Date of reserved for Judgment : 17.08.2026
Date of pronouncement : 07.10.2026
Date of uploading : 12.10.2026

APHC010076592019

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

WEDNESDAY, THE 7th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

CRIMINAL APPEAL NO: 225/2019

Between:

1. P.ESWAR REDDY, R/O.R.K.NAGAR, NAWABPET, NELLORE DISTRICT

...APPELLANT

AND

1. STATE OF AP, High court of AP, amaravathi

...RESPONDENT

Counsel for the Appellant:

1. VENKAT RAO RAVULAPALLI

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

Whether the order is :
Speaking Yes / Reasoned Yes
Reportable No / Non-Reportable Yes

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

CRIMINAL APPEAL NO: 225 of 2019

JUDGMENT: *(Per Hon'ble Sri Justice K.Suresh Reddy)*

Accused No.1 in Sessions Case No.240 of 2015 on the file of the Court of VIII Additional District & Sessions Judge-cum-Special Judge for the Trial of Offences against Women, Nellore, is the appellant. He along with A2 to A7 was tried by the learned Additional Sessions Judge under the following charges.

1) First charge was under Section 302 IPC against A1.
2) Second charge was under Section 147 IPC against A1 to A7.
3) Third charge was under Section 148 IPC against A1 to A7.
4) Fourth charge was under Section 452 IPC against A1 to A7.
5) Last charge was under Section 302 read with 149 IPC against A2 to A7.

2. Substance of the charge is that, on 01.02.2010, at about 03:00 a.m., in furtherance of their common intention, A1 to A7 formed into unlawful assembly armed with iron pipes and trespassed into the house of one Peta Kondamma (hereinafter referred to as "the deceased"), situated at Ramakrishna Nagar, Nawabpet, Nellore and A1 attacked the deceased with iron pipe on her head who died instantaneously, thereby committed offences punishable under Sections 147, 148, 302, 452 read with 149 IPC.

3. After completion of trial, the learned Additional Sessions Judge convicted the appellant/A1 under Section 302 IPC and sentenced him to undergo Rigorous Imprisonment for 'LIFE' and also to pay a fine of Rs.1,000/-, in default to suffer

simple imprisonment for a period of one month. Learned Additional Sessions Judge further convicted the appellant/A1 under Section 452 IPC and sentenced him to undergo Rigorous Imprisonment for three years and also to pay a fine of Rs.1,000/-, in default to suffer simple imprisonment for one month. Both the substantive sentences were directed to run concurrently. Learned Additional Sessions Judge acquitted A2 to A7 of all the charges. Aggrieved by the said conviction and sentence, appellant/A1 filed the present criminal appeal.

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

i) The accused and the material prosecution witnesses are residents of Nellore Town. The deceased was none other than wife of A1, and the couple blessed with a son, P.W.1, and two daughters, P.W.2 and another. P.W.3 is the wife of P.W.1. All three children got married. There are disputes between the appellant and the deceased since 2000, and they were living separately, as the appellant was having an illicit intimacy with another lady of Kovvur Town. Some time back, the accused sold away the agricultural land without informing the deceased, which led to a quarrel between them. The deceased was living independently by doing vegetable business and also used to run chit and daily finance businesses. Apprehending that the accused was also trying to sell the house in which he was residing, the deceased occupied the southern portion of the said house and started living there along with P.Ws.1 and 3. The accused was residing in the northern portion, while A7 and his family were residing in the upper portion of the said house as tenants and

paying rent to the accused. The deceased was asking A7 to vacate the premises.

ii) While so, on the intervening night of 29/30.01.2010, at about 1:00 a.m., a quarrel took place between the deceased and the wife of A7, resulting grievous injuries to the daughter of A7. On a report given by a family member of A7, a case in Crime No.19 of 2010 was registered by II Town Police, Nellore, against the deceased, P.Ws.1 to 3, and the mother-in-law of P.W.1. The daughter of A7 was admitted in the Government Hospital for treatment.

iii) While so, at about 3:10 a.m. on the same day, all the accused, in furtherance of their common intention, formed into unlawful assembly, armed with iron rods and pipes, and went to the house of deceased. At about 3:10 a.m., the deceased woke up and went to bathroom located outside the house, adjacent to the gate. All the accused rushed towards her and attacked. By raising hue and cry, the deceased entered the house. On hearing cries, P.Ws.1 and 2, who are the son and daughter of the deceased, came to rescue the deceased. A3 and A6 caught hold P.W.2 and threw her down by kicking her in the stomach with legs. A4 and A5 threw down P.W.1 on the road and beat him with hands and legs. A5 placed an iron rod on the head of P.W.1 and threatened him. Inspite of that, P.W.1 tried to rescue the deceased. Meanwhile, the deceased tried to escape through the rear door of the house, but she was dragged back into the room. During the course of scuffle, the deceased pulled down the lungi and underwear of A1. A1 beat the deceased on the left side of the head with an iron road and the deceased succumbed to

injuries on the spot and brain came out. Having witnessed the incident, P.W.1 went to the police station and presented a report.

