

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE NINTH DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

Criminal Appeal No.300 of 2018

Criminal Appeal under Section 374(2) Cr.P.C. against the judgment dated 27.10.2017 passed in S.C.No.82 of 2017 on the file of the Principal Sessions Judge at Mahabubnagar.

Between:

Godugu Yadaiah, S/o. Ramulu, aged 40 years, Occ: Cooli, R/o. Imulnarva Village, Kothur Mandal, now at Kandivanam Village, Farooq Nagar, Ranga Reddy District.
...Appellant/Sole Accused.

AND

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

...Respondent/Complainant.

Counsel for the Appellant: Sri K.Ramachandra.

Counsel for the Respondent: The Public Prosecutor.

The Court made the following: **JUDGMENT**

THE HONOURABLE SRI JUSTICE E.V.VENUGOPAL

CRIMINAL APPEAL No.300 OF 2018

JUDGMENT:

The present Criminal Appeal is filed seeking to set aside the judgment dated 27.10.2017 in S.C.No.82 of 2017 on the file of the learned Principal Sessions Judge, at Mahabubnagar (for short, "the trial Court").

2. Heard Mr.K.Ramachandra, learned counsel for the appellant and Mr.Syed Yasar Mamoon, learned Additional Public Prosecutor appearing for respondent-State.

3. The brief facts of the case are that PW1/Godugu Jangaiah is the brother of the appellant/accused. It is stated that Mr.Narsimhulu, the younger brother of the accused died due to ill-health but, the accused blamed PW1 for not taking proper care of his younger brother. It is stated that, on 25.02.2016, the accused attacked PW1, when he was sleeping in front of his house, due to which he suffered bleeding injuries. It is also stated that the accused bolted the doors of the room in which PWs.2 and 3 were sleeping and on hearing the shouts of PW1, his wife forcibly opened the door and came out. Then, the accused

also beat her with sword and when the neighbours gathered all around, he fled away from that place.

4. On the report of PW1, PW7/Head Constable, Kothur registered a case against the accused and issued the First Information Report. During the investigation, PW9/S.I. of Police, recorded the statements of witnesses, conducted scene of offence panchanama, arrested the accused on 29.02.2016, recorded his confession, recovered the sword and produced him before the Magistrate. The blood stained clothes of victim and the sword were sent to FSL for analysis and human blood was detected on those items. He collected cotton swab from the scene of offence and sent it to F.S.L. but it did not contain the human blood. Upon receiving the F.S.L. report, PW9 filed the charge sheet. It was taken on file in P.R.C.No.1 of 2017, by the Court of the learned Principal Judicial First Class Magistrate, Shadnagar for the offence punishable under Section 307 of I.P.C.

5. After appearance of the accused before the Court, the Magistrate furnished the copies of the charge sheet and documents to the accused as per Section 207 of Cr.P.C. and committed the case to the Court of Sessions. The trial Court vide impugned judgment found the petitioner guilty for the offence

punishable under Section 307 of I.P.C. and sentenced him to undergo rigorous imprisonment for a period of three years and to pay fine of Rs.500/-, in default of payment of fine, to suffer simple imprisonment for a period of one month. Aggrieved by the same, the appellant/accused preferred the present Appeal.

6. Learned counsel for the appellant contended that the appellant had no intention to kill his brother. Since, the younger brother of the appellant died due to ill-health, he tried to attack PW1 and the ingredients as culled out under Section 307 of I.P.C. are not attracted in the present case on hand. Therefore, he seeks to pass appropriate orders.

7. Learned Additional Public Prosecutor contended that the trial Court, upon careful scrutiny of the material available on record in proper perspective rightly passed the impugned judgment and the interference of this Court is unwarranted. Therefore, he seeks to dismiss the Revision.

8. On behalf of the prosecution, the trial Court examined PWs.1 to 9 and marked Exs.P1 to P7 and MOs.1 to 3. On behalf of the defense, none were examined and no document was marked. Upon careful scrutiny of the oral and documentary evidence, the trial Court observed that the evidence of

PW1/victim is quite clear stating that the accused caused injury on him with a sword. PW2, being the wife of PW1, also witnessed the incident and she went to the rescue of her husband. PW3 is the brother of PW1 and the accused and PW3 spoke about the said incident. According to the medical evidence i.e., wound certificate marked as Ex P6, PW1 sustained lacerated injury over the fore head extending to the scalp, multiple laceration over occipital region, mastoid region and there was a fracture of front bone. The presence of human blood on the sword would also show that it was used for commission of the offence. Therefore, it was quite apparent that the weapon used by the accused and the part of the body where the wound was inflicted would show that the accused intended to kill PW1. Since, the offence occurred during the midnight, the evidence of PW1/victim, PW2 and PW3 was found to be cogent and convincing, to prove the guilt of the accused for the offence under Section 307 I.P.C. and the trial Court rendered the impugned judgment.

9. A perusal of the record shows that this Court vide order 02.02.2018 suspended the operation of the impugned judgment and enlarged the appellant on bail on executing a personal bond

for Rs.20,000/- with two sureties for a like sum each to the satisfaction of the trial Court.

10. In the case on hand, the trial Court held that the appellant was guilty of the offence punishable under Section 307 of I.P.C., which finding, in my considered view, does not call for any interference.

11. Having regard to the submissions made by both the learned counsel, upon considering the fact that the appellant suffered mental agony and hardship during the course of litigation before the trial Court and as six long years have elapsed from the date of filing this Appeal, this Court is inclined to take a lenient view insofar as the sentence is concerned and reduce the sentence imposed against the petitioner to two (2) years of rigorous imprisonment instead of three (3) years.

12. The petitioner is directed to pay fine of Rs.25,000/- to the credit of the S.C.No.82 of 2017 on the file of the learned Principal Sessions Judge, at Mahabubnagar within a period of six months from today. On such deposit PW1/victim is permitted to withdraw the said amount upon filing an appropriate application before the trial Court. If the petitioner fails to comply with the

aforesaid direction, he shall suffer simple imprisonment for a period of one month.

13. Except the above modification, in all other aspects, the Criminal Appeal stands dismissed.

Miscellaneous Petitions, pending if any, shall stand closed.

Sd/- M. RAMANA KRISHNA
DEPUTY REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The Principal Sessions Judge at Mahabubnagar.
2. One CC to Sri K.Ramachandra, Advocate [OPUC]
3. ~~One~~ ³¹⁰ CC to The Public Prosecutor, High Court Buildings, Hyderabad [OPUC] (cont)
4. Two CD Copies.

JCK/VA

Ys

HIGH COURT

DATED:09/07/2024

JUDGMENT

CRLA.No.300 of 2018



Except the modification, the Criminal Appeal is dismissed in all other aspects.

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24/10/24