



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

[3600]

WEDNESDAY, THE 19th DAY OF AUGUST 2026

PRESENT

THE HONOURABLE SRI JUSTICE B. KRISHNA MOHAN

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL APPEAL NO: 210/2021

Between:

1.Jada Poluraju @ Pandu,, s/o Sriramulu, 35 years, Yadava, Footpath Dweller, near Bata Showroom, Nakkal Road, Vijaya Talkies Centre, Vijayawada, (native of GML Gate, Kothahalu, Nellore).

...APPELLANT

AND

1.STATE OF AP, State of A.P, S.I of Police, Suryaraopet Police Station, Vijayawada City. Rep its public prosecutor, At Amaravathi

...RESPONDENT

Appeal under Section 372/374(2)/378(4) of Cr.P.C praying that the High Court may be pleased to set aside the judgment of conviction dt.25.09.2018 passed u/sec.235(2) Cr.P.C. by the learned VII Addl. Metropolitan Sessions Judge at Vijayawada in Sessions Case No.109/2018 convicting the accused u/sec.235 (2) Cr.P.C. and sentencing him to undergo Rigorous imprisonment for life and also pay a fine of Rs.2,500/- in default to undergo simple imprisonment for a period of three months for the offence punishable U/sec.302 IPC and acquit the accused for the charge leveled against him and pass

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased court may be

pleased to condone delay of 537 days in preferring the criminal appeal in the interest of justice or else the petitioner will be put to irreparable loss, pending disposal of the above criminal appeal and pass

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to pass an Order by granting bail to him by suspending the Calendar and Judgment dt.25.9.2018 in S.C.No. 109 of 2018 passed by the Trial Court- VII Additional Metropolitan Sessions Judge Court, Vijayawada City pending disposal of the main Criminal Appeal No. 210 of 2021 pending on the file of this Hon'ble Court in the interests of justice and pass

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to pass an Order by granting bail to him by suspending the Calendar and Judgment dt. 25-09-2018 in SC.No. 109 of 2018 passed by the Trial Court - VII Additional Metropolitan Sessions judge Court, Vijayawada City pending disposal of the main Criminal appeal No. 210 of 2021 pending on the file of this Honourable Court in the interests of justice

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant bail to the Petitioner herein by suspending the Calendar and Judgment dt.25.9.2018 in S.C.No.109 of 2018 passed by the Trial Court- VII Additional Metropolitan Sessions Judge Court, Vijayawada City pending disposal of the main Criminal Appeal No. 210 of 2021 pending on the file of this Hon'ble Court in the interests of justice and pass

Counsel for the Appellant:

1.CHANDRA SEKHAR ILAPAKURTI

Counsel for the Respondent:

1.PUBLIC PROSECUTOR (AP)

CRIMINAL APPEAL No: 210 of 2021

This Court made the following JUDGMENT:

(Per Hon'ble Sri Justice B.Krishna Mohan)

Heard the learned counsel for the appellant and the learned Assistant Public Prosecutor for the respondent-State.

2. This Criminal Appeal was filed against the judgment in Sessions Case No.109 of 2018 on the file of VII Additional Metropolitan Sessions Judge, Vijayawada dated 26.09.2018 convicting the accused, having found guilty for the offence punishable u/s.302 IPC and imposing sentence to undergo rigorous imprisonment for life and to pay fine of Rs.2500/- and in default of payment of such fine, to undergo simple imprisonment for three months along with other incidental directions as detailed therein.

3. Brief facts of the prosecution case are as under:

Basing upon the complaint given by one Mohammad Syed Baji (LW.1) Village Revenue Officer, Vijayawada Urban, Sub-Inspector of Police, Suryaraopet Police Station (LW.18) registered FIR in Cr.No.188/2017 dated 03.06.2017 at about 9.30 hours for the offence punishable under section 302 IPC. The allegation is that LW.1 informed to LW.18 that on 03.06.2017 at about 6.00 A.M., basing upon the information received to him, he went to Bata show room near Vijaya Talkies center, Vijayawada and on enquiry, he found that one Raju @ Yerragadda, aged about 35 years, an unknown person who used to work