iv) On 01.02.2010, at about 06.30 a.m., P.W.9, Sub-Inspector of Police, received Ex.P1 report from P.W.1 and registered a case in Crime No.21 of 2010 under Sections 147, 148, 452, 302 read with 149 IPC. He issued copies of FIR to all the concerned. FIR was marked as Ex.P7.

v) Having received the information, P.W.11, Inspector of Police, visited II Town Police Station and collected the copy of FIR and proceeded to scene of offence. He prepared an observation report-Ex.P3 at the scene of offence in the presence of mediators P.W.5 and another. He also seized Lungi-M.O.2 and Cut Drawer-M.O.3 at the scene of offence under Ex.P3. He prepared a rough sketch-Ex.P10 at the scene of offence. He has taken a photo which was marked as Ex.P11. He also seized Blood Stained Earth-M.O.8 and Controlled Earth-M.O.9 at the scene of offence. He held inquest over the dead body in the presence of mediators P.W.6 and another. He recorded the statements of P.Ws.1 to 4 at the inquest. He sent the dead body for post-mortem examination.

vi) P.W.8, Civil Assistant Surgeon, DSR Headquarters Hospital, conducted autopsy over the dead body. He opined the cause of death was due to injury on the vital organ of the body i.e. brain. He issued post-mortem certificate-Ex.P6.

vii) On 10.02.2010, P.W.11, arrested the accused at Ranganayakula Pet, Nellore in the presence of mediators under a panchanama-Ex.P8. On the

confession made by the accused, P.W.11 recovered M.O.1-iron pipe, M.O.4-blood stain shirt at Nawabpet, Nellore. He forwarded the material objects to RFSL, Guntur for chemical analysis. RFSL report was marked as Ex.P12. Further investigation was taken over by P.W.12, Inspector of Police, II Town Police Station, Nellore.

viii) After collecting all the documents and after completion of investigation, P.W.12 filed charge sheet.

5. In support of its case, the prosecution examined PWs 1 to 12, marked Exs.P1 to P12 and exhibited MOs.1 to 9. On behalf of the defence, Exs.D1 to D3, portions of statements of P.Ws.1 and 2 recorded under Section 161 Cr.P.C., were marked.

6. When the appellant/A1 was examined under Section 313 Cr.P.C., he denied the incriminating evidence appearing against him. Accepting the evidence of eye witnesses P.Ws.1 and 2, the learned Additional Sessions Judge convicted the appellant as aforesaid.

7. Heard Sri O.Kailashnath Reddy, learned Counsel, representing Sri Venkat Rao Ravulapalli, learned counsel for the appellant and Sri Marri Venakat Ramana, learned Additional Public Prosecutor representing Respondent-State.

8. Learned counsel for the appellant strenuously contends that the appellant was falsely implicated due to the disputes between him and the deceased. He further contends that, if really, P.Ws.1 and 2 witnessed the attack, no bloodstains were found on their clothes. He further contends that, according to P.Ws.1 and 2, they were also beaten by the accused, but no injuries were found on both of them.

He further contended that, at about 01:00 a.m. on the same night, the deceased, P.Ws.1 and 2 attacked the daughter of A7, pursuant to which a case in Crime No.19 of 2010 was registered against the deceased and P.Ws.1 and 2. Apprehending their arrest, P.Ws.1 and 2 were absconding, and there is no scope for them to witness the actual attack. As such, he contends that P.Ws.1 and 2 were planted as eye witness at a later stage.

9. Learned counsel for the appellant further contends that, as the deceased and P.Ws.1 and 2 had attacked the daughter of A7, the deceased might have been killed by the family members of A7. He further contends that the deceased was running a chit business and, therefore, she had several enemies arising out of her business transactions. He further contends that the evidence of P.Ws.1 and 2 suffers from number of improvements. He further contends that P.W.2 was not at all present and he was living along with her husband at her matrimonial home situated in a different village. Finally, learned counsel contends that there is any amount of delay in reaching the FIR to Magistrate and, therefore, no reliance can be placed on the evidence of P.Ws.1 and 2. As such, he requests this Court to allow the appeal by setting aside the conviction and sentence recorded by the learned Additional Sessions Judge.

10. On the other hand, learned Additional Public Prosecutor opposed the appeal, inter alia, contending that P.Ws.1 and 2 are none other than the son and daughter of the appellant. Admittedly, even according to P.W.1, he did not sustain any injury at the hands of the appellant. He further contends that P.Ws.1 and 2 were very much present in the house and they were not absconding apprehending

their arrest in Crime No.19 of 2010. He contends that the deceased was also figured as an accused in Crime No.19 of 2010 along with P.Ws.1 and 2. If P.Ws.1 and 2 were absconding, the deceased, being an accused in the same case, must have been absconding along with them.

11. Further, learned Additional Public Prosecutor contends that, admittedly, A1 was not an accused in Crime No.19 of 2010. He also contends that there was no delay on the part of P.W.1 in lodging the report with the police. Merely because the FIR reached the Magistrate at about 3:45 p.m. on the same day, such delay cannot be attributed to P.W.1. As such, he requests this Court to dismiss the appeal by confirming the conviction and sentence recorded by the learned Additional Sessions Judge.

