APHC010650442009

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3368]
(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

CRIMINAL APPEAL No: 260/2009

Between:

1. CHANDRAKANTHI JOHN,, S/O VENKATA SWAMY, R/O H.NO. 69/137, JOHARAPURAM VILLAGE, KURNOOL DISTRICT.

...APPELLANT

AND

1. THE STATE OF AP REP BY ITS PP HYD, rep. by its Public Prosecutor, High Court of A.P., at Hyderabad.

...RESPONDENT

Counsel for the Appellant:

1. RAMAKRISHNA AKURATHI

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

The Court made the following:

THE HONOURABLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

CRIMINAL APPEAL No: 260 OF 2009

O R A L J U D G M E N T:

Heard Sri Ramakrishna Akurthi, learned counsel for the appellant/accused and Sri C.P.Somayaji, learned Additional Public Prosecutor and Sri Sandeep, learned Assistant Public Prosecutor representing the respondent/State.

2. The appeal is preferred challenging the judgment dated 02.09.2008 in S.C.No.408/2007 on the file of VI Additional Sessions Judge, Kurnool.

3. The appellant was convicted for the offence U/s.304-II IPC and sentenced to suffer rigorous imprisonment for a period of seven years.

CASE OF THE PROSECUTION:

4. The case of the prosecution is that on 12.04.2007 the marriage of P.W-4's son was performed in the village. P.W-4 gave Rs.300/- to the accused and three others to provide liquor to the person attended the marriage as per their caste custom. He requested the accused to return the balance amount of Rs.30/-. Later, the accused and others consumed liquor and returned to marriage venue. The deceased asked the accused to return the sum of Rs.30/-. The accused quarreled with the deceased. Thereafter the accused went to home, returned back to the scene of offence, armed with a knife. He stabbed the deceased on the left side of the chest. The deceased made

attempt to ward off the blow. The accused again stabbed him on the left hand and ran away. The persons present there shifted the deceased to Government General Hospital at Kunrool. On intimation from the hospital, SI of Police/P.W-8 visited the hospital, recorded statement of P.W-1 vide Ex.P-1, registered the same as case in Cr.No.37/2007 for the offence U/s.302 IPC vide Ex.P-6 FIR and submitted the same to the jurisdictional Magistrate. He informed Inspector of Police/P.W-9 submitting copy of FIR. Therefore, P.W-9 took-up investigation. He examined P.W-1 at Police Station and recorded his statement. He secured P.W-7 and another as mediators, visited hospital and conducted inquest vide Ex.P-2. He examined P.Ws-2 to 5 and recorded their statements, seized M.Os-2 to 5 during the course of inquest. Later, the dead body of deceased was sent for autopsy.

5. Inspector of Police proceeded to the scene of offence, which is located in front of Maremma Temple in Jowharapuram village. He seized blood stained earth and controlled earth under M.Os-7 & 8 in the presence of the mediators P.W-7 and another vide Ex.P-7. He also prepared rough sketch of scene of offence vide Ex.P-8.

6. On 23.04.2007 on credible information, Inspector of Police arrested the accused in the presence of P.W-7 and another and recorded statement of accused. The accused made a confession regarding concealment of weapon i.e., knife/M.O-1 in foam trees near

Allah Bakshu Daraga, Kurnool vide Ex.P-4. Basing on the discovery of fact from the confessional statement made by the accused, Inspector of Police seized M.O-1 knife in the presence of the mediators. Later, it was forwarded to FSL through Court with letter of advice vide Ex.P-9.

7. Inspector of Police received FSL report vide Ex.P-12. He also received Ex.P-11 postmortem report issued by P.W-10 opining that doctor found a stab wound on the left side of the chest of the deceased and an incised wound of skin deep over the outer upper part left forearm just below the elbow of the deceased. The doctor, who conducted autopsy, opined that the cause of death could be due to stab injury over the chest.

8. After conclusion of investigation, the Investigation Officer laid charge sheet before the jurisdictional Magistrate, who registered the same as PRC No.33/2007. Later, committed the case to the Sessions Division at Kurnool U/s.209 Cr.P.C. It was made over to the VI Addl.Sessions Judge, Kurnool, vide S.C.No.408/2007.

9. The Sessions Judge charged the appellant/accused of the offence U/s.302 IPC. The charge was read over and explained to the accused. He denied the same and claims to be tried.

