

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CRIMINAL APPEAL NO.1314 OF 2016

Between:

Bolla Naga Malleswara Rao

... Appellant(s)

Versus

The State of AP Rep. by PP

...Respondent

* * * * *

DATE OF JUDGMENT PRONOUNCED : 05.12.2024

SUBMITTED FOR APPROVAL:

HONOURABLE SRI JUSTICE K. SURESH REDDY

HONOURABLE SRI JUSTICE K. SREENIVASA REDDY

1. Whether Reporters of Local Newspapers
may be allowed to see the Order? : Yes/No
2. Whether the copy of Order may be
marked to Law Reporters/Journals? : Yes/No
3. Whether His Lordship wish to see the
fair copy of the Order? : Yes/No

JUSTICE K.SURESH REDDY

JUSTICE K.SREENIVASA REDDY

*** HONOURABLE SRI JUSTICE K.SURESH REDDY**

*** HONOURABLE SRI JUSTICE K.SREENIVASA REDDY**

+ CRIMINAL APPEAL NO.1314 OF 2016

% 05.12.2024

Between:

Bolla Naga Malleswara Rao

... Appellant(s)

Versus

The State of AP Rep. by PP

...Respondent

! Counsel for the Appellant(s) : Sri S.M.Subhan

^ Counsel for the Respondent/ State : Public Prosecutor

< Gist:

> Head Note:

? Cases referred: . . .

This Court made the following:

APHC010277712016



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3486]

**THURSDAY, THE FIFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

CRIMINAL APPEAL NO: 1314/2016

Between:

Bolla Naga Malleshwara Rao,
Rajahmahendravaram.

...APPELLANT

A N D

The State of AP Rep by PP

...RESPONDENT

Counsel for the Appellant:

1. S M SUBHAN

Counsel for the Respondent:

1. PUBLIC PROSECUTOR

The Court made the following:

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

Accused in Sessions Case No.194 of 2015 on the file of the X Additional District and Sessions Judge, Krishna at Machilipatnam (for brevity 'learned Sessions Judge'), is the sole appellant.

2. Charge sheet has been filed against the accused for the offences punishable under Sections 498A and 302 of the Indian Penal Code, 1860 (for brevity 'IPC'). *Vide* Judgment, dated 22.09.2016, learned Sessions Judge convicted the accused of the offences punishable under Sections 498A and 302 IPC and sentenced him to undergo rigorous imprisonment for a period of six (06) months for the offence punishable under Section 498A IPC, and further sentenced to undergo imprisonment for life and to pay a fine of Rs.1,000/- (Rupees one thousand only), in default of payment of fine, to suffer simple imprisonment for a period of one (01) month, for the offence punishable under Section 302 IPC. Both sentences were directed to run concurrently.

3. The substance of the charge as against the accused is that, one Bhulakshmi (hereinafter referred to, as 'the deceased') was the wife of the accused. That prior to 14.09.2014 at Lakshmanaraopuram colony and Pedakaragraharam village, Bandar Mandal, the accused, in order to fulfil his vices, subjected

the deceased to physical and mental cruelty and that on 14.09.2014 at about 5.00 a.m. hacked the deceased on the her left side of neck with coconut cutting knife, resulting in her death and thereby, accused committed the offences punishable under Sections 498A and 302 IPC.

4. Brief facts of the case of prosecution, are as follows:

(a) P.W1 is the brother, and P.W2 is the son, of the deceased and the accused; P.W3 is sister-in-law, and P.Ws.4 and 5 are sisters, of the deceased; P.Ws.6 to 8 are known witnesses to the deceased and the accused. All the material prosecution witnesses are residents of Pedakaragraharam, Bandar Mandal.

(b) Marriage of the deceased with accused was second marriage, solemnized thirteen years prior to 14.09.2014; that first marriage between the accused and his first wife ended with divorce; that subsequent to second marriage with the deceased, the accused and the deceased were blessed with P.W2 and a female child, aged about eight (08) years; that the accused being addicted to vices, used to suspect the deceased and beat her and restricted her not to talk with anybody; that the deceased, due to unbearable harassment of the accused, reached the house of P.W1 situated at Peda Karagraharam village and lived in the rented house of

L.W11/Katta Nanchamma and attended gold covering works and maintained her family.

