

APHC011031402017

IN THE HIGH COURT OF ANDHRA



PRADESH

[3547]

AT AMARAVATI

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF DECEMBER
 TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY
THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CRIMINAL APPEAL NO: 7/2018**BETWEEN:**

1. POLUBOYINA VAMSI KRISHNA, R/O. MUDIRAJULA,
 PANGIDIGUDEM, DWARKA, TIRUMALA, ANDHRA PRADESH.

...APPELLANT**AND**

1. STATE OF AP, REP. BY THE PUBLIC PROSECUTOR, HIGH
 COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF
 TELANGANA AND THE STATE OF ANDHRA PRADESH.
 2. N SAMUEL, R/O. D.NO. 208, KOTHAPET, JOKADA ROAD,
 RADHEYAPALEM, RAJANANGARAM MANDAL, EG.DISTRICT,
 ANDHRA PRADESH.

...RESPONDENT(S):**Counsel for the Appellant:**

1. P NAGENDRA REDDY

Counsel for the Respondent(S):

1. G V SHIVAJI

2. PUBLIC PROSECUTOR (AP)

Date on which Judgment was reserved	:	03.9.2025
Date on which Judgment was pronounced	:	02.12.2025
Date on which the judgment was uploaded	:	03.12.2025

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

**TUESDAY, THE SECOND DAY OF DECEMBER, TWO THOUSAND
AND TWENTY FIVE**

SPECIAL DIVISION BENCH

PRESENT

HON'BLE SRI JUSTICE K.SURESH REDDY

AND

HON'BLE SRI JUSTICE SUBBAREDDY SATTI

CRIMINAL APPEAL NO. 07 OF 2018

JUDGMENT

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

Sole accused in S.C.No.33 of 2014, on the file of the Court of Sessions Judge, Mahila Court, Vijayawada, is the appellant. He was tried by the learned Sessions Judge under three (3) charges. First Charge was under Section 364 IPC, second Charge was under Section 302 IPC and the third Charge was under Section 392 IPC

2. Substance of the charge is that on 2nd August, 2012, the appellant/accused kidnapped one Nurukurthi Mounica (hereinafter referred to as 'the deceased') by deceitful words and on a false promise, asked her to come to Vijayawada from Hyderabad, and on 04.08.2012, at about 11.30 a.m., the accused administered her a cool drink mixed with poison at Kurrelagudem, Tadepalligudem, and forcibly made her consume the

same, and in the same process, he took away the gold chain and ear studs from her body, thereby committed offences punishable under Sections 364, 302, and 392 IPC.

3. After completion of trial, the learned Sessions Judge convicted the appellant/accused under Section 302 IPC and sentenced him to suffer imprisonment for '**LIFE**' and also to pay a fine of Rs.2,000/- (Rupees Two Thousand only), in default to suffer Simple Imprisonment for a period of one month. Learned Sessions Judge further convicted the appellant/accused under Section 379 IPC and sentenced him to suffer Rigorous Imprisonment for a period of three (3) years and also to pay a fine of Rs.1,000/-, in default to suffer simple imprisonment for a period of fifteen (15) days. Both the sentences were directed to run concurrently. However, the learned Sessions Judge acquitted the appellant/accused under Sections 364 and 392 IPC.

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

The accused and the deceased were classmates in S.V.P.G. College, Eluru, while pursuing their MBA course. P.W.1 is father, P.W.2 is sister, P.W.6 is relative, and P.W.5 is friend of the deceased respectively. The accused and the deceased belong to different castes. During the year 2009, while studying MBA, they developed an intimate relationship and intended to marry each other. The accused disclosed their love affair to his father, who refused to consent to their marriage on the ground of caste difference. After completion of MBA course, the accused returned to his

native place, and P.W.1 sent the deceased to the residence of P.W.2 at Hyderabad for preparation for Group-II examinations. The deceased used to frequently call the accused requesting him to marry her. However, the accused avoided her calls and informed her that he was not interested in marrying her.

