

APHC010164412019



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

[3596]

WEDNESDAY, THE 14th DAY OF OCTOBER, 2026

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

CRIMINAL APPEAL No: 455/2019

Between:

1.K.NAGESWARA RAO, R/O MALACOLONY,
MATHAVARIPETA, MUNGANDA VILLAGE,
P.GANNAVARAM MANDAL, NOW IN CENTRAL PRISON,
RAJAMAHENDRAVARAM, CT NO 7372

...APPELLANT

AND

1.STATE OF AP, Rep by its Inspector of Police Ravulapalem
Circle, through Public prosecutor, high court of Andhra
Pradesh

...RESPONDENT

Appeal under Section 372/374(2)/378(4) of Cr.P.C praying
that the High Court may be pleased to memorandum of appeal
against the order passed in SC No 220/2015 dt 07.01.2019, on
the file of the II Additional Sessions judge, Amalapuram,
E.G.District, sentencing the appellant herein to undergo life
imprisonment and to pay a fine of Rs. 2,000/- in default to
undergo rigorous imprisonment for 6 months.

IA NO: 1 OF 2019

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 condone the delay of 91 days in presenting the appeal and pass

Counsel for the Appellant:

1.BALA KRISHNA V

Counsel for the Respondent:

1.PUBLIC PROSECUTOR (AP)

The Court made the following:

JUDGMENT: *(Per Hon'ble Smt. Justice Sumathi Jagadam)*

Sole accused in Sessions Case No.220 of 2015, on the file of the Court of the II Additional Sessions Judge, Amalapuram, is the appellant. He was tried and convicted by the learned Additional Sessions Judge under Section 302 IPC and sentenced him to suffer imprisonment for life, and to pay a fine of Rs.2,000/-, in default, to suffer rigorous imprisonment for six months.

2. Substance of the charge is that on 07.02.2015 at about 08.30 a.m., the accused, with the intention of causing death, stabbed Rokkala Mutyalu (hereinafter referred to as 'deceased') with a steel knife on his stomach and right side of his neck, thereby committing an offence punishable under Section 302 IPC.

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

i) The deceased was a resident of Mattavaripeta, Munganda Village, P.Gannavaram Mandal. One Konku Laxmi is the deceased's sister and the accused's wife. Due to family disputes, the accused and his wife (the sister of the deceased) separated five years prior to the incident. Thereafter, the accused stayed in Mumbai, and K. Laxmi moved to Hyderabad and resided there. An extent of land measuring Ac.0-10 cents situated in Munganda Village stands in the name of K.Laxmi. While leaving for

Hyderabad, the deceased's sister requested the deceased to look after the said property. Since then, the deceased had been managing the property.

ii) About two months prior to the incident, the accused returned from Mumbai to Munganda Village and began residing in the house of one Jithuga Ram Prasad. Ten days prior to the incident, the accused began digging at the said site, which was in his wife's name. The deceased objected and reported the matter to the panchayat and the V.R.O. The V.R.O. intervened and stopped the accused from digging the land. The accused bore grudge against the deceased.

iii) On 07.02.2015, at about 08.30 a.m., while the deceased was returning home on his cycle and when he reached near the house of Sadanala Ramudu (L.W-6) (not examined), the accused came running, pushed the deceased and the cycle, and stabbed him with a steel knife on the stomach, right side of neck, and upper arm. The deceased collapsed into the arms of S.Ramudu, who was sitting in front of his house. P.Ws-1 to 3 rushed to the spot. The accused threatened them, threw the knife, and absconded. P.W-4 and P.W-10 also witnessed the incident. Subsequently, the injured was shifted to KIMS Hospital, Amalapuram, for treatment.

iv) On receipt of the MLC (Medico-Legal Case) intimation (Ex.P-5), P.W-9, ASI of Police, Amalapuram Taluka Police Station, rushed to KIMS Hospital, Amalapuram, recorded the statement and obtained the thumb impression of the injured, which is marked as Ex.P-6. P.W-9 then handed over the said statement to P.W-12/Sub-Inspector of Police, P.Gannavaram Police Station, who registered a case in Cr.No.24/2015 U/s.307 IPC, forwarded the original FIR to the Judicial Magistrate of First Class Court, Kothapeta, and sent copies to all the concerned. FIR was marked as Ex.P-8.

v) P.W-12, the Sub Inspector of Police, P.Gannavaram Police Station, recorded statements of P.Ws-1 to 3 and another. He visited the scene of offence, secured the presence of mediators P.W-7 and another, drafted the scene observation report, seized blood-stained steel knife (M.O-1), blood-stained earth (M.O-2) and controlled earth (M.O-3) under the cover of mediators report Ex.P-1, and forwarded them to the Forensic Science Laboratory. He prepared a rough sketch and photographed the scene of offence with the station service camera. Ex.P-10 is the rough sketch. Ex.P-11 is the photo of the scene of offence. P.W-12 examined P.Ws.4 to 6, P.W-10 and others.

vi) On the next day, i.e., on 08.02.2015, at about 04.00 a.m., after receipt of the death intimation, the FIR was altered from

