

**IN THE COURT OF THE ADDITIONAL METROPOLITAN SESSIONS
JUDGE FOR THE TRIAL OF COMMUNAL OFFENCES-CUM - VII ADDL.
METROPOLITAN SESSIONS JUDGE: HYDERABAD**

Dated this the 26th day of October, 2021

Present: Sri. B. Srinivas Rao
X ADDL. METROPOLITAN SESSIONS JUDGE,
HYDERABAD
FAC. VII ADDL. METROPOLITAN SESSIONS JUDGE
HYDERABAD

Sessions Case No.502 of 2017

(P.R.C No. 77 of 2016 on the file of the XVI Addl. Chief Metropolitan
Magistrate, Hyderabad)

Committed by	Sri. A. Veeraiah XVI Addl. Chief Metropolitan Magistrate, Hyderabad.
Cr. No.& P.S.	Crime No.148 of 2015 of PS Kulsumpura, Hyderabad.
1.Description of the Accused	A1- Smt. Mallamma @ Reshma, W/o. Abdul Aziz, Age: 25 years, Occ: Maid-Servant, R/o. H.No. 13-4-658, Balappa Dhoddi, Karwan, Hyderabad. A2- Jogolla Siddappa, S/o. J. Kondaiah, Age: 39 years, Occ:Hamali, R/o. H.No.14-10-909, Dhoolpet, Hyderabad. N/o. H.No. 3-63, Teeleru (V), Dhanwada (M), Mahabubnagar District.
2.Charges	U/Secs. 302 r/w 34 of IPC.
3.Plea of the accused	Pleaded not guilty
4.Finding of the Judge	Found guilty
<u>5. Sentence or order</u>	In the result, the accused No.1 and 2 are found guilty for the offence under section 302 r/w 34 of IPC and they are accordingly convicted under section 235 (2) Cr.P.C and they are sentenced to undergo rigorous imprisonment for a period of life imprisonment and also shall pay a fine of Rs. 10,000/- (Rupees Ten thousand only) each for the offence under section 302 r/w 34 IPC . In case of non-payment of fine , the accused No.1 and 2 shall undergo an additional simple imprisonment for a period of six (6) months each in addition to conviction period. The period of judicial remand already underwent by the accused No.1 from 14-10-2019 till today i.e 26-10-2021 (2 years and twelve days) shall be set off from the quantum of conviction period under Section 428 Cr.P.C. A copy of judgment

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	is furnished on accused No.1 and 2 at free of cost under section.363 Cr.P.C by intimating their right to prefer an appeal from the prison itself. Unmarked property, if any, shall be destroyed after expiry of appeal period.
6.Prosecution conducted by	Smt. P. Shailaja, Additional Public Prosecutor, Grade-I
7.The Accused defended by	Smt.M.Lakshmi Rajayam, Advocate for accused No.1 M/s. B. Venugopal Rao, Advocate for accused No.2

This case is coming before me in the presence of *Smt. P. Shailaja, Additional Public Prosecutor, Grade-I* for the State and *Smt. M.Lakshmi Rajayam, Counsel for accused No.1 & M/s. B. Venugopal Rao, Advocate for accused No.2* having stood over for consideration, this Court delivered the following:

J U D G M E N T

1. The Inspector of Police, P.S, Kulsumpura, Hyderabad has filed this charge sheet against A1 and A2 for the offence under Section 302 r/w 34 of IPC vide charge sheet in Crime No.148/2015 dated. 28-08-2015.

2. The contents of the case as per charge sheet are that on 28-08-2015 at 21.00 hrs a complaint is received from LW-1/K. Shashikanth PCNo.7649 of P.S. Kulsumpura stating that on 28-08-2015 as per instructions of SHO, he along with Home Guard/U.Srinivasulu were patrolling from 2.00 pm to 8.00 pm. In the evening at 19.30 hrs when they were proceedings towards Dhobighat from Puranapul, they noticed that some locality people gathered at Dhobighat and when they reached there found one unknown lady throttling one boy aged 8 months pressing the throat with hands while a male person was holding legs with hands and on seeing the public gathering and police, the said unknown lady and male person fled away from there. Immediately one person by name Raju shifted the injured boy to Niloufer Hospital and stated that they can identify the unknown lady and male person if they see them and requested for action.