as mason for the last 8 years and used to sleep on footpath during night hours and as usual after completion of his work he came to footpath nearby Bata showroom near Vijaya Talkies center, on 02.06.2017 while he is in sleep, at about 2.00 A.M., some unknown persons, due to previous disputes among them, hit on his head with a cement stone, hence the said person sustained bleeding injury to his head and suffered with difficulty in taking breath and he was shifted to Government Hospital, Vijayawada in 108 ambulance. When LW.1 enquired about the above said injured Raju @ Yerragadda at Government Hospital, he was informed that the injured was dead. Hence he gave complaint at 9.30 AM on 03.06.2017 at Surayaraopet P.S.

Basing upon the said complaint, LW.18 registered the crime under section 302 I.P.C in Cr. No.188/2017 and during the course of investigation he filed charge sheet against the accused for the offence punishable under section 302 IPC. The said charge sheet was numbered as Sessions Case No.109 of 2018 on the file of VII Additional Metropolitan Sessions Court, Vijayawada. During the course of trial, the prosecution examined 14 witnesses out of 19 witnesses cited in the charge sheet who are as under:

PW.1 – Md. Syed Bazi (LW.1), V.R.O.

PW.2 – P.Venkata Koteswara Rao (LW.2) Eye witness

PW.3 – Sk.Bazi (LW.3) Eye witness

PW.4 – K.Suresh (LW.4) Eye witness

PW.5 – D.Murali Mohan (LW.6) Eye witness

PW.6 – K.Murali Krishna (LW.7) Eye witness

PW.7 – S.Lakshmana Swamy (LW.8) Photographer

PW.8 – Y.Lokananda Babu (LW.13)

PW.9 – V.Srinivasa Rao (LW.12) Extra Judicial Confession

PW.10 – Dr.B.Srinu Naik (LW.17) Medical Officer

PW.11–E.Srinivasa Reddy (LW.9) Technical Engineer for CC Cameras operation

PW.12 – M.Dharmaiah (LW.16) Inquestdar

PW.13 – K.Giri Babu (LW.18) Registering of FIR

PW.14 – G.V.Vinay Mohan (LW.19) Investigating Officer

Exhibits P1 to P16 were marked and Material Objects 1 to 4 were also marked which are as under:

Ex.P1 - Report of PW.1

Ex.P2 – Scene Observation Report

Ex.P3 to P6 – Photos taken at the scene of offence

Ex.P7 – C.D.footage

Ex.P8 – Extra Judicial confession to PW.9

Ex.P9 – Statement of PW.9

Ex.P10 – Signature of PW.9 on PW.8

Ex.P11 – Postmortem Report

Ex.P12 – Inquest Report

Ex.P13 – FIR

Ex.P14 – Rough Sketch

Ex.P15 – Letter of Advice

Ex.P16 – FSL Report

Material Objects

MO.1 – Plain cement plake

MO.2 – Blood stained cement plake

MO.3 – Concrete stone

MO.4 – Flexi banner containing blood stains

For the defense side, Ex.B1 to B3 – Hospital intimations were marked.

4. PW.1 – Village Revenue Officer, Vijayawada Urban stated that on 03.06.2017 at about 6 A.M., he received information that a murder took place near Vijaya Talkies. Immediately he went near Sridhar Dental Hospital and noticed blood stains near the steps on footpath. Then on enquiry, he came to know that one Raju @ Yerragadda used to come and sleep there, having no others and likewise on the previous night i.e., on 02.06.2017 at about 10 P.M. he came and slept there. He came to know that he works as a Mason. He further came to know that on that night, some unknown persons having previous disputes with him, beat him with cement stone and caused bleeding injuries. Thereafter, he was shifted to Government General Hospital, Vijayawada in 108 ambulance. Then he went to the Government Hospital and upon enquiry he came to know that the injured/deceased was brought to the hospital in 108 ambulance with head injury and while undergoing treatment, he succumbed to injuries. Then he reached Suryaraopet Police Station at 9.30 A.M. and submitted a written report in his own hand writing before the S.H.O., Suryaraopet P.S. and he identified his writing and signature on the said report dated 03.06.2017 when