EVIDENCE FOR THE PROSECUTION:

10. The prosecution to substantiate the charge, examined P.Ws-1 to 10 and during their evidence, marked Exs.P-1 to P-12, apart from M.Os-1 to 8.

11. The accused was examined U/s.313 Cr.P.C. regarding the incriminating circumstances appearing against him from the evidence for the prosecution. He denied all the circumstances as not true and correct. No one examined for defence.

12. The learned Sessions Judge basing on the above evidence, found the accused guilty of the offence U/s.304-II IPC, while finding him not guilty for the offence U/s.302 I.P.C. Convicted the appellant to undergo rigorous imprisonment for seven years as mentioned above.

13. The learned Additional Public Prosecutor would submit that the State did not prefer any appeal, challenging the order of acquittal for the offence U/s.302 I.P.C.

SUBMISSIONS ON BEHALF OF THE APPELLANT/ACCUSED:

14. Sri Ramakrishna Akurthi, learned counsel for the appellant/accused would contend that the trial Court did not appreciate the evidence in proper perspective. The witnesses examined for the prosecution are all relatives of the deceased. They falsely implicated the accused. Their evidence would disclose that the deceased, accused and others consumed alcohol prior to the alleged incident. There was a quarrel between the deceased and accused regarding payment of Rs.30/-. Taking advantage of the same, the other persons attacked the deceased and implicated the accused in the case. The witnesses who are relatives of the deceased deposed against the accused. They did not disclose the true version about the role played

by the accused in the incident. The trial Court did not consider these facts and circumstances, and came to an erroneous finding that prosecution proved the charge U/s.304 Part II I.P.C. Hence, the judgment of the trial Court is not sustainable.

SUBMISSIONS ON BEHALF OF THE RESPONDENT/STATE:

15. The learned Additional Public Prosecutor would argue that the evidence of P.Ws-1, 3, 5 and 6 would disclose that they are eyewitnesses to the incident. They all categorically deposed that after the quarrel between the deceased and the accused, he went to home, returned back armed with a knife, stabbed the deceased on the left side of heart. The deceased made attempt to ward off the blow, but the accused again stabbed on the left hand of the deceased. The medical evidence would show that there is a stab injury on the left side of the chest, causing injury to the heart, as a result, thoracic cavity was filled with blood. There is also an incised injury on the left hand of the deceased. The evidence of mediators examined by the prosecution would disclose that the accused was arrested by P.W-9 and accused confessed about the concealment of M.O-1 knife in foam trees near Allah Bakshu Daraga at Kurnool. Basing on the discovery of fact, subsequently, M.O-1 was also seized from the place disclosed by the accused. The eyewitnesses identified M.O-1 as the weapon used by the accused. The Medical Officer stated that the injury could have been caused by a weapon like M.O-1. Therefore, all the facts and

circumstances coming out from the evidence of the prosecution, would lead to only one conclusion that the accused armed with knife, went to scene of offence, stabbed the deceased on the left of his chest, causing severe injury to heart and also caused injury to left hand. It would show that accused intended to cause multiple injuries to kill the deceased. Therefore, the charge was proved by the prosecution beyond all reasonable doubt. There are no grounds to interfere with the judgment of the trial Court.

16. In the light of above submissions, the point that would arise for consideration in this Criminal Appeal is as under:

> "***Whether there are grounds to interfere with the judgment of the VI Additional Sessions Judge, Kurnool***"?

17. **P O I N T**: The specific case of the prosecution is that on 12.04.2007 the marriage of P.W-4's son was solemnized in the village; At that time, P.W-4 gave some money to the accused to provide liquor to relatives, as a caste custom and asked him to spent only Rs.270/- out of Rs.300/-, and return the remaining amount of Rs.30/-; Accordingly, the accused and the relatives attended to the marriage, consumed liquor; Then, the deceased questioned the accused about the refund of amount of Rs.30/-; The accused became angry and quarreled with the deceased; The persons present there intervened in the matter and pacified the situation; Immediately, the accused went to home, came to scene of offence armed with a knife, went to the

deceased, stabbed him on left side of heart, when the deceased made attempt to ward off the blow, he again stabbed the deceased on left forearm near elbow, causing another injury, and ran away.

ANALYSIS:

18. Perusal of the evidence of P.Ws-1, 3, 5 and 6 would show facts mentioned above. They all in one voice deposed about the incident.