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3. On receiving the above complaint, LW-19 registered a case in Cr.No.148/2015 under Section 307 r/w 34 of IPC and LW-9 recorded the statements of LW-1 and LW-2 and went to scene of offence near Dhobighat and conducted scene of observation panchanma and drawn rough sketch in the presence of LW-8 and LW-9 and recorded statements of LW-3 to LW-7. On 31-08-2015 at 17.30 hrs a message is received from Niloufer Hospital that the injured boy by name Dhanraj aged 6 months died at Hospital while undergoing treatment at 11.30 hrs and LW-19 altered the section of law from 307 r/w 34 of IPC to Section 302 r/w 34 of IPC and dispatched express Section Alteration Letter and handed over the file to LW-20. Thereafter LW-20 secured LW-1 to LW-7 and re-examined them and LW-20 proceeded to Niloufer Hospital and obtained death summary of deceased from LW-15 and proceeded to O.G.H. and on 01-09-2015, LW-20 visited mortuary of O.G.H. and secured LW-10 and LW-11 and conducted inquest panchanma over the dead body and send it for autopsy. LW-20 deputed LW-19 and staff who apprehended A1 Smt.Mallamma @ Reshma and A2-J.Siddappa on 01-09-2015 at 13.50 hrs and brought them to Police Station and produced them before LW-20. On interrogation by LW-20, A1 and A2 admitted their guilty and LW-20 secured LW-12 and LW-13 and recorded the confession statement of A1 and A2 and arrested A1 and A2 at 16.30 hrs by informing the grounds of their arrest and giving intimation of their arrest to there relatives and produced them before the Court and remanded to judicial custody. LW-20 obtained final opinion from LW-14 who gave opinion that the death of the deceased was due to acute lung disease. From the evidence it is revealed that A1 is mother of deceased and A2 is her paramour and both are addicted to consume toddy and A1 along with her two sons and mother staying at Jiyaguda and her marriage was performed with one Shiva resident of Shapurnagar and blessed with three male children and due to family disputes her husband left her five

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years back and since then A1 is residing with her mother with her children and due to Jaundice and her two sons died four years back. Thereafter she came across with one Mohd Abdul Aziz resident of Mangalhat and leading cohabitation with him, out of which they are blessed with two children Ahmed and Dhanraj and A1 is addicted to consume toddy and since last two years she is suffering with fits. On 28-08-2015 evening hours, A1 with her two children went to toddy shop at Puranapul and came across with A2 and A2 enquired about her personal life and promised to lead cohabitation with her and raised objection her that her children are obstacles to their life and they planed to kill younger son and consumed toddy even to the younger son Dhanraj and then they proceeded to Dhobighat and A1 laid her younger son on the road and throttled the throat and A2 caught his legs due to which the boy became unconscious and when public and police gathered on the spot, A1 and A2 fled away with her son Ahmed. After completion of investigation, Investigating Officer filed charge sheet.

4. Cognizance of the case was taken against the accused persons for the offence punishable under Section.302 r/w 34 of IPC against A1 and A2 and registered it as PRC No.77/2016 on the file of XVI Additional Chief Metropolitan Magistrate, Hyderabad. On appearance of A1 and A2, copies of the case documents were furnished to them as contemplated under section 207 Cr.P.C before the trial court. Since the offence under section.302 r/w 34 of IPC are exclusively triable by the court of Sessions, the Learned Magistrate has committed the case to the Hon'ble Metropolitan Sessions Judge, Hyderabad, vide orders dated:26.07.2017 by following the due procedure as contemplated under section 209 Cr.P.C.

5. The case was registered as SC.No.502/2017 by the Hon'ble Metropolitan Sessions Judge, Hyderabad and made over the same to this court for disposal according to law. On appearance of A1 and A2 and upon

hearing both sides, charges under Sections.302 r/w 34 of IPC were framed against A1 and A2 and read over and explained to them, wherein the accused persons denied the charge, and pleaded not guilty and claimed to be tried.

6. During the course of trial, the prosecution has examined Pws.1 to 10 and marked Ex.P1 to P11. The accused persons A1 and A2 did not examine any witnesses and did not mark any documents on their behalf.

7. After the closure of prosecution evidence, the accused No.1 and 2 were examined under section 313 Cr.P.C by explaining the contents of incriminating evidence adduced against them by the prosecution witnesses, for which they denied the same and reported no defence evidence on their behalf.