(ii) While matters stood thus, on 01.08.2012, on receiving a phone call from the accused, the deceased proceeded to Vijayawada after informing P.W.2 that she was going to Eluru to collect her MBA certificates. After completion of MBA course, the accused joined coaching for Bank examinations at CCE Sridhar Institute, Vijayawada, and on coming to know of the same, the deceased also joined the said Institute. The deceased continued to insist the accused to marry her, but the latter used to postpone the said proposal.

(iii) After completion of coaching programme, the deceased went to Hyderabad in search of employment, while the accused was residing in his paternal aunt's house at Vijayawada. Subsequently, the accused secured job in Celestyle Showroom at Mahanadu Road, Patamata, Vijayawada. The deceased, having come to know of the same, frequently contacted him over phone and reiterated her request for marriage. The accused, however, kept evading the issue on one pretext or the other. As the deceased was insisting, the accused felt inconvenience and decided to do away with the life of the deceased. In pursuance of the said intention, on 02.8.2012, the accused asked the deceased to come to his office at

Vijayawada. Believing his words, the deceased went there. Thereafter, the accused took her to Kakinada and returned to Vijayawada on the same day. On 02.8.2012, the deceased stayed in the house of P.W.5, who is friend of the deceased.

(iv) While so, on 04.8.2012, the accused went to his office and took motorcycle belonging to his friend-P.W.4. He carried poison and cooldrink on the motorcycle and telephoned to deceased. The accused, thereafter, took the deceased on the motorcycle towards Rajahmundry. At about 11.30 a.m. when they reached the place Kurrellagudem, the accused stopped the bike, mixed the poison in cooldrink bottle and forcibly poured the same into the mouth of the deceased. He then took gold ornaments-Mos1 and 2 worn by the deceased. Thereafter, the deceased managed to reach the road seeking help and collapsed there. P.W.7-auto driver and P.W.9-passenger along with other passengers found the deceased struggling on the roadside, took her to Government Hospital, Tadepalligudem at the request of an unidentified male who vanished on the way. They noticed froth coming from her mouth. The Doctor declared she was brought dead. P.W.7 lodged Ex.P6 report with Police at Tadepalligudem.

(v) On 04.8.2012, P.W.13, the then Head Constable, Tadepalligudem Town Police Station, on recording statement of P.W.7, registered a case in Crime No.214 of 2012 under Section 174 Cr.P.C. He forwarded copies of FIR to all the concerned and the FIR is marked as

Ex.P14. He conducted inquest over the dead body of the deceased at Government Hospital, Tadepalligudem. He then sent the dead body for postmortem examination.

(vi) On 05.8.2012, P.W.8-the then Civil Assistant Surgeon, Area Hospital, Tadepalligudem, conducted autopsy over the dead body. He opined the cause of death was due to organo phosphorous poisoning. He issued postmortem certificate-Ex.P7 and final opinion-Ex.P9.

(vii) On 04.08.2012, the deceased informed P.W.2 that she was proceeding to Eluru on a motorbike along with the accused. Thereafter, P.Ws.1 and 2 were unable to ascertain the whereabouts of the deceased despite their efforts. Consequently, on 08.08.2012 at about 8.30 p.m., P.W.1 went to Patamata Police Station and lodged a report. P.W.15, the then Sub-Inspector of Police, Patamata Police Station, received the said report, Ex.P1, from P.W.1 and registered a case in Crime No.544 of 2012 under the head 'Woman Missing'. He issued copies of the FIR to all the concerned. The FIR is marked as Ex.P15. He made efforts to trace the missing woman, but the same proved futile.

