APHC010152612019

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI [3596]
(Special Original Jurisdiction)

TUESDAY, THE 6th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

CRIMINAL APPEAL No: 405/2019

Between:

1. KANNEBOYINA NARAYANAMMA, KRISHNA LANKA, VIJAYAWADA
2. KANNEBOYINA CHIRANJEEVI, KRISHNA LANKA, VIJAYAWADA

...APPELLANT(S)

AND

1. THE STATE OF AP, High Court of AP, Amaravathi.

...RESPONDENT

Appeal under Section 372/374(2)/378(4) of Cr.P.C praying that the High Court may be pleased to call for the entire records of Judgment dt: 7-5-2019 in S.C.No. 168 of 2017 on the file of the Court of The Hon'ble XIII Additional Sessions Judge, at Vijayawada, Krishna District, and set aside the same and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to enlarge the petitioners on bail by suspending the operation of the sentence of imprisonment in Sessions Case Judgment dt. 7-5-2019 in S.C.No.168 of 2017 on the file of the Court of The Hon'ble XIII Additional Sessions Judge, at Vijayawada, Krishna District Pending disposal of the above Criminal Appeal

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to release the petitioners/appellants/A-1 and A-2 in CrI.A.No.405/2019 on bail by suspending the conviction and sentence imposed in S.C.No.168/2017 dt.07-05-2019 on the file of the court of the XIII Additional Sessions Judge at Vijayawada, NTR District, Andhra Pradesh and pass

Counsel for the Appellant(S):

1. SUDHAKARA RAO AMBATI

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

The Court made the following:

JUDGMENT: *(Per Hon'ble Smt. Justice Sumathi Jagadam)*

Both the accused in Sessions Case No.168 of 2017, on the file of the Court of the XIII Additional Sessions Judge, Vijayawada, are the appellants. They were tried by the learned Additional Sessions Judge on the following charges:

1st charge was under Section 302 r/w.34 IPC.

2nd charge was under Section 201 IPC.

2. Substance of the charge is that on 15.04.2015 at about 04.00 hours, both the accused beat Kanneboyina Venkateswarlu (hereinafter referred to as 'deceased') with a chutney pounder on his head, causing injuries in furtherance of their common intention. Under the pretext of taking the deceased to hospital, they threw dead body into Bandar Canal to screen the evidence, thereby committed offences punishable under Sections 302 r/w.34 and Section 201 IPC.

3. After completion of trial, the learned Additional Sessions Judge convicted accused No.1 and 2 under Section 302 r/w 34 IPC and sentenced them to suffer rigorous imprisonment for life, and also to pay a fine of Rs.500/- each, in default, to suffer simple imprisonment for one month. The learned Additional Sessions Judge further convicted accused No.1 and 2 under Section 201

r/w 34 IPC and sentenced them to suffer rigorous imprisonment for five years, and also to pay fine of Rs.500/- each, in default, to suffer simple imprisonment for one month. Both the substantive sentences were directed to run concurrently. Aggrieved by the same, both the accused filed the present appeal.

4. Case of the prosecution, briefly, is as follows:

i) The deceased was the husband of A-1. Their son is A-2, and Subhashini is their unmarried daughter. They belong to Yadava community and reside in Krishnalanka, Vijayawada. On 16.04.2015, P.W-1 lodged a report Ex.P-1 at Patamata Police Station, reporting that an unidentified male dead body was found floating in the water near Guljar Bridge, Patamatalanka. Basing on Ex.P-1, P.W-13 registered a case in Crime No.253 of 2015 U/s.174 Cr.P.C. F.I.R. was marked as Ex.P-14.

ii) Thereafter, P.W-13 accompanied by a Police Constable and a Home Guard, shifted the dead body to the river bank. An observation report (Ex.P-7) was prepared in the presence of mediators. The body was subsequently sent to the Government General Hospital, Vijayawada, for post-mortem examination.

iii) On 18.04.2015, a news item was published in the local newspaper for identification by P.W-13. Upon seeing the publication, the parents of the deceased (P.Ws-2 and 3) identified

the deceased as their son. The deceased was survived by his wife (A-1), two daughters and one son (A-2).