8. Heard the arguments on both sides and perused the entire material on record.

9. Now the point for determination is:

“ Whether the prosecution is able to establish the guilt of the accused persons A1 and A2 for the offences under Sections.302 r/w 34 of IPC against the accused persons A1 and A2 beyond all reasonable doubt?”

Point:

10. It is seen that the prosecution has examined PW-1 to PW-10 and PW-1 is the eye witness and PW-2 is the witness and PW-3 is the witness and PW-4 is the panch for scene of offence and PW-5 is the panch witness for confession and PW-6 is complainant and PW-7 and PW-8 are Medical Officers and PW-9 and PW-10 are the Investigation Officers.

11. It is important to see that the PW-1 is the Police Home Guard, who was present along with complainant and who was also doing patrolling

duty along with the complainant. It is seen that the PW-1 clearly deposed that on 28-08-2015 when he was in duty along with LW-1 and at 7.00 pm, when they were proceeding from Puranapul to Dhobigath on the right side of the road, he saw a woman strangulating a boy who is aged around 6 months and man tightly holding the legs of the boy and they parked the vehicle and about to reach, the man and woman ran away leaving the boy and stated that public also gathered and one person from that gathering stooped the auto and took the boy to Niloufer Hospital and thereafter they went to Police Station and LW-1 lodged the report. He further deposed that after two days of the incident, they received a information from hospital that the said boy died at Niloufer Hospital and he has clearly identified A1 and A2 standing in the Court Hall.

12. During the cross, PW-1 stated that they were patrolling on a two wheeler and he took three to four minutes to reach the scene of offence after noticing man and woman and they saw man and woman from a distance of 300 hundred feet at that time no other persons were there. He further stated in the cross that when they were attending boy, one person came and took the boy to hospital and thereafter they went to Police Station at 8.45 pm where LW-1 prepared a report and he stated that no other persons came and lodged a report in this incident and stated that expect information about death of the boy he is not aware as to what happened subsequently after lodging report and he was never specifically called by police again in this issue.

13. It is seen that even the PW-6 who is the another Police Constable and who lodged the report has deposed on the same lines as PW-1 and deposed that he could identified that the baby was boy and marked the report submitted by him under Ex.P4 and identified the A1 and A2 standing in the court hall.

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14. It is seen that during the cross, PW-6 stated that he did not mentioned descriptive particulars of man and woman who are involved in the incident in the Ex.P4 report and did not record the names of public gathered on the spot and stated that he witnessed the incident from 100 feet distance and stated that he was there at spot for more than one hour and did not inform the Police Station about the incident through handset and stated that public gathered on the spot and did not apprehended the man and the woman. He stated that the public already gathered on the spot by the time they reached and he was present on the spot and it took one hour to clear the public as there was Law and Order problem and the said fact is not mentioned in Ex.P4 and did not take any person from the gathering to the Police Station. He admitted under Ex.P4 it is mentioned that when they were proceeding to Puranapul to Dhobighat they noticed some locality people at Dhobighat and found two unknown persons throttling a boy of 8 months and seeing them they left the boy and ran away and stated that he did not visit the hospital after the boy taken to hospital.

15. It is seen that PW-2 is also said to be an eye witness who also deposed that on 28-08-2015 in the evening when he was returning home through Dhobighat on the footpath he saw one woman strangulating and one man was holding the legs of the boy aged 5 to 6 months and other people also gathered and the man and woman left the boy and ran away and himself and other person shifted the boy to Niloufer Hospital and joined him at the Hospital and awaited for one hour and went to Police Station and gave statements and after three days they received call from Police Station that the said boy died and PW-2 also identified both A1 and A2 in the court hall.

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16. During the cross, the PW-2 stated that one Asif accompanied him to Hospital and they went to Police Station at 8.30.pm for giving statement and nobody were present when they went to Police Station and for the first time he intimated to Police about incident and stated that he saw the incident from 10 to 15 feet and at the time of non-occurrence he was proceeding on motor cycle near to the divider on the other side of the road and by the time he went there 4 to 5 ladies gathered on the spot and he do not know whether any one made any attempt to catch hold that man and woman and his statement was recorded again after five days. He further admitted that Dhobighat is a rush area where there will be public in the evening and he saw 4 to 5 ladies shouting and went to the place and he did not made any attempt to catch hold accused when they were running away by throwing the boy and admitted that he did not state before the police that A2 was holding legs of the boy at the time of occurrence.

