



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

[3578]

**TUESDAY, THE FIFTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX**

PRESENT

**THE HONOURABLE SRI JUSTICE K SURESH REDDY
THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN
CRIMINAL APPEAL NO: 1063/2016**

Between:

1.S.SULOCHANA, YSR KADAPA DT.,, W/O. DEVA BHAKTHUDU, R/O.
BESTHAVEMULA VILLAGE, MYLAVARAM MANDAL, YSR KADAPA
DISTRICT.

...APPELLANT

AND

- 1.THE STATE OF AP REP PP AND 5 OTRS, REP. BY PUBLIC
PROSECUTOR HIGH COURT AT HYDERABAD.
- 2.NALLABOULTHULA VENKATESU, S/O. BALARAMUDU R/O.
BESTHAVEMULA VILLAGE, MYLAVARAM MANDAL, YSR KADAPA
DISTRICT. (A1)
- 3.PANYAM DASTHAGIRI, S/O. VENKATANNA, R/O. BESTHAVEMULA
VILLAGE, MYLAVARAM MANDAL, YSR KADAPA DISTRICT. (A2)
- 4.MENIGA RAMANJANEYULU LADDUGADU, S/O. VENKATARAMUDU
R/O. BESTHAVEMULA VILLAGE, MYLAVARAM MANDAL, YSR
KADAPA DISTRICT. (A3)
- 5.KAVALI SANJAPPA NAGARAJU, S/O. VENKATARAMUDU R/O.
NIMBAGAL VILLAGE, URVAKONDA MANDAL, YSR KADAPA
DISTRICT. (A4)

6.SAKE RAMANJANEYULU YERUKALA RAMANJANEYULU RAJU,
S/O. RAMANNA, R/O. MAVINAMARDHANA HALLI VILLAGE,
KUDERU MANDAL, ANANTAPUR DISTRICT. (A5)

...RESPONENT(S):

Appeal under Section 372/374(2)/378(4) of Cr.P.C praying that the High Court may be pleased to to allow the appeal by setting aside the order of acquittal of the Spl.Judge for trial of offences under SCs and STs (POA) Act cases, Kadapa dated 28-8-2015 in SC.no. 20/2014.

IA NO: 1 OF 2016(CRLAMP 1430 OF 2016

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 288 days in re-submitting the case Crl.A.Sr.No. 39860 of 2015.

IA NO: 2 OF 2016(CRLAMP 1734 OF 2016

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 leave to the petitioner herein for filing the above Crl.A. against the Judgment in Spl. SC.No.20 of 2014 dt.28.08.2015 of the Spl. Judge for trial of offences under Scs & STs (POA) Act Cases Kadapa in the interest of justice.

Counsel for the Appellant:

1.VENKAT REDDY KODUMURY

Counsel for the Respondent(S):

1.-

2.D KODANDARAMI REDDY

3.PUBLIC PROSECUTOR (AP)

The Court made the following:

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

Questioning the judgment of acquittal passed by the learned Special Sessions Judge for trial of offences under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act Cases, Kadapa (for short, 'the learned Special Sessions Judge') in Special Sessions Case No.20/2014 dt. 28.08.2015, the *de facto* complainant - PW.1 filed the present appeal. Respondents 2 to 6 / A.1 to A.5 were tried by the learned Special Sessions Judge under the following charges:

- (i) 1st charge was under Section 302 IPC against A.1 to A.5; and
- (ii) 2nd charge was under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against A.2 to A.4

2. Substance of the charge is that on the intervening night of 31.01.2013 and 01.02.2013, A.1 to A.5 caused the death of one Sadhu Devabhakthudu (hereinafter referred to as "the deceased"), who belongs to S.C. caste, by strangulating him with a towel in the cotton fields of Besta Vemula village of Mylavaram Mandal causing his death, thereby committed offences punishable under Section 302 IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. After completion of the trial, the learned Special Sessions Judge acquitted the respondents 2 to 6 / A.1 to A.5 by judgment dt. 28.08.2015. Aggrieved by the said acquittal, PW.1, wife of the deceased, filed present appeal.