Section 307 IPC to Section 302 IPC. Ex.P-12 is the altered FIR. On the same day, P.W-13/Inspector of Police, Ravulapalem Circle, inspected the scene of offence, which tallied with Ex.P-10, the rough sketch prepared by P.W-12, and the scene observation report (Ex.P-1). P.W-13 proceeded to Government General Hospital, Kakinada, secured the presence of P.Ws-1 to 6 and others, and recorded their statements.

vii) Thereafter, he secured the presence of panchayatdars, P.W-7 and others, conducted inquest on the dead body in the presence of the family members, marked as Ex.P-2, and photographed the dead body using the station service camera. Ex.P-15 are photographs, along with a compact disc including photos under Ex.P-11. He sent the dead body for post mortem examination.

viii) P.W-8, Associate Professor, Government General Hospital, Kakinada, conducted autopsy over the dead body. He opined that the cause of death was due to hemorrhage and shock associated with a complication of injury to the jejunum and mesentery (Ex.P-4).

ix) On 15.02.2015 at about 11.00 AM, P.W-7 (VRO) produced the accused, along with his report (Ex-P-13), stating that the accused confessed about the commission of offence. He arrested the accused, and produced before the Judicial First Class

Magistrate Court, Kothapeta, along with a copy of the remand report.

x) On 21.02.2015, P.W-13 visited Munganda Village, re-examined P.W-1, and obtained copies of pattadar passbooks. On 02.03.2015, M.Os-1 to 5 were sent to the Forensic Science Laboratory. After completing the investigation, the police filed a charge sheet.

4. In support of its case, the prosecution examined P.Ws-1 to 13, marked Exs. P-1 to P-17, and exhibited M.Os-1 to 5.

5. When the accused was examined under Section 313 Cr.P.C., he denied the incriminating evidence appearing against him. No witnesses were examined, and no documents were marked on behalf of the defence.

6. Basing on the testimony of the prosecution witnesses, the learned Additional Sessions Judge convicted the appellant as aforesaid.

7. Heard Sri V.Balakrishna, learned counsel for the appellant, and Sri Marri Venkata Ramana, the learned Additional Public Prosecutor representing the respondent/State.

8. Learned counsel for the appellant argues that the deceased was killed in a financial dispute involving Reddy Finance and that the accused was falsely implicated. Moreover, the prosecution's case is seriously flawed due to significant discrepancies and gaps in the testimonies of P.W-1 and P.W-3, who were standing 50 meters away from the scene. P.W-2 arrived only after the incident, and although P.W-10 claimed the accused stabbed the deceased, there is a crucial contradiction among P.W-1, P.W-3, and P.W-10 regarding the timing of the incident.

8.1 Furthermore, the prosecution failed to examine S. Ramudu, who held the deceased immediately after the assault, and relied solely on a thumb impression in the dying declaration, even though the deceased was a signatory and prayed for allowing the criminal appeal by acquitting the accused.

9. The learned Additional Public Prosecutor argues that the testimonies of P.Ws-1 to 3 and P.W-10 are consistent, coherent, and credible, demonstrating that they were present at the scene of the offence and directly involved as witnesses.

9.1 It is further submitted that the dying declaration of the deceased corroborates the ocular version spoken to by P.Ws-1 to 3 and P.W-10. Additionally, P.W-9, the ASI of Police, duly

recorded the deceased's statement while the deceased was in a sound and fit state of mind.

9.2 Further, on 15.02.2015, the accused voluntarily made an extrajudicial confession before P.W-7 and another independent witness, admitting commission of the offence.

9.3 In light of the evidentiary value attached to the dying declaration and the corroborative evidence on record, the learned Additional Public Prosecutor submits that the judgment of the learned Additional Sessions Judge warrants no interference and prays for dismissal of the Criminal Appeal.

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

11. P.W-1 is the son of the deceased. P.W-2 is the wife of the deceased. P.W-3 is the neighbour of the deceased. P.W-4 is a relative of the accused. P.W-9 recorded the dying declaration of the deceased. P.W-10 is the neighbour. P.W-1, P.W-3, P.W-4 and P.W-10 directly witnessed the accused running from the opposite direction, pushing the deceased off his bicycle and stabbing him at three vital parts, i.e., the stomach, neck and underarm. The deceased immediately collapsed into the arms of one Sadanala Ramudu. P.W-1 and P.W-3, who were just 50 meters away, ran to the scene. Immediately upon hearing the deceased's cries, P.W-2, the deceased's wife, also rushed out of the house and saw the

accused stabbing the deceased. P.W-10, who was residing opposite Sadanala Ramudu's house and brushing his teeth, witnessed the incident. The testimonies of P.Ws-1 to 4 and P.W-10 are consistent, leaving no room for ambiguity in identifying the accused as the culprit.

12. The Learned counsel for the appellant argued that the deceased was a signatory and signed his name, but that thumb impression was obtained on the dying declaration recorded by P.W-9, ASI of Police. Consequently, the learned counsel contended that the dying declaration is untrustworthy and that the thumb impression obtained on it is forged.