(viii) On 09.8.2012, P.W.15 visited Celestyle Showroom, where the accused was employed, however the accused was not available on that day. Thereafter P.W.15 recorded statement of P.W.3, who is a relative of the accused. P.W.2 continued to search for the deceased throughout. While matters stood thus, P.Ws.1 and 2 came to know that an unidentified female dead body was found at Tadepalligudem. They immediately

approached the Tadepalligudem Police. On 18.08.2012, P.Ws.1 and 2 identified the dead body with the aid of the photographs shown to them by the Tadepalligudem Police. Thereafter, P.W.14 transferred the FIR to Patamata Police Station on the point of jurisdiction.

(ix) On 18.08.2012, P.W.2 approached P.W.15, the then Sub-Inspector of Police, Patamata Police Station, and informed him about the death of the deceased. Basing on the said information, P.W.15 altered the section of law in Crime No.544 of 2012 to Sections 302, 201 and 379 IPC. The altered FIR is marked as Ex.P16. He thereafter issued copies of the altered FIR to all the concerned. Further investigation was taken up by P.W.16, the then Inspector of Police, Patamata Police Station.

(x) Having received information, P.W.16 proceeded with the investigation and recorded statements of P.Ws.2, 6, 7 and another. On 19.8.2012 he visited Celestyle Showroom, where the accused had been employed, and prepared rough sketch, Ex.P17. On 20.8.2012, he went to Tadepalligudem and recorded statements of P.Ws. 7, and 13. He also recorded statement of P.W.9.

(xi) On 22.8.2012, P.W.16 went to Celestyle Showroom and seized Motorcycle, MO5, under a panchanama in the presence of P.W.12 and another. The said motorcycle belongs to P.W.4, whose statement was also recorded. On the same day, P.W.16 apprehended the accused, who said to have confessed about the commission of offence.

(xii) P.W.16, thereafter proceeded to the shop of P.W.11, who was running jewellery shop under the name and style of "Aswini Jewellery Shop". At the instance of the accused, he seized Mos.1 and 2 from the said shop under a panchanama and recorded statement of P.W.11, owner of the Jewellery shop. He arrested the accused, who was remanded to judicial custody. On 25.8.2012, he recorded statement of P.W.5. After receiving all relevant documents and on completion of investigation, P.W.16 filed the charge sheet.

5. In support of its case, the prosecution examined PWs.1 to 16, got marked Exs.P.1 to P.18, apart from exhibiting MOs.1 to 5.

6. When the accused was examined under Section 313 Cr.P.C., he denied the incriminating evidence found against him from the prosecution witnesses. But, he did not choose to examine any witness on his behalf and only got marked Exs.D-1 and D-2.

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

8. Heard Sri P.Nagendra Reddy, learned counsel for the appellant, Sri Marri Venkata Ramana, learned Additional Public Prosecutor appearing for respondent No.1/State and Sri G.V.Shivaji, learned counsel appearing for respondent No.2/ *de facto* complainant. We have carefully analyzed the entire evidence on record.

9. There are no eye witnesses in the present case. The learned trial Judge placed reliance on the evidence of P.W.1, P.W.2 and P.W.5, to

establish that the deceased and the accused were in love and that the accused on the fateful day took the deceased on the motorcycle of P.W.4 to the scene of offence; and the learned trial Court also placed reliance on the evidence of P.W.7 and P.W.9 that they shifted the deceased to the hospital and further relied on the evidence of P.W.11 to whom the accused said to have sold the gold ornaments (Mos.1 and 2) of the deceased and the same were recovered from him by the Investigating Officer, at the instance of the accused and further recovery of Mos.3 and 4 under Ex.P12, confession leading to discovery and thus concluded that it is the appellant/accused who committed the offences, for which he is convicted and sentenced.

10. P.W.1, P.W.2 and P.W.5 categorically stated in their evidence that the deceased and the appellant/accused were having good acquaintance with each other. But there is no evidence adduced by the prosecution to prove that the deceased met the appellant/accused between 01.8.2012 and 04.8.2012 by examining any eyewitness. It is only P.Ws.2 and 5 stated in their evidence that the deceased said to have informed them that she is going to meet the appellant/accused. As already stated no one witnessed the deceased being taken by the appellant/accused on a motor bike to the scene of offence on 4.8.2012.