19. Now the contention of the defence is that they are all relatives of the deceased; Therefore, they suppressed the truth that the other persons involved in the quarrel, attacked the deceased. The above witnesses were relatives of the deceased; Accordingly, deposed false hood before the Court.

20. Perusal of cross-examination of the above witnesses does not disclose anything, to probable the plea of the defence that other than accused, some other persons involved in the incident. The evidence on record would disclose that the accused, deceased and the witnesses belong to same village. They are living in the same vicinity. They are not having animosity against the accused, or love and affection towards the deceased. During cross-examination, nothing was elicited to jettison their testimony.

21. **Section 155** of the Indian Evidence Act deals with impeaching credit of the witness. It speaks that the credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the Court, by the party who calls him, by three ways:-

(1) By the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit.

(2) By proof that the witness has been bribed, or has accepted the offer of a bribe, or has received any other corrupt inducement to give his evidence.

(3) By proof of former statements inconsistent with any part of his evidence which is liable to be contradicted.

22. In the case on hand, as already mentioned above, no one was examined for the defence to testify that P.Ws-1, 3, 5 and 6 are unworthy of credit. It appears that the accused is also a relative of the deceased as well as the witnesses, and he was the head man of the village. There is no proof that witnesses were bribed or accepted offer of a bribe to speak against the accused. So also, no former statements of the above witnesses were contradicted to say that they made a different statement earlier to the statement made before the Court. Therefore, absolutely there is no material on record to say that credit of the above witnesses had been impeached during trial of the case. Hence, the Court find no reason to disbelieve the testimony of P.Ws-1, 3, 5 and 6.

23. The evidence of P.W-2 i.e., son of the deceased is regarding the fact that he came to know about the incident later. Evidence of P.W-4 would support the version of the above witnesses that he observed the

accused coming back to home after quarrel and again going to the scene of offence armed with a knife.

24. The evidence of P.W-7 would show that the Investigation Officer conducted inquest vide Ex.P-2, and later, visited scene of offence. Observed the same and recovered certain objects from the scene of offence. Later, arrested the accused and that the accused made a confession relating to concealment of M.O-1 knife. Later seized by P.W-9. P.W-10 is the Medical Officer, who conducted autopsy in the case. His evidence would establish that he conducted autopsy on 13.04.2007 in Government Hospital. He found stab wound 2x25x1x5 cm spindle shaped, sharp angles, clean cut margins; obliquely placed over the left side chest below and medial to left nipple 10cm from the mid line 5cm below nipple, piercing the sixth intercoastal space and penetrating the right ventricle of the heart 11/2x12 cm with 1500 c.c. in the thoracic cavity. He also deposed that he noticed an incised wound 2.5 x 1 cm on skin deep over the outer upper part of left forearm below the elbow. He deposed that cause of death could be stab injury to the heart, and injury might have been caused by a weapon likeS M.O-1 knife.

25. Therefore, the medical evidence would corroborate the version of the eyewitnesses. The Medical Officer opined that M.O-1 could be the weapon used for causing the above injuries. As already discussed above, evidence on record would disclose that M.O-1 was seized

during investigation on the fact discovered during the confession made by the accused. Discovery of a fact i.e concealment of the knife at a place, only known to the accused, is admissible U/s.27 of the Indian Evidence Act, 1872. Therefore, all the above facts and circumstances would establish that accused stabbed the deceased with M.O-1 knife on the left side of the chest, causing grievous injury to the heart, resulting death of the deceased. Therefore, prosecution proved that accused committed homicide of deceased.

26. The learned trial Court considering the circumstances under which the incident occurred, came to an opinion that it is a homicide, but not amounting to murder. Accordingly, found the accused guilty of the offence U/s.304-II IPC instead of section 302 IPC, and convicted and sentenced him to suffer rigorous imprisonment for seven years.

CONCLUSION:

27. In the light of foregoing discussion, this Court do not find any grounds to interfere with the well-reasoned judgment of the trial Court. Hence, the Criminal Appeal is liable to be dismissed.

RESULT:

28. In the result, the Criminal Appeal is dismissed. This judgment be certified to the trial Court as per section 405 of Cr.P.C, for taking further steps in accordance with law.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

JUSTICE B.V.L.N. CHAKRAVARTHI

02.04.2026

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THE HONOURABLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

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Date: 02.04.2026

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