

(2014) 03 AP CK 0122

Andhra Pradesh High Court

Case No: Criminal Appeal No. 1855 of 2009

Geddati Dharma Raju

APPELLANT

Vs

The State of A.P.

RESPONDENT

Date of Decision: March 19, 2014

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 161, 313
- Penal Code, 1860 (IPC) - Section 302

Hon'ble Judges: M.S.K. Jaiswal, J; L.N. Reddy, J

Bench: Division Bench

Advocate: B. Vasantha Lakshmi, Advocate for the Appellant

Final Decision: Dismissed

Judgement

M.S.K. Jaiswal, J.

The sole accused in S.C. No. 81 of 2008 on the file of Ill-Additional District & Sessions Judge, Kakinada is the appellant herein. He was found guilty of committing the offence punishable under Sec. 302 IPC and was sentenced to undergo imprisonment for life and to pay fine of Rs. 50/-, in default simple imprisonment for ten days.

2. Briefly stated, the case of the prosecution is that:

Geddati Suryakantam (hereinafter referred as "deceased") was married to the accused, more than 20 years back, and they had two sons and two daughters, out of their wedlock, but the accused was suspecting the fidelity of his wife, the deceased. They were said to be living separately for about four years, prior to the incident.

On 15.11.2007, the deceased, her daughter-Sirnhachalam P.W.1, mother-Nookalamma P.W.2 and others went to the fields of one Relangi Polayya (P.W.4), situated in Sankhavaram -S. Jaggampeta road and were attending to the farm work. At about 9.30 a.m. the accused is said to have come there, armed with a

knife, and attempted to kill the deceased, and she tried to run away from there, but in the process, fell down. The accused is alleged to have chased, and stabbed her with knife on the left side of her back, hands, left shoulder and right side of ribs, and thereafter ran away from there. The injured was shifted to the Government Hospital, Prathipadu, where the Doctor (P.W.-10) sent intimation to the police, and P.W.-12, the Sub-Inspector of Police, Annavaram, visited the hospital and obtained the complaint, Ex. P.1, from P.W.1. The injured was declared dead. Crime No. 145 of 2007 was registered and the F.I.R., was issued. The investigation was taken up by P.W.-13, the Inspector of Police. He conducted scene of offence panchanama, inquest over the dead body, and caused post-mortem examination, by P.W.-11. The charge sheet was filed in the Court of Judicial Magistrate of First Class, Prathipadu. Cognizance was taken as P.R.C. No. 4 of 2008 and after completing the prescribed procedure, the case was committed to the Court of Sessions, for trial.

3. The trial Court framed charge alleging offence under Sec. 302 IPC against the accused. He pleaded not guilty. P.Ws.1 to 13 were examined; Ex. P.1 to Ex. P.13 were filed and M.Os. 1 to 7 were taken on record. The accused was examined under Sec. 313 Cr.P.C. where he stated that the evidence against him is not true and stated that he is falsely implicated. No evidence was adduced by him, but, Exs. D1 and D2, which are the portions of Sec. 161 Cr.P.C. statements of P.W.-4, were marked.

4. Learned counsel for the accused submits that there are material discrepancies and inconsistencies in the evidence of material witnesses of prosecution and ignoring the same the learned Sessions Judge convicted the accused. It is further submitted that there is inordinate delay in the F.I.R. reaching the jurisdictional Court and that aspect was not taken note of. Learned counsel submits that the conviction of the accused cannot be sustained and the same is liable to be set aside.

5. Learned Additional Public Prosecutor submits that the evidence of as many as four eye-witnesses clearly proved beyond reasonable doubt that it is the accused, who has brutally killed his wife by stabbing her indiscriminately in the presence of the eyewitnesses, and there is absolutely no substance in the contention advanced on behalf of the accused. She submits that all the eyewitnesses, who are closely related to both the accused and the deceased deposed consistently, that there are no grounds to interfere with the findings of the trial Court, and, that the appeal, is liable to be dismissed.

6. The point for consideration is as to whether the prosecution proved its case against the accused, to sustain the conviction and sentence or whether the appeal deserved to be allowed?

7. POINT: The accused is alleged to have caused the death of his wife on 15.11.2007 at about 9.30 a.m., when she, along with others, was attending to agricultural operations in the fields of P.W.4. The accused was said to be suspecting the character not only of his wife but also their children and was nurturing a grievance

that because of the deceased, their children are not behaving properly. The couple had two sons and two daughters, out of whom P.W.1 is the eldest daughter, who has already been married, but is living separately from her husband. The deceased and her children were staying with her parents, in the same locality, where the accused was living in his ancestral house. The incident is said to have taken place at about 9.30 a.m., on 15.11.2007. There are as many as four eye-witnesses to the incident i.e., P.Ws.1, 2, 4 and 5. P.W.1 is the daughter of the accused and the deceased; P.W.2 is the mother of the deceased; P.W.3 is the brother of the deceased; whereas P.W.4 is the owner of the agricultural land, where the incident took place. P.W.5 is said to be an independent eye-witness.

