

***HON'BLE SRI JUSTICE K. SURESH REDDY
AND
HON'BLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI**

+ CRIMINAL APPEAL No.197 of 2016

%Dated: 21-02-2024

Sirimalla Veeranjanyulu S/o Venkata Subbaiah,
Aged about 29 years, Resident of Moogachinthalapalem
Village, Bollapalli Mandal, Guntur District.

... Appellant

VERSUS

§ The State of Andhra Pradesh, rep. by its Public Prosecutor,
High Court of Judicature.

... Respondent

!Counsel for the appellant : Mr. D. Kodanda Rami Reddy

^Counsel for the respondent : Additional Public Prosecutor

<GIST :

>HEAD NOTE :

?Cases referred :

1. (2022) 4 SCC 741
2. AIR 1958 SC 22

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

**WEDNESDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR**

**HON'BLE SRI JUSTICE K. SURESH REDDY
AND**

HON'BLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

CRIMINAL APPEAL No.197 of 2016

Between:

Sirimalla Veeranjanyulu

... APPELLANT(S)

AND

State of Andhra Pradesh,
Rep. by Public Prosecutor, High Court.

... RESPONDENT(S)

Counsel for the Appellant: SRI D. KODANDARAMI REDDY

Counsel for the Respondent: PUBLIC PROSECUTOR (AP)

The Court made the following:

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

Sole accused in Sessions Case No.284 of 2014 on the file of the learned XIII Additional Sessions Judge, Guntur, at Narasaraopet, preferred the present criminal appeal, aggrieved by the conviction and sentence imposed against him for the offence under Section 302 I.P.C., vide judgment dated 14.07.2015 passed in the said Sessions Case. The appellant/accused was tried for two charges, one under Section 498-A I.P.C. and the other under Section 302 I.P.C. While

acquitting the appellant/accused for the offence under Section 498-A I.P.C, the learned Additional Sessions Judge convicted and sentenced the appellant/accused to undergo imprisonment for life and also to pay a fine of Rs.2,000/- for the offence under Section 302 I.P.C.

2. Substance of the charge against the accused is that prior to 13.12.2012, he used to harass and ill-treat his wife by name Sirimalla Appamma (hereinafter referred to as 'the deceased') both physically and mentally, demanding her to get back certain land documents from her parents, and on 13.12.2012 at about 9.00 p.m, making the very same demand, he picked up a quarrel with the deceased, manhandled her, poured kerosene on her and set her on fire, causing her death and thereby committed offences under Sections 498-A and 302 IPC.

3. Case of the prosecution, in brief, is as follows:

(i) The marriage of the deceased was performed with the accused about 6 years prior to the date of incident, and at the time of marriage, parents of the deceased gave an amount of Rs.1,00,000/- and a gold ring to the accused. After the marriage, the deceased joined the matrimonial home and the couple lead happy

marital life for some time. They were blessed with a female child, but the accused did not want a female child and, therefore, on coming to know about birth of female child, he went to the village of the parents of the deceased and threw the child on the ground, upon which the child died. The deceased and her parents intended to give a report to the police about that incident, but the parents of the accused, with the assistance of elders of the village, settled the issue and as per the said settlement, the accused was made to transfer his two acres of land in the name of the deceased and to that effect, a document was executed by the accused and it was kept with the parents of the deceased. Thereafter, the accused and the deceased lead marital life and were blessed with a daughter and a son. Thereafter, the appellant started harassing the deceased both physically and mentally, demanding her to get back the land document executed by him from her parents, for which the deceased did not agree. When the deceased informed her parents about the harassment of the accused, they consoled her and keeping in view the future of her children, they sent her back to the matrimonial home.

(ii) While so, on 13.12.2012 at about 9.00 p.m., the accused picked up a quarrel with the deceased for not getting back the land documents, manhandled her and poured kerosene on her and set fire to her. Unable to bear the pain, the deceased raised hues and cries and the father of the accused shifted her to Government Hospital, Vinukonda, and on the advice of the doctor, she was taken to Government General Hospital, Guntur, for better treatment and was admitted therein.

