

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

**FRIDAY, THE TWENTY FOURTH DAY OF FEBRUARY  
TWO THOUSAND AND TWENTY THREE**

**PRESENT**

**THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY  
AND  
THE HON'BLE SMT JUSTICE JUVVADI SRIDEVI**

**CRIMINAL APPEAL NO: 1328 OF 2014**

Crl. Appeal Under Section 374 (2) of Cr.P.C. against the Judgment in SC No. 78 of 2013 dated 2-12-2014 on the file of the Court of the IX Additional District and Sessions Judge, Wanaparthy

**Between:**

1. Baddula Matrali , S/o. Chandraiah, aged about 32 years, R/o. Ambatpally Village, Lingal Mandal, Mahabubnagar District. ( A -1 )
2. Baddula Krishnaiah, S/o. Chandraiah, aged about 36 years, R/o. Ambatpally Village, Lingal Mandal, Mahabubnagar District. ( A- 2)
3. Baddula Bakkamma, W/o. Mantrali, aged about 30 years, R/o. Ambatpally Village, Lingal Mandal, Mahabubnagar District. ( A- 3)

**...Appellant/ Accused**

**AND**

The State of Andhra Pradesh , Represented by its Public Prosecutor, High Court of Judicature At Hyderabad for the State of Telangana And the State of Andhra Pradesh.

**...Respondent/ Complainant**

**Counsel for the Appellants: SRI. D. KODANDA RAMI REDDY**

**Counsel for the Respondent: PUBLIC PROSECUTOR**

**The Court delivered the following: JUDGMENT**

**THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY  
AND  
THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI**

**CRIMINAL APPEAL No.1328 OF 2014**

**JUDGMENT:** (Per Hon'ble Smt. Justice Juvvadi Sridevi)

This Criminal Appeal, under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C'), is filed by the appellants/A1 to A3, aggrieved by the judgment, dated 02.12.2014, passed in S.C.No.78 of 2013 by the IX Additional Sessions Judge, Wanaparthy, whereby, the Court below convicted the appellant/A1 of the offences under Sections 302 and 201 of IPC and sentenced him to undergo rigorous imprisonment for life and to pay fine of Rs.10,000/-, in default, to undergo simple imprisonment for six months for the offence under Section 302 of IPC and to undergo rigorous imprisonment for a period of five years and to pay fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period of six months for the offence under Section 201 of IPC; and convicted the appellants/A2 and A3 of the offence under Section 201 of IPC and sentenced them to undergo rigorous imprisonment for a period of five years and to pay fine of Rs.5,000/- each, in default, to undergo simple imprisonment for six months. The sentences imposed against the appellant/A1 were directed to run concurrently.

2. We have heard the submissions of Sri B.Narasimha Sharma, learned counsel for the appellants/A1 to A3, Sri C.Pratap Reddy, learned Public Prosecutor appearing for the respondent/State and perused the record.

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

On 18.03.2011, PW.1-Deshi Nagamani went to Lingala Police Station and lodged Ex.P1 complaint stating that on 12.03.2011 night at about 09:00 PM, when she telephoned her husband Deshi Ramulu (the deceased), he told that he was at village panchayati, Ambatipalli. He did not return to home till 18.03.2011 and his whereabouts were not known. On 12.03.2011, her husband, Baddula Manthrali, S/o.Chandraiah and Kurva Mallaiah, S/o.Lingaiah have consumed toddy at the house of Eediga Venkatamma. Her husband had illicit relation with one Saidamma, W/o.Kurva Mallaiah and hence, she is suspecting that Kurva Mallaiah might have harmed her husband with the help of Baddula Manthrali, boring grudge against her husband for having illicit relation with Saidamma and requested to take action against the culprits.

5 **4.** Basing on the report lodged by PW.1, PW.14-SI of Police, Lingal Police Station registered a man missing case in Crime No.14 of 2011 and later, basing upon the statement of LW.3-Lachamma to the effect that the dead body of the deceased was buried in the fields of one Sripuram Pentaiah and she identified the same basing on the left hand silver kadium of the deceased and a part of the dead body was eaten away by animals like dogs, altered the section of law to Section 302 of IPC and handed over the CD file to PW.16-CI of police. PW.16 took up further investigation, proceeded to the scene of offence, exhumed the dead body in the presence of PW.12, examined PW.1, LW.2-Bhagyamma and LW.3-Lachamma and recorded their statement, conducted inquest over the dead body of the deceased under Ex.P3 in the presence of PWs.7 and 10, took photographs of the dead body, handed over the dead body to the relatives of the deceased after conducting Post Mortem Examination by PW.13, recorded the statement of PW.5, recorded the confession of the appellant/A1 under Ex.P8, seized MO.5 under the cover of Ex.P5 in the presence of PWs.8 and 10, recorded the confession of the appellant/A3 under Ex.P9, effected the arrest of the appellants/A1 and A3 and sent them to Court for judicial remand, apprehended the appellant/A2 and recorded his confessional statement under the cover of Ex.P7,

