

(2006) 11 AP CK 0057

Andhra Pradesh High Court

Case No: Criminal Appeal No. 886 of 2005

Suresh Pandit @ Pandit, @
Suresh and Others

APPELLANT

Vs

The State of A.P.

RESPONDENT

Date of Decision: Nov. 30, 2006

Acts Referred:

- Penal Code, 1860 (IPC) - Section 109, 302, 307, 34, 386

Citation: (2007) 1 ALD(Cri) 494 : (2007) 2 ALT(Cri) 264

Hon'ble Judges: G. Yethirajulu, J; A. Gopal Reddy, J

Bench: Division Bench

Advocate: B. Krishna Rao, for the Appellant; Public Prosecutor, for the Respondent

Final Decision: Dismissed

Judgement

G. Yethirajulu, J.

This is an appeal preferred by the accused in Sessions Case No. 96 of 2001 on the file of the II Additional Metropolitan Sessions Judge, City Criminal Courts, Hyderabad. Four accused were charged in the said crime for the offences punishable under Sections 302, 302 read with 34; 307, 307 read with 34; 386, 386 read with 34 and 302 read with 109 IPC. The accused pleaded not guilty and claimed for trial.

2. The case of the prosecution leading to the conviction of the appeal is briefly as follows.

3. The deceased, PW.1 and the accused are residents of Hyderabad. Rajender Sing (deceased No. 1) is the husband and Manpreet Kaur and Harpreet Kaur (deceased Nos. 2 and 3) are the daughters of PW.1 respectively. On 26.8.2000 at about 8.00 pm., A.1 to A.3 came to the house of the deceased and rang the calling bell. On hearing the sound, when PW.1 opened the door, A.1 to A.3 came into the drawing room and sat on the sofa in the hall along with her husband. PW.1 went into the

kitchen to attend the cooking work, and her daughters went to their bedroom. After 10 or 15 minutes, on hearing the shoutings from the hall, PW.1 went to the dining hall situated in between the kitchen and main hall and saw A.1 attacking her husband with a butcher's knife and stabbing him on his head and other parts of the body. When her husband tried to push back A.1, A.1 gave the knife to A.2, and then A.2 hacked him with that knife, as a result of which, the brain matter of her husband came out and he fell down on the floor. When PW.1 raised cries, A.2 closed her mouth with his palm. In the meanwhile, A.1 and A.3 entered into the bedroom of her daughters. Then PW.1 also went into the bedroom and requested the accused not to cause any harm to her daughters. She also gave Rs. 20,000/- to A.2. On hearing the cries, when she was proceeding to her daughters' bedroom, A.1 came out of the bedroom and attacked her with butcher's knife and stabbed on her head, back side, fore head, front and back sides of neck and right back side of palm. A.2 also entered into the bedroom. PW.1 fell down on the floor. Thereafter, the accused while discussing that everybody died, washed their hands, took the jewellery and money available in the house, bolted the doors from outside and left the scene of offence. After some time, PW.1 telephoned to PW.2, who is her brother. On receiving the phone call, P.W.2 arrived at the house, opened the doors and found the deceased lying dead. He also found PW.1 with severe injuries. Then immediately, he shifted PW.1 to the hospital and later he informed to the police, and the police came to the hospital, recorded the statement of PW.1, and registered the same as a case in Crime No. 340 of 2000 for the offences punishable under Sections 302, 307, 394 read with 34 IPC. Afterwards, the police observed the scene of offence, conducted inquest over the dead bodies of the deceased, sent the dead bodies for postmortem examination, examined the witnesses, recorded their statements, arrested the accused, recovered the stolen property and after completion of investigation filed the charge sheet.

In order to prove the guilt of the accused, the prosecution examined PWs.1 to 12 and got marked Exs.P.1 to P.43 apart from MOs.1 to 36.

After completion of trial, the learned Sessions Judge came to the conclusion that the prosecution proved the guilt of A.1 to A.3 beyond reasonable doubt and accordingly, convicted them for various offences.

A.1 and A.2 were convicted for the offence u/s 302 IPC and sentenced to suffer imprisonment for life, and to pay a fine of Rs. 1,000/- each, in default to suffer simple imprisonment for two months for killing deceased No. 1.