(iii) While the deceased was undergoing treatment, on 14.12.2012, P.W.10- Judicial Magistrate of First Class, Special Mobile Court, Guntur, upon receipt of Ex.P12 - Intimation from the Government General Hospital, Guntur, visited the hospital at about 5.05 a.m. and after identifying the patient and obtaining endorsement from the Duty Medical Officer to the effect that the patient is conscious, coherent and in a fit state of mind, recorded the statement of the deceased, which was marked as Ex.P13. On the same day, P.W.12 - Head Constable, Government General Hospital, Outpost PS, upon receipt of Ex.P18- Intimation from the hospital, visited the hospital and recorded the statement of the deceased, which was marked as Ex.P19. Upon receipt of the said statement

along with intimation, P.W.14- S.I. of Police, Bandlamotu Police Station, registered a case in Crime No.93 of 2012 of Bandlamotu Police Station, under Section 307 I.P.C., at about 7.00 p.m. on 14.12.2012. Ex.P21 is the copy of F.I.R. He immediately went to the hospital and recorded the statement of the deceased – Ex.P22 at about 10.30 p.m. Thereafter, he went to the scene of offence and kept a guard there. On 15.12.2012, he observed the scene of offence in the presence of mediators – P.W.9 and another, and drafted observation report – Ex.P9. At the scene of offence, he seized two litres green colour bottle having little quantity of kerosene, one matchbox and partly burnt bed sheet, which were marked as M.Os.1 to 3 respectively. He also prepared Ex.P10 - rough sketch of the scene of offence. On the same day, at about 6.00 p.m., he received Ex.P23- Intimation about the death of the deceased from the Government General Hospital, Guntur. Thereafter, he altered the Section of law from 307 I.P.C. to 302 I.P.C. Ex.P24 is the altered F.I.R. He informed the Inspector of Police, Vinukonda Police Station, about the death of the deceased.

(iv) P.W.15- Inspector of Police, having received the intimation and copy of F.I.R., requested P.W.11 - Tahsildar,

Bollapalli Mandal, to conduct inquest over the dead body. Accordingly, P.W.11 conducted inquest over the dead body in the presence of P.W.9 and others and the inquest report was marked as Ex.P11. On 16.12.2012, P.W.15 sent the dead body for conducting post-mortem examination. P.W.13- Assistant Professor, Department of Forensic Medicine, Guntur Medical College, conducted autopsy over the dead body between 11.00 a.m. and 12.00 noon. He issued Ex.P20 - Post-Mortem Examination Certificate, opining the cause of death as due to shock due to burns. On 28.12.2012, P.W.16- Inspector of Police, Vinukonda Rural Circle, arrested the accused at his residence in the presence of mediators – P.W.9 and others. After completion of investigation, P.W.17 - Inspector of Police, Vinukonda Rural Circle, filed charge sheet.

4. In support of its case, the prosecution examined P.Ws.1 to 18 and marked Ex.P.1 to P.26, apart from exhibiting M.Os.1 to 3.

5. After closure of the prosecution evidence, when the accused was examined under Section 313 Cr.P.C., he denied the incriminating material against him. The accused did not choose to adduce any defence evidence.

6. After completion of trial, the learned Additional Sessions Judge, while acquitting the accused for the offence under Section 498-A I.P.C., found the accused guilty for the offence under Section 302 I.P.C. and, accordingly, convicted him and imposed the punishment of imprisonment for life and fine for the said offence, as already noted above, leading to the filing of the present criminal appeal.

7. Sri D. Kodanda Rami Reddy, learned counsel appearing for the appellant/accused, strenuously contends that all the material prosecution witnesses, i.e., P.Ws.1 to 8 did not support the case of the prosecution and, as such, there is no evidence on record to convict the appellant/accused for the offence under Section 302 I.P.C. He further contends that the learned Additional Sessions Judge has mainly relied on the dying declaration and statements of the deceased, i.e., Exs.P13, P19 and P22, despite the fact that they are not consistent with each other. Learned counsel further contends that the learned Additional Sessions Judge ought not to have based upon Exs.P13, P19 and P22, which are inconsistent, in convicting the accused, without there being any corroborative evidence. He, therefore, prays for setting aside the conviction and sentence

imposed against the appellant/accused for the offence under Section 302 I.P.C.

8. On the other hand, Sri S. Dushyanth Reddy, learned Additional Public Prosecutor, vehemently opposed the appeal, contending that the dying declaration alone can form basis for convicting the accused without there being any corroboration and in the instant case, the dying declaration and statements of the deceased are consistent with each other with regard to the attack made by the accused and, thus, the learned Additional Sessions Judge was justified in imposing the conviction and sentence against the appellant/accused for the offence under Section 302 I.P.C. and no interference therewith is warranted in this appeal.