(c) That about one month prior to 14.09.2014, the accused approached P.W1 and sisters of the deceased, assured that he would lead marital life with the deceased and look after her and the children, well; but there was no change in the attitude of the deceased and he used to harass her by beating her; that on 12.09.2014 at about 7.00 p.m. the accused beat the deceased and threatened her with dire consequences, on that, the deceased reached the house of P.W1 and informed about the harassment of the accused and subsequently, returned to her house on 13.09.2014 at about 6.00 p.m; that the accused continued his harassment towards the deceased and when P.W1 and sisters of the deceased chastised the accused, he left the house; that in the midnight of 13.09.2014, the accused returned to home and slept in the house; that the accused, on 14.09.2014, woke up early at about 5.00 a.m., beat the deceased, armed with knife, took the deceased out from the house by catching hold her tuft; that P.W2 anticipated danger, went to the house of P.W1 and informed the matter to P.W1 and when P.Ws.1 and 2 and other material prosecution witnesses reached the scene, accused was hacking the deceased

with coconut cutting knife on the left side of her neck and caused her death, on the spot.

(d) On 14.09.2014 at about 7.30 a.m. the case was reported to police *vide* Ex.P1 and P.W12/Sub-Inspector of Police, Bandar Taluq Police Station registered a case in Crime No.190 of 2014 for the offence punishable under Section 302 IPC and issued Ex.P6/FIR.

(e) P.W13/Inspector of Police, Bandar Rural Circle, Machilipatnam secured the presence of P.W9-VRO and P.W10-VRA of Pedakaragraham, visited scene of offence at about 8.30 a.m. and observed the scene and got prepared Ex.P2-Scene of offence Observation Report and got photographed the same *vide* Ex.P8. P.W13 also prepared rough sketch of scene of offence under Ex.P7-rough sketch.

(f) P.W13 secured the presence of P.Ws.1 to 8, relatives of the deceased and P.Ws.9 and 10, panchayathdars and in their presence, conducted inquest over the dead body of the deceased. Ex.P3 is the Inquest Report. After completion of inquest, P.W13 forwarded the dead body of the deceased through police personnel for conducting autopsy.

(g) On 15.09.2014 at about 3.00 p.m. P.W13 arrested the accused in the presence of P.Ws.9 and 10, at Chilakalapudi Railway station and recorded the confessional statement of the accused and the seized the weapon used in commission of the offence. Ex.P4 is the Seizure Mahazarnama. M.O1 is the blood stained knife and M.O2 is the blood stained clothes of the accused. The accused was produced before the Court and he was got remanded to judicial custody.

(h) During the course of investigation, P.W13 altered the section of law by adding Section 498A IPC to Section 302 IPC and issued altered FIR.

(i) P.W11-Civil Assistant Surgeon, Government Hospital, Machilipatnam conducted autopsy over the dead body of the deceased and issued Ex.P5-Post-Mortem Certificate, opining that the deceased died due to shock on account of injury to vital organs. P.W13 forwarded the material objects to the Regional Forensic Science Laboratory, Vijayawada with letter of advice through the Sub-Divisional Police Officer, Machilipatnam for analysis and subsequently, the RFSL Report under Ex.P9 was received by the police. After completion of entire investigation and after receipt of

relevant documents, P.W13 filed charge sheet against the accused. Hence, the Charge Sheet.

5. In support of its case, the prosecution examined P.Ws.1 to 13 and marked Exs.P1 to P9 and M.Os.1 and 2 on behalf of the prosecution. After conclusion of prosecution evidence, the accused was examined under Section 313 CrPC explaining the incriminating material found against the accused in the prosecution evidence. The accused denied the same, but no evidence was let in. Ex.D1 was marked on behalf of defence.

