

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CRIMINAL APPEAL NO.513 OF 2017

Between:

Gadikana Murali Krishna @ Murali and three
others

... Appellant(s)

Versus

The State of AP Rep. by PP

...Respondent

* * * * *

DATE OF JUDGMENT PRONOUNCED : 21.11.2024

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**

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! Counsel for the Appellant(s) : Sri H.Prahalada Reddy

^ Counsel for the Respondent/ State : Public Prosecutor

< Gist:

> Head Note:

? Cases referred:

1. **(2023) 10 SCR 1033.**
2. **Crl.A.M.P.No.1687 of 2016 in Crl.A.No.607 of 2011, dated 02.11.2016.**

This Court made the following:

APHC010429592017



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

THURSDAY, THE TWENTY FIRST DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

A N D

THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

CRIMINAL APPEAL NO: 513/2017

Between:

Gadikana Murali Krishna @ Murali and three **...APPELLANT(S)**
Others

A N D

The State of AP **...RESPONDENT**

Counsel for the Appellant(S):

1.H PRAHALADA REDDY

Counsel for the Respondent:

1.PUBLIC PROSECUTOR (AP)

The Court made the following:

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

Accused Nos.1 to 4 in Sessions Case No.137 of 2015 on the file of the V Additional District and Sessions Judge, Tirupati, (hereinafter referred to, as 'the learned Additional Sessions Judge') are the appellants in the present Criminal Appeal. The learned Additional Sessions Judge tried the accused Nos.1, 3 to 5 for the offences punishable under Sections 302 read with 34 of the Indian Penal Code, 1860 (for brevity 'IPC') and 201 read with 34 IPC and accused Nos.1 and 2 for the offence punishable under Section 120B IPC.

2. *Vide* Judgment, dated 20.03.2017, the learned Additional Sessions Judge convicted the accused Nos.1 and 2 of the offence punishable under Section 120B IPC, and also convicted the accused Nos.1, 3 and 4 of the offence punishable under Section 302 read with 34 IPC and sentenced the accused Nos.1 and 2 to undergo imprisonment for life and to pay a fine of Rs.1,000/- (Rupees one thousand only) each, in default to suffer simple imprisonment for a period of three (03) months each, for the offence punishable under Section 120B IPC; accused Nos.1, 3 and 4 are sentenced to undergo imprisonment for life and to pay a fine of Rs.1,000/- (Rupees one thousand only) each, in default to undergo

simple imprisonment for a period of three (03) months each for the offence punishable under Section 302 read with 34 IPC. Both the substantial sentences, imposed against accused No.1, were directed to run concurrently. The learned Additional Sessions Judge found the accused No.5 not guilty of the offence punishable under Section 302 read with 34 IPC and also accused Nos.1, 3 to 5 not guilty of the offence punishable under Section 201 read with 34 IPC and they were acquitted in terms of Section 235 (1) of the Code of Criminal Procedure, 1973 (for brevity 'CrPC').

3. The substance of the charges as against the accused Nos.1 to 5 is that between 30.07.2014 at 7.30 p.m., and 31.07.2014 to 6.30 a.m., near A.M.Puthur, beside Srikalahasti-Naidupet Bypass road, Srikalahasti Town, accused No.2, being the concubine of accused No.1, conspired together to kill one V.Gopi (hereinafter referred to, as 'the deceased'), husband of accused No.2, so as to lead extramarital life with accused No.1 and that, accused No.1 administered pesticide pills in the water bottle and liquor bottle given to the deceased and accused No.5 supplied the pesticide pills on the directions of accused No.1 and accused Nos.1, 3 and 4 hit on the head of the deceased one by one and killed him. In the course of same transaction, accused Nos.1, 3 to 5 screened off the

evidence of murder of the deceased and picturized it as suicidal death.

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

(a) Accused Nos.1 to 5 and all the material prosecution witnesses are residents of Srikalahasti. Accused No.2 is concubine of accused No.1 and accused Nos.3 to 5 are close associates of accused No.1. Accused No.2 was the wife of the deceased.