A.3 was convicted for the offence punishable u/s 302 read with 34 IPC and sentenced to suffer imprisonment for life, and to pay a fine of Rs. 1,000/-, in default to suffer simple imprisonment for two months.

A.2 and A.3 are further convicted for the offence punishable u/s 302 IPC for killing defendant No. 2, and sentenced to suffer imprisonment for life, and to pay a fine of

Rs. 1,000/- each, in default to suffer simple imprisonment for two months.

A.1 was convicted for the offence punishable u/s 302 read with 34 IPC for having shared the common intention in killing defendant No. 2 and sentenced to suffer imprisonment for life, and to pay a fine of Rs. 1,000/-, in default to suffer simple imprisonment for two months.

A.2 and A.3 were convicted for the offence punishable u/s 302 IPC for killing defendant No. 3, and sentenced to suffer imprisonment for life and to pay a fine of Rs. 1,000/- each, in default, to suffer simple imprisonment for two months.

A.1 was convicted for the offence punishable u/s 302 read with 34 IPC for sharing common intention in killing defendant No. 3 and sentenced to suffer imprisonment for life and to pay a fine of Rs. 1,000/-, in default, to suffer simple imprisonment for two months. He was further convicted for the offence punishable u/s 307 IPC for inflicting grievous injuries to PW.1 and sentenced to suffer rigorous imprisonment for five years and to pay a fine of Rs. 500/-, in default, to suffer simple imprisonment for one month.

A.2 and A.3 were further convicted for the offence punishable u/s 307 read with 34 IPC and sentenced to suffer rigorous imprisonment for five years and to pay a fine of Rs. 500/-, in default, to suffer simple imprisonment for one month.

A.1 to A.3 were further convicted for the offence punishable u/s 386 IPC and sentenced to suffer rigorous imprisonment for five years, and to pay a fine of Rs. 500/- each, in default, to suffer simple imprisonment for one month. They were also convicted for the offence punishable u/s 450 IPC and sentenced to suffer rigorous imprisonment for five years and to pay a fine of Rs. 500/- each, in default, to suffer simple imprisonment for one month. All the sentences of imprisonment were directed to run concurrently.

A.4 was found not guilty of the offences, and hence he was given benefit of doubt and was acquitted of all the offences charged against him.

A.1 to A.3, being aggrieved by the judgment of the trial Court, preferred the present appeal challenging its validity and legality. The plea of the accused is one of denials.

The allegation of the prosecution was that the accused had killed three persons in the house of PW.1 and also caused severe injuries to PW.1. In the light of the above circumstances, the points for consideration are whether the prosecution proved the guilt of the accused beyond reasonable doubt and whether the convictions and sentences imposed against the accused for various offences are liable to be confirmed or set aside.

This is a case of triple murder. A father and two minor daughters have been killed by the accused by stabbing with a butcher's knife. The accused also caused injuries to PW.1 and they alleged to have committed theft of gold ornaments and cash

available in the house. The incident was alleged to have taken place on 26.08.2000 at about 8.00 pm., at the house of the deceased and after commission of offence while leaving the house the accused bolted the doors from outside. After the accused went away, PW.1 telephoned to PW.2. Immediately, PW.2 and his wife arrived the scene of offence and noticed the death of the deceased and also severe injuries to PW.1. They also noticed missing of gold ornaments and cash from the house of the deceased.

The prosecution in order to prove the guilt of the accused relied on the evidence of PW.1, who is none other than the wife of defendant No. 1, and who is injured eyewitness to the occurrence. The other witnesses were examined to corroborate the circumstances under which the offence took place, for arrest of the accused, and recovery of articles etc.