confronted before him. The said report was marked as Ex.P1. Then the C.I. of Police, himself, the police staff and the mediator went to the scene of offence. The C.I. of Police prepared rough sketch and took photographs at the scene of offence during the scene observation, seized the blood stained cement plaque and plain cement plaque and also crime weapon i.e., concrete stone at the scene of offence. Scene observation proceedings were reduced into a report. He identified the signature on the scene observation report dated 03.06.2017 which was marked as Ex.P2. The PW.1 identified the plain cement plaque, blood stained cement plaque and the crime weapon i.e., concrete stone, which were marked as M.O.s 1 to 3. During the scene observation, the C.I. of Police also seized cloth banner/flexi banner having blood stains which was marked as MO.4.

In his cross examination, he stated that M.O.s1 to 3 were packed in a cardboard and affixed identity slips to the said cardboard. He denied the suggestion that in Ex.P2 scene observation report, the description of M.O.4 flexi banner was not mentioned. Ex.P1 report is in his own hand writing and Ex.P2 scene observation report was scribed by the police staff.

5. PW.2 - Security Guard stated that he came to the hospital to discharge his duty as Security Guard. On that intervening midnight, at about 1.00 A.M., he observed one person wearing one T-shirt and lungi aged about 30 years moving suspiciously on the road in front of our hospital. Then he came out of his chamber and on seeing him, the said person left the place. Then he returned to

his chamber. At about 2 A.M., he heard huge voice raising “Amma”. Immediately he came on to the road and observed one person running away from the corner of the road. Then he reached the place and noticed one person with bleeding injury on his forehead. He also noticed one concrete stone by his side. At the same time, the footpath dwellers and other people gathered there. In the meanwhile, somebody called 108 ambulance in which the injured person was shifted to the hospital. He cannot identify the culprit who ran away from the scene of offence. On the next day morning, on enquiry, he came to know that the injured was Yerragadda Raju who worked as Mason besides doing coolie works and he is an orphan. At about 20 days prior to the incident, the deceased Yerragadda Raju disputed with one Poliraju and caused injuries and due to that the said Poliraju might have killed him.

In the cross examination, he denied the suggestions that he did not state before the police that he observed one person’s suspicious movements wearing T-shirt. He also denied the suggestion that he never worked as Security Guard in Sridhar Dental Hospital and he had never seen the person who was said to have been run away from the corner of the road.

6. PW.3 – Mason/Coolie/Pavement dweller says that on that night he slept on the footpath at Bata showroom. He knows the deceased Raju who also used to sleep on the footpath at Bata showroom. He also knows the accused since he also used to attend masonry works with him now and then. At about 1.30 or 2.00

A.M., in the intervening night, he heard a huge cry of the deceased as “Amma”. Then he woke up and saw the accused running away. Then he noticed the deceased with bleeding injury on his forehead. He even noticed MO.3 concrete stone by the side of the injured/deceased. Then he suspected that the accused might have hit the deceased on his head with MO.3 concrete stone, caused injury and ran away. The injured died. At about 20 or 25 days prior to the present incident, the deceased informed him that a quarrel took place between him and the accused for money and the accused beat him. On the other hand, the accused informed him the deceased beat him. The accused might have killed the deceased taking advantage that he slept alone on the footpath in order to wreck his vengeance.

In his cross examination, he stated that it is true that he did not state before the police that he knows the accused as he attended masonry works along with him. It is true that even he did not witness the incident while it was taken place. But he stated that he has seen the accused running away from the scene of offence till Star Biryani point, which is situated at a distance of about 100 feet from the scene of offence. He denied the suggestion that the deceased received head injury in hit and run case and died.

