

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

WEDNESDAY, THE EIGHTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE SRI JUSTICE P.SAM KOSHY
AND
THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

I.A.No.1 of 2024 IN/AND CRIMINAL APPEAL No: 1055 of 2024

Appeal under Section 413 of BNSS, 2023, against the Judgment dated 16-04-2024 passed in S.C.No.197 of 2021 on the file of the Court of the Principal District and Sessions Judge, at Siddipet.

Between:

Kasthuri Janardhan Reddy, s/o. Narayana Reddy, Age: 28 years, Occ: Private Employee, r/o. Laxmidevipally Village, Siddipet District, Telangana.

...Appellant/Complainant

AND

1. The State of Telangana, Rep. by its Public Prosecutor, High Court for the State of Telangana, Hyderabad.
...Respondent
2. Dongala Narsimulu @ Narsimha Reddy, s/o. Narayan Reddy, Age: 29 years, Occ: Private Employee, r/o. Laxmidevipally Village, Siddipet District, Telangana.
3. Bonguram Linga Reddy, s/o. Ramulu, Age: 23 years, Occ: Bolero Driver, r/o. Laxmidevipally Village, Siddipet District, Telangana.
4. Pathuri Sanjeeva Reddy, s/o. Malla Reddy, Age: 60 years, Occ: Contractor, r/o. Laxmidevipally Village, Siddipet District, Telangana.

...Respondents/Accused

IA NO: 1 OF 2024

Petition under Section 413 of the BNSS praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant leave to the petitioner to file Criminal Appeal against the Judgment dated 16-04-2024 passed in Sessions Case No. 197 of 2021, by the Court of the Principal District and Sessions Judge, Siddipet.

**Counsel for the Appellant: Mr. Ch. Satya Sadhan, representing
Ms. B. Geetha**

**Counsel for the Respondent No.1: Mr. M. Ramachandra Reddy,
Additional Public Prosecutor**

The Court delivered the following: JUDGMENT

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE NAMAVARAPU
RAJESHWAR RAO**

I.A.No.1 of 2024 IN/AND CrI.A.No.1055 OF 2024

JUDGMENT: *(per Hon'ble Sri Justice P.Sam Koshy)*

Heard Mr. Ch. Satya Sadhan, learned counsel representing Ms. B.Geetha, learned counsel for the appellant/complainant and the Mr. M.Ramachandra Reddy, Additional Public Prosecutor for respondent No.1/State. Perused the record.

2. The present is an appeal which has been filed under Section 419(4) of the Bharatiya Nagarik Suraksha Sanhita, 2023, challenging the judgment dated 16.04.2024 passed by the learned Principal District and Sessions Judge, at Siddipet in Sessions Case No.197 of 2021.

3. Vide the impugned judgment, the learned trial Court has found respondent Nos.2 & 3/accused Nos.1 & 2 in the aforementioned sessions case not guilty of the offences punishable under Sections 302, 201 and 120-B of the IPC and has acquitted them of the charges levelled against them. Respondent No.4/

accused No.3 was found not guilty of the offences punishable under Sections 302 & 120-B of the IPC read with Section 109 of the IPC and was accordingly acquitted.

4. The State has not challenged the judgment of acquittal. The instant is an appeal by the *de facto* complainant, the brother-in-law of the deceased. It is a case where the dead body of the Pathuri Raju was found in a well in an open field on 16.04.2019. In the course of investigation from the call data report of the mobile number used by the deceased, the respondents/accused were apprehended. Subsequent to their apprehension, based upon their confessional statements recorded, they were made accused in the said case. The charge sheet was filed and the matter was put to trial before the Sessions Court at Siddipet where it was registered as S.C.No.197 of 2021.

5. The prosecution in all examined 17 witnesses as P.Ws.1 to 17 and also exhibited as many as 99 documents as Exs.P-1 to P-99. Twenty material objects were also collected and marked as M.Os.1 to 20 during the course of trial. Meanwhile, no witnesses were examined in support of the defence nor were any documents

marked or material objects produced in defence. After the conclusion of the trial, vide the impugned judgment, the learned trial Court found the prosecution to have failed to establish its case beyond reasonable doubt so far as the involvement of the respondents/accused in the commission of the offence is concerned and passed the judgment acquitting them of all the charges levelled against them.

6. The contention of the learned counsel for the appellant/complainant is that the learned trial Court has committed grave error in not properly appreciating the fact that it was a case of a cold blooded murder of the deceased Pathuri Raju. It was also the contention of the appellant that the confession statement made by the accused persons before the investigating agency and the witnesses produced by the prosecution was sufficient to show that the offence could had been committed by none else, but the respondents/accused themselves.

7. The learned counsel for the appellant/complainant also tried to canvass the point that since the prosecution case was not properly conducted, let the matter be remanded ~~back~~ for fresh

trial and a fresh judgment be passed. However, perusal of the records would show that in the course of the trial, all the material witnesses, particularly the independent witnesses have not supported the case of the prosecution and have turned hostile. So much so, even the official witnesses have also not supported the case of the prosecution. In the absence of any cogent strong materials strong enough to draw the only inference of the commission of the offence only by the respondents/accused and none else, being available neither there being any material to show that the respondents/accused have any major role played over the witnesses to turn hostile.

8. Moreover, from the materials available on record, the FSL report also does not lead us to any conclusion so as to upset the judgment of acquittal passed by the learned trial Court. Neither has the prosecution been able to collect any finger prints to prove from any of the material objects which are said to have been used by the respondents/accused for the purpose of commission of the offence which again makes the prosecution case substantially weak.