17. It is seen that even PW-3 who is also said to be one of the witness has deposed on the same lines on the incident and stated that he saw a woman strangulating the neck of a boy and the man was holding the legs of the boy aged 6 to 7 months opposite to Yellamma temple, at that time the patrolling police was coming on other side of road by seeing whom the man and woman left the boy and ran away and the boy was shifted to Niloufer Hospital by one Asif and another person and he identified A1 and A2.

18. It is seen that during the cross, he stated that he saw that incident from 80 feet distance and on the same day at 9.00.pm he saw that boy who was aged around 4 or 5 years at Police Station, who was present along with the woman involved in this offence and since the boy was crying

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after the man and woman ran away police took him to PS. He further stated that on the date of incident he was a student and he used to sit on Chabutra as a routine and observing the public and there will be public movement round the clock and stated that C.I. came to the spot after one hour and recorded the statements and stated that he also recorded the statements of LW-5 and LW-7. It is seen that PW-4 and PW-5 are only panch witnesses who stated that on 28-08-2015 in between 9.00 pm to 10.00 pm, they went to Dhobighat on calling by Police and Inspector of Police told the offence and recorded the proceedings in Telugu and drawn the rough sketch and took their signatures and marked observation panchanama and rough sketch under Ex.P1 and P2. During the cross, he stated that he do not have personal knowledge about the incident.

19. It is seen that PW-5 deposed that on 01-09-2015 at 2.30.pm he went to Police Station along with LW-13 on calling by Police and saw one female and male in the custody of police and who statements of recorded by typing and stated that he fixed his thumb impression on the statement and marked the admissible portion under Ex.P3 and identified the said persons as A1 and A2. During the cross, he stated that Constable called him to Police Station and at Police Station he met the Inspector of Police who enquired the persons and at the same place statements were recorded in typing.

20. It is seen that PW-7 is the Medical Officer who conducted the autopsy on the dead body on 01-09-2015 and stated that he did not find any external or internal injury over the body and stated that internally both lungs were congested, odematous reddish in colour, consolidated patches present on both lungs. Multiple adhesions present between lungs and chest wall and in this case stomach contents along with other viscera were

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sent for chemical analysis and after receiving chemical analysis report he opined the cause of death is due to “ Acute Lung Disease” and stated that as per death summary the time of death is at 11.30.am and on 31-08-2015 marked postmortem report and final opinion under Ex.P5 and P6. He further stated that in his scuffle as the health condition of the deceased was with acute lung disease, situation may aggravate and he may not sure it may lead to death as stated that he did not observe any pressure over the neck but the momentary pressure over nose, mouth or neck could aggravate the condition of acute lung disease.

21. Even PW-8 deposed that on 31-08-2015 at 11.30 AM, the Pediatrician /LW-15 came to her requesting to preserve an unknown male baby body around 6 months accompanied by LW-19, then she went and saw the body at the ESR room and no attendants were present and LW-15 told him that it is a suspicious death, as such body has to be preserved in the mortuary and handed over the death summary and thereafter she gave mortuary slip under Ex.P8. During cross, she stated that she was not on duty in the night on 28-08-2015 when the baby boy was admitted in the hospital.

22. It is seen that PW-9 is the first Investigation Officer who received Ex.P4 report from PW-6 at 9.00.pm on 28-08-2015 and registered a case in Cr.No.148/2015 under Section 307 r/w 34 of IPC and issued FIR under Ex.P9 and recorded statements PW-1 and PW-6 and proceeded to scene of offence and conducted scene of offence observation panchanman at 21.50 hrs, and prepared rough sketch and scene of offence panahcanama and recorded statements of witnesses. On 31-08-2015 at 17.30 hrs, he received a telephonic information from Niloufer Hospital that the boy died at 11.30 hrs, and thereafter he filed Section Alteration Memo in the Court

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by altering section from Section 307 r/w 34 of IPC to Section 302 r/w 34 of IPC and marked alteration memo under Ex.P10 and handed over the case file to LW-20 on 01-09-2015 and on information, they apprehended A1 and A2 at toddy compound at Dhobighat and produced them before LW-20.

23. PW-10 is the second Investigation Officer, who took up the case file subsequently from PW-9 and conducted inquest panchanama and on same day on credible information instructed PW-9 to apprehend the accused persons and PW-9 apprehended A1 and A2 and brought them to Police Station and on interrogation A1 and A2 admitted their guilt and confession panchanama was conducted in the presence of PW-5 and LW-13 and A1 and A2 were arrested and sent to Judicial Custody and he filed charge sheet after obtaining Medical Report and marked PME report under Ex.P5, final opinion under Ex.P6, death summary under Ex.P7 and mortuary slip of Niloufer Hospital under EX.P8.