iv) P.W-13 held inquest over dead body in the presence of P.W-9 and others. Inquest report was marked as Ex.P-6. He recorded statements of P.Ws-2 and 3 at the time of inquest. He sent the dead body for post mortem examination.

v) The family of the deceased resided as tenants in the house of P.W-4. The deceased worked as mutha coolie. The elder daughter's marriage had already been performed, while second daughter was studying 9th class. His wife and son were masons.

vi) Marital discard had arisen between the deceased and his wife (A-1) owing to her illegal intimacy with Vengayya. The deceased requested his wife to severe her relationship with Vengayya. However, the wife resisted stating that she would act according to her own wishes. Unable to bear and fearing the family reputation, the deceased went to his parents house one month prior to the incident.

vii) On 11.04.2015, the deceased returned to his house. Three days later, P.W-4 and P.W-5, who were sleeping on the terrace, heard an altercation between the accused and the deceased.

viii) Both of them witnessed A-1 and A-2 beating the deceased with chutney pounder and caused injuries, and when they were

proceeding further, P.Ws-4 and 5 questioned A-1 and A-2, who reluctantly stated that they are taking the deceased to hospital.

ix) On 19.04.2015, after receiving a requisition from the Station House Officer of Patamata Police Station, PW-12, Assistant Professor at Siddhartha Medical College, conducted post-mortem examination and opined that the cause of death was due to head injury. Exhibit P-11 dated 19.04.2015 is the post-mortem report, and Exhibit P-12 is the report from the Forensic Science Laboratory.

x) Based on the inquest report (Ex.P-6), the Inspector of Police altered the FIR and forwarded copies to all concerned police stations. The altered FIR was marked as Ex.P-15. Subsequently, the Inspector of Police addressed a letter to the Assistant Commissioner of Police, Central Zone, requesting the transfer of the case to Krishnalanka Police Station on jurisdictional grounds. Ex.P-16 is the letter dated 22.04.2015. On 23.04.2015, the Inspector of Police re-registered FIR No.224 of 2015 U/s.302, 201 r/w.34 IPC, which was marked as Ex.P-17, and further investigation was undertaken by the Inspector of Police, Krishnalanka Police Station/P.W-16.

xi) On 24.04.2015, P.W-10 along with another was present at the time of observation of scene of offence by the police. Ex.P.7 is the scene observation report. The police prepared the mediator’s

report marked as Ex.P-10. P.W.16-the C.I. of Police examined P.W-5 and recorded statements of P.W.6, P.W-7 and P.W-8, and their statements were marked as Exs.P-2 to P-5.

xii) On 26.04.2015, after securing the presence of P.W-10 and another, P.W.16 proceeded towards Pandit Nehru Bus Station, Vijayawada, arrested A-1 and A-2, recorded a confession leading to discovery, and seized chutney pounder marked as M.O-1 in the presence of the mediators. Ex.P-9 is the mediators report. After receipt of the final opinion-Ex.P-13, charge sheet was filed before the Court.

5. In support of its case, the prosecution examined P.Ws-1 to 16, marked Exs.P-1 to P-17 and exhibited M.O-1.

6. When the accused were examined under Section 313 Cr.P.C., they denied the incriminating evidence appearing against them. No witnesses were examined and no documents were marked on behalf of the defence.

7. Accepting the evidence of prosecution witnesses, learned Additional Sessions Judge convicted both the accused as aforesaid.

8. Heard Sri Sudhakara Rao Ambati, learned counsel for the appellants, and Sri Marri Venkata Ramana, learned Additional Public Prosecutor appearing for the respondent/State.

9. Learned counsel for the appellants argues that the prosecution heavily relied on the alleged illicit intimacy between the 1st appellant and Vengayya as motive for the crime, but failed to examine him as a witness. Furthermore, though the daughter of the deceased was present at the time of incident, she was not examined. Additionally, though the evidence of P.W.4 is that she witnessed A-1 and A-2 beating the deceased with the chutney pounder, the prosecution failed to establish who actually struck the deceased with the chutney pounder. Finally, learned counsel argues that the prosecution invented a new story by recording the statement of P.W-8 on 24-4-2015, ten days after the incident and six days after the news item, and prays that the criminal appeal be allowed.