4. Case of the prosecution, briefly, is as under:

(a) All the accused and material prosecution witnesses are residents of Besta Vemula village of Mylavaram Mandal. The deceased was also resident of same village. PW.1 is the wife of deceased and PW.2 is the co-brother of the deceased. PW.3 is the brother of PW.1. PWs 4 to 7 are relatives of the deceased. The deceased raised Mirchi crop in his agricultural land. Every day after taking dinner the deceased used to go to the fields for watering the crop. On 31.01.2013 at about 09.30 P.M., the deceased went to the fields after having dinner. But, the deceased did not return home. On the next day morning, PW.1 went to the fields and found the dead body of the deceased with injuries. Thereafter she went to the Police Station and gave a report.

(b) PW.13 - Sub-Inspector of Police, Talamanchipatnam received Ex.P1 report from PW.1 at about 11.30 A.M. on 01.02.2013 and registered a case in Cr.No.12/2013 under Section 302 IPC. He issued copies of F.I.R. to all the concerned. F.I.R. is marked as Ex.P10. PW.14 - Inspector of Police, Jammalamadugu Police Station, having received information, took up investigation. He proceeded to the scene of offence and found the dead body. He held inquest over the dead body in the presence of mediators PW.8 and another. Inquest report is marked as Ex.P2. During the inquest, he recorded statements of PWs 1 & 2 and others. He also seized M.Os 1 to 5 at the scene of offence. He also seized M.O.11 stick, M.O.12 Blood stained earth and M.O.13 control earth at the scene of offence. He also prepared a Rough

sketch Ex.P11 at the scene of offence. He sent the dead body for Postmortem examination.

(c) PW.12 Civil Assistant Surgeon, Community Health Centre, Jammalamadugu conducted Autopsy over the dead body. He opined the cause of death was due to Asphyxia due to strangulation with cloth. He issued Postmortem Certificate Ex.P8.

(d) On 02.02.2013, PW.14 recorded statements of PWs 3 to 7. On 16.02.2013, on credible information, PW.14 arrested all the five accused at Madavapuram cross road at about 09.00 A.M. in the presence of mediators PW.9 and another, while they were proceeding on two Motorcycles M.Os.9 & 10, and seized them under a cover of Panchanama Ex.P3. The accused said to have confessed about the commission of offence. On the confession made by A.1, PW.14 seized Torchlight-M.O.7, Mobile phone-M.O.8 from the house of A.1 in the presence of mediators PW.9 and another under a cover of Panchanama Ex.P4. The accused were remanded to judicial custody. PW.14 sent the material objects to R.F.S.L. R.F.S.L. report is marked as Ex.P7. PW.14 collected the Caste certificate-Ex.P5 of the deceased from PW.10. In view of the offence under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the S.D.P.O, Jammalamadugu took up further investigation vide proceedings dt. 08.05.2013, which were marked as Ex.P12. PW.15 took up investigation and found the investigation done by PW.14 on correct lines. After receiving all the

relevant documents and after completion of investigation, PW.15 filed charge sheet.

5. In support of its case, the prosecution examined PWs 1 to 15, marked Exs.P1 to P13 and exhibited MOs. 1 to 13.

6. When the accused were examined under Section 313 Cr.P.C., they denied the incriminating evidence appearing against them.

7. As the prosecution could not able to prove the guilt of the accused beyond reasonable doubt, the learned Special Sessions Judge acquitted respondents 2 to 6 / A.1 to A.5.

8. Heard learned counsel for the appellant as well as the learned Additional Public Prosecutor representing the respondent No.1 / State, and Sri D.Kodandarami Reddy, learned counsel appearing for the respondents 2 to 6 / A.1 to A.5.