Ex.P.1 is the statement recorded by the Sub-Inspector of Police from PW.1. In the said statement, she stated that deceased No. 1 was her husband and he was doing finance business in the name of Sadhana Finance. Deceased Nos. 2 and 3 were aged about 15 and 11 years respectively, and they were her daughters. On the date of incident at about 8.00 pm., somebody rang the calling bell. She opened the door and found three persons, who are the accused, standing outside the door. All of them entered into the front room and started discussions with her husband regarding the repayment of loan of which A.1 has to pay Rs. 60,000/- and A.2 has to pay Rs. 30,000/-, which was borrowed by them from her husband long back. In the meantime, she went into the kitchen for her routine work and deceased Nos. 2 and 3 went into their bedroom. Thereafter, one person by name Siraj came for loan. Her husband asked him to come tomorrow and the said person left the place. Thereafter, she heard the voice of her husband talking to the accused loudly. In the meantime, she closed the main door. When she came from kitchen, she found A.1 and A.2 stabbing her husband with butcher's knife. Immediately, she came out and tried to stop them from stabbing her husband indiscriminately. Her husband fell down on the ground and died instantaneously. When she was about to raise cries, A.2 closed her mouth with his hands. The other two persons, i.e., A.1 and A.3 entered into the bedroom of their daughters. On that she requested them not to do any harm to them. Then A.2 asked her for money and immediately she gave Rs. 20,000/- to him. Thereafter, A.2 and A.3 went into the bedroom where deceased Nos. 2 and 3 were staying. A.1 caught hold of her and stabbed on her forehead, head and hands, due to that she fell down on the ground. Then both A.2 and A.3 entered into the bedroom of deceased Nos. 2 and 3 and stabbed them indiscriminately. When she was semiconscious, she heard the discussions among the accused saying that they have to change their clothes and wash their hands. After that they entered into the bedroom, searched for the jewellery and cash, and thereafter, one of the accused stated that all are died and they must go away before anyone comes. They put off the lights, opened the main door, went outside and bolted the door from outside and fled away. After that she tried to contact her

relatives through telephone, but found the telephone disconnected. Then she went into the main room and by using Tata telephone contacted her brother-in-law, namely, Mahender Kaur, who resides at Gowliguda and also contacted her brother Ravinder Singh and her mother. She used to go along with her husband (deceased No. 1) to collect the amounts due from various persons. Some times she alone used to go, when deceased No. 1 fell sick. That is why she knows the accused persons very well. On receiving the telephonic call, her relatives reached the house. They also informed the police, who came and shifted her to C.D.R. Hospital for treatment. This statement was given by PW.1 for the first time within 11/2 hour from the time of offence to the Sub- Inspector of Police, Narayanguda Police Station at C.D.R. Hospital casualty ward.

PW.1 in her deposition gave all the details about the incident. She stated that on the date of offence at about 8.00 pm., A.1 to A.3 came to their house and rang the calling bell. When she opened the door on hearing the bell, A.1 to A.3 came inside the house. At that time herself and deceased Nos. 1 to 3 were in the house. A.1 to A.3 had discussion with deceased No. 1. She went into the kitchen to attend the cooking work. After 10 or 15 minutes, on hearing the shoutings from the hall, she came to the dining hall and saw the main hall. She found the main door was closed and A.1 was stabbing deceased No. 1 with a butcher's knife on his head and other parts of the body. Thereafter, A.1 gave that knife to A.2. Then A.2 also hacked deceased No. 1 on his head. When she raised cries, A.2 closed her mouth with his hands. When A.1 and A.3 went into the bedroom of her daughters, she requested A.2 not to do any harm to their daughters. Then A.2 demanded Rs. 20,000/- and she took out the money from the cup board and gave it to A.2. Thereafter, she heard the cries of her daughters from their bedroom. When she went to the entrance of the bedroom, A.1 came out of the bedroom and hacked her on the backside of her head, fore head, front and backside of neck, and on her right backside of palm. A.2 also entered into the bedroom of their daughters. When PW.1 fell down on the floor, she heard the discussions of A.2 and A.3 that everybody died and that they can leave the house after washing their hands. A.1 enquired with her about the jewellery. She replied that the jewellery was available in the bedroom. Then A.1 to A.3 went into her bedroom. 10 or 15 minutes later they came out, put out all the lights in the house and went away by bolting the main door from outside. After the accused left the house, she put on the lights, went into the bedroom of her daughters and found her daughters and her husband lying dead. Then she went to the main door and tried to open it, but it was bolted from outside. Ultimately, she telephoned to her brother and informed about the incident to her sister-in-law. Later, she informed about the incident to her mother-in-law also. 10 or 15 minutes later, her brother and sister-in-law came to her house and half an hour later the police came and shifted her to C.D.R. hospital and at about 10.30 pm., police recorded her statement. The version given by PW.1 corroborated with the version given by her at the earliest point of time and there are no major contradictions from Ex.P.1 statement. She