6. The plea of the accused is one of denial.

7. Learned Sessions Judge, after appreciation of the oral and documentary evidence, *vide* Judgment dated 22.09.2016, convicted the accused of the offences punishable under Sections 498A and 302 IPC in terms of Section 235 (2) CrPC and sentenced him to undergo rigorous imprisonment for a period of six (06) months for the offence punishable under Section 498A IPC and further sentenced to undergo imprisonment for life and to pay a fine of Rs.1,000/- (Rupees one thousand only), in default of payment of fine, to suffer simple imprisonment for a period of one (01) month for the offence punishable under Section 302 IPC. Both sentences

were directed to run concurrently. Challenging the conviction and sentence, accused preferred the present Criminal Appeal.

8. Learned counsel appearing on behalf of the appellant/accused contends that the interested testimony of P.Ws.1 to 5 cannot be relied upon, as they are the blood relatives of the deceased and much weight to the evidence of P.Ws.6 to 8 need not be given, as they are interested witnesses. The learned Sessions Judge gave much weight to the evidence of P.Ws.6 to 8 though their evidence does not establish that they are direct eyewitnesses to the incident. Learned counsel further contends that there are no eyewitnesses to the commission of offence and basing on the confessional statement made before police, it was concluded that the accused killed the deceased and there is no cogent and convincing evidence on record to prove the guilt of the accused. Learned counsel further contends that there was delay in lodging FIR, which goes to the root of the case of prosecution. The prosecution miserably failed to prove the guilt of the accused beyond all reasonable doubt. Hence, prays the Court to set-aside the conviction and sentence passed by the learned Sessions Judge.

9. On the other hand, learned Additional Public Prosecutor submits that P.W1, who is brother and P.W2, who is son, of the deceased, and they along with P.Ws.3 to 5, when reached the scene of offence on the date of the incident, witnessed the commission of offence by the accused. The evidence of P.Ws.1 to 6 is suffice to prove that the deceased was harassed both physically and mentally and there were occasions of the deceased visiting the house of P.W1, whenever she was subjected to physical and mental cruelty in the hands of the accused, which eventually led to killing the deceased on the date of the incident. There is nothing on record to tilt the case of prosecution. According to him, the Judgment of the learned Sessions Judge is a well-reasoned and calls for no interference by this Court. Hence, prays to dismiss the appeal.

10. Now the point for determination:

Whether the prosecution is able to bring home the guilt of the appellant herein/accused for the charge levelled against him beyond reasonable doubt and whether the conviction and sentence passed by the learned Sessions Judge is sustainable or not?

11. P.W1, brother of the deceased, deposed in his chief-examination that the accused addicted to vices like consuming alcohol, harassed the deceased and his children. He further deposed that the accused did not change his attitude though they set up the family of the deceased and accused at Lakshmanaraopuram, Machilipatnam; that on 13.09.2014 the accused harassed the deceased and threatened her that he would kill her. His evidence in chief-examination discloses that on the next day at about 5.00 a.m., P.W2 came to his house and informed that the accused was beating the deceased and when he along with other witnesses reached the house of the deceased, he found that the accused was cutting the throat of the deceased with a coconut knife.

12. In the cross-examination of P.W1, it is elicited that he does not know that by the date of the marriage of the deceased with accused, the accused was already having two children. He does not know that there was no divorce between the accused and his first wife; that subsequent to the marriage of the deceased with accused, they came to know that accused was already a married person. He further deposed in his cross-examination that his nephew came to his house at about 5.00 a.m. and informed that the

accused was making galata with the deceased, then, immediately, he and his wife viz. Sujatha went first, later his other sisters came. It is his evidence that by the time they went to the scene, accused was cutting the throat of the deceased outside of the house wall. He specifically deposed that the accused had cut the left side of the throat and that when he tried to intervene, the accused had shown the knife and ran away from the spot. He denied the suggestion that the accused never killed the deceased and they foisted the case due to enmity between accused first wife and the deceased, as the accused was not turning up to the deceased house.

