



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

[3514]

MONDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

**PRESENT
THE HONOURABLE SRI JUSTICE K SURESH REDDY
THE HONOURABLE SRI JUSTICE HARINATH.N**

CRIMINAL APPEAL NO: 817/2018

Between:

KODURU SANTHOSHI, R/O NEW BURMA COLONY,
ANAKAPALLE, PRESENTLY LODGED IN CENTRAL JAIL,
RAJAHMUNDRY

...APPELLANT

AND

THE STATE OF A P, rep by its PP, High Court at Hyd

...RESPONDENT

Counsel for the Appellant:

1. SANTHOSH KUMAR GANJA

Counsel for the Respondent:

1. PUBLIC PROSECUTOR (AP)

The Court made the following:**JUDGMENT** : *(Per Hon'ble Sri Justice K.Suresh Reddy)*

Accused No.2 in Sessions Case No.139 of 2016 on the file of the Court of X Additional District and Sessions Judge, Visakhapatnam at Anakapalle, is the appellant herein. She was tried and convicted by the learned Additional Sessions Judge under two charges. The 1st charge was under Section 302 read with 34 IPC and the 2nd charge was under Section 201 IPC.

2. Substance of the charge is that the appellant/A.2 along with A.1 beat one Koduru Shiva Santosh Raju @ Raju (hereinafter referred to as 'the deceased') who is none other than the husband of the appellant with a wooden plank and A.1 strangled the neck of deceased with the help of appellant, causing his death at about 23-00 hours on 24.03.2013 and in the same process at about 6.00 A.M. on 25.03.2013 they threw the dead body in a drainage canal situated at New Burma Colony, Anakapalle, thereby committed offences punishable under Sections. 302 read with 34 and 201 IPC.

3. After completion of trial, learned Additional Sessions Judge, convicted A.2 under Section 302 read with 34 IPC and sentenced her to suffer Rigorous Imprisonment for 'LIFE' and also to pay a fine of Rs.10,000/-, in default, to suffer simple imprisonment for a period of six (06) months. The learned Additional Sessions Judge, further convicted A.2 under Section 201 IPC and sentenced her to suffer Rigorous Imprisonment for a period of three years and to pay a fine of Rs.5000/-, in default, to suffer simple imprisonment for a period of three (03) months. Aggrieved by the same, A.2/appellant filed the present appeal.

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

(i) On the basis of a report given by the appellant, P.W.13-Inspector of police, Anakapalle, registered a case in Crime No.76 of 2013 under Section 302 read with 34 IPC. He issued copies of FIR to all the concerned. Ex.P14 is the FIR, Ex.P13 is the report given by the appellant. Immediately, P.W.13 went to the scene of offence along with mediators-P.Ws.1 and 12. He prepared an observation report-Ex.P16 at the scene of offence. He also prepared a rough sketch-Ex.P15. He also took photographs of the scene marked as Ex.P17. He also held inquest over the dead body in the presence of P.W.10 and others. Inquest report is marked as Ex.P9. During the course of inquest, he recorded statements of PWs.2 to 5 and others. He sent the dead body for post-mortem examination. P.W.11-Civil Assistant Surgeon, Area Hospital Anakapalle having conducted autopsy over the dead body, opined that the cause of death was due to “mechanical asphyxia due to strangulation”. He issued post-mortem certificate-Ex.P10. On 26.03.2013 P.W.13 recorded statements of P.Ws.6 to 9.

(ii) While so, on 01.04.2013 at about 13.30 hours, VRO-P.W.1 came to P.W.13 stating that A.1 confessed before them about the commission of offence. He produced A.1 along with his report-Ex.P2 and statement of A.1-Ex.P11. Immediately, P.W.13 secured the presence of P.W.12 and recorded confessional statement of A.1 which is marked as Ex.P1. On the basis of the confession, he arrested A.1 in the presence of mediators-P.W.12 and another. On the basis of confession made by A.1, P.W.13 recovered wooden plank-M.O.1 and a wire-M.O.2 from the back side of the house of deceased. He seized M.Os.1 and 2 under a panchanama-Ex.P2. On the same day, at about 17.15 hours, P.W.13 went to the house of appellant/A.2 and arrested her at about 18.15 hours under a panchanama-Ex.P3. P.W.13

questioned the appellant, who in turn admitted the commission of offence with the help of A.1. Both the accused were remanded to judicial custody. After receiving all the documents and after completion investigation, P.W.13 filed the charge sheet.