further stated that she was discharged from the hospital on 11.09.2000. After returning from the hospital and on verification she found that the entire jewellery and cash were missing. She was informed by her brother that the police after the incident searched the house and found Rs. 79,000/- or 80,000/- and handed over the same to him two days after the incident. She went to Narayanguda Police Station and informed about the missing of jewellery and cash. The Police informed her that they recovered the gold and cash and that they will deposit the same in the Court. On verification of the gold jewellery in the Court she identified MOs.1 to 13. She also identified MO.14-butcher's knife used by the accused.

PW.2, who is none other than the brother of PW.1, deposed that on the date of offence at about 8.40 pm., he received a phone call, which was attended by his wife and informed him that something happened to PW.1 and they have to go to the house of PW.1. Immediately they went to the house of PW.1 on a scooter. While he was parking the scooter, his wife entered into the house by opening the door and saw the dead bodies of deceased Nos. 1 to 3 and PW.1 lying in the hall with severe injuries. They gave some water to PW.1. In the meanwhile his younger brother Surender Pal Singh came there and after seeing his sister with severe injuries, he went to Police Station. He also telephoned to the police at Narayanguda Police Station and informed them about the incident. When PW.2 enquired, PW.1 informed that A.1 to A.3 resorted to kill them and she also stated that the accused borrowed money from her husband. Later the police came to the house of PW.1 and shifted her to the hospital.

PW.3, the Doctor, who was running a clinic in the same premises, deposed that on 26.07.2000 at about 10.30 or 11.00 pm., A.3 and his mother came to her clinic. There was a cut injury on his left hand little finger. A.3 informed her that he received the said injury by falling on a tin sheet. She treated him by suturing the injury. On the next day police came to her and enquired about the incident. PW.4, who is the panch witness for the observation of scene of offence, deposed that at the instance of the inspector, he acted as a panch for the observation panchanama under Ex.P.2.

PW.5-the Doctor, who was working as Casualty Medical Officer, at C.D.R. Hospital Hyderguda, at the relevant point of time, deposed that on 26.08.2000 PW.1 was brought by the police personnel for treatment and he treated her and found the following injuries.

1. Stabbing injury on the back of neck measuring 6" x 1" x 2".
2. Stabbing injury on the back of the head occipital region measuring 4" x 1".
3. Stabbing injury on the occipital parital region measuring 5" x 1".
4. Stabbing injury on the index finger left side measuring 2" x 1". Nail of the index finger elevated.
5. Stabbing wound on the fore head right side measuring 5" x 1".

6. Stabbing injury right temporal region measuring 1" x 1/2".

7. Stabbing injury on the Dorsal aspect of the right hand measuring 3" x 1".

8. Small stabbing injury on the hand. He further mentioned in Ex.P.4-postmortem certificate that PW.1 was alleged to have stabbed by known persons. He found the patient conscious and responding and that fact was also not mentioned by him in Ex.P.4.

PW.8, who is working as Civil Assistant Surgeon in the Department of Forensic Medicine at Osmania Medical College, deposed that on 27.08.2000 on requisition from SHO, P.S. Naraynguda, he conducted autopsy over the dead body of deceased No. 1 and found the following ante-mortem injuries:

1. An incised wound 12 x 5 cms x cavity deep horizontal placed present 3 cms above the right ear and extending horizontally on to the occipital region. Red in colour.

2. Incised wound 10 x 1 cms x cavity deep placed parallel to injury No. 1. Red in colour.

3. Multiple incised wounds of 10 x 1 cms. to 5 x 1 cms. cavity deep in an area of 21 x 8 cms. over right frontal, left parietal and occipital regions. Merging into injury No. 1 and 2. injuries are of varying direction and criss-cross, with comminuted and open fracture of skull over both parietal and occipital regions with lacerated injury of brain over parietal and occipital lobes. Red in colour.

4. Incised wound of 6 x 3 cms. x bone deep over top of left shoulder obliquely placed with open fracture dislocation of left head of humerus. Red in colour.