13. P.W2, son of the deceased and accused deposed in his chief-examination that he was studying VII class; that the accused used to come to home in a drunken state, ill-treat him, his mother and his younger sister; that due to the ill-treatment, his mother took them to Pedakaragraham stayed in the house of P.W1; that after some days they took a house on rent and one month thereafter, the accused came to Pedakaragraham and lived with them. He further deposed in his chief-examination that there was no change in the attitude of the accused and he used to harass his mother, suspecting her character; that on 12.09.2014 during morning hours, the accused threatened the deceased that he

would kill her with a knife; that in the evening the accused returned and after the deceased serving food to P.W2 and his sister, they slept in the house. With regard to the incident, he narrated that on 14.09.2014 the accused caught tuft of the deceased, dragged her out, beat her and due to fear, he went to P.W1' house and brought them to his house and found the accused was cutting the throat of his mother with Penaka kathi.

14. In the cross-examination of P.W2, he deposed that the house of P.W1 was situated at a distance of 500 yards from the house of the deceased; that by the time they returned to home, his mother was already dead; that they did not observe as to whether his mother was alive or not; that P.W1 or his mother never reported the matter against the accused about his harassment; that he was not advised by any other to give evidence as against the accused. He denied the suggestion that his father never killed his mother and never harassed her.

15. P.W3, sister-in-law of the deceased and who is none other than the wife of P.W1, reiterates the version of P.W1. Her evidence in chief-examination runs on the same lines with that of P.W1, since she being the wife of P.W1, who is brother of the deceased, learnt about the each and every incident that occurred in

the marital life of the deceased with the accused. Her evidence discloses that accused used to consume alcohol and harass the deceased to give money for consuming alcohol by beating her. With regard to the incident proper, she deposed that on 14th day of a month in a year, P.W2 came to her house and informed that the accused was beating the deceased and that they went to the house of the accused and they found that the accused was cutting the throat of the deceased and when they tried to intervene the accused, he threatened them that he would kill and left the place by keeping the knife in a polythene cover.

16. In the cross-examination of P.W3, she deposed that they used to visit the house of the deceased whenever galata took place; that P.W2, at first went to the house of L.W3/Parasa Venkateswaramma and thereafter, he came to her house and in turn, they went to the house of L.W3/Parasa Venkateswaramma and thereafter, they all went to the place of offence. She further deposed that by the time they went to the house of the deceased, none was present and the deceased was already died. She denied the suggestion that somebody killed the deceased and they do not know who killed her and they falsely implicated the accused at the instance of P.W1.

17. P.W4 is the sister of the deceased. In her chief-examination, she deposed that the accused did not look after the deceased, well and used to harass her by consuming alcohol and insisted her to give money for consuming alcohol; that there was no change in the attitude of the accused towards the deceased and as such, the deceased shifted the family at the house of P.W1 and stayed in a rented house; that the accused came to the village and assured that he will not repeat the harassment and stayed along with the deceased, but there was no change in his attitude; that on 13.09.2014 the deceased was beaten by the accused; on 14th day *i.e.* on Sunday, P.W2 went to the house of P.W1 and informed that the accused was beating the deceased and when they all went to the house of the deceased, accused was found hacking the deceased. She further deposed that when the accused tried to intervene by them, he threatened them to kill and left the place by keeping the knife in a polythene cover. She further deposed that the accused used to suspect the character of the deceased and that was the reason to kill her. They were informed that the marriage of the accused with the deceased was first marriage, but later, they came to know that the accused was already married.

18. In the cross-examination of P.W4, it was elicited that she is residing at Gandram of Guduru Mandal. She concedes that the accused was already married and had children and they came to know about the said fact two years after the marriage of the deceased with the accused; that they did not inquire as to whether the accused obtained divorce from his first wife. She further deposed that they did not inquire about the character of the accused before marriage. With regard to the incident proper, she deposed that by the time they went to the scene, accused was found cutting the neck of the deceased; that they had not taken the deceased to the hospital as she already died. She denied the suggestion that the deceased had disputes with accused first wife.

19. P.W5 is another sister of the deceased. She reiterates the version of P.W4. In the cross-examination of P.W5, she deposed that she is resident of Mallavolu of Guduru Mandal. She too concedes that the accused was already married and had children and they came to know about the said fact two years after their marriage and that, they did not inquire as to whether the accused had obtained divorce from his first wife or not. She too denied the suggestion that the deceased had disputes with the accused first wife and that, the deceased was already married with

one Nagaraju and got pregnancy through him and later, got aborted the same and that the said Nagaraju had grouse over the deceased.