recovered MO.6, affected the arrest of the appellant/A2 and sent him to Court for judicial remand, sent MO.4 and other parts of dead body to FSL, collected MOs.2 and 3, drew rough sketch of the scene of offence and on his transfer, handed over the CD file to his successor, i.e., PW.15. PW.15 verified the investigation made by PW.16, found it on proper lines and after receiving PME Report and FSL Report and on completion of investigation, laid charge-sheet before the learned Judicial Magistrate of First Class, Achampet, against the appellants/A1 to A3 of the offences under Sections 302 and 201 of IPC.

**5.** Learned Magistrate had taken cognizance against the appellants/A1 to A3 of the offences under Sections 302 and 201 of IPC, registered the same as P.R.C.No.44 of 2012 and committed the same to the Court of Session, Mahabubnagar, under Section 209 of Cr.P.C., since the offence under Section 302 of IPC is exclusively triable by the Court of Session. On committal, the Court of Session, Mahabubnagar, numbered the case as S.C.No.78 of 2013 and made it over to the Court below for disposal, in accordance with law.

**6.** On appearance of the appellants/A1 to A3, the Court below framed charge against them of the offences under Sections 302

and 201 of IPC, read over and explained to them, for which, the appellants/A1 to A3 pleaded not guilty.

**7.** To prove the guilt of the appellants/A1 to A3, the prosecution examined PWs.1 to 16 and got marked Exs.P1 to P17, besides case properties, MOs.1 to 6.

**8.** PW.1-Deshi Nagamani is the complainant and wife of the deceased. PW.2-Deshi Kurmaiah is the younger brother of the deceased. PW.3-Edula Venkataiah, PW.4-L.Lingoji, PW.5-M.Anjaneyulu and PW.6-G.Balamani are circumstantial witnesses. PW.7-J.Hanmanth Reddy is a panch witness for inquest and scene of offence panchanama. PW.8-V.Venkatesh is a panch witness for confession of the appellants/A1 and A3 and Seizure Panchanama. PWs.9 and 11/A.Narayan Rao and M.Ravinder are panch witnesses for confession and recovery panchanama of the appellant/A2. PW.10-J.Narsing Rao is a panch witness for inquest panchanama, scene of offence panchanama, confession of the appellants/A1 and A3 and seizure panchanama. PW.12-R.Narsimha Reddy is the Tahsildar who conducted inquest over the dead body of the deceased. PW.13-Dr.M.B.Padmaja is the doctor who conducted autopsy over the dead body of the deceased. PW.14-M.Appaiah is SI of police who registered the subject crime. PW.15-D.Prathap is

Inspector of Police who laid charge-sheet before the Court concerned. PW.16-B.Kishan is Inspector of Police who conducted major part of investigation. Ex.P1 is the complaint. Ex.P2 is the statement of PW.5 recorded under Section 161 of Cr.P.C. Ex.P3 is the Inquest panchanama. Ex.P4 is the Crime Details Form. Ex.P5 is the portion of Seizure Panchanama. Exs.P6 and P7 are confession and Recovery panchanama of the appellant/A2. Ex.P8 is the confession of the appellant/A1. Ex.P9 is the confession of the appellant/A3. Ex.P10 is the scene of offence panchanama. Ex.P11 is the confession and seizure panchanama. Ex.P12 is the PME Report. Ex.P13 is the FIR. Ex.P14 is the Section Alteration Memo. Ex.P15 is the FSL Report. Ex.P16 is the Report/opinion from FSL. Ex.P17 is six photos. MO.1 is white colour full shirt. MO.2 is white colour pancha. MO.3 is brown colour towel. MO.4 is skull of the deceased. MO.5 is an axe. MO.6 is bullock cart.

**9.** When the appellants/A1 to A3 were confronted with the incriminating material appearing against them and were examined under Section 313 of Cr.P.C., they denied the allegations and claimed to be tried. On behalf of the appellants/A1 to A3, no oral evidence has been adduced and Ex.D1-portion of statement of PW.3 recorded under Section 161 of Cr.P.C. was marked.