5. Incised wound of size of 4 x 1 x 1/2 cms. over left upper eyelid transversely placed and muscle deep. Red in colour.

6. Incised wound over the ancremance of left palm vertically placed of size 7 x 2 cms x muscle deep. Red in colour.

He opined that the cause of death of deceased No. 1 was due to multiple cut injuries noted above. He issued Ex.P.9-postmortem certificate of D.1 On the same day between 1.00 pm., and 2.00 pm, he conducted autopsy over the dead body of deceased No. 2 and found the following injuries.

1. Multiple incised wounds of varying length of 12 x 2 cms. to 6 x 2 cms, and cavity deep with clean cut edges and criss cross and varying in direction present over left parietal, left temporal regions of scalp in an area of 19 x 15 cms with comminuted fracture of left parietal region of skull with diffuse subdural and subarachnoid haemorrhage all over the left cerebral hemisphere with a lacerated injury of 8 cms x 1 cms over left parietal region of brain. The wound is red in colour.

2. Multiple incised wounds of 5 x 3 cms x to 3 x 2 cms, x bone deep of varying length transversely placed present over left ear and left temple left malar and left

mastoid region. The pinna of left ear is cut transversely in whole region. The Pinna of left ear is cut transversely in whole length. The wound is red in colour.

3. Incised wound of 10 x 3 cms. x bone deep over forehead starting from 3 cms above left eye brow and extending on obliquely to the right eyebrow. Red in colour.

4. Incised wound of 6 x 2 cms x bone deep transversely placed present over bridge of nose and right upper eyelid and brow. Red in colour.

5. Incised wound of 4 x 1 cms x bone deep vertically placed over forehead towards right starting from 0.5 cms above right eyebrow and extending on vertically over forehead. Red in colour.

6. Incised wound of 9 x 2 cms x bone deep transversely placed over front of face, starting from left cheek and extending on transversely over upper lip and right cheek with open fracture of upper alveolar process. Red in colour.

7. Multiple incised wounds of 8 x 1 cms x bone deep to transversely placed over front of chin and left jaw 4 x 1.5 cms x bone deep. Red in colour.

8. Multiple incised wounds of 4 x 1 cms to 2 x 1 cms muscle deep over left side of face in an area of 10 x 8 cms. Red in colour. Cris cross and placed in multiple directions.

9. Multiple incised wound of 4 x 1 cms to 2 x 1 cms bone deep and varying in directions present over right frontal and parietal regions of scalp.

10. Incised wound of 16 x 5 cms x 0.5 cms transversely placed over front of the neck over its midpart.

11. Multiple incised wounds of 9 x 0.5 cms x 0.5 cms to 3 x 0.5 x 0.5 cms transverse and obliquely placed over back of the lower 2/3 of left forearm and back of the hand and fingers.

12. Multiple incised wounds of 8 x 0.5 cms x 0.5 cms to 4 x 0.5 x 0.5 cms transverse and obliquely placed present over back of right hand.

He opined that the cause of death of deceased No. 2 was due to multiple cut injuries and issued Ex.P.10-postmortem report.

On the same day between 3.00 pm., and 4.00 pm., he conducted autopsy over the dead body of deceased No. 3 and found the following injuries.

1. Incised wound of 11 x 1 1/2 cms x Bone deep transversely placed present over left cheek, left malar region extending on to the left side of the nose with fracture of bridge of nose. Red in colour.

2. Incised wound 5 x 1 1/2 cms x bone deep vertically placed present over forehead towards right placed 3 cms. above the right eyebrow. Red in colour.

3. Multiple incised wounds varying in direction and criss cross and of varying sizes from 13 x 2 cms. x cavity deep to 12 x 2 cms x cavity deep over left frontal and parietal region in an area of 15 x 9 cms. Red in colour with comminuted and open fracture of skull over left frontal and parietal region with expulsion of brain matter outside.

4. Incised wound of 6 x 2 cms. x muscle deep transversely placed over back of the left wrist. Red in colour.

5. Multiple incised wounds of varying sizes and directions of 16 x 0.5 cms. To 10 x 0.5 cms. superficial (0.25 cms.) present over the front of the pubis and upper third of left thigh. Red in colour.