20. P.W6 is the resident of Pedakaragraharam, deposed in her chief-examination that she knows the deceased and the accused; that the accused used to insist the deceased to give amount and return to home in a drunken state; that the accused had threatened the deceased that he would kill her. With regard to the incident proper, she deposed that the accused had cut the throat of the deceased and on hearing the cries of P.Ws.1 to 5, she went to the scene and found the deceased dead with cut injury on her neck and she also found the accused with a knife leaving the place by threatening.

21. In the cross-examination of P.W6, she deposed that she knows the deceased from her childhood as she was residing in her village; that she knew that the deceased was first wife of accused, but later, came to know that accused was already married; that her house is situated by the side of the house of the deceased and that she heard galata from the house of deceased at about 5.30 or 6.00 a.m. She further deposed that she found the

dead body and also clotted blood on the wall and the clothes of the accused were also stained with blood.

22. P.Ws.7 and 8, who are residents of Pedakaragraharam, deposed on the same lines as that of P.W6. They categorically deposed that on the date of the incident, they found gathering of persons at the house of the deceased and P.W2 went to the house of P.W1. They further deposed that they also went to the scene of offence and found the deceased with cut injury on her neck and they also found the accused with a knife in a polythene cover and leaving the place by threatening the persons present there.

23. In the cross-examination of P.W7, it is elicited that she was not an eye witness to the earlier incidents occurred between the deceased and accused; that she woke up at 4.30 a.m; that she heard the cries of the deceased children in the morning, but she did not go to the place. She denied the suggestion that she does not know the case facts and that accused did not commit any offence and somebody had killed the deceased.

24. In the cross-examination of P.W8, she deposed that she came to know about the galata through the sisters of the deceased; that she was the neighbour of the deceased and the

house of the deceased is situated on the southern side of her house; that at about 5.00 or 5.30 a.m. she heard cries from the house of the deceased; that she came to know through the deceased that the accused was suspecting her character; that she woke up at 5.30 a.m. She denied the suggestion that the accused was not at all staying with the deceased at Pedakaragraharam and at instance of P.Ws.1 to 5 she was deposing false as against the accused.

25. P.W9, Village Revenue Officer of Bandar Mandal, deposed in his chief-examination that on 14.09.2014 he along with the Inspector of Police, Sub-Inspector of Police and other police personnel went to Babanagar colony and found the dead body of the deceased by the side of the wall of her house in a lean position with a cut injury on her neck; that they observed the scene of offence and drafted Ex.P2-Scene of offence Observation Report. His evidence is further to the effect that he was present at the time of inquest and he prepared Ex.P3-Inquest Report. He further deposed that on 15.09.2014 he was present at the time of apprehending the accused at Chilakalapudi Railway station. His evidence is to the effect that the accused confessed the

commission of offence and basing on the confession, they recovered M.Os.1 and 2 under the cover of Ex.P4-Mahazarnama.

26. During the cross-examination of P.W9, it is elicited that the police did not give any written requisition for his presence during the inquest and arrest of the accused. He deposed that Ex.P3-Inquest Report was written at the Government Hospital on narration of police. He denied the suggestion that he was not present at the time of scene observation, inquest and during arrest of the accused and said proceedings were prepared in the police station.

27. P.W10, Village Revenue Assistant, who was also present at the time of Ex.P2-Observation Report and Ex.P4-Mahazarnama, reiterates the version of P.W9. In the cross-examination of P.W10, she deposed that she went to the scene of offence by walk and after the Village Revenue Officer came to the scene of offence, she returned to home and half-an-hour thereafter, she again went to the scene of offence and by that time, police were present. Her evidence is to the effect that they found knife in a polythene cover and clothes behind a tree in the railway station.