10. On the other hand, the learned Additional Public Prosecutor argues that the prosecution has established a complete chain of events and connected the appellants to the offence. The last-seen theory is supported by two independent witnesses, namely P.W-4, who spotted the accused near the house, and P.W-8, who saw the accused at VUDA Park. The ocular version of P.Ws-2 to 5 is

consistent and reliable. Furthermore, the doctor who conducted autopsy over the dead body opined that the deceased died due to head injury. Additionally, the weapon used in the commission of the offence (M.O-1) was recovered from the house of the accused, and the prosecution prays to confirm the conviction and sentence recorded by the learned Additional Sessions Judge in the above Sessions Case.

11. We have carefully scrutinized the entire evidence on record. Admittedly, P.Ws-4 to 8 did not support the case of the prosecution, and they were declared as hostile by the prosecution.

12. The deceased was residing at Krishnalanka, Vijayawada, along with his wife (A-1), two daughters, and a son (A-2). The deceased was a mutha coolie at the iron yard in Bhavanipuram. Prior to the incident, the deceased had solemnized the marriage of his elder daughter. His younger daughter was studying 9th class, while his wife and son (A-1 and A-2) worked as masonry labourers. Frequent disputes arose between the deceased and his wife regarding an alleged illicit relationship between his wife and Vengayya, who was also a mason.

13. Owing to his wife’s refusal to rectify her conduct, the deceased left the matrimonial home and went to his parents at

Pothareddipalem. The deceased returned on 11.04.2015. On 14.04.2015, the deceased left for his work and returned home at 04.00 a.m. on the intervening night of 14th and 15th April, 2015.

14. Upon his return, a physical altercation took place between the deceased and his wife. During the altercation, the deceased's wife (A-1) and son (A-2) assaulted him with a chutney pounder, resulting in severe bleeding injury.

15. P.W-4, upon witnessing the injured, informed A-1 and A-2 to shift him to a hospital. Under the false pretense of taking the deceased to hospital, A-1 and A-2 threw him into Bandar Canal on 15.04.2015. The relatives and neighbors came to know about the incident through news reports on 18.04.2015.

16. P.W-1 is the owner of a tea stall, at whose instance Ex.P-1 report was recorded. P.W-2 and P.W-3 are the father and mother of the deceased respectively. P.W-4 and P.W-5 are landlords. P.Ws-4 to 8 did not support the prosecution and they were declared as hostile.

17. The prosecution mainly relies on the allegation that an illicit relationship existed between A-1 and one Vengayya, which routinely lead to domestic quarrels between the deceased and A-1. P.Ws-2 and 3 have deposed about this dispute. But, their

evidence lacks consistency to arrive to the pre-existing motive to commit murder.

18. According to the prosecution, P.W-4 and P.W-8 are the crucial witnesses, who saw the deceased alive in the presence of accused. P.W-4 testified that she witnessed A-1 and A-2 striking the deceased with a chutney pounder. P.W-8 testified that he saw the accused pushing the deceased into a canal. However, the prosecution witnesses failed to intervene or lodge a report to the police. Their silence and failure in not reporting the event immediately to the police raise serious doubt as to the truthfulness of their testimony. Of course, P.W-4 and P.W-8 did not support the prosecution.

19. According to the prosecution, the daughter of the deceased and A-1 was present at the scene of occurrence. Being a natural material witness, she was not examined by the prosecution for the best reasons known to them.

20. The alleged illicit relationship between A-1 and Vengayya forms bedrock of prosecution theory regarding motive, but the prosecution completely failed to examine Vengayya to substantiate this allegation. Further, P.W-2, father of deceased stated in his examination in chief that he came to know the alleged

illicit relationship between A-1 and Vengayya, only after the death of the deceased. This evidence of P.W.2 shattered the prosecution contention that an ongoing known motive lead to commission of the crime.