He also opined that the cause of death of deceased No. 3 was also due to multiple cut injuries. He further stated that all the injuries found on deceased Nos. 1 to 3 might have been caused with butcher's knife like MO.14.

4. PW.12, the Doctor, who examined PW.1, deposed that he issued Ex.P.43- medical certificate basing on the case sheet in respect of PW.1 opining that the injuries are grievous in nature.

5. From the above evidence, it is established by the prosecution that PW.1 received grievous injuries. It has also been established that deceased Nos. 1 to 3 also received multiple injuries with a knife like MO.14 and the cause of death of deceased Nos. 1 to 3 was due to receipt of multiple cut injuries. Therefore, it is established by the prosecution that deceased Nos. 1 to 3 met with homicidal death.

The evidence of PW.1 indicates that, she received grievous injuries in the hands of A.1 to A.3. She categorically stated that they used butcher's knife in attacking deceased Nos. 1 to 3 and herself. The time of offence is also not disputed, and as the offence took place in the light of electric bulbs burning in the house, there was no difficulty for PW.1 to identify the assailants. Since they were known persons, she could identify them and within one hour she was able to give their names and specific overt acts attributed against them in attacking deceased Nos. 1 to 3 and PW.1. The evidence of PW.1 further discloses that the accused also committed theft of gold and cash from her bedroom. Though PW.1 is the solitary eyewitness to the occurrence, she is not a chance witness. Though she is an interested person to the deceased, her presence at the time of offence is indispensable as she was cooking food at that time. Therefore, the prosecution probalilized the presence of PW.1 at the time of occurrence, and also receipt of injuries while she was attempting to prevent the accused from stabbing the deceased.

6. The learned Counsel for the appellants Sri D. Krishna Rao, submitted that there were gaps and loose ends in the story narrated by the prosecution and he pointed out certain lapses committed by the Investigating Officers during the course of investigation, namely, the slip attached to the ornaments recovered was missing,

and that at the time of offence they did not seize the clothes of the accused, which were said to be stained with blood. They did not take any steps to identify the footprints and fingerprints by experts. The G.D. entries made by the police are also indicating that there is delay in registering the crime. But they put anti-time to give an impression that the crime was registered at the earliest point of time. He further submitted that the copy of the F.I.R., which was delivered to the Magistrate at 5 am., indicates that the crime was registered just before the delivery of F.I.R., to the Magistrate. He further submitted that though the Magistrate recorded the statement of PW.1 as a dying declaration thinking that there was any danger for the life of PW.1, but the prosecution failed to produce the said document and to examine the Magistrate to prove its contents. He further submitted that one Rama Krishna Rao, who is the tenant of the deceased, and who would have thrown some light regarding the persons, who committed the offence, was also not examined. He further pointed out that though it is the evidence of the prosecution that the deceased himself picked out the knife from the wound, and the weapon was very much available at the scene of offence, the police gave a picture that it was recovered separately. He also pointed out that the prosecution also failed to examine the wine shop owner from whom the accused alleged to have purchased liquor and consumed before entering into the house of the deceased. He further submitted that there was no fairness in the investigation, and in view of the above lapses committed by the Investigating Officer from collecting so much of information, there is any amount of doubt whether the accused were responsible for commission of the offence. He also submitted that though the properties, which were said to be recovered from the accused within 24 hours after the date of offence, no identification parade was conducted to identify whether the properties belong to PW.1 and whether they were in the possession of the accused. In that view of the matter also there is any amount of doubt about the version of the prosecution and the offences might have occurred in a different way than the manner narrated by the prosecution. Therefore, the learned Counsel for the appellants requested to give the benefit of doubt to the accused and to set aside the conviction and sentences imposed by the trial Court.

7. The prosecution, in order to establish the guilt of the accused, relied on the testimony of PW.1, who identified all the assailants at the time of attack. The prosecution also relied on the evidence of the mediators regarding the arrest of the accused and recovery of jewellery and cash. Therefore, it is essential to verify the evidence given by the mediators for arrest and recovery of the material objects at the instance of the accused.