24. During cross, he stated that he received about the information from PW-9 at 8.00 PM, and he went to Police Station after attending all duties and he did not mention the said fact in the charge sheet and he did not go to Nilfour Hospital in this case and did not enquire the toddy compound where the accused persons were apprehended and did not examine any persons and stated that PW-5 was secured from the house by sending a constable and PW-5 conducts Vegetable business on the bridge within their Jurisdiction. He further stated that he did not mention anywhere that any of the witness physical distance of the accused persons and denied all other suggestions.

25. It is seen from the above evidence discussed that, PW-1 who is the constable and who accompanied PW-6 complainant during the patrolling duty, both of them in their 161 Cr.P.C statements and complaint

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clearly mentioned that they can identify the accused persons if they see again and they have accordingly identified A1 and A2 standing in the court hall. It is seen that PW-1 in his cross stated that he saw the man and woman during the incident from a distance of 300 feet and they reached within 3 to 4 minutes and both of them ran away when the police entered into scene.

26. It is seen that the PW-2 who is eye witness also clearly stated that he saw one woman strangulating the boy and one man holding the legs and he proceeded towards them and other people also gathered and man and woman left the boy and ran away and he took that boy to the hospital. It is seen that even PW-2 also in his 161 Cr.P.C statement mentioned that he can identify both of them if he see again. It is seen that even PW-2 in the chief identified A1 and A2 standing in the court hall. He further stated that he saw the incident from 10 to 15 feet. PW-3 who is also one of the eye witness stated that on 28-08-2015 at 7.30 PM, when he was sitting at Chabutra, on hearing the cries of his maternal aunt, he went down and saw that a woman was strangulating a boy aged 5 to 6 months and man was holding the legs and hearing their cries patrolling police came on the road from other side and by seeing them, both the man and woman left the boy and ran away. It is seen that he also stated in the statement he can identify both the man and woman if he see them and he also identified A1 and A2 in the chief. It is seen that he stated that he saw the incident at from a distance of 80 feet. It is seen that PW-4 and PW-5 are panch witness who also supported the case of the prosecution.

27. It is seen that the accused counsel argued that none of the witnesses have prior acquaintance and none of the witnesses gave any descriptive particulars of man and woman. He further argued that no Test

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Identification Parade conducted in this case, as such the evidence of PW-1 to PW-3 and PW-6 is unreliable. It is seen that all the witnesses i.e., PW-1 to PW-3 and PW-6 were said to be present on the spot during the time of alleged offence and they all were said to have the witnesses to the incident and all of them clearly stated that they saw the man and woman strangulating the boy and the man was holding legs of the boy tightly and stated that they ran away by seeing the police. There is no hard and fast rule that the witnesses who saw the incident must describe descriptive particulars of the accused persons and there is also no compulsion that Test Identification Parade should always conducted in all the cases.

28. The accused counsel further argued that the medical evidence is not corroborating with the oral evidence with the stated that as per oral evidence woman as said to have strangulated the neck of the boy and as per medical evidence i.e PW-7 under Ex.P6 the boy died due to acute lung disease. He further stated that as per evidence there are no external and internal injuries on the body. It is important to see that the said boy was not said to have died instantly on the spot and admittedly the alleged offence said to have took place in the evening hours of 28-08-2015 and the boy was said to have shifted to the hospital immediately and he has said to have died on 31-08-2015 at 11.30 AM, while undergoing treatment, which shows that the boy was treated at hospital for almost three days. Admittedly, strangulating over the neck with hands does not causes any injuries but, that would only cause pressure over the lungs and any congestion over the skin, if any occurred, due to pressing the neck by hands would disappear within span of hours. Admittedly in this case, the boy was treated at hospital for almost three days and autopsy was said to be conducted on 01-09-2015. It is important to see that the said doctor stated in the evidence that a scuffle may aggravate the situation over the

boy suffering with acute lung disease and stated that he did not observe any pressure over the neck but momentarily heart over nose, mouth or neck may aggravate the lung disease. The last sentence mentioned by PW-7 is supporting the case of the prosecution and adding strength to the case and it could be inferred that due to strangulating over the neck the situation of the boy became more critical as he was suffering with acute lung disease.