**10.** The trial Court, having considered the submissions made and the evidence available on record, *vide* the impugned judgment, dated 02.12.2014, convicted the appellant/A1 of the offences under Sections 302 and 201 of IPC and convicted the appellants/A2 and A3 of the offence under Section 201 of IPC and sentenced them as stated *supra*. Aggrieved by the same, the appellants/A1 to A3 preferred this appeal.

**11.** Learned counsel for the appellants/A1 to A3 would submit that the whole prosecution case is based on circumstantial evidence. There are no direct witnesses to connect the appellants/A1 to A3 with the subject death of the deceased. The Court below erroneously convicted the appellant/A1 for the offences under Sections 302 and 201 of IPC and the appellants/A2 and A3 for the offence under Section 201 of IPC, without there being any substantial evidence on record to prove their guilt for the said offences beyond all reasonable doubt. PW.5, the person before whom the appellant/A1 allegedly made extra judicial confession, turned hostile and did not support the case of prosecution. Further, the confession of the appellants/A1 to A3 leading to recovery of material objects was not proved in accordance with law. The prosecution failed to examine Kurva Mallaiah whom the complainant suspected and whose evidence

was necessary to unfold the narrative, which is a fatal blow to the case of prosecution. The medical evidence is also inconsistent with the story of prosecution. The identification of the dead body as that of the deceased Ramulu is unbelievable. The investigation carried out in this case is perfunctory. There are several omissions and contradictions in the evidence of the investigating officer who conducted investigation in this case. The owner of the land from where the dead body of the deceased was exhumed was also not examined. There is no cogent and convincing evidence to prove that the appellant/A1 caused the subject death of the deceased and the appellants/A2 and A3 have caused disappearance of the evidence with an intention to screen the appellant/A1. The motive on the part of the appellant/A1 for the commission of the subject offence could not be proved by the prosecution. The evidence of the prosecution witnesses is not reliable and trustworthy and do not inspire confidence to act upon. The Court below was swayed away with the non-corroborative evidence of prosecution witnesses and erroneously convicted and sentenced the appellants/A1 to A3 basing on their testimony. The circumstances from which an inference of guilt is sought to be drawn against the appellants/A1 to A3 are not cogently and firmly established by the prosecution. The chain of events is not so complete to rule out the reasonable

likelihood of innocence of the appellants/A1 to A3 and ultimately, prayed to allow the appeal by setting aside the conviction and sentence recorded against the appellants/A1 to A3 by the trial Court.

**12.** *Per contra*, the learned Public Prosecutor would submit that there is evidence of PWs.1 to 6 and other witnesses to connect the appellants/A1 to A3 with the death of the deceased. The motive on the part of the appellant/A1 to cause the subject death was successfully proved by the prosecution, so also the last seen theory. MO.5-axe was recovered pursuant to the confession made by the appellant/A1. Merely because the panch witnesses to recovery of material objects and confession of the accused did not support the case of prosecution, the whole prosecution case cannot be thrown out. The oral evidence of the prosecution witnesses coupled with the medical evidence clinchingly prove that the appellant/A1 axed the deceased to death and the appellants/A2 and A3 have caused disappearance of the evidence with an intention to screen the appellant/A1 from legal punishment. The evidence placed on record proves the guilt of the appellants/A1 to A3 beyond all reasonable doubt of the offences for which they were found guilty. The Court below is justified in convicting and sentencing the appellants/A1 to A3 of the said

offences and ultimately prayed to dismiss the appeal by confirming the conviction and sentence recorded against the appellants/A1 to A3 *vide* the impugned judgment.

**13.** 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/A1 had caused the subject death of the deceased and the appellants/A2 and A3 have caused disappearance of the evidence with an intention to screen the appellant/A1 from legal punishment?*
- 2) *Whether the prosecution is able to prove the guilt of the appellants/A1 to A3 beyond all reasonable doubt?*
- 3) *Whether the conviction and sentence recorded against the appellant/A1 of the offence under Sections 302 and 201 of IPC and against the appellants/A2 and A3 of the offence under Section 201 of IPC are liable to be set aside?*
- 4) *To what result?*

