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Crl.A.No. 947 OF 2001
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Item No. Court No. Section
102 01 II

S U P R E M E C O U R T O F I N D I A
Record of Proceedings

Criminal Appeal No. 947 of 2001

Chakali Yellaiah & Ors. Appellant (s)

vs.

Public Prosecutor, High Court of A.P. Respondent(s)

Date:11/09/2002 This/These matter(s) was/were called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For the Appellant (s): Mr. A Subba Rao, Adv.

For the Respondent(s): Ms. T Anamika, Adv.
Mr. Guntur Prabhakar, Adv.

UPON hearing the counsel the Court made the following
ORDER

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Heard counsel for the parties from 12.10 P.M. to 12.50 P.M.

The appeal is dismissed in terms of the signed order.

Appellant No. 4 (Jollu Anjaneyulu), appellant No. 5 (Boya Neelam @ Neelam Sanjeevarayudu) and appellant No. 8 (Boya Thirupalu) are on bail. Their bail bonds are cancelled and they are directed to surrender to undergo the remaining period of sentence.

(D.P. Walia)
Court Master

(S.L. Goyal)
Court Master

(Signed Order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 947 OF 2001@@
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Chakali Yellaiah & Ors. ..Appellants

vs.

Public Prosecutor, High Court of A.P. ..Respondent

O R D E R@@
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The appellants, eight in number, were tried by the Sessions Court, Kurnool alleging that they had caused death of Buddannagiri Ramudu on 5.6.1994 at 3.30 P.M. The learned Sessions Judge acquitted all the accused and against this order of acquittal the State of Andhra Pradesh filed an appeal before the High Court. A Division Bench of the High Court found all these appellants guilty of offences punishable under Sections 147, 148 and 302 read with Section 149 I.P.C. The judgment of Division Bench is challenged before us.

Heard the learned counsel for the appellants and for the State.

The charge against the appellants was that on 5.6.1994 they formed themselves into an unlawful assembly and went to the house of the deceased armed with sticks, sickles and stones and attacked the deceased. PW-1 to PW-4 are the ...2/-

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persons who were present in the house of the deceased. On seeing the appellants coming with weapons, PW-1 to PW-4 and the deceased ran away and the deceased went to the nearby house of Boya Sivanna and there he was attacked by all the eight appellants. PW-1 to PW-4 saw the incident from a distance and when the appellants left the place they came near the dead body of the deceased and saw him with extensive injuries on all parts of his body.

PW-1 went alongwith PW-2 to PW-5, the Upa Sarpanch of the village, and gave a detailed account of the incident. PW-5 recorded the statement of PW-1 in the form of a report (Ex.P-1) and went to Oravakal Police Station and the FIR was registered at 6.00 P.M. on the same day. PW-8 conducted the investigation and the inquest was held by him. Later the dead body was subjected to post-mortem examination. There were 12 injuries on the body of the deceased Buddannagiri Ramudu.

The learned counsel for the appellants contended that the Sessions Judge had taken a reasonable view and had rightly acquitted the accused and that when there were two plausible views and one view was accepted by the trial Judge the High Court should not have disturbed the finding and come to a different conclusion. It was argued that the evidence of PW-2 to PW-4 was rightly discarded by the Sessions Court as they ...3/-

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were partisan witnesses. But the counsel for the State supported the judgment and submitted that the evidence of these witnesses was trustworthy and the High Court rightly reversed the judgment of the Sessions Court.

PW-1 is the wife of the deceased. Her evidence was not accepted on the ground that she could not give any explanation as to the disappearance of the clothes from the body of the deceased and she had not come to rescue the deceased husband when he was being attacked and left the scene immediately. We do not think that these were good reasons to discard the evidence of PW-1. The incident is alleged to have taken place at 3.30 P.M. She along with PW-2 went to the Upa Sarpanch (PW-5) and got prepared the report (Ex.P-1) and affixed her thumb impression and it reached the police station at 6.00 P.M. and the FIR was registered. PW-1 gave detailed description as to how the incident occurred and the High Court rightly accepted the evidence of PW-1.

Evidence of PW-1 is further corroborated by the evidence of PW-2 to PW-4.

We do not find any merit in the appeal. The appeal is, accordingly, dismissed and the finding of the High Court is confirmed.

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We are told that appellant No. 4 (Jollu Anjaneyulu), appellant No. 5 (Boya Neelam @ Neelam Sanjeevarayudu) and appellant No. 8 (Boya Thirupalu) are on bail. Their bail bonds are cancelled and they are directed to surrender to undergo the remaining period of sentence.

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.....J.
(K.G. BALAKRISHNAN)

.....J.
(ARIJIT PASAYAT)

New Delhi;
September 11, 2002.