7. PW.4 – Another coolie and pavement dweller stated that he knows the accused as he is also a pavement dweller and attended works at Vijaya Talkies center along with him and others including PW.3. He also knows the deceased

as he is also a coolie like him and used to sleep on the footpath in the same area. At about 2 A.M., suddenly he heard huge cry as “Amma” of the deceased. Immediately, he woke up and saw the accused running away from the scene of offence. At that time, he observed him with red colour lungi and white banian / T-shirt with red stripes. Then immediately he reached the injured /deceased and observed head injury. He also noticed one concrete stone identified as MO.3. Immediately he stopped the persons who were proceeding on two wheelers. In the meanwhile somebody called 108 ambulance in which the injured / deceased was shifted to the hospital. Thereafter, in the morning, he left to his coolie works. At about 20 or 25 days prior to the incident, a quarrel took place between the accused and the deceased. He observed the face of the accused was swelling. Thereafter the accused was not seen except at the time of the incident.

He stated in the cross examination that it is true he did not state before the police that he observed the accused in red colour lungi and white banian with red stripes. He denied the suggestion that the death of the deceased is an accidental death in a hit and run case. Witness added that immediately after hearing huge cry of the deceased, he witnessed the accused running away from the scene of offence and the deceased with bleeding injury and also noticed lying of MO.3 concrete stone.

8. PWs.5 & 6 are only the hearsay witnesses. PW.7 is the Photographer who took photographs at the scene of offence 4 in number. The 4 photographs with

corresponding CD are marked as Exs.P3 to P7 respectively. Ex.P7 CD was marked subject to display. In the cross examination he stated that it is true Exs.P3 to P6 photographs depict blood stains on the plain cement flooring and the tiled flooring.

9. PW.8 – Mason speaks about the extra judicial confession stating that about five days thereafter, the accused approached him and confessed his guilt stating that about few days back before the incident, there was a quarrel between the deceased, himself and two others. During which the deceased hit him on his eye with a stone and as such he hit the deceased with a concrete stone. Thereafter he came to know that the deceased died in the hospital and stating so he sought for his help. Then he took the accused to PW.9 and informed the purpose of their visit. Then PW.9 questioned the accused who confessed his guilt in the same lines as stated before him. In the meanwhile, PW.9 secured one mediator who recorded the confession statement of the accused. On the said statement the accused and himself affixed their respective thumb impressions. Thereafter PW.9 and himself surrendered the accused before the police along with their extra judicial confession statement. The said statement was marked as Ex.P8. PW.9 turned hostile. In the cross examination by the State, he stated that it is true the signatures confronted before him on Ex.P8 belong to him. The admitted signature part was marked as Ex.P10.

10. PW.10 is the Doctor working as Assistant Professor, Government General Hospital, Vijayawada who conducted post mortem examination of the dead body namely Raju @ Yerragadda i.e., the deceased herein. The Post Mortem report was marked as Ex.P11. He conducted autopsy over the dead body of the deceased and found the following antemortem injuries.

1. Multiple abrasions of various sizes and shapes seen on the right side and left side of the face below the eyes, left side of chin and back of the shoulders with irregular margins reddish brown in colour.
2. On the left side of the eye brow, a sutured wound with 5 stitches of 11 cms in length present vertically.
3. On the left side of the eye, one sutured wound is present.
4. On opening cranial cavity, skull fractured into multiple pieces and diffused sub-arachnoids hemorrhage and sub-dural hemorrhage present all over the brain.
5. On examination, nasal bone fractured into multiple pieces.

Cause of death to the best of knowledge is shock and hemorrhage due to multiple injuries and approximate time of death is about 70 to 78 hours prior to postmortem examination.

11. PW.11 is the CC Camera Network Engineer spoke about the CC TV footage. He handed over the said footage of half an hour duration through CD, which was marked as Ex.P7. As per display of Ex.P7 CD, at 1.51.20 seconds A.M., one person was carrying a stone thrown the same and running away at 1.51.27 seconds A.M. towards Eluru Road.

12. PW.12 – Auto Driver who acted as one of the inquestdars stated that they noticed injuries on the face of the deceased at the time of inquest conducted by the police over the dead body of the deceased. The Panchayatdars opined that the death of the deceased is an unnatural one being the murder. He identified the signature on the inquest report dated 06.06.2017 which is marked as Ex.P12.