21. When the conviction rests on the circumstantial evidence, prosecution must establish an unbroken chain of events, pointing the guilt towards the accused. The nature of the weapon and single blow disproves any pre-mediated design to cause death. While P.W-4 claimed that a chutney pounder was used, the witness failed to specify which of the accused inflicted the blow or what specific overt act was attributable to each accused. The nature of the weapon is a chutney pounder, which is an ordinary household implement not a lethal weapon, intentionally procured, or carried to scene of offence to commit a crime.

22. As per the medical evidence, the death resulted to single head injury. The attack was not premeditated or executed with cruelty, indicating that the incident occurred in a sudden pit of anger and in the spur of moment. There is no evidence on record to indicate that the wife and the son hovered with any prior intention or motive to eliminate or kill the head of their family.

23. While the accused were on a duty to explain circumstances within their knowledge U/s.106 of the Evidence Act, the evidence reveals that A-1 and A-2 were the primary earning members of the family and the deceased was working as a mutha coolie at iron yard. The deceased was routinely assassinating the character of A-1. The sudden out-burst anger triggered by continuous character assassination and provocation, rather than a pre-mediated plan to murder.

24. The prosecution has failed to establish the charge of murder U/s.302 of IPC beyond reasonable doubt, as the essential ingredients of pre-mediation and specific intention to cause death are absent. Further, the weapon used was a common household object. The injury was a single blow delivered in the spur of moment, amidst sudden provocation and the accused had no prior intention to eliminate the deceased.

25. The act will commit with the knowledge that bodily injury was likely to cause death, lacks requisite intent to constitute murder.

26. In order to bring home a charge U/s.201 IPC, the prosecution must prove that the accused caused any evidence of the commission of the offence to disappear or gave any

information relating to that offence, which they then knew or believed to be false.

27. The prosecution relied on the evidence of P.W-8, who was declared as hostile witness. There must be a disappearance of some evidence of commission of offence to attract Section 201 IPC. There is no evidence to establish that the accused have caused any evidence of commission of crime i.e., murder, to disappear. Unfortunately, the dead body was located in Bandar Canal and no family member has given any complaint against the incident.

28. Culpable homicide is not murder if it is committed without pre-mediation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner, in view of the judgment in **Rupesh Lohar vs. State of West Bengal** (CRA No.24 of 2019 (paras 20 and 21)).

29. For the reason stated above, the point raised in the present appeal has to be answered in the negative holding that the learned Sessions Judge is not justified in convicting A-1 and A-2 for the offences punishable U/s.302 and 201 r/w.34 IPC and both accused have made out the case to interfere with the impugned

judgment of conviction U/s.302 and 201 r/w.34 IPC. Instead, the appellants (A-1 and A-2) can be convicted U/s.304 Part-II IPC

30. In the result, the Criminal Appeal is allowed in-part. The conviction and sentence recorded by the learned XIII Additional Sessions Judge, Vijayawada, against the appellants (A-1 and A-2) for the offence U/s.302 and 201 r/w.34 IPC, in S.C.No.168/2017 dated 07.05.2019, is hereby set aside. As the appellants have already served nearly six (06) years of imprisonment, the period already undergone by them, shall meet the ends of justice, while maintaining the fine amount.

As the appellants/A-1 and A-2 have already released on bail by order dated 09.08.2024, *vide* I.A. No.1 of 2024, in terms of orders passed by the Combined High Court in ***Batchu Rangarao and others Vs. The State of Andhra Pradesh*** (Crl.A.M.P.No.1687 of 2016 in Crl.A.No.607 of 2011), their bail bonds shall stand cancelled.

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

JUSTICE K.SURESH REDDY

JUSTICE SUMATHI JAGADAM

6th October, 2026

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Whether the judgment is:

Speaking	--	Reasoned	√
Reportable	--	Non-Reportable	√

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

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CRIMINAL APPEAL No.405 OF 2019

6th October, 2026

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