identified the same as the one used by the accused at the time of commission of offence. There is no iota of doubt in the evidence of these material witnesses about the occurrence of the incident, cause of death and recovery of weapon with which the accused inflicted injuries on the deceased and they have been established by the prosecution with cogent and convincing testimony.

22. From the above discussed evidence, we are of the opinion that the prosecution has been able to prove that the appellant/accused hit the deceased on her head with a pestle and caused bleeding injuries and as a result of which she died on the spot. We are not inclined to accept the submissions of learned counsel

for the appellant that the witnesses are related to each other and their evidence cannot be relied upon. The evidence of the prosecution is credible about the occurrence of the offence and regarding the manner in which the offence was committed by the appellant/accused. When the version of the prosecution witnesses is consistent and believable all through, in the absence of any improbabilities or inconsistencies in their evidence, we can safely rely upon the testimonies which, as noted above, have been amply supported by medical evidence.

23. For the aforementioned reasons, we do not find any merits in the appeal and the same is, accordingly, dismissed.

24. Pending miscellaneous petitions, if any, stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

JUSTICE A.SANTHOSH REDDY

13.02.2023

Lrkm