**POINTS:-**

**14.** There is no dispute that the whole prosecution case is based on circumstantial evidence. In a case based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved, and such circumstances must be conclusive in nature. Moreover, all the circumstances should be complete and there should be no gap left in the chain of evidence. Further, the proved circumstances must

be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence. The question whether chain of circumstances unerringly established the guilt of the accused needs careful consideration. The proof of a case based on circumstantial evidence, which is usually called 'five golden principles', have been stated by the Apex Court in **Sharad Birdhi Chand Sarda Vs. State of Maharashtra**<sup>1</sup>, which reads as follows:-

*(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established, as distinguished from 'may be' established.*

*(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty.*

*(3) The circumstances should be of a conclusive nature and tendency;*

*(4) They should exclude every possible hypothesis except the one to be proved; and*

*(5) There must be a chain of evidence complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.*

**15.** Keeping the above principles in mind, we would now venture to analyze the evidence on record. Admittedly, there are no direct witnesses to the subject incident and the entire prosecution case is based on circumstantial evidence. The prosecution has shown

<sup>1</sup> AIR 1984 Supreme Court 1622

PW.5 as the person before whom the appellant/A1 had made extra judicial confession that he caused the subject death of the deceased. However, he was declared hostile as he resiled from his previous statement recorded under Section 161 of Cr.P.C. In his cross-examination, PW.5 stated that he did not state to the police that the appellant/A1 stated to him that he axed the deceased at his house at 11:00 PM and thereafter, shifted the dead body on MO.6-bullock cart with the help of the appellants/A2 and A3. Hence, the extra judicial confession allegedly made by the appellant/A1 remained unproved. PW.8 is a panch witness for confession of the appellants/A1 and A3 and for recovery of MO.5-axe which was allegedly used in the commission of the offence. He also turned hostile and did not support the case of prosecution. Thus, recovery of MO.5-axe pursuant to the confession of the appellant/A1 could not be proved successfully by the prosecution. Since it was not legally proved that recovery of MO.5-axe was made pursuant to the confession of the appellant/A1 and since it has also come up in the cross-examination of PW.5 that axes like MO.5 will be with every shepherd in the village, the determination of blood group of the blood found on MO.5-axe assumes significance. MO.5-axe was sent to Forensic Science Laboratory for examination. As per Ex.P15-FSL Report, though human blood

was detected on MO.5-axe, the blood group could not be determined. PW.13-doctor categorically stated in her cross-examination that she did not try to find out the blood group of the deceased and there was no requisition for it. Hence, the blood found on MO.5-axe cannot be linked with the blood of the deceased. In **Sattatiya Vs. State of Maharashtra**<sup>2</sup>, one of the crucial factors that led the Hon'ble Apex Court to reverse the conviction of the accused therein was that the bloodstains on the items seized in the recovery could not be linked with the blood of the deceased. This factor was treated as a serious lacuna in the case of the prosecution.

**16.** Further, PW.8, in his cross-examination, stated that the appellant/A1 was in the police station by the time he reached there and he does not know for how long the appellant/A1 was in the police station before he reached there. He further stated that the appellant/A1 was questioned by him and other panch witness (PW.10) within the compound of the police station. PW.10 was also shown as a witness for confession of the appellant/A1. In his cross-examination, he categorically stated that when he was asked to enquire with the appellant/A1, himself and PW.8 took the appellant/A1 to a distance of 10 feet from the place where the

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<sup>2</sup> (2008) 3 SCC 210

Inspector sat and that whatever the appellant/A1 stated to them was audible by the Inspector of police. Here, it is apt to state that admissions made by a person or his representative in interest, though in the ordinary sense of the term in the nature of hearsay evidence, would be admissible admission to the extent provided in Section 21 of the Indian Evidence Act, 1872 (for short, 'the Act'). Every confession is an admission, but every admission is not a confession. In other words, admission is a genus and confession is a species. It is settled law that a confessional statement, if not made by accused under inducement, threat or promise, is admissible in evidence. However, an extra judicial confession, though admissible, is considered a weak piece of evidence and ordinarily, the Courts would look for corroboration to such evidence, for recording conviction on the strength of such extra judicial confession. Under the Act, to guard against coerced or coaxed confessional statement, In addition to the safeguards provided in Section 24 of the Act, any confession made to a police officer under any circumstances is also considered inadmissible in evidence, as per Section 25 of the Act. Section 26 of the Act goes a step further and provides that no confession made by any person whilst in custody of a police officer, unless such confession is made in the immediate presence of a Magistrate, can be proved against