28. P.W11, Civil Assistant Surgeon, Government Hospital, Machilipatnam deposed in his evidence that on 14.09.2014 he

conducted Post-Mortem Examination over the dead body of the deceased and found the following injuries:

1. A cut laceration of size 2 x 6 x 4 cms depth extended from the centre of the neck of the left sterna cleidomastoid;
2. Trachea and oesophagus are completely cut;
3. Injuries to the surrounding muscles and blood vessels are completely cut;

29. His evidence is further to the effect that, on external examination, no bony injury, lungs, heart and abdomen are intact, peritoneal cavity was also intact and contains no puss or blood. He issued Ex.P5-Post Mortem Examination report. He opined that the cause of death is due to injury to the vital organs *i.e.* great vessels were cut and injury to the trachea and oesophagus. He further opined that the aforesaid injuries on the neck of the deceased are possible by M.O1.

30. In the cross-examination of P.W11, he deposed that he could not state the exact time of the survival of the deceased after sustaining injury on the neck; that if force is used, blood spreads. He denied to the suggestion made by learned defence counsel that there is no possibility for hacking on left side neck by standing on the left side by leaning the head on the wall.

31. P.W12, Sub-Inspector of Police, Bandar Taluq Police Station deposed in his evidence that basing on Ex.P1-report, he registered a case in Crime No.119 of 2014 for the offences punishable under Sections 302 and 498A IPC and issued Ex.P6-FIR. In the cross-examination, he concedes that he registered the case only for the offence under Section 302 IPC and during investigation, the Inspector of Police added Section 498A IPC. P.W1 came to the police station at about 7.30 a.m. along with his sister and deceased son; that he does not know the scribe of Ex.P1-report and where it was drafted. As per the evidence of P.W12, the police station is at a distance of half kilometre from the Court and it takes half-an-hour by walk. According to him, by the time they went to the scene of offence, the Village Revenue Officer and the Sarpanch were not present. He denied the suggestion that either they or P.W1 did not know who murdered the deceased as they falsely registered the case at 3.30 or 4.00 p.m. by implicating the accused and P.W1 does not know what had written in Ex.P1-report.

32. P.W13, Inspector of Police, Avanigadda Circle deposed in his chief-examination that at about 7.30 a.m. he received call from P.W12 about commission of murder at Pedakaragraharam and

registration of crime; that he proceeded to the scene of offence along with P.Ws.9, 10 and 12 and prepared Ex.P2-scene of offence observation report, Ex.P7-rough sketch, examined P.Ws.1 to 8 and recorded their statements, conducted inquest over the dead body of the deceased; that on 15.09.2014 at 3.00 p.m. on credible information, proceeded to Chilakalapudi Police Station along with P.Ws.9 and 10, apprehended the accused and basing on the confession of the accused, recovered M.Os.1 and 2 under the cover of Ex.P4-Mahazarnama.

33. The cross-examination of P.W13 was in regard to investigation of crime, examination of witnesses, preparation of inquest report, apprehension of accused and recovery of material objects. His cross-examination is also in regard to the material contradictions in the evidence of P.Ws.1 to 6. He deposed that his investigation does not reveal that the deceased married earlier and the accused was his second husband; that he does not know there were serious disputes between the deceased with accused first wife. He does not examine the first wife of the accused.

34. A perusal of evidence of material prosecution witnesses, *i.e.* P.Ws.1 to 5 goes to show that marriage of the deceased and the accused was performed thirteen prior to the date

of the incident. A perusal of contents of Ex.P1-report presented by P.W1, goes to show that the marriage of the accused with the deceased, was second marriage and the earlier marriage of the accused was dissolved by a decree of divorce. Though, the evidence of P.W1 and P.W3, who are husband and wife, respectively, discloses that they do not know as to whether the marriage of the accused with the deceased was second marriage, the contents of Ex.P1-report goes to show that it was second marriage and by the time of the said marriage, P.W1 knows the same. However, it is an undisputed one as to whether the said marriage is a first one or second, the evidence of material prosecution witnesses goes to show that accused being addicted to vices, harassed the deceased.