(b) On 30.07.2014 at about 7.30 p.m., near A.M.Puthur, beside Srikalahati-Naidupet Bypass road, Srikalahasti town, the deceased left his house by the red colour motorcycle bearing registration No.AP03 AY 9047 belonged to one Mani after informing to accused No.2 that he was going out and would return at about 9.00 p.m., for dinner; but the deceased did not return home and found brutally murdered by unknown persons and lying with bleeding injury on the left side of head. It was also found that he was forcibly swallowed some pesticide.

(c) On 31.07.2014 at 8.00 a.m., accused No.2 reporting the death of the deceased, presented Ex.P13-Report; basing on the report, P.W.16/Inspector of Police, Srikalahasti II Town PS registered a case in Crime No.103 of 2014 of II Town Police

Station, Srikalahasthi, for the offence punishable under Section 302 IPC and issued Ex.P14-FIR.

(d) P.W.16, during the course of investigation, secured the presence of inquest panchayathdars viz. L.W.20/Theegala Harikrishna and L.W.21/Gudipati Munaiah @ Chinna and in the presence of P.Ws.1, 2, L.W3/Parvathala Mani and L.W.4/V.Munirathnam Naidu, conducted inquest over the dead body of the and got drafted Ex.P4-Inquest Report and sent the dead body of the deceased Government Area Hospital, Srikalahasthi for conducting Post-Mortem Examination. He examined P.Ws.3, 4, 5, L.W.8/B.Sunitha and P.W6/Maddineni Mallikarjuna and recorded their statements. His investigation revealed that accused No.1 was frequently visiting the house of the deceased and was moving closely with accused No.2.

(e) On 05.08.2014 at 11.00 a.m., near Kasa Garden, AMC Check-post, on Srikalahasthi-Naidupeta Bypass road, Srikalahasthi town, P.W16 arrested accused Nos.1, 3, 4 and 5. They confessed that accused No.1 criminally conspired with accused No.2, wife of the deceased, exercised the plan of killing the deceased and took the assistance of accused Nos.3 to 5 and as per the directions of accused No.2, killed the deceased by mixing pesticide pills in the

liquor and water bottles and made him to consume and to screen the evidence, accused No.1 disturbed the scene by throwing the motorcycle of the deceased, concealed the keys of the said vehicle nearby thorny bushes under a stone and accused No.1 kept two pawn broker shop receipts, containing pledging of gold jewels given by accused No.2; accused Nos.1, 3 to 5 hit on the head of the deceased and killed him. The said confessional statements of the accused Nos.1, 3 to 5 were recorded and the police seized M.Os.1 to 19 and Ex.P3/broker slips, under the cover of Ex.P16-Mahazarnama and sent the material objects for analysis.

(f) On 05.08.2014 at 5.15 p.m., in front of the house of accused No.2, P.W.16 arrested accused No.2. Accused No.2 confessed about conspiring together with accused No.2 in commission of offence through accused Nos.3 to 5.

(g) On 31.07.2014 at 3.50 p.m., P.W.15/Civil Assistant Surgeon, Government Area Hospital, Srikalahasthi conducted autopsy over the dead body of the deceased and issued Ex.P10-Post-Mortem Certificate opining that the cause of death is due to Intracranial Haemorrhage due to head injury associated with carbamate, an insecticide poison.

(h) P.W16 got remanded the accused to judicial custody. After completion of investigation and after receipt of all reports, P.W.16 filed charge sheet. Hence, the Charge Sheet.

5. In support of its case, prosecution examined P.Ws.1 to 16 and got marked Exs.P1 to P17 and M.Os.1 to 19 on behalf of the prosecution.

6. When the accused Nos.1 to 5 were examined under Section 313 of CrPC, they denied the incriminating evidence, brought on record, against them. The plea of accused Nos.1 to 5 is one of denial. No oral or documentary evidence was adduced on behalf of defence.

7. Accepting the evidence of P.Ws.1 to 8, 10 to 13 coupled with the medical evidence P.W15/Doctor, learned Additional Sessions Judge acquitted the accused No.5, but convicted the accused Nos.1 to 4 and sentenced them as aforesaid. Challenging the same, the present Criminal Appeal is preferred by accused Nos.1 to 4.