11. Strong reliance is placed by the prosecution on the evidence of P.W.7, who is running an auto that he had taken the deceased at the instance of the appellant/accused to Government Hospital,

Tadepalligudem from Korellagudem-the alleged scene of offence. According to P.W.7 at about 2.00 p.m. on 04.8.2012, while he was proceeding from Bhimadole to Tadepalligudem, on the way at Korellagudem village, he noticed some people gathered and that one male person caught hold of one woman and asked him to take her to hospital at Tadepalligudem as she was weak and that he allowed her into the auto, wherein two other passengers who were already in auto helped in holding that woman and he took her to hospital where she was declared brought dead. His evidence is that the male person who was with the deceased woman did not board the auto but said that he would follow the auto on his motorbike. He identified the accused standing in the Court room that he was the person requested him to take the deceased in the auto. He also stated that the said male person and the deceased are seen in Ex.P4, photographs shown to him.

12. Upon careful scrutiny of the evidence of P.W.7, this Court finds that his testimony does not satisfy the standard required to establish the identity of the accused beyond reasonable doubt. P.W.7 admittedly had no prior acquaintance with the accused. His opportunity to observe the said male person at the scene amongst several persons gathered at then must be very brief in time. The incident took place on 04.8.2012 and P.W.7 gave evidence in the Court on 10.4.2017 and thus, there is about five (5) years gap. It is not that P.W.7 had been in continuous touch with the appellant/accused during the said five (5) years period. Further a doubt

has arisen in the mind of this Court, when P.W.7 stated in his cross-examination that about two (2) months back to the date of giving evidence, the appellant/accused came to him. He did not explain the reason for the appellant/accused to meet him. He admitted in his cross-examination that many people used to travel in his auto and that it is difficult for him to remember all those passengers. When P.W.7 had no prior acquaintance with the appellant/accused, the Investigating Officer ought to have got conducted Test Identification Parade, but failed. Thus, identification of the appellant/accused for the first time in the Court that too after about five (5) years leads to doubt his testimony. Further, P.W.7 did not even furnish the descriptive particulars of the appellant/accused.

13. Further, the evidence of P.W.9 who was travelling in the auto along with the deceased did not state the presence of the appellant/accused. On the other hand, his evidence is that on noticing a gathering and one woman suffering as if she had fits, he and P.W.7 went there and the auto driver kept keys in her hands, and later the auto driver had taken her to hospital. Though he was declared hostile by the prosecution, nothing useful was elicited for the prosecution by cross-examining him.

14. Thus, from the evidence of P.Ws.7 and 9 the presence of appellant/accused was not established that he was present along with the deceased on 04.8.2012 in the afternoon hours much less at the scene of offence.

15. Prosecution further relies upon the evidence of P.W.11, to whom Mos.1 and 2 were said to be sold by the appellant/accused and the Investigating Officer recovered the same. P.W.11 expressed doubt whether it was the appellant/accused or another person who sold Mos 1 and 2 to him due to lapse of time. P.W.11 did not depose that appellant/accused and anybody else was also with the police when they came to him and recovered Mos.1 and 2 from him. According to the evidence of P.W.16, the investigating officer, he along with P.W.12 and another mediator went to the shop of P.W.11 and seized Mos.1 and 2. P.W.12 though deposed that he along with another mediator and police went to Aswini Jewellers-the shop of P.W.11 and recovered Mos.1 and 2 he did not depose that the appellant/accused was with them at then. Further, as seen from the evidence of P.W.9, who was in the auto while taking the deceased to hospital, Tadepalligudem, has stated that the chain and ear studs were on the body of the deceased. It was on 04.8.2012. If that is so, the question of appellant/accused committing theft of Mos.1 and 2, from the deceased and selling the same to P.W.11 about four (4) days prior to 22.8.2012 and recovering the same from P.W.11 does not arise. This clearly falsifies the case of prosecution. Therefore, the prosecution miserably failed to establish that Mos.1 and 2 were recovered at the instance of the appellant/accused.