8. PW.7, who is one of the panchas for the arrest of the accused, deposed that the Sub-Inspector called him and introduced two other persons as constables. He also introduced a person as his informer and another person as accused in this case. A.1 is the person, who was introduced by the Sub-Inspector of Police. The Sub-Inspector requested him to act as a panch and he agreed for the same. There was a bag in the

hands of A.1. The Sub-Inspector opened the bag, and found gold ornaments and cash. The said Inspector wrote the panchanama and attested it. Ex.P.7 is the panchanama-cum-seizure report. He further deposed that A.1 also led the police to the house situated behind the Gowliguda Chaman. A.1 showed A.2 and A.3 in that house. A.2 produced Rs. 3000/- from his house. The Sub Inspector seized the said amount under Ex.P.8- seizure report and attested the same.

9. PW.9, who is a resident of Malakunta of Hyderabad, deposed that on one day about three years back, the Sub-Inspector of Police came to his shop, which was situated at Afzalgunj along with three persons and four constables and requested him to act as a panch. He followed the Sub-Inspector and others to Moosi River where three accused persons were shown to him. The Sub-Inspector of Police and the constables searched and found a bag containing clothes with bloodstains. There were two banians, one pant and one shirt covered by MOs.15 to 18. He also identified the accused.

10. PW.10, the Sub-Inspector of Police deposed that the inspector of police deputed him to apprehend the accused in this crime. He along with the constables went to a pan shop of A.1 near Osmania Medical College, Koti. He made discreet enquiries about the residence of A.1. He got one informant and along with him he went to Jali Hanuman, Mangalhat at about 5.30 am., and they were waiting at the house of A.1. At about 10.45 am., the informant showed A.1, who was coming from his residence near Jali Hanuman. He along with the constables, apprehended A.1. Thereafter, he summoned PW.7 and other mediators, recorded the statement of A.1, recovered the gold ornaments and cash of Rs. 7,000/- at the instance of A.1, covered by Mos.1 to 12, and seized them under Ex.P.7-panchanama. Subsequently, A.1 led them to the house of A.2 and A.3, and he took A.1 to A.3 to his custody and on interrogation A.2 and A.3 produced Rs. 3000/- cash covered by MO.13 and the same was seized in the presence of mediators under Ex.P.8-panchanama. Later, A.1 to A.3 were sent for remand, after seizing the bloodstained clothes at the instance of A.1 to A.3.

PW.11, the then inspector of police deposed as to the details about the police conducting investigation and inquest over the dead bodies of the deceased, sending PW.1 to the hospital, conducting postmortem over the dead bodies of the deceased, examining the witnesses, arresting the accused and recovering all the material objects etc.

Though a lengthy cross-examination was done on behalf of the accused, no material contradictions could be extracted from any of those witnesses. The evidence of those witnesses coupled with the evidence of PW.1 clearly indicate that the jewellery and the cash, which were stolen from the house of the deceased, were recovered at the instance of the accused and there was no explanation from any of the accused as to how they got such volume of jewellery and cash except mere denial that those articles were not recovered from them. Therefore, we are convinced that the recoveries were true and they were recovered at the instance of A.1 to A.3 and that

the said properties were stolen from the house of PW.1.

Though there were some lapses on the part of the investigating officers in the presence of strong evidence regarding the participation of the accused in committing the offence, and identification of the properties during the course of evidence and though separate identification parade was not conducted to identify the properties, it is not fatal to the case of the prosecution, for the reason that the offence was committed by the known culprits and it is not the case of the accused that they belong to some other place or that they have their own properties. In the absence of such plea by the accused, it can be safely concluded that the material objects recovered from the accused are not other than the properties of PW.1 and the deceased. Further, the delay, if any, in registering the crime is also not so long. Therefore, the delay of few hours in registering the crime is also not fatal to the case of the prosecution. After considering the entire evidence placed by the prosecution, the lower Court gave sufficient reasons for every query raised by the defence counsel and the said reasons are plausible and reasonable.

After going through the entire evidence and the judgment of the lower Court, we are convinced that the lower Court rightly came to the conclusion that the prosecution proved the guilt of the accused beyond reasonable doubt and we do not find any ground to interfere either with the convictions imposed against the accused for various offences or with the sentences of imprisonment and fine. In the result, the Criminal Appeal is dismissed by confirming the judgment of the lower Court in all respects.