9. Hence, except for the confession statement which itself was recorded in the premises of the police station and hence a weak piece of evidence, we do not find any other material available on record strong and cogent enough to interfere with the judgment of acquittal passed by the trial Court.

10. So far as interfering with the judgment of acquittal in an appeal by the trial Court, it has been held by the Hon'ble Supreme Court in a catena of decisions that unless there is substantial strong evidence which is not been appreciated by the trial Court and where the commission of offence by the accused is glaringly established, the judgment of acquittal is not be interfered as a matter of routine. The Hon'ble Supreme Court in the case of **Ballu and Another v. State of Madhya Pradesh**¹ in paragraph Nos.6 to 9 observed as under:

"6. Undoubtedly, the prosecution case rests on circumstantial evidence. The law with regard to conviction on the basis of circumstantial evidence has very well been crystalized in the judgment of this Court in the case

¹ 2024 SCC Online SC 481

of *Sharad Birdhichand Sarda v. State of Maharashtra*², wherein this Court held thus:

"152. Before discussing the cases relied upon by the High Court we would like to cite a few decisions on the nature, character and essential proof required in a criminal case which rests on circumstantial evidence alone. The most fundamental and basic decision of this Court is *Hanumant v. State of Madhya Pradesh* [(1952) 2 SCC 71 : AIR 1952 SC 343 : 1952 SCR 1091 : 1953 Cri LJ 129]. This case has been uniformly followed and applied by this Court in a large number of later decisions up-to-date, for instance, the cases of *Tufail (Alias) Simmi v. State of Uttar Pradesh* [(1969) 3 SCC 198 : 1970 SCC (Cri) 55] and *Ramgopal v. State of Maharashtra* [(1972) 4 SCC 625 : AIR 1972 SC 656]. It may be useful to extract what Mahajan, J. has laid down in *Hanumant* case [(1952) 2 SCC 71 : AIR 1952 SC 343 : 1952 SCR 1091 : 1953 Cri LJ 129]:

"It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other

² (1984) 4 SCC 116 = 1984 INSC 121

words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."

7. It can thus clearly be seen that it is necessary for the prosecution that the circumstances from which the conclusion of the guilt is to be drawn should be fully established. The Court holds that it is a primary principle that the accused 'must be' and not merely 'may be' proved guilty before a court can convict the accused. It has been held that there is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved'. It has been held that the facts so established should be consistent only with the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty. It has further been held that the circumstances should be such that they exclude every possible hypothesis except the one to be proved. It has been held that there must be a chain of evidence so 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 probabilities the act must have been done by the accused.

8. It is settled law that the suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted on the ground of suspicion, no matter how strong it is. An accused is

presumed to be innocent unless proved guilty beyond a reasonable doubt.

9. Apart from that, it is to be noted that the present case is a case of reversal of acquittal. The law with regard to interference by the Appellate Court is very well crystallized. Unless the finding of acquittal is found to be perverse or impossible, interference with the same would not be warranted. Though, there are a catena of judgments on the issue, we will only refer to two judgments which the High Court itself has reproduced in the impugned judgment, which are as reproduced below:

"13. In case of *Sadhu Saran Singh v. State of U.P.* (2016) 4 SCC 357, the Supreme Court has held that:—

"In an appeal against acquittal where the presumption of innocence in favour of the accused is reinforced, the appellate Court would interfere with the order of acquittal only when there is perversity of fact and law. However, we believe that the paramount consideration of the Court is to do substantial justice and avoid miscarriage of justice which can arise by acquitting the accused who is guilty of an offence. A miscarriage of justice that may occur by the acquittal of the guilty is no less than from the conviction of an innocent. Appellate Court, while enunciating the principles with regard to the scope of powers of the appellate Court in an appeal against acquittal, has no absolute restriction in law to review and relook the entire evidence on which the order of acquittal is founded."

14. Similar, In case of *Harljan Bhala Teja v. State of Gujarat* (2016) 12 SCC 665, the Supreme Court has held that:—

"No doubt, where, on appreciation of evidence on record, two views are possible, and the trial court has taken a view of acquittal, the appellate court should not interfere with the same. However, this does not mean that in all the cases where the trial court has recorded acquittal, the same should not be interfered with, even if the view is perverse. Where the view taken by the trial court is against the weight of evidence on record, or perverse, it is always open for the appellate court to express the right conclusion after re-appreciating the evidence. If the charge is proved beyond reasonable doubt on record, and convict the accused."

11. In the given factual backdrop and the judicial precedents flowing from the Hon'ble Supreme Court on the subject matter and also on interfering with the judgment of acquittal and for the reasons narrated in the preceding paragraphs, we find it difficult to interfere with the judgment of acquittal.

12. For all the aforesaid reasons, we do not find any case made out by the appellant herein to interfere with the impugned judgment.

13. I.A.No.1 of 2024, which is a petition seeking for leave to file criminal appeal, stands rejected and as a consequence, the criminal appeal stands rejected.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

//TRUE COPY//

Sd/- K. SRINIVASA RAO
JOINT REGISTRAR


SECTION OFFICER

To,

1. The Principal District and Sessions Judge, at Siddipet. (with records, if any)
2. The I Additional Junior Civil Judge-cum-Judicial Magistrate of First Class, Siddipet.
3. The Station House Officer, Siddipet Rural Police Station, Siddipet District.
4. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad [OUT]
5. One CC to Ms. B. Geetha, Advocate [OPUC]
6. Two CD Copies

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HIGH COURT

DATED:18/12/2024

JUDGMENT

I.A.No.1 of 2024

IN/AND

CRLA.No.1055 of 2024



**THE I.A AND THE CRIMINAL
APPEAL ARE REJECTED**

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