35. The evidence of P.W1 further goes to show that at one point of time, when the accused harassed the deceased, she along with her children went to the house of P.W1 situated at Peda Karagraharam village and stayed in a rented house belonged to L.W11/Katta Nancharamma and attended rold gold work and looked after her children. It is the evidence of P.W1 that the accused used to suspect the character of the deceased, ill-treat her and though the deceased resume the conjugal life with the

accused, the accused did not mend his attitude towards her and continued the harassment and according to the evidence of P.Ws.1 to 5, on the date of the incident also, the accused harassed the deceased, beat her and killed her by cutting her throat with M.O1-knife.

36. Indisputably, there are no eyewitnesses to the incident, but the evidence of P.W2, who is son of the deceased, discloses that on 12.09.2014 his father *i.e.* the accused threatened the deceased to kill her with a knife and due to fear, he went to the house of P.W1 and stayed in his house on that day. The evidence of P.W2 further goes to show that on 14.09.2014 the accused caught tuft of the deceased, dragged and beat her and due to the act of the accused, P.W2, son of the deceased, anticipated danger to the life of the deceased, rushed to the house of P.W1 and informed him about the act of the accused, who in turn, along with other sisters of the deceased *i.e.* P.Ws.4 and 5 and other relatives went to the scene of offence, where they witnessed the accused with a coconut knife and the deceased found dead with a bleeding injury to her throat. All the material prosecution witnesses categorically deposed about witnessing the accused holding M.O1-

knife by the time they reached the scene of offence and the deceased was found dead with a cut injury to her throat.

37. A perusal of evidence of P.Ws.6, 7 and 8, who are nearby residents of the scene of offence corroborated the evidence of P.Ws.1 to 5. They categorically deposed about the harassment meted out to the deceased in the hands of the accused. Their evidence would disclose that the accused harassed the deceased not only within the four walls of his house, but also outside the house, because of the same, they deposed that the accused being addicted to vices, used to attend the house in drunken state and harassed the deceased for want of money and further, three days prior to the date of the incident, accused threatened the deceased that he would kill her. Therefore, the evidence of P.Ws.1 to 5 coupled with the evidence of P.Ws.6 to 8 goes to show that the accused, being addicted to vices, harassed the deceased for want of money for his needs and ill-treated her.

38. A perusal of the evidence of P.W12, Sub-Inspector of Police goes to show that he registered Ex.P6-FIR for the offence punishable under Section 302 IPC, and later, as his investigation disclosed that the deceased was being harassed in the hands of the accused, he added the Section 498A IPC to Section 302 IPC.

Therefore, it can be seen that the Investigating Officer made the investigation on correct lines.

39. Learned counsel for the appellant would contend that the evidence of P.Ws.1, 3 to 5 cannot be given much weight, as they are blood relatives of the deceased and they naturally depose against the accused. Learned counsel would further contend that P.W2, who is son of the deceased and the accused, was in the custody of P.W1 since the death of the deceased and naturally, he would be tutored by the relatives of the deceased, to depose evidence against the accused.

40. If the contention of the appellant is taken into consideration, P.W1, who deposed in his evidence that, when the accused harassed the deceased, he convinced the deceased to resume the conjugal life and when the accused did not stop his harassment, he made the deceased to shift her residence to the place of his residence situated at Pedakaragraharam and joined her in a rold gold shop for work. His evidence further discloses that when accused requested P.W1 that he would look after the deceased, he did not object and made him to resume the conjugal life. Therefore, P.W1, being the elder brother of the deceased, who at every point of time, was with the deceased, convinced the

deceased whenever she leaves the conjugal home and when the accused came and requested him, he, then also made the accused to resume his conjugal life with the deceased. Therefore, the evidence of P.W1 cannot be doubted.

41. Indeed, P.W2, who is the son of the deceased and the accused, prior to the death of the deceased, lived along with the accused. He directly witnessed his harassment towards the deceased. His evidence discloses that the accused used to return home in a drunken state and ill-treat the deceased and the accused, though resumed the conjugal life with the deceased during her stay at Pedakaragraham in the house of L.W11/Katta Nanchamma, continued to harass the deceased by suspecting her character. In the cross-examination of P.W2, he categorically deposed that none of the brothers or sisters of the deceased had reported to police about the harassment meted out by the deceased in the hands of the accused prior to her death. When such is the evidence of P.W2, it cannot be said that he was influenced by P.W1 and other blood relatives of the deceased.