13. PW.13 – Sub-Inspector of Police worked at the relevant time stated that on 03.06.2017 at 9.30 A.M., he received written complaint from PW.1 and the case was registered in Cr.No.188/2017 under section 302 IPC of Suryaraopet P.S. which is marked as Ex.P13. He stated that he accompanied the C.I. of Police to the scene of offence. He sent the hospital intimations 3 in number along with Ex.P13 FIR to the concerned Magistrate and the said hospital intimations were marked as Ex.B1 to B3. The same was reiterated in his cross examination also.

14. PW.14 – Inspector of Police who conducted the investigation in this case spoke about the witnesses examined, exhibits marked and the material objects marked and withstood in the cross examination in support of the prosecution case. Even as per Ex.P16 - forensic report, blood was detected on items 1 and 2, origin of blood on the same items is of human. Whereas, blood was not detected on items 3 and 4 and item 3 was received as control sample for item 2.

15. The above said post mortem report also tallies with the nature of the incident occurred and the manner in which it was executed and the alleged

specific overt act on the part of the accused against the deceased establishes the cause of death of the deceased in the hands of the accused. The evidence of PWs.1 to 4, PW.7 and PWs.10 to 14, exhibits marked from P1 to P16 and B1 to B3 and the material objects from 1 to 3 clinchingly and beyond reasonable doubt prove the guilt of the accused conclusively about the commission of the above said offence. The trial Court / Sessions Court rightly discussed the evidence of the prosecution and the defense of the accused and held that the prosecution proved the charge under section 302 IPC against the accused beyond reasonable doubt. Accordingly, the accused was found guilty and sentenced to undergo imprisonment rigorously for life and to pay fine of Rs.2500/- and in default to undergo simple imprisonment of three months and other incidental directions as detailed therein.

16. Non-examination of the ambulance driver etc. as contended by the defense counsel / appellant counsel herein does not give rise to any benefit of doubt for the accused as the relevant, appropriate and independent witnesses were examined by the prosecution as part of the circumstantial evidence to prove the guilt of the accused. The learned counsel for the appellant, in support of his contention about the non-examination of the ambulance driver, relied upon the decision of the Patna High Court in Criminal Appeal (DB) No.235 of 1989, dated 07.03.2012, whereas, paragraph Nos.20 & 21, which reads as under:

“20. The prosecution has concealed the fact that both the deceased died on the spot. The prosecution witnesses have stated that both the deceased died there. There is no proper explanation as to why the police was not given proper information and the dead bodies were taken to the hospital. The rickshaw puller and Laloo Mahto (uncle of the informant) have not been examined who were the eye witnesses. The prosecution has not explained as to why they were not examined. Investigating Officer has not found any sign of firing on the place of occurrence. The doctor has also not found any substance of bomb in the injuries caused to the deceased but has opined that the death of the deceased was caused due to explosive substance. It appears that the prosecution has not been able to substantiate its case beyond all reasonable doubts. The accused-appellants deserve to get the benefit of doubt.

21. Considering the facts and circumstances, the impugned judgment of conviction and sentence is not fit to be sustained. It is set aside. The appellants are acquitted of the charge by giving them the benefit of doubt. They are also discharged from the liabilities of their bail bonds. In the result, this appeal is allowed.”

17. That is a case where a rickshaw puller, who was an injured witness taken the deceased to the hospital and the said rickshaw puller was not examined by the prosecution. Since he was the injured witness, the High Court pointed out the lapses of the prosecution for non-examination. Hence, benefit of doubt was given in that case.

18. The facts and circumstances of the present case on our hand are not similar to that of those facts. Hence, it cannot be extended for non-examination of the ambulance driver in this case, as there is no dispute with regard to the carrying of the deceased in unconscious state to the Government Hospital by

108 ambulance. The Exs.B1 to B3, the Inquest Report and the Postmortem Report show that the deceased was brought to the Government Hospital in an unconscious state and after giving some treatment, he succumbed to the injuries, in view of the specific overt act of the accused on the said deceased as seen above.