8. Ms. Aishwarya Nagulla, learned counsel appearing on behalf of the appellants submitted that the entire case rests on the circumstantial evidence and there are no eyewitnesses to the occurrence. The entire case of prosecution is silent with regard to

seizure of insecticide poison, administered to commit murder of the deceased. Further, there is no evidence to establish the presence of the accused at the scene of offence on the date of the incident, therefore, the prosecution failed to prove the last seen theory. According to learned counsel, the Investigating Officer did not conduct investigation on correct lines and concluded the same by foisting a false case against the accused without there being any proof that accused Nos.1 and 2 were having illicit intimacy and in that connection, they conspired together and through accused Nos.3 to 5 killed the deceased.

9. On the other hand, Sri M.Venkata Ramana, learned Additional Public Prosecutor for State, contended that the version spoken by the material prosecution witnesses is consistent with regard to the fact that the deceased was last seen in the company of the accused. The investigation revealed that there is extra-marital affair in between accused Nos.1 and 2 and they together hatched a plan to do away the life of the deceased, who was the husband of accused No.2. On a close scrutiny of the aforesaid evidence goes to show that it is the accused and accused alone and none else that had caused the death of the deceased. According to him, learned

Additional Sessions Judge has passed a reasoned Judgment and it calls for no interference of this Court.

10. Now the point for determination:

Whether the prosecution is able to bring home the guilt of the appellants/accused Nos.1 to 4 for the offences punishable under Sections 120B IPC against accused Nos.1 and 2, Section 302 read with 34 IPC against accused Nos.1, 3 and 4, beyond all reasonable doubt and whether the conviction and sentence recorded by the learned Additional Sessions Judge are liable to be set aside or modified?

11. The entire case rests on circumstantial evidence. In a case based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in nature. Moreover, all the circumstances should be complete and there should be no gap left in the chain of evidence.

12. In a decision reported in **Pritinder Singh @ Lovely v. The State of Punjab**¹, the Hon'ble Supreme Court held thus.

“Undisputedly, the present case is a case which rests on circumstantial evidence. The law with regard to conviction in the case of circumstantial evidence is very

¹ (2023) 10 SCR 1033

well crystallised in the case of **Sharad Birdhichand Sarda v. State of Maharashtra**, ((1984) 4 SCC 116).

We may gainfully refer to the following observations of this Court in the case of Sharad Birdhichand Sarda (supra):

“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned “must or should” and not “may be” established. There is not only a grammatical but a legal distinction between “may be proved” and “must be or should be proved” as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra [(1973) 2 SCC 793 : 1973 SCC (Cri) 1033 : 1973 CrL LJ 1783] where the observations were made: [SCC para 19, p. 807: SCC (Cri) p. 1047]

“Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between ‘may be’ and ‘must be’ is long and divides vague conjectures from sure conclusions.”

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

154. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence.”

13. In the light of these guiding principles, the present appeal has to be considered.

14. This Court perused the record.

15. In order to connect the links to form a chain, it has to be examined whether the accused have motive to cause the death of the deceased?

M O T I V E:

16. As regards motive, motive is not an integral part of crime. It is an aid in assessment of criminality. To prove the motive, prosecution examined P.W3, who was the mother of the deceased. She, in her evidence deposed that on 31.07.2014 at about 7.00 a.m., her grandson *viz.* Pavan telephoned and informed her that his father *i.e.* the deceased was murdered. It is her further evidence that she stayed in the house of the deceased for four days, when he

joined as tenant in the house of P.W.5. She deposed that she observed accused No.1 was closely moving with accused No.2. As per her version, accused No.1 developed illicit intimacy with accused no.2 and due to that they conspired and killed the deceased, who was her son. In cross-examination, it is elicited that she stated to the police that P.W3 got suspicion that accused Nos.1 and 2 killed the deceased as they were having illicit intimacy.

17. From a plain reading of the evidence of P.W3, it is evident that as the father of the deceased was suffering from ill-health, the deceased along with his father *viz.* V.Munirathnam Naidu and P.W3 went to Tirupati on 30.07.2014. Nothing could be elicited in the evidence of P.W3 to substantiate that accused Nos.1 and 2 were having illicit intimacy and that was the motive to do away the life of the deceased.