42. Though there are some contradictions and discrepancies in the evidence of material prosecution witnesses, that itself is not a ground to doubt the credibility and veracity of their

evidence and the Court has to look into as to whether such contradictions and omissions would seriously affect the case. Though P.Ws.1 to 5 happen to be the brother, son and sisters of the deceased, their evidence is cogent, consistent and convincing and corroborates the case of prosecution with regard to the harassment meted out to the deceased in the hands of the accused and the motive of the accused for killing the deceased.

43. The evidence of P.W6 would disclose that her house is situated by the side of the house of the deceased. Her evidence further discloses that on the date of the incident she woke up at about 3.30 a.m. or 4.00 a.m. and while she was doing domestic work, around 5.30 a.m. she heard galata from the house of the deceased. Even the evidence of P.W7 runs on the same lines. She too deposed that at about 4.30 p.m. she woke up and later, she heard cries of the deceased children during morning. The evidence of P.W8, who is the neighbour of the deceased, deposed in her evidence that she heard cries from the house of the deceased at about 5.00 or 5.30 a.m. and she also witnessed fifteen villagers gathered at the scene of offence.

44. A perusal of evidence of P.Ws.6 to 8 goes to show that they deposed about the harassment meted out to the deceased in

the hands of the accused and if at all P.Ws.6 to 8 are interested witnesses or planted by the prosecution, they might have deposed that they witnessed the accused killing the deceased with M.O1-knife, but they deposed only to the extent that on the date of the incident during morning hours, they heard cries from the house of the deceased and such evidence corroborates the evidence of P.W2 about the circumstances that had occurred subsequent thereto. Therefore, this Court has no hesitation to place implicit reliance on the evidence of P.Ws.6 to 8.

45. P.W11, Medical Officer who conducted Post-Mortem examination over the dead body of the deceased had categorically deposed about the injuries sustained by the deceased. He also deposed that the injuries on the neck of the deceased are possible through M.O1. Though P.W11 deposed that the death of the deceased occurred 24 hours prior to his conducting Post-Mortem examination, he clearly opined that the death might have been caused within less than 24 hours prior to his examination. Nothing has been elicited to discrete the evidence of P.W11.

46. In this regard, the evidence of P.W13/Inspector of Police is relevant in nature. His evidence discloses that he along with P.W12-Sub-Inspector of Police and other police officials

proceeded to Chilakalapudi Police Station and apprehended the accused and the accused had voluntarily confessed about the commission of offence. His evidence further discloses that basing on the confession made by the accused, they recovered M.O1-knife and M.O2-blood stained clothes of the accused. It is not the case of the defence that M.O1/knife was seized at the house of the deceased, indeed, M.O1/knife was seized from his possession pursuant to his confession.

47. Though, there are some material contradictions with regard to procedure in seizure of material objects, such contradiction does not go to the very root of the case of prosecution, since the seizure of M.O1/knife was done on the date of the apprehension of the accused from his possession. Nothing is adduced by the defence to believe that M.O1/knife was not seized from the possession of the accused, and through M.O.1/knife there was possibility of deceased sustaining injuries as mentioned in Ex.P5/Post-Mortem Certificate. Therefore, this Court has no hesitation to hold that the evidence of prosecution witnesses is no way shaky and it cannot be discarded. In view of the above said reasons, this Court is convinced with the conviction and sentence passed by the learned Sessions Judge.

48. The learned Sessions Judge, on proper appreciation of entire oral and documentary evidence on record, had rightly found the accused guilty of the offences and accordingly, convicted the accused of the charges levelled against him, which warrants no interference by this Court.

49. In the result, the Criminal Appeal No.1314 of 2016 is dismissed confirming the Judgment, dated 22.09.2016 passed in Sessions Case No.194 of 2015 by the learned X Additional District and Sessions Judge, Krishna at Machilipatnam.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE K. SURESH REDDY

JUSTICE K. SREENIVASA REDDY

5th December, 2024

Note:

LR Copy is to be marked.

B/o.
DNB