P.W.1 deposed that on the date of incident when they were working in the fields, the accused came there and after abusing her mother, he stabbed her i.e., the deceased with knife and caused injuries on her back, hands and on right side near the ribs. She further deposed that when she and others tried to interfere, the accused threatened them with the knife.

P.W.2 deposed that on the date of incident when they were working in the fields, the accused came there and after abusing the deceased beat her with a knife on her back, hands and right side near the ribs.

P.W.4 and P.W.5, who are the other independent eyewitnesses, have similarly deposed that they have seen the accused stabbing the deceased, after abusing her. Even though all these four eye-witnesses have cross-examined elaborately, nothing concrete was elicited from them for disbelieving their consistent statements that they have seen the accused coming to the lands, abusing the deceased and when the deceased fell down, stabbing her with knife indiscriminately on her back, hands, shoulder and ribs.

8. P.W.-11, the Medical Officer, who conducted autopsy found the following injuries on the dead body of the deceased.

(1) A stab injury is present on right side fore arm medial side 2 1/2" x 1" x 1/2" in the middle.

(2) A stab injury 2 1/2" x 1/2" x 1/2" on the right fore arm lateral side in the middle.

(3) A cut injury on the lateral side of left upper arm 1" x 1/2" x 1/2" edges of the injuries are clear cut and inverted.

(4) A stab injury on left sub scapular region 1 1/2" x 1 1/2" x 4" (length 1 1/2", breadth 1 1/2" and depth 4") approximately.

(5) A stab injury is present on right side 3" from the margin of the ribs anterior i.e., from the sub-costal region to downwards 1/2" x 1/2" x 1/2". Edges are inverted and clear cut.

The Medical Officer issued post-mortem report, Ex. P.9 and opined that the cause of death is due to injuries to vital organs.

9. It is also in the evidence of prosecution witnesses that the deceased was shifted to the Hospital after P.W.3, the brother of the deceased arrived there and on reaching the Hospital, the Doctor declared the deceased dead. On the basis of the medico-legal intimation being sent by P.W.10 to the jurisdictional police, the Sub-Inspector of Police P.W.12 visited the hospital and recorded the statement of P.W.1 and registered the case. In Ex. P.1, P.W.1 clearly-stated that when they were working in the fields of P.W.4, the accused came there, threatened the deceased and when the deceased fell, the accused stabbed her indiscriminately, with a knife on her back, hands, shoulder and ribs. The evidence of P.Ws.1, 2, 4 and 5 is substantially corroborated by the medical evidence on record and is also consistent with the earliest complaint, Ex. P.1.

10. The other evidence on record comprises of the depositions of P.Ws.6 and 7, the photographers and who took the photos of scene of offence and of the deceased, marked as Exs. P2 and P3. P.W.8 is the person in whose presence the observation report, Ex. P.4 was prepared. He has also acted as panch-witness for the inquest panchanama, Ex. P.5. P.W.-9 is the Village Revenue Officer in whose presence the accused was alleged to have confessed the commission of the offence, leading to recovery of the knife (M.O. No. 1). P.Ws.10 and 11 are the Medical Officers, and P.Ws.12 and 13 are the Investigating Officers.

11. The learned counsel for the accused submits that there is delay in the F.I.R. reaching the Magistrate and hence it creates any amount of suspicion about the case of the prosecution. The incident took place at about 9.30 a.m. The police station is at a distance of 18 kilometers from the place of incident. Since the deceased was still grappling with life, the eye-witnesses have, firstly, taken her to the hospital, where she was declared dead. The police arrived the hospital at about 1.40 p.m., and immediately the complaint, Ex. P.1 was lodged. The F.I.R. was issued at about 2.30 p.m. on 15.11.2007 and was received by the jurisdictional Magistrate at about 8.40 p.m. on the same day. Hence, considering the nature of the incident and the horrifying situation in which the kith and kin of the deceased were placed, no more expeditious action on their part can be expected. The complaint, Ex. P.1 is lodged within five hours and the F.I.R. reached the Magistrate within six hours thereafter. If one takes into account, the factors like distance between the place of occurrence, Hospital, Police Station and the Court, there is no substance in the submission of the learned counsel for the appellant that there is inordinate delay.

12. The evidence of P.Ws.6 to 13 proves the fact that the deceased died due to stab injuries, caused by M.O. No. 1, which was recovered at the instance of the accused from his house. The eyewitness account of the incident, coupled with the other evidence on record, leaves no room for any doubt that the prosecution was able to prove its case that the accused is the person, who has committed the heinous crime

of killing his wife, suspecting her chastity. Even on re-appraisal of the evidence on record, we do not see any reason to take any view, different from the one that has been taken by the learned Sessions Judge. He had an opportunity of observing the demeanour of the witnesses also. The evidence on record has been properly appreciated and the conclusions deduced there from are proper. There are no merits in the appeal and the same is liable to be dismissed. The point is answered accordingly.

13. In the result the criminal appeal is dismissed. The material objects shall be destroyed after the appeal time is over.