19. In so far as the non-certification of Ex.P7 CD produced through P.W.11 under Section 65(B) of the Evidence Act, the learned counsel for the appellant, first time raises in the appeal as it was not objected during the course of trial and P.W.11 witness was cross-examined by the defense counsel in the trial court and in the re-examination, it was stated as under:

“As per the display of Ex.P7 CD at 1.51.20 seconds am one person was carrying a stone, thrown the same and running away at 1.51.27 A.M. seconds towards Eluru road.”

20. According to the learned counsel for the appellant, the certification of the electronic evidence is necessary in the light of the decision of the Hon’ ble Supreme Court in Civil Appeal No.879 of 2019, dated 28.01.2025 and at paragraph Nos.52 and 56, it was held as under:

“52. We may hasten to add that Section 65-B does not speak of the stage at which such certificate must be furnished to the Court. In Anvar P.V. [Anvar P.V. v. P.K. Basheer, MANU/SC/0834/2014 : 2014:2014:INSC:645 : (2014) 10 SCC 473: (2015) 1 SCC (Civ) 27: (2015) 1 SCC (Cri) 24: (2015) 1 SCC (L&S) 108], this Court did observe that such certificate must accompany the electronic

record when the same is produced in evidence. We may only add that this is so in cases where such certificate could be produced by the person seeking to reply upon an electronic record. However, in cases where either a defective certificate is given, or in cases where such certificate has been demanded and is not given by the person concerned, the Judge conducting the trial must summon the person/persons referred to in Section 65-B(4) of the Evidence Act, and require that such certificate be given by such person/persons. This, the trial Judge ought to do when the electronic record is produced in evidence before him without the requisite certificate in the circumstances aforementioned. This is, of course, subject to discretion being exercised in civil cases in accordance with law, and in accordance with the requirements of justice on the facts of each case. When it comes to criminal trials, it is important to keep in mind the general principle that the Accused must be supplied all documents that the prosecution seeks to rely upon before commencement of the trial, under the relevant Sections of the Code of Criminal Procedure.

56. Therefore, in terms of general procedure, the prosecution is obligated to supply all documents upon which reliance may be placed to an Accused before commencement of the trial. Thus, the exercise of power by the courts in criminal trials in permitting evidence to be filed at a later stage should not result in serious or irreversible prejudice to the Accused. A balancing exercise in respect of the rights of parties has to be carried out by the court, in examining any application by the prosecution Under Sections 91 or 311 Code of Criminal Procedure or Section 165 of the Evidence Act. Depending on the facts of each case, and the court exercising discretion after seeing that the Accused is not prejudiced by want of a fair trial, the court may in appropriate cases allow the prosecution to produce such certificate at a later point in time. If it is the Accused who desires to produce the requisite certificate as part of his defence, this again will depend upon the justice of the case – discretion to be exercised by the court in accordance with law.”

21. The facts and circumstances of the above said case are different from the facts and circumstances of this case on hand, as there was no objection taken by the defence counsel in the course of the trial and as the corresponding witnesses i.e., P.W.11 and the I.O.-P.W.14 were examined in cross on that aspect also. Even under Section 313 of the Cr.P.C., examination of the accused, nothing was pointed out on that aspect. It is not the case of the defence that Ex.P7 CD is not relating to the said offence covered under this appeal.

22. In view of the same, mere non-certification of the said Ex.P7 CD, as per the Section 65(B) of the Evidence Act will not give raise any doubt or suspicion in the mind of the Court, with respect to the commission of the offence by the accused. Even if the said piece of evidence is ignored, still the chain was established to prove the case of the prosecution beyond reasonable doubt basing upon the other circumstantial evidence available on record. When the link is established in the chain of circumstantial evidences it should be held that the prosecution proved the guilt of the accused beyond the reasonable doubt. Accordingly, the conviction and sentence shall be imposed on the accused. For the foregoing reasons, this Court does not find any merit in the appeal to interfere with the judgment of the Sessions Court which is assailed herein.

23. Accordingly the Criminal Appeal is dismissed. There shall be no order as to costs. Interim order, if any, deemed to have been vacated.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

JUSTICE B. KRISHNA MOHAN

JUSTICE SUBHENDU SAMANTA

19.08.2026
PND/ SCH