18. In order to prove the motive, the prosecution examined another crucial witness as P.W4, who was the son of the deceased and accused No.2 and grandson of P.W3. He deposed that he along with accused No.2 and his younger brother *viz.* Charan, was residing in the upstairs portion of the house of the house of P.W5 at B.P.Agraharam area of Srikalahasthi town. His father *i.e.* the deceased used to visit now and then. He further deposed that

accused No.1 used to visit his house in the absence of the deceased, during night times and at that time, accused No.1 and her mother *i.e.* accused No.2, used to sleep on the bed, and they used to sleep by the side of the bed on floor and accused No.1 used to leave the house at 5.30 a.m. He further deposed that he was asked by accused Nos.1 and 2 to go downstairs to see as to whether any person is available and if no person was there, accused No.1 used to go out from their house. His evidence is also to the effect that when he was studying VI standard, himself, his brother, accused Nos.1 and 2 went to Madras during evening hours and stayed in a lodge and returned to Srikalahasthi on the next day evening.

19. In the cross-examination of P.W4, it is elicited that since the death of his father *i.e.* the deceased, he was residing in the house of P.W1; one Anitha is the wife of P.W1. He conceded that Anitha is the elder sister of accused No.2 and both were having misunderstandings since long time. He further deposed that he did not state before police that accused Nos.1 and 2 conspired together and killed the deceased. He denied the suggestion that he was deposing false as per the instructions of his aunt *viz.* Anitha, wife of P.W1.

20. A plain reading of the evidence of P.W.4, son of the deceased and accused No.2, he was aged 13 years at the time of his examination before the Court and since the death of the deceased, he was residing with P.W1, whose wife is elder sister to accused No.2. Though he deposed in his evidence that accused No.1 used to visit his house in the absence of the deceased, during night times and accused Nos.1 and 2 used to sleep on the bed, the same witness, in his cross-examination deposed that he did not state before police that accused Nos.1 and 2 conspired together and killed the deceased. Apparently, as per the evidence of P.W4, there are disputes in between accused No.2 and wife of P.W1, who was looking after the welfare of P.W4 and under whose shelter he was residing. Therefore, it can be inferred that P.W4, who was at tender age, appears to have been briefed by P.W1 and his wife viz. Anitha to depose as against accused No.2 that accused Nos.1 and 2 used to sleep on bed during the absence of the deceased. Admittedly, P.W3, mother of the deceased and grandmother of P.W4, deposed that accused No.1 was moving closely with accused No.2 and she got suspicion over them that they developed illegal intimacy and killed the deceased. But, such suspicion is not substantiated by any oral evidence, for the reason that except

P.Ws.3 and 4, none of the prosecution witnesses expressed suspicion over accused Nos.1 and 2 with regard to illicit intimacy.

21. Except the version given by P.Ws.3 and 4, there is no corroborative evidence to show that the accused Nos.1 and 2 had illegal intimacy and in order to live happily, they both conspired together to kill the deceased. The said aspect of motive appears to be quite artificial and the same was brought into existence by the prosecution after due deliberations and confabulations. On a perusal of entire evidence on record, we are of the opinion that even the motive is not conclusive as per the prosecution case.

LAST SEEN THEORY:

22. In order to prove 'last seen theory', the prosecution examined P.Ws.1, 2, 3 and 5. P.W.1, who accompanied accused No.2 at the time of giving Ex.P13-report to police, deposed in his evidence that he along with the deceased jointly did optical business; as the father of the deceased was suffering from ill-health, the deceased brought him to Tirupathi on 30.07.2014. It is his evidence that subsequently the deceased went to Srikalahasthi; later, on 31.07.2014 at 6.30 a.m., he learnt that the deceased died and his body was lying by the side of the mud road near A.M.Puttur. Nothing is elicited in his cross-examination, except putting formal

suggestion. However, P.W11 concedes that he stated before police that the deceased borrowed amounts from others for his family expenses and for the last some days, he was staying at his parents' house as he borrowed debts from others.

23. P.W.2 was the cousin brother of the deceased. His evidence is to the effect that on 30.07.2014 the deceased informed him that his father was not doing well and they were proceeding to Tirupati from Venkatagiri for medical treatment. His evidence is further to the effect that he too started from his village and reached hospital at Tirupati and after treatment, parents of the deceased went to Venkatagiri and the deceased and P.W2 went to Srikalahasthi on his motorbike. He further deposed that he dropped the deceased at his house at B.P.Agraharam on his red colour Passion Pro motorcycle bearing registration No.AP03 AU 9074 and the deceased took his motorcycle and P.W2 went to his village on an auto-rickshaw. He further deposed that on the next day *i.e.* on 31.07.2014 at 6.45 a.m., he came to know about the death of the deceased. As per his evidence, some unknown offenders killed the deceased as he was having financial difficulties.