9. We have considered the submissions made on either side and perused the entire material on record. As can be seen from the record, the independent witnesses, i.e., P.Ws.1 to 8, did not support the case of the prosecution. The learned Additional Sessions Judge has relied upon the dying declarations/statements of the deceased under Exs.P13, P19 and P22, to hold the accused guilty for the offence under Section 302 I.P.C. A perusal of Ex.P13-dying declaration, which has been recorded by P.W.10 – Judicial

Magistrate of First Class, Special Mobile Court, Guntur, would show that it was specifically stated by the deceased that at about 9.00 p.m. on 13.12.2012, the accused picked up a quarrel with her for not bringing back land documents from her parents, poured kerosene on her and set fire to her and then left the house. In her statement given to P.W.12- Head Constable, which was marked as Ex.P19, and also in Ex.P22-statement given to P.W.14- S.I. of Police, the deceased narrated the incident in the same manner and stated that the accused poured kerosene on her and set her on fire, after picking up a quarrel regarding land documents. Thus, the version of the deceased remained consistent as to the attack made by the accused on her, leading to her death on the fateful day and the dying declarations/statements are consistent and there is no variation in that regard.

10. In **State of U.P. v. Veerpal** reported in **(2022) 4 SCC 741**, the Hon'ble Supreme Court had an occasion to deal with the issue 'whether in the absence of any corroborative evidence, there can be a conviction relying upon the dying declaration only' and while referring to its earlier judgments on the subject, it was held at paragraph 16 of the judgment as follows:

“16. Now, on the aspect, whether in the absence of any corroborative evidence, there can be a conviction relying upon the dying declaration only is concerned, the decision of this Court in *Munnu Raja [Munnu Raja v. State of M.P (1976) 3 SCC 104]* and the subsequent decision in *Paniben v. State of Gujarat [(1992) 2 SCC 474]* are required to be referred to. In the aforesaid decisions, it is specifically observed and held that there is neither a rule of law nor of prudence to the effect that a dying declaration cannot be acted upon without a corroboration. It is observed and held that if the Court is satisfied that the dying declaration is true and voluntary it can base its conviction on it, without corroboration. Similar view has also been expressed in *State of U.P. v. Ram Sagar Yadav [(1985) 1 SCC 552]* and *Ramawati Devi v. State of Bihar [(1983) 1 SCC 211]*. Therefore, there can be a conviction solely based upon the dying declaration without corroboration.”

11. The Hon'ble Supreme Court also referred to the principles laid down in its earlier judgment in **Khushal Rao v. State of Bombay** reported in **AIR 1958 SC 22**, as to the circumstances under which a dying declaration may be accepted without corroboration, and having observed that there runs a common thread in the statements of the deceased as to the attack made by the accused therein, held

that the said dying declarations, which were consistent with medical evidence, could be relied upon in convicting the accused.

12. In the instant case also, all the statements of the deceased under Exs.P13, P19 and P22, are consistent with each other with regard to the aspect that the accused poured kerosene on her and set her on fire, after quarrelling with her regarding land documents. We see no reason to disregard the said statements, which are consistent with each other with regard to the involvement of the accused in the commission of murder of the deceased by pouring kerosene on her and setting her on fire, and thus, can form the basis for conviction of the accused without any corroboration. In view of the above, we are of the considered opinion that the conviction and sentence imposed against the appellant by the learned Additional Sessions Judge for the offence under Section 302 I.P.C. needs no interference in this appeal.

13. Accordingly, this criminal appeal is dismissed as devoid of merit and the conviction and sentence imposed against the appellant/accused for the offence under Section 302 I.P.C., vide judgment dated 14.07.2015 passed in Sessions Case No.284 of 2014

by the learned XIII Additional Sessions Judge, Guntur, at Narasaraopet, is hereby confirmed.

14. Consequently, pending interlocutory applications, if any, shall stand closed.

JUSTICE K. SURESH REDDY

JUSTICE B.V.L.N. CHAKRAVARTHI

Dt: 21.02.2024

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HON'BLE SRI JUSTICE K. SURESH REDDY
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(Per Hon'ble Sri Justice K.Suresh Reddy)

Date: 21.02.2024

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