29. The counsel for A2 relied on a citation laid down in ***Ram Narain Singh and others V/s. State of Punjab downloaded from Manu/SC/0193/1975*** wherein it was held that when the evidence of prosecution witness inconsistent with medical evidence and evidence of ballistic expert then conviction is not maintainable. On perusal of the contents of the case in the said ruling, it is seen that the facts of the said case are totally differing from the facts of present case, as such the said ruling is not applicable to the present case facts.

30. The A2 counsel also relied on another ruling laid down in ***Amar Singh and others V/s. State of Punjab reported in AIR 1987/SC/826(Downloaded from Manupatra)*** it is seen that even the facts and circumstances of the said case are also not considering with the facts of present case, as such the said ruling is also not helpful to the case of accused.

31. He also relied on another ruling laid down in ***Amin Chand and others V/s. State of Himachal Pradesh reported in 1985 Crl. Law General 1450 (downloaded from Manupatra)***. On perusal of the case facts of the said case, it is seen that even the said facts are also not applicable to the facts of the present case , as such the said ruling is also not helpful to the case of accused.

32. From the evidence of PW-9, it is implicit that on the same day night he went to the spot and enquired the people and recorded the statements and conducted the scene of offence panchanama. It is seen that even if PW-1 and PW-6 initially were not said not enquired the names and details of the people gathered on the spot, it is not fatal to the case of prosecution since PW-1 and PW-6 are only constables on patrolling duty and they are not the Investigation Officers. It is seen that though all the witnesses were cross examined by the accused counsel, nothing was elicited adverse to the interest of prosecution.

33. It is further seen from the facts of the case that initially case was registered under Section 307 r/w 34 of IPC and after death of the boy, the section of law is altered to Section 302 r/w 34 of IPC. Admittedly, the woman who was said to have strangled the neck of the boy was non other than the natural and biological mother of the deceased and the man who was holding the legs of the boy was said to be paramour of the woman. From the contents of charge sheet, it is revealed that A1 is a married woman and her husband left her and married another woman and she came across one Mohammed Abdul Aziz and blessed with one Ahmed and Dhanraj (deceased). It is revealed that A1 came across with A2 in a toddy shop and on promise of A2 to lead life with A1 and on his objection regarding A1's children, both A1 and A2 alleged to have planned to kill the younger son of A1 i.e., deceased and after consuming toddy they proceeded towards Dhobighat and A1 laid her younger son on the road and pressed the throat with hands when A2 caught hold the legs and boy became unconscious and on seeing that when local people gathered and when police also entered into the scene, both A1 and A2 said to have left the younger son and ran away with her son Ahmed. It is very unfortunate situation and event that the A1 who was said to be natural mother of the

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deceased contributed her active role in killing her own son for her illegal desires and purposes by forgetting the basic courtesy and forgetting the affection and relation of bondage expected from a mother towards her son. It is usually believed that mother is the most caring person in the world regarding her children and a mother, under any circumstances, will be expected to take proper care of her children by showing appropriate love and affection and expected to protect her children from all type of disasters and calamities even by putting her own life on risk. But strangely in the present case, the mother herself participated in killing her own son with the help of a stranger with whom she was willing to go away for satisfying her illegal needs and it is undigestable that under the influence of a stranger who got acquainted few days back and who assured to lead conjugal life with her but raised objection for her children and falling under influence of such stranger she decided to kill her own son by forgetting the motherhood bondage and by getting her eyes closed with the blindness of the illegal desires. A mother under any circumstances will not be expected to kill her own son under any situation, but unfortunately in the present case the mother herself played active role in killing her son with the help of a stranger for the purpose of satisfying her selfish needs, which is really a very barbaric act on her part. Since the A2 also participated in the acts of assaulting the deceased along with A1 by holding the legs of the victim while throttling the neck, as such A2 also equally guilty for the offence under Section 302 r/w 34 of IPC, since he committed the said act with full awareness of consequences. Since the prosecution has established the guilt of A1 and A2 by adducing appropriate material evidence for the offences under Sections. 302 r/w 34 of IPC, as such they are liable for conviction for the said offences.

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34. Therefore, in view of above held discussion, and after appreciation of the entire prosecution evidence, it is held that the guilt of the accused persons in the present case has been established by the prosecution for the offence under Sections.302 r/w 34 of IPC beyond the reasonable doubt by adducing appropriate material evidence. Since the guilt of the accused persons has been established for the offence under sections. 302 r/w 34 of IPC, as such they are liable for conviction under section 235 (2) Cr.P.C.