13. However, this argument of the appellant cannot be accepted. The doctor testified that they could not control the heavy bleeding caused by the deceased's injuries and that the deceased was physically incapacitated from signing. It is a well-settled principle of law that mere affixation of a thumb impression does not, by itself, render a dying declaration suspicious when physical incapacity or medical weakness is established. Furthermore, the dying declaration inspires full confidence as its contents align consistently with the testimonies of eyewitnesses PW-1, PW-4, and PW-10, and there is no evidence of tutoring or fabrication.

Further, the deceased was conscious and coherent and in a fit state of mind at the time of recording of dying declaration Ex.P-6.

14. The appellant advanced a defense theory that the deceased owed money to Reddy Finance, which subsequently hired hitmen to eliminate him. The appellant's counsel failed to elicit any facts supporting this theory during cross-examination. Merely putting forward suggestions without any evidence will not support the accused's case. Further, none of the prosecution witnesses supported or even alluded to this theory, and the appellant invented it for the purpose of the case.

15. The depositions of P.W-1 and P.W-3 clearly establish the accused's motive. He bought the land when his relationship with his wife was good. After a marital dispute, they separated, and he moved to Mumbai. When he returned, he stayed with Ramprasad and tried to sell the property. The deceased intervened and stopped his activities, creating animosity that directly caused the fatal attack.

16. The deceased was immediately admitted to hospital, as stated by P.Ws-1 to 3. Although P.Ws-1 and 2 are family members and interested witnesses, their testimonies are corroborated by P.W-3 and P.W-10, who witnessed the accused inflicting knife

injuries on the deceased. Immediately upon admission, a Medico Legal Intimation was sent to Amalapuram Taluk Police Station. The police subsequently recorded the dying declaration (Ex.P-6). This dying declaration forms the primary basis for conviction, as the testimonies of P.Ws-1 to 4 and P.W-10 are consistent and reliable. Furthermore, no prudent person would falsely implicate an innocent person while on the deathbed.

17. The Hon'ble Apex Court in Crl.A.No.1978 of 2022 held as follows:

"It can thus be seen that this Court has clearly held that dying declaration can be the sole basis of the conviction if it inspires the full confidence of the court. The Court is required to satisfy itself that the deceased was in a fit state of mind at the time of making the statement and that it was not the result of tutoring, prompting or imagination. It has further been held that, where the Court is satisfied about the dying declaration being true and voluntary, it can base its conviction without any further corroboration. It has further been held that there cannot be an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated. It has been held that the rule requiring corroboration is merely a rule of prudence.

The Court has observed that if after careful scrutiny, the court is satisfied that it is true and free from any effort to induce the deceased to make a false statement and if it is coherent and consistent, there shall be no legal impediment to make it the basis of conviction, even if there is no corroboration.”

18. In the case at hand, the deceased, in his dying declaration (Ex.P-6) recorded by P.W-9, categorically stated that his brother-in-law (accused) was digging soil on his sister's land. As his sister had entrusted him with responsibility for the land, he objected and brought the matter before the panchayat and the VRO, and the VRO stopped the accused's attempts to dig earth. In pursuance of the same, on 07.02.2015 at about 08.30 a.m., the accused stabbed the deceased in the stomach and the right side of the throat.

19. Upon perusal of the dying declaration (Ex.P-6), we have no hesitation in holding that Ex.P-6 is consistent and corroborated by the oral evidence of the prosecution witnesses. Therefore, we accept the dying declaration Ex.P-6, which is made in a fit state of mind, and that it is not result of tutoring, prompting, or imagination. Accordingly, it inspires confidence of the Court.

20. After careful scrutiny of the oral evidence of P.Ws-1 to 4 and P.W-10, coupled with the documentary evidence of Ex.P-4 (post mortem certificate), Ex.P-6 (dying declaration), Ex.P-7 (case sheet of the deceased), Ex.P-13 (report of VRO) and Ex.P-14 (wound certificate), we have no hesitation in coming to the conclusion that the conviction and sentence recorded by the learned II Additional Sessions Judge, Amalapuram, are sustainable on facts and law and do not warrant interference by this Court.

21. In the light of the foregoing discussion, we are of the considered opinion that the appeal fails and that the conviction and sentence recorded by the learned II Additional Sessions Judge, Amalapuram, are liable to be confirmed.

22. In the result, Criminal Appeal is dismissed, confirming the conviction and sentence recorded by the learned II Additional Sessions Judge, Amalapuram, against the appellant (Accused) for the offence U/s.302 IPC in S.C.No.220/2015 dated 07.01.2019.

Needless to state that the period of sentence already undergone by the appellant, shall be given set off under Section 428 Cr.P.C.

Consequently, any miscellaneous petitions pending, shall stand closed.

JUSTICE K.SURESH REDDY

JUSTICE SUMATHI JAGADAM

14th October, 2026

PSK

Whether the judgment is:

Speaking	--	Reasoned	√
Reportable	--	Non-Reportable	√

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

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CRIMINAL APPEAL No.455 OF 2019

14th October, 2026

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