such person. Thus, Sections 24 to 26 of the Act forms a trio containing safeguards against an accused person, being coerced or induced to confess guilt. One important question, in regard to which the Court has to be satisfied with, is whether, when the accused made the confession, he was a free man or his movements were controlled by the police, either by themselves or through some other agency employed by them, for the purpose of securing such a confession. Police custody, in real perspective, commences from the time when the movements of the accused are restricted or controlled and he is kept in direct or indirect police surveillance. It is not necessary that there should have been a formal arrest. It is not the presence of one particular person or officer or of any one of these circumstances that would by itself decide the question as to whether the accused was in police custody; it is, on the other hand, the concomitance of the various facts and circumstances, which are relevant and material, immediately preceding the making of the statement by the accused that has to be taken into account in making a proper assessment as to whether the statement alleged to have been made by the accused is not hit by Section 26 of the Act. The paramount consideration of the Court should be to see that the statement is not hit by any of the provisions contained in Sections

24 to 26 of the Act and it was made voluntarily and was a true statement, which could be acted upon, even when found admissible in evidence. Tested in the light of the above broad principles, in the instant case, we find it difficult to hold that the statement made by the appellant/A1 to PWs.8 and 10 is voluntarily, as a free agent and that it is not hit by the provisions of Section 26 of Evidence Act, for the application of which, it makes little difference, whether the statement was made directly to the police officer or to any agency employed by the police for securing the confession.

**17.** Further, in the instant case, the appellants/A1 and A3 are husband and wife. It is the case of prosecution that the deceased had illicit relation with one Saidamma, W/o. Mallaiah. Subsequently, the appellant/A1 also developed illegal contact with said Saidamma. Later, the deceased developed illegal contact with the appellant/A3 and on coming to know about the same, a quarrel took place between the appellant/A1 and the deceased. Further, in the complaint lodged by PW.1, there is a specific mention that she was suspecting that Kurva Mallaiah, husband of Saidamma, might have caused harm to the deceased. There is also a specific mention in Ex.P1 complaint that the deceased, Kurva Mallaiah and the appellant/A1 have consumed toddy at their house on

12.03.2011. Under these circumstances, we are of the opinion that it was essential for the prosecution to have examined Kurva Mallaiah and Saidamma whose evidence would have unfolded the narrative and would have clinched the issue. Witness essential to the unfolding of the narrative on which the prosecution is based, must, of course, be called by the prosecution, whether in the result the effect of their testimony is for or against the case for the prosecution and failure to do so, leads to an adverse inference. It is not the case of the prosecution that Kurva Mallaiah and Saidamma were not available for examination and bringing them to the Court. PW.12 categorically stated in his cross-examination that column No.15 of Ex.P3-Inquest Panchanama, the name of Mallaiah is mentioned as the person responsible for the death of the deceased. PW.16-investigation officer admitted in his cross-examination that Saidamma and Mallaiah were neither examined as a witness nor were shown as accused in the subject crime, though they were available in the village. Thus, for non-examination of those crucial persons, despite their availability for examination, adverse inference under Section 114(g) of the Evidence Act is drawn against the prosecution on this count; best evidence has been *deliberately withheld*.

18. Yet there are other circumstances which render the prosecution story doubtful. The dead body of the deceased was identified with the help of silver kadium to the hand and clothes of the deceased. PW.12-Tahsildar who conducted inquest over the dead body of the deceased stated in his cross examination that there were no identification marks on the dead body to identify it as that of Ramulu since it was in decomposing state as the entire skin on the skull was peeled out and fleshy part was not there. PW.7, a panch witness for inquest, stated in his cross-examination that normally shepherd people will bear the kadiums and cloths of similar nature. Under these circumstances, the medical evidence assumes importance. PW.13 doctor deposed that the dead body was in decomposing state and that some parts of the body was without flesh and only skull bones were there. She opined that the cause of death was due to multiple stab injuries (head injury, multiple fractures of bones, absent of scrotum and penis). In her cross-examination, PW.13-doctor stated that the stab injuries on the neck of the deceased can be ante mortem and post mortem and that since the body was completely collapsed and putrification process started, post mortem stab injuries cannot be ruled out in this case. She further categorically stated that the weapon used must be having round in shape. All these circumstances create a

