

NOTE : The Petitioner/ Accused was directed to be released on bail by the order of the High Court dated 12-12-2022 in I.A.No.1 of 2022 in CrI.A.No.1157 of 2015.

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

**THURSDAY, THE SEVENTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HON'BLE SRI JUSTICE K.SURENDER
AND
THE HON'BLE SRI JUSTICE ANIL KUMAR JUKANTI**

CRIMINAL APPEAL No: 1157 of 2015

Appeal under Section 374(2) of Cr.P.C to set aside the Judgment dated 14-10-2015 passed in S.C.No.268 of 2014 on the file of the Court of the Principal Sessions Judge, Adilabad.

Between:

Rummulla Laxman, S/o. Pothanna, Age: 35 years, Caste: Tenugu, Occ: Coolie,
R/o. Kaligalli, Mudhol Village and Mandal

...Appellant/Accused

AND

State of Telangana, Rep. by its Public Prosecutor, High Court of Judicature at
Hyderabad.

...Respondent

Counsel for the Appellant: Sri G. Jaya Reddy

**Counsel for the Respondent: Sri Arun Kumar Doddla,
ADDITIONAL PUBLIC PROSECUTOR**

The Court delivered the following: JUDGMENT

THE HONOURABLE SRI JUSTICE K.SURENDER
AND
THE HONOURABLE SRI JUSTICE ANIL KUMAR JUKANTI

CRIMINAL APPEAL No.1157 OF 2015

JUDGMENT: (per The Hon'ble Sri Justice K.SURENDER)

The appellant was tried for committing the murder of his mother and found guilty by the learned Sessions Judge. Aggrieved by the said finding of guilt by the Court below, the present appeal is preferred.

2. The case of the prosecution is that the deceased Narsi Bai is the mother of the accused. PW.2 who was declared hostile is another son of the deceased and brother of the accused. PW.1 who is the grand-daughter of the deceased is the main eye-witness to the incident. According to the prosecution case, the accused was married in the year 1996 and has a female child. He went to Dubai for livelihood and came back. He was addicted to drinking and was not doing any work. He used to pick up quarrels, frequently, with his mother for money to buy liquor and also was forcing his mother to get back his wife, who deserted the accused on account of his conduct.

3. The incident happened on 25.02.2014. According to PW.1 who lodged Ex.P1-complaint, at about 3 p.m. she returned home and witnessed quarrel between the deceased grandmother and the accused (her junior paternal uncle). She brought the deceased out of the house and later deceased went inside. Again at 5 p.m. she heard quarrel in between the accused and the deceased. When she rushed to the house, she found the accused hacking the deceased with an axe on the neck, face and head. When PW.1 tried to intervene, the accused threatened her. She came out of the house and called her neighbours. On seeing the neighbours, the accused who was holding the axe fled. PW.1 went to the Police Station and lodged a Telugu written complaint which was drafted by Sarpanch (PW.5). The said written complaint was given at 6:20 p.m. The Police having received the complaint registered the case under Section 302 and 307 of the Indian Penal Code.

4. Immediately, the Police went to the scene of offence and found the dead body of the deceased. Inquest proceedings were conducted and police drafted the inquest panchanama which is Ex.P19. The blood stained earth, bed sheet etc. were taken from the scene of offence. The Police in search of the accused apprehended him on 05.03.2014 near the bus-stop. He was questioned in presence of PW.9-panch witness and another

person. The accused allegedly confessed to the offence and led the Police to a drainage where they recovered M.O.1-Axe. M.Os.7 and 8 which are the clothes of the accused worn at the time of offence were also recovered. The accused was produced before the learned Magistrate, who remanded the accused to judicial custody.

5. Having completed the investigation, the Police filed charge sheet under Section 302 of the Indian Penal Code for committing the murder of his mother and also trying to kill PW.1, punishable under Section 307 of the Indian Penal Code.

6. The learned Sessions Judge examined the eye-witness-PW.1, PW.2- brother of the accused. However, PW.2 turned hostile. PWs.3 and 4 are the neighbours who went to the scene after hearing PW.1 shouting.

7. The learned Sessions Judge found favour with the version given by PW.1, PW.3 and PW.4 and other corroborating evidence of seizure of axe and clothes and recorded conviction.

8. Learned Counsel appearing on behalf of the appellant would submit that the father of PW.1 turned hostile to the prosecution case. Except the version of PW.1 who is the sole eye-witness, there are no other eye-witnesses to the incident. Though PW.5 stated

that he drafted the complaint, however, the complaint was not shown to PW.5 during trial. In fact, PW.5 stated that he did not follow the complainant to the Police Station.