Sd/-
X ADDL. METROPOLITAN SESSIONS JUDGE
FAC. VII ADDL. METROPOLITAN SESSIONS JUDGE
HYDERABAD

35. Before passing sentence of conviction against the accused No. 1 and 2 for the offence under Section 302 r/w 34 of IPC, in the present case, a question is put to them regarding quantum of conviction.

Q. Your guilt in the present case for the offence under section 302 r/w 34 of IPC is established. Do you want to say anything regarding the quantum of conviction ?

Ans: A1)

Ans: A2)

Sd/-
X ADDL. METROPOLITAN SESSIONS JUDGE
FAC. VII ADDL. METROPOLITAN SESSIONS JUDGE
HYDERABAD

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36. Having regard to the facts and circumstances of the case and the nature and seriousness of the offences, the accused No.1 and 2 are held not entitled for any benefits under section 3 and 4 of Probation of Offenders Act, 1960. Since from the evidence on record, it is established that the accused No.1 and 2 have committed brutal act of killing an infant of six months, which resulted in his death, as such in view of the inhuman and barbaric act committed by the accused No.1 and 2, they are not entitled for any sort of leniency with regarding to the quantum of sentence. Since the guilt of the accused No.1 and 2 for the offences under section 302 IPC is established, as such they are liable for conviction under section 235 (2) Cr.P.C . Point is held accordingly.

37. At this juncture, it is observed that the accused No.1 is in judicial custody since from 14-10-2019 and since then she is in judicial custody and she has faced the trial as a under Trial Prisoner only. Therefore, the period of her judicial remand w.e.f from 14-10-2019 till today i.e., 26-10-2021 shall be set off from the quantum of conviction period under Section 428 Cr.P.C.

38. In the result, the accused No.1 and 2 are found guilty for the offence under section 302 r/w 34 of IPC and they are accordingly convicted under section 235 (2) Cr.P.C and they are sentenced to undergo rigorous imprisonment for a period of **life imprisonment** and also shall pay a fine of **Rs. 10,000/-** (Rupees Ten thousand only) each for the offence under **section 302 r/w 34 IPC**. In case of **non-payment of fine**, the accused No.1 and 2 shall undergo an additional simple imprisonment for a period of **six (6) months each** in addition to conviction period. The period of judicial remand already underwent by the accused No.1 from 14-10-2019 till today i.e 26-10-2021 (2 years and twelve days) shall be set off

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from the quantum of conviction period under Section 428 Cr.P.C. A copy of judgment is furnished on accused No.1 and 2 at free of cost under section.363 Cr.P.C by intimating their right to prefer an appeal from the prison itself. Unmarked property, if any, shall be destroyed after expiry of appeal period.

Typed to my dictation by the Stenographer of this court, corrected and pronounced by me in the open court on this the 26th day of October, 2021.

Sd/-
X ADDL. METROPOLITAN SESSIONS JUDGE
FAC VII ADDL. METROPOLITAN SESSIONS JUDGE
HYDERABAD

**APPENDIX OF EVIDENCE
WITNESSES EXAMINED**

For Prosecution:

PW.1	U. Srinivasulu
PW.2	S. Raju
PW.3	P. Praveen
PW.4	D.K. Jain
PW.5	Upender
PW.6	K. Sheshikanth
PW.7	Dr.K.Janardhan
PW.8	Dr. V.Janaki
PW9.	G. Ajay Kumar
PW10	Ram Mohan Rao

For Defence: **NIL**

EXHIBITS MARKED

For Prosecution:

Ex.P.1	Scene of observation panchanama
Ex.P.2	Rough sketch
Ex.P.3	Admissible portion of proceedings
Ex.P.4	Report
Ex.P.5	Post Mortem Report.
Ex.P.6	Final opinion
Ex.P.7	Death summary
Ex.P.8	Mortuary slip
Ex.P.9	First Information Report
Ex.P.10	Section alteration memo
Ex.P.11	Inquest panchanama

For Defence: **NIL**

M.Os MARKED:

MO-1 : NIL
MO-2 : NIL

For Defence: NIL

Sd/-
X ADDL. METROPOLITAN SESSIONS JUDGE
FAC. VII ADDL. METROPOLITAN SESSIONS JUDGE
HYDERABAD.