16. Insofar far as the recovery of motorbike, MO4 is concerned, the same does not incriminate the appellant/accused in any manner. P.W.16, in his evidence, stated that he seized motorbike-MO4 from the office premises of appellant/accused in the presence of mediators, P.W.12 and another. Admittedly, the appellant/accused is not the owner of MO4. The said MO4 belongs to P.W.4 who was also working in the same company along with the appellant/accused. As such, no credence can be given to the seizure of MO4 as the same belongs to P.W.4 and not to the appellant/accused. Further, there was no investigation with regard to source of poison, wherefrom the appellant/accused secured the poison.

17. Having analysed the evidence on record carefully, we have no hesitation to come to the conclusion that the prosecution has not established a single circumstance to connect the appellant/accused with the alleged offence. As already pointed out, no body witnessed the appellant/accused taking the deceased from Vijayawada towards Rajahmundry on 04.8.2012. Except the oral assertion of P.W.2 stating that the deceased informed her that she is going along with the appellant/accused, there is no other material. In a case of circumstantial evidence, the prosecution has to establish the chain of circumstances pointing out the guilt towards the appellant/accused and to none others.

18. In this connection, it is trite that the Hon'ble Apex Court in a catena of judgments including the decision in ***Sharad Birdhichand Sarda***

v. State of Maharashtra¹, has laid down five (5) golden principles, which govern a case based only on circumstantial evidence:

- “(1) *The circumstances from which the conclusion of guilt is to be drawn should be fully established.*
- (2) *The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty.*
- (3) *The circumstances should be of a conclusive nature and tendency.*
- (4) *They should exclude every possible hypothesis except the one to be followed, AND*
- (5) *There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”*

19. It is a settled principle of criminal jurisprudence that in a case of circumstantial evidence, every link in the chain of circumstances must be clearly, cogently, and satisfactorily established, and the circumstances so proved must unerringly point towards the guilt of the accused, excluding every other hypothesis consistent with his innocence. In the present case, the chain of circumstances is incomplete, disjointed, and incapable of leading to the sole hypothesis of guilt.

20. Having carefully analysed the evidence on record, and in view of the failure to conduct a Test Identification Parade, the inconsistent testimony regarding the presence of the appellant/accused, and the

¹ (1981) 4 SCC 116

doubtful recovery of the material objects, this Court is of the considered opinion that the prosecution failed to establish the guilt of the appellant/accused beyond reasonable doubt for the offences punishable under Sections 302 and 379 IPC. Consequently, the appellant/accused is entitled to be acquitted.

21. In the result, this Criminal Appeal is allowed by setting aside the conviction and sentence recorded by the learned Sessions Judge, Mahila Court, Vijayawada in S.C.No.33 of 2014, dated 24.11.2017, under Sections 302 and 379 IPC. Accordingly, the appellant/accused is acquitted. Fine amount, if any, paid by the Appellant/accused shall be refunded to him. As the Appellant/accused was already enlarged on bail, he is directed to appear before the Superintendent, Central Prison, Rajamahendravaram, for completing the legal formalities in terms of the judgment rendered by the combined High Court in '**Batchu Ranga Rao & others Vs. State of A.P.**².

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

JUSTICE K.SURESH REDDY

JUSTICE SUBBAREDDY SATTI

Date:02.12.2025
GR

² **2016(3) ALT (Crl.) 505 (DB) (AP)**

KSR, J & SRS, J
CRL.A.NO.7 of 2018

HON'BLE SRI JUSTICE K.SURESH REDDY

AND

HON'BLE SRI JUSTICE SUBBAREDDY SATTI

CRIMINAL APPEAL NO. 7 OF 2018

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

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