9. Learned Counsel relied on the Judgment of Honourable Supreme Court in **Chotkau v. State of Uttar Pradesh**¹, wherein the Honourable Supreme Court was dealing with a case of circumstantial evidence wherein several contradictions were placed on record with respect to the mode in which the FIR was lodged, the place where the dead body was first seen by the Police and the date, time, place of inquest. Further, contradictions were also found regarding clothes worn by the appellant at the time of incident. In the said circumstances, the Honourable three Judge bench of the Supreme Court held that the said discrepancies are material and accordingly acquitted the accused.

10. The other Judgment relied on by the learned Counsel in **Mohammed Ankoos and others v. Public Prosecutor, High Court of Andhra Pradesh, Hyderabad**², wherein the Honourable Supreme Court found favour with the innocence of the accused since several contradictions had crept into the evidence of witnesses.

¹ 2023 (1) ALD (Ct.) 26 (SC)

² (2010) 1 Supreme Court Cases 94

11. On the other hand, Sri Arun Kumar Doddla, learned Additional Public Prosecutor would submit that the solitary testimony of PW.1 who is an eye-witness, would suffice to prove the case of the prosecution that it was the appellant who had hacked his mother to death. In fact, PWs.3 and 4 who are the neighbours have also stated that when they went there, they saw the appellant coming out of the house with an axe in his hand and from there he fled.

12. The main contention of the learned counsel appearing for the appellant apart from the contradictions that were placed on record, is that PWs.1, 3 and 4 state that the axe was thrown at the scene outside the house. The incident happened on 25.02.2014, however, recovery of the axe was shown on 05.03.2014, after the accused's arrest. It is a material contradiction in the case of the prosecution and the very genesis of the prosecution case has to be doubted.

13. Having gone through the record, PW.1 is the eye-witness to the incident. She stated that around 5:00 p.m. there was a quarrel and when she went there, she saw the accused hacking the deceased with an axe and when she tried to intervene, the accused threatened her. She shouted for help and PWs.3 and 4 went there

and saw the accused coming out of the house with blood stained axe in his hand.

14. Written complaint was filed at 6:20 p.m. i.e. within one hour twenty minutes of the incident. In the said complaint, PW.1 narrated regarding the accused being an Alcoholic and harassing the deceased for money. In fact, the presence of PWs.2, 3 and 4 at the scene was also mentioned in Ex.P1-complaint. Though PW.2 who is the brother of the accused turned hostile to the prosecution case, PWs.3 and 4 supported the prosecution stating that they went to the scene hearing the shouts of PW.1 and saw the accused coming out of the house with a blood stained axe and fled.

15. PW.3 stated that the accused had thrown the axe in-front-of the house and went away and the Police seized the axe from that place. PW.4 stated that the accused had carried the axe with him.

16. PW.1 and PW.4's version is that the accused carried the axe along with him and fled. During the course of cross-examination of PW.3, the witness admitted that the accused had thrown the axe in-front-of the house and went away. It is not a material contradiction in the case of prosecution. Only for the reason of the falsity of the statement of PW.3 in the cross-examination that the

axe was thrown in-front-of the house, will not in any manner affect the case of the prosecution. Even accepting that the version given by PW.3 is incorrect, that in itself would not falsify the entire version of the prosecution regarding the attack by the appellant.

17. In Criminal cases, the Latin maxim '*falsus in uno falsus in omnibus*' cannot be applied. Only for the reason of PW.3 stating in his cross-examination that axe was thrown at the scene, it cannot be said that the entire version of PW.1, PW.3 and PW.4 witnessing the incident has to be disbelieved. When the evidence of PWs.1, 3 and 4 in its entirety is considered, it is consistent with the version given at the earliest point of time in the complaint-Ex.P1 which was lodged within one hour twenty minutes of the incident. PW.1 had seen the appellant causing injuries with the axe and fleeing from the place.

18. The accused was arrested on 04.03.2014. Admittedly, he was living along with his mother. No reasons are given as to why he absconded from his house from the date of the incident. The said circumstance also lends credibility to the version of the prosecution when the accused had not given any reasons regarding his abscondance till his arrest by the Police.

19. There are no grounds to interfere with the findings of the learned Sessions Judge.

20. Accordingly, Criminal Appeal is dismissed.

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Sd/- K. SAILESHI
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. The Principal Sessions Judge, Adilabad. (with records, if any)
2. The Judicial First Class Magistrate, Bhainsa.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. (OUT)
4. One CC to Sri G. Jaya Reddy, Advocate [OPUC]
5. Two CD Copies

kam/gh

HIGH COURT

DATED:17/10/2024

JUDGMENT

CRLA.No.1157 of 2015



DISMISSING OF THE
CRIMINAL APPEAL

PA
6/11/24.
SCop 123