12. We have carefully scrutinized the entire evidence on record.

13. Admittedly, P.Ws.1 and 2 are none other than the son and daughter of the accused. It is also admitted that there are disputes between A1 and the deceased and they are living separately. Admittedly, A1 was residing in the northern portion of the house, whereas the deceased, P.W.1 and his wife, P.W.3, were residing in the southern portion of the said house. It is further admitted that A7 was residing as a tenant in the upstairs portion of the house.

14. P.Ws.1 and 2 in their evidence have categorically stated that, on 01.02.2010 at about 3:10 a.m., the deceased woke up and went to bathroom situated outside the house, adjacent to the gate. They have further categorically stated that they heard the deceased raising hue and cry and, immediately they

found the accused attacking the deceased. After attacking the deceased, the accused left the scene of offence carrying M.O.1-iron pipe. P.Ws.1 and 2 further stated that, while A1 was attacking the deceased, she pulled down the lungi, M.O.2, and the underwear, M.O.3, belonging to A1. M.Os.2 and 3 were found at the scene of offence, and P.W.11, Investigating Officer, seized both of them from the scene of offence under Ex.P3.

15. Right from Ex.P1, the version of P.Ws.1 and 2 is consistent. Though both the witnesses were cross-examined at length, nothing adverse was elicited from their evidence. Further, the ocular version of P.Ws.1 and 2 has been corroborated by the medical evidence adduced through P.W.8, coupled with Ex.P6. If prosecution had really intended to set up an eyewitness, nothing prevented them from projecting P.W.3, the wife of P.W.1, as one of the eyewitnesses. P.W.3 in her evidence has specifically stated that, on the date of incident, she was at her parents' house and at about 4:00 a.m. on the fateful day, she received information from P.W.1 about the attack.

16. As such, the evidence of P.Ws.1 and 2 is natural, and there is nothing to disbelieve their version. If P.Ws.1 and 2 had really been absconding apprehending their arrest in Crime No.19 of 2010, the deceased, who was also an accused in the said crime, would have been expected to abscond. Therefore, the contention of learned counsel for the appellant that P.Ws.1 and 2 were not present at the scene of offence and they were subsequently planted as eyewitnesses cannot be accepted.

17. The contention of the learned counsel for the appellant is that there is any amount of delay in FIR reaching the Magistrate. In support of his contention, he relied on a Judgment of the Hon'ble Supreme Court in **RAJEEVAN V. STATE OF KERALA**[1]**.**

18. We have perused the said judgment of the Hon'ble Supreme Court. The facts of the said case were that there was a clash between members of two political parties. In those circumstances, the Hon'ble Supreme Court treated the delay as a crucial aspect in the aforesaid decision. But, in the case on hand, the facts are altogether different. There are disputes between A1 and the deceased since 2000, and both of them living separately. It was also the case of the prosecution that A1 sold away the agricultural property without the knowledge of the deceased. It is also the contention of the prosecution that A1 tried to sell away the house in which the deceased was residing. As such, the question of false implication does not arise in the present case.

19. As already pointed out, the deceased was none other than the wife of the appellant, and P.Ws.1 and 2 are the son and daughter of the appellant. As such, the prosecution could able to prove the guilt of the accused beyond reasonable doubt through the evidence of eyewitnesses P.Ws.1 and 2. As such, this Court finds no valid or justifiable ground to interfere with the conviction and sentence recorded by the learned Additional Sessions Judge.

20. In the result, the Criminal Appeal is dismissed confirming the conviction and sentence recorded against the appellant/A1 by the learned VIII Additional

[1] (2003) 3 SCC 355

District & Sessions Judge-cum-Special Judge for the Trial of Offences against Women, Nellore, under Sections 302 and 452 IPC in Sessions Case No.240 of 2015, dated 28.01.2019.

21. As the appellant/A1 was released on bail by order dated 02.05.2024 in I.A.No.1 of 2024, in terms of the order of the Composite High Court for the State of Telangana and the State of Andhra Pradesh in '***Batchu Ranga Rao & others Vs. State of A.P***.[2], he is directed to surrender forthwith before the trial Court to serve the remaining portion of sentence of imprisonment. Failing which, the learned VIII Additional District & Sessions Judge-cum-Special Judge for the Trial of Offences against Women, Nellore, is directed to secure the presence of the appellant/A1 by issuing Non-bailable warrant and commit him to prison to serve the remaining portion of sentence.

As a sequel, interlocutory applications pending, if any, shall also stand closed.

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K.SURESH REDDY, J

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SUMATHI JAGADAM, J

Dt.07.10.2026
Asr

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[2] ***2016(3) ALT (Crl.) 505 (DB) (AP)***

THE HON'BLE SRI JUSTICE K.SURESH REDDY

AND

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

JUDGMENT

CRIMINAL APPEAL NO.225 of 2019

(per Hon'ble Sri Justice K.Suresh Reddy)

Date:07.10.2026

Asr