24. Evidence of P.W3, mother of the deceased is to the effect that on 30.07.2014 her husband *viz.* V.Munirathnam Naidu

got chest pain; then, the deceased took him along with P.W3 to SVIM Hospital, Tirupati; around 5.00 p.m., the parents of the deceased boarded the bus to go to Venkatagiri and the deceased went to Srikalahasthi along with P.W2; on the subsequent day *i.e.* 31.07.2014 around 7.00 a.m., P.W3 was informed that the deceased died.

25. None of the witnesses P.Ws.1 to 3 deposed that they have lastly seen the deceased in the company of accused in between 30.07.2014 and 31.07.2014. Indeed, the evidence of P.W1 is only hearsay, because, he did not accompany the deceased to Tirupathi, he deposed only on coming to know about the incidents that occurred in between 30.07.2014 and 31.07.2014 through known persons. Therefore, we do not give much credence to the evidence of P.Ws.1 to 3.

26. Coming to the evidence of other witness *i.e.* P.W5, house owner of the deceased, she deposed in her evidence that on 15.06.2014, accused No.2, her children and her mother-in-law joined in her house as tenants in the second upstairs portion. She further deposed that prior to that, accused Nos.1 and 2 came and discussed with her with regard to leasing out her house to accused No.2. With regard to last seen theory, P.W5 deposed that on

30.07.2014 at about 6.30 a.m., she saw the deceased near the gate of her house, he was in a fully drunken state and was not in a position to walk properly and was about to fall on the ground. It is her further evidence that she told the deceased to go to his house portion carefully. Then, after half-an-hour, again the deceased came down from his portion and proceeded by his motorcycle. On the next day, she came to know about the death of the deceased.

27. A perusal of evidence of P.W4, she is the only witness rather than the accused No.2, who saw the deceased on 30.07.2014 at about 6.30 p.m., and half-an-hour later, she again witnessed the deceased proceeding on his motorcycle. Apparently, P.W4 evidence does not disclose that she lastly had seen the deceased in the company of the accused.

28. Even, the other prosecution witnesses, P.W6, Cashier in Suresh Wines; P.W7, who is running a petty bunk and P.W8, owner of Dhana Hotel did not depose that they had lastly seen the deceased in the company of accused. Their evidence would only reveal that on 30.07.2014 accused No.2 purchased two quarter bottles of Mc. Dowell Brandhi from P.W6, accused No.3 purchased four pickle packets from P.W7 and accused No.4 purchased one Chilly chicken dry, one egg fried rice and one water bottle. Indeed,

P.Ws.6 to 8 identified accused Nos.2 to 4, respectively when they were produced before them at the time of investigation and also on the date of their examination before the Court. None of them has deposed that they had lastly seen the deceased in the company of any of the accused. Therefore, we are of the firm opinion that the prosecution failed to prove the last seen theory.

EXTRA-JUDICIAL CONFESSION:

29. The other circumstantial evidence relied upon by the learned Additional Sessions Judge is with regard to the extra-judicial confession that has been made by the accused to P.W14.

30. P.W14 is working as Panchayat Secretary, Thottambedu Mandal. According to him, on 05.08.2014 at 10.45 a.m., on the request made by P.W16, Inspector of Police, II Town PS, he acted as witness and proceeded to Naidupet Bypass road area, Srikalahasthi along with police. They caught hold four persons, and they confessed about commission of offence. Basing on their confession, police seized the material objects.

31. An extra-judicial confession, if voluntary and true and is made in a fit state of mind, can be relied upon by the Court. The confession will have to be proved like any other fact. The value of

the evidence as to confession, like any other evidence, depends upon the veracity of the witness to whom it has been made.

32. In the present case on hand, the witness is Panchayat Secretary belonging to Thottambedu Mandal but the accused are residents of Kondamitta and other nearby places of Srikalahasthi. In fact, the extra-judicial confession made by the accused is not voluntarily and they confessed about commission of offence only after their arrest by P.W16. Therefore, question of accused making of extra-judicial confession to P.W.14, who is the Panchayat Secretary, appears to be highly improbable.