5. In support of its case, the prosecution examined P.Ws.1 to 13, marked Exs.P1 to P17 and exhibited M.Os.1 and 2.

6. When the accused was examined under Section 313 Cr.P.C., she denied the incriminating evidence appearing against her.

7. Accepting the evidence of prosecution witnesses, the learned Additional Sessions Judge convicted the appellant as aforesaid.

8. Heard Sri Santhosh Kumar Ganja, learned counsel for the appellant and Sri.Marri Venkata Ramana, learned Additional Public Prosecutor for the respondent-State.

9. We have carefully perused the entire evidence on record.

10. Admittedly, there are no eye witnesses to the alleged incident. The prosecution rests its case on the basis of circumstantial evidence. The only circumstance, relied on by the prosecution, is the extra judicial confession made by A.1 before P.W.1. P.W.1 in his evidence has stated that A.1 approached him and confessed stating that he killed the deceased as he was harassing his sister(A.2). Except the said extra judicial confession, there is no other material on record to connect the appellant with the alleged offence.

11. According to the evidence of P.Ws.5, 6 and 8, they did not support the prosecution. Even according to the prosecution, it is A.1, who confessed stating that he killed the deceased and threw the dead

body in a drainage canal. Except stating the same, he did not attribute anything against the appellant. The evidence on record goes to show that after killing the deceased, A1 threw the dead body into a drainage canal with the help of the appellant. As such, the prosecution could not establish the attack made by A.2. The only circumstance established by the prosecution is that she threw the dead body into a drainage canal with the help of A.2. So far as the confession said to have been made by A.2 is concerned, the Investigating Officer-P.W.13 after arresting her retracted confession from her. As such, no credence can be given to the said retracted confession. So far as A.1 is concerned during pendency of the trial, he died and the sessions case stood abated against him. The so called extra judicial confession made by A.1 before P.W.1 at the most can be used against the maker alone. Even A.1 also did not attributed any role to the appellant in killing the deceased. He only stated that with the help of A.2, he threw the dead body into the drainage canal.

12. In view of the above facts and circumstances, the conviction and sentence recorded by the learned X Additional Sessions Judge, Visakhapatnam at Anakapalle for the offence under Section 302 IPC is not sustainable. So far as the conviction and sentence recorded by the learned Additional Sessions Judge for the offence under Section 201 read with 34 IPC against the appellant is concerned, the same is sustainable as both of them threw the dead body into a drainage canal from her house.

13. In the result, the Criminal Appeal is allowed in part. The conviction and sentence recorded against the appellant/A.2 by the learned X Additional District and Sessions Judge, Visakhapatnam at Anakapalle in S.C.No.139 of 2016, dated 19.12.2017 under Section 302 read with 34 IPC is hereby set aside and she is acquitted for the

said offence. So far as the offence under Section 201 read with 34 IPC recorded against the appellant/A.2 is hereby confirmed. As she has already served the sentence of imprisonment awarded under Section 201 IPC and as the appellant/A.2 was already released on bail by order, dated 07.05.2024, she is directed to surrender before the Superintendent, State Special Jail for Women, Rajamahendravaram, and complete the formalities as per the guidelines enunciated in ***Batchu Rangarao and others Vs The State of Andhra Pradesh (Crl.A.M.P.No.1687 of 2016 in Crl.A.No.607 of 2011)***. Her bail bonds shall stand cancelled.

Consequently, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE K.SURESH REDDY

JUSTICE HARINATH.N

Dt. 16.02.2026
SAB

163

**THE HON'BLE SRI JUSTICE K.SURESH REDDY
AND
THE HONOURABLE SRI JUSTICE HARINATH.N**

Criminal Appeal No.817 of 2018
(Per Hon'ble Sri Justice K.Suresh Reddy)

Date: 16.02.2026

SAB