doubt that the dead body which was exhumed from the fields of one Sripuram Pentaiah is that of deceased Ramulu. Further, the person from whose fields the dead body of the deceased was exhumed was not examined in this case. Had he been examined, it would have certainly lent some credence to the recovery of dead body of the deceased. Further, PW.9, a panch witness for seizure of MO.6-bullock cart, turned hostile and did not support the case of prosecution. PW.11, another panch witness for seizure of MO.6-bullock cart also turned hostile. He stated in his evidence that himself and PW.9 were called to the police station and PW.9 had a talk with Inspector of Police and he remained in warandah of police station and that a bullock cart was seen in the police station premises and that PW.9 brought a written paper to him with his signature and asked him to put his signature and after going through the said paper, he signed on the same. This circumstance also creates a doubt with regard to the story of prosecution that the dead body of the deceased was carried on MO.6-bullock cart to the fields of Sripuram Pentaiah and buried there. Further, the contention of the learned Public Prosecutor that the appellant/A1, with a pre-meditated mind to eliminate the deceased, axed him to death is not appealing to our mind. The prosecution case is that on seeing the deceased and the wife of the appellant/A1 (A3) in a

compromising position, the appellant/A1 axed the deceased to death. The evidence on record reveals that both the appellant/A1 and the deceased were in drunken condition when the subject incident took place. No evidence was forthcoming from the side of prosecution as to what actually transpired between the appellant/A1 and the deceased at that particular point of time. Under these circumstances, we hold that there is no sufficient material to conclude that the appellant/A1 had pre-meditated mind to cause the subject death of the deceased.

**19.** A strong suspicion may exist against the appellants/A1 to A3, but such suspicion cannot form the basis for convicting them, going by the standard of proof required in a criminal case and the distance between the terms 'may be true' and 'must be true' shall be fully covered by reliable evidence adduced by the prosecution. Merely because the appellant/A1 and the deceased were seen together on the preceding day of the incident is not a ground to convict the appellant/A1 in the absence of cogent and convincing evidence to establish that it is the appellant/A1 who caused the subject death of the deceased. The essential requirements to prove the motive on the part of appellant/A1 for the commission of subject death of the deceased is not proved by the prosecution beyond all reasonable doubt, so also the essential requirements of

a Section 201 of IPC against the appellants/A2 and A3. The circumstances sought to be pointed out by the prosecution against the appellants/A1 to A3 are not conclusive in nature and are inconsistent with the hypothesis of the guilt of the appellants/A1 to A3. The chain of evidence against the appellants/A1 to A3 is not complete to arrive at a conclusion that in all human probability, the appellant/A1 has caused the subject death and the appellants/A2 and A3 caused disappearance of evidence to screen the appellant/A1 from legal punishment. The Court below had not analyzed the evidence on record in correct perspective. The conclusions reached by the Court below in finding the appellant/A1 guilty of the offences punishable under Section 302 and 201 of IPC and the appellants/A2 and A3 of the offence under Section 201 of IPC are not in tune with the evidence on record. The submissions advanced on behalf of the appellants/A1 to A3 merit consideration and the appeal deserves to be allowed.

20. In the result, the conviction and sentence recorded against the appellant/A1 of the offences under Sections 302 and 201 of IPC and against the appellants/A2 and A3 of the offence under Section 201 of IPC *vide* judgment, dated 02.12.2014, passed in S.C.No.78 of 2013 by the learned IX Additional Sessions Judge, Wanaparthy, is set aside. Consequently, the appellants/A1 to A3

are acquitted of the offences under Sections 302 and 201 of IPC. The fine amount, if any, paid by the appellants/A1 to A3 shall be refunded to them. The appellants/A1 to A3 shall be released forthwith, if they are not required in any other case.

**21.** The appeal is allowed, accordingly.

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

//TRUE COPY//

Sd/- B.S. CHIRANJEEVI  
JOINT REGISTRAR

SECTION OFFICER

To,

1. The IX Additional District & Sessions Judge, Wangaparthi, Mahaboobnagar District.
2. The Judicial Magistrate of I Class, Achampet, Mahabubnagar District.
3. The Station House Officer, Lingal Police Station, Mahabubnagar District.
4. The Superintendent, Central Prison, Chanchalguda, Hyderabad. ( By Special Messenger)
5. The Superintendent, Central Prison, Cherlapally, Medchal Malkajgiri District. (By Special Messenger)
6. Two CCs to Sri C. Pratap Reddy, Public Prosecutor, High Court for the State of Telangana (OUT)
7. One CC to SRI. D KODANDARAMI REDDY Advocate [OPUC]
8. Two CD Copies

*A*

HIGH COURT

DATED:24/02/2023

JUDGMENT

CRL.APPEAL .No.1328 of 2014



ALLOWING THE CRL.APPEAL.

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24/2/23