33. Apart from the same, the said extra-judicial confession by itself is not trustworthy, as time and again this Court and the Hon'ble Apex Court has reiterated that the extra-judicial confession made by the accused is a weak piece of evidence. Therefore, the extra-judicial confession that is made by accused Nos.1, 3 to 5 to P.W14, Panchayat Secretary, appears to be improbable. On a conspectus of entire evidence on record goes to show that in a case of circumstantial evidence of this nature, cannot be believed.

34. As per the evidence of P.W15, Civil Assistant Surgeon (Specialist), on 31.07.2014 from 4.00 p.m., to 5.45 p.m., he

conducted Post-Mortem examination over the body of the deceased, he found the following external injuries:

- (1) Bruise of size 2 x 3 cms over the nose tip and Ala;
- (2) Bruise abrasion of size 4 x 4 cms over right cheek bone region;
- (3) Bruise of size 15 x 5 cms width over lateral side of left forearm;
- (4) Abrasion of size 6 cms width x 15 cms length over right side of fore head extending onto the scalp parietal region of right side;
- (5) Contusion of size 5 x 4 cm over parietal eminence left side scalp;

35. On internal examination, P.W15 found hematoma present, right side scalp and left parietal eminence. P.W15 also found brain parenchyma congested on cut section. He issued Ex.P12-Final Opinion stating that the deceased appears to have died of intracranial hemorrhage due to head injury associated with Carbamate in an insecticide poisoning. Apparently, P.W16/ Investigating Officer, did not seize the insecticide bottle, which was said to be administered to the deceased to kill him. Indeed, P.W9, who is alleged to have given the pesticide pills to accused No.5, did not support the prosecution case and turned hostile.

36. On the contrary, a perusal of evidence of P.W15, Medical Officer further goes to show that the external injuries

sustained by the deceased are possible when a person fall from motorcycle. As can be seen from the investigation done by P.W16, no weapon was seized. Because, the prosecution case is that accused Nos.1, 3 to 5, after administering poison, beat the deceased on the head, one by one. It is quite surprising as to how the prosecution framed the charge quite contrary to the medical evidence and such ground also goes against the case of prosecution.

37. In view of the aforesaid facts and circumstances of the case, we come to a conclusion that there is no legal and reliable evidence on record to prove the charges, for the offences punishable under Section 120B IPC against accused Nos.1 and 2 and Section 302 read with 34 IPC against accused Nos.1, 3 and 4. Accordingly, the point is answered.

38. In the result, the Criminal Appeal No.513 of 2017 is allowed. The conviction and sentence recorded by the learned V Additional District and Sessions Judge, Tirupati, *vide* Judgment dated 20.03.2017 in Sessions Case No.137 of 2015 against the appellants herein/accused Nos.1 and 2 for the offence punishable under Section 120B IPC and against appellants herein/accused Nos.1, 3 and 4 for the offence punishable under Section 302 read

with 34 IPC, are set-aside. The appellants/accused Nos.1 to 4 are acquitted of the said charge, in terms of Section 235 (1) CrPC. The fine amount, if any, paid by the appellants herein/accused Nos.1 to 4, shall be refunded.

39. Appellant No.2/accused No.2 was granted remission and released as per the Order in G.O.Ms.No.121 Home (Paroles & HRC) Department, dated 14.08.2022. In respect of appellant Nos.1, 3 and 4 herein/accused Nos.1, 3 and 4, they were released on bail as per the Order of this Court dated 13.09.2022 *vide* I.A.No.1 of 2022, in view of the Judgment of the combined High Court in **Batchu Ranga Rao Vs. State of Andhra Pradesh**². Hence, the appellant Nos.1, 3 and 4 herein/accused Nos.1, 3 and 4 are directed to appear before the Superintendent, Central Prison, Kadapa, Kadapa District, for completing necessary legal formalities.

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

JUSTICE K. SURESH REDDY

JUSTICE K. SREENIVASA REDDY

21st November, 2024.

Note:

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² Crl.A.M.P.No.1687 of 2016 in Crl.A.No.607 of 2011, dated 02.11.2016.