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

10. There are no eye witnesses in the present case. PW.1 in her evidence has stated that on 31.01.2013 at about 9.30 P.M., the deceased went to the fields after taking dinner and he did not return home on that night. On the next day i.e., 01.02.2013 morning, PW.1 went to the fields and found the dead body of the deceased lying there. Thereafter, at about 11.30 A.M. on 01.02.2013, PW.1 went to the Police Station and gave a report stating that

some unknown persons killed her husband in the fields. Except that, PW.1 did not state anything either in Ex.P1 or in her deposition. PW.2 also stated the same thing as that of PW.1. As such, absolutely there is no material to show that the prosecution has come up with atleast last seen theory. Thereafter, the prosecution relied on the evidence of PWs 3 to 7, who are closely related to the deceased. PWs 3 to 7 in their evidence have stated that A.1 was having extra-marital relationship with one Lakshumma. It is further stated by PWs 3 to 7 that A.1 suspected that the deceased was also having illegal intimacy with said Lakshumma. As such, A.1 to A.5 bore grudge against the deceased. PWs 1 to 5 further stated in their evidence that the deceased was upcoming leader in YSR Congress Party. As such, A.1 bore grudge against the deceased. As such, PWs 3 to 7 states two different types of motive for the accused to kill the deceased. On one hand, PWs 3 to 7 stated that as the deceased was having extra-marital relationship with said Lakshumma, with whom A.1 also having extra-marital relationship, developed grudge against the deceased. On the other hand, A.1 bore grudge against the deceased because the deceased was gaining popularity in the political party. As such, the motive suggested by the prosecution is not clear. Further, to establish the so-called illegal relationship between the deceased and Lakshumma, no evidence has been adduced by the prosecution. As such, the prosecution could not able to prove the so-called motive for A.1 to A.5 to kill the deceased. Further, the statements under Section 161 Cr.P.C. of PWs 3 to 7 were recorded by the Investigating Officer PW.14 on 02.02.2013 though the

offence took place on 01.02.2023. As already pointed out, PWs 3 to 7 are closely related to the deceased. If really the motive suggested by PWs 3 to 7 is correct, the same ought to have been found place in the earliest report Ex.P1, given by PW.1. As such, no reliance can be placed on the so-called motive. The only circumstance relied on by the prosecution is the arrest and recovery of M.Os 7 & 8 Torchlight and Mobile phone. PW.14 in his evidence has stated that on 16.02.2013, he arrested A.1 to A.5 at Madavapuram cross road while they were going on motorcycles M.Os 9 & 10. PW.14 in his evidence has stated that on the confession made by A.1, he seized Torchlight-M.O.7 and Cell Phone-M.O.8, belonging to the deceased, from the house of A.1 in the presence of mediators PW.9 under a cover of Panchanama Ex.P4. Torch light-M.O.7, seized from the house of A.1, does not incriminate in any manner. So far as the recovery of Mobile phone-M.O.8 belonging to the deceased is concerned, no evidence has been adduced by the prosecution to show that the said M.O.8 belongs to the deceased. As such, no reliance can be placed on the recovery of M.Os.7 & 8 from the house of A.1. Except the said circumstance, no other evidence has been adduced by the prosecution in support of its case. As already pointed out, the prosecution has not adduced any evidence to show that A.1 was having illegal intimacy with one Lakshumma and the deceased was also having illegal relationship with said Lakshumma. As such, the prosecution could not able to prove the guilt of the accused with the alleged offence. The learned Special Sessions Judge rightly

acquitted respondents 2 to 6 / A.1 to A.5 and there are no grounds to interfere with the acquittal recorded by the learned Special Sessions Judge.

In the result, this Criminal Appeal is dismissed confirming the judgment of acquittal recorded by the learned Special Sessions Judge for trial of offences under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act Cases, Kadapa in Special Sessions Case No.20/2014 dt. 28.08.2015. There shall be no order as to costs.

As a sequel, interlocutory applications pending, if any, shall also stand closed.

JUSTICE K. SURESH REDDY

JUSTICE CHALLA GUNARANJAN

05.05.2026
MVA