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Crl.A.No. 1162-1163 OF 1999

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ITEM No.102

Court No. 5

SECTION 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. 1162-1163/1999

BOYA T. VENKATESHWARLU AND ORS.

Appellants(s)

VERSUS

STATE OF A.P

Respondent (s)

(With office report)

Date : 01/03/2001 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.T. THOMAS

HON'BLE MR. JUSTICE R.P. SETHI

For Petitioner (s) Mr. A Subba Rao, Adv.

For Respondent (s) Ms. T. Anamika, Adv.  
Mr. Guntur Prabhaker, Adv.

UPON hearing counsel the Court made the following

O R D E R

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.SP2

The Appeals are disposed of in terms of the signed order.

.SP1

Hemalatha

(HK Bhatia)  
Court Master

(signed order is placed on file)

.PL55

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.1162-1163 OF 1999@@  
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.....L.....I.....T.....T.....T.....T.....T.....T.....J

BOYA T. VENKATESWARLU AND ORS. .. APPELLANTS

VS.

STATE OF A.P. .. RESPONDENT

.SP2

O R D E R@@  
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Five persons were convicted in respect of the death of one Boya Pedda Narayan. Among them the first accused - Boya Chinnaramudu and his brother Boya Peddaramudu were found guilty of Section 302 IPC besides other offences. The remaining three were the sons-in-law of one or the other of the first two. They were convicted under Section 302 IPC with the help of Section 149. It is unnecessary to mention about the other offences for which they were convicted. A Division Bench of the High Court confirmed the conviction and sentence of imprisonment for life passed on them.

The above incident happened on the night of 6.11.1994 inside the house of the deceased. According to the prosecution, there was love-lost between the deceased ...2/-

- 2 -

and her mother PW-3 Seshamma on the one side and A1 and A2 (who were her cousins) on the other. This was on account of some claim which the two accused made in respect of the properties left behind by the father of the PW-3, Seshamma. More details of the aforesaid dispute are not necessary, except saying that the said dispute had sprouted acute enmity in the mind of A1 and A2 towards PW-3 Seshamma. Hence they determined to avenge for it. Hence all the five persons trespassed into the house of the deceased at 10.00 P.M. A1 and A2 were armed with axes and they inflicted a number of injuries on the deceased who was sleeping on the cot till the arrival of the assailants. The role attributed to the remaining three accused was only that when the wife and son of the deceased interfered, those three appellants beat them with sticks.

PW-1 Laxamma is the widow of the deceased and PW-2 Boya Naidu is the son of the deceased. Both have seen the occurrence and they narrated it in the trial court. From their narration it is difficult for us to think that they would have implicated A1 and A2 falsely. Hence we are not disposed to interfere with the ...3/-

conviction and sentence passed on those two accused, particularly since the trial court and the High Court concurrently held them guilty of inflicting fatal injuries on the deceased.

While considering the involvements alleged against the remaining three accused who are sons-in-law of one or the other of the first two persons, we find some difficulty. Neither PW1 nor PW2 mentioned the names of the assailants even when the Village Administrative Officer (PW-7) asked them about it on the next morning. PW1 then told him that he would mention all the names only after meeting her relatives. We are to filter the evidence of PW1 and PW2 for the purpose of satisfying ourselves that the three sons-in-law were truly implicated with overt acts attributed to them. Even a sifting process to separate the chaff from the corn is permissible while evaluating the ocular evidence.

The only overt act attributed to A3 to A5 is that they have beaten PW 1 and PW2 with sticks. PW2 was examined by Dr. Venugopal (PW9) and found two incised injuries. None of them could be attributed to a blow  
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with a stick. PW1 was examined by the same doctor and he noticed one small lacerated wound on the left wrist, a contusion on the left knee and an incised injury on the left ear. The contusion on the left knee could very probably be the result of any contact with hard objects while tumbling down it was a small contusion. It is difficult for us to countenance the situation that three lathi worn youthful sons-in-law would have inflicted all the blows with the sticks on PW1 lady ultimately resulting in just one minor lacerated injury on her left wrist.

In our perception the roles were attributed to the three sons-in-law as a result of the deliberations made during the interval between the time of occurrence and the lodging of the FIR. That interval is quite good enough for embellishments and exaggerations after the deliberations with the relatives for whom PW1 was waiting before the FIR was lodged by her.

We are unable to confirm the conviction and sentence passed on the three sons-in-law with the aid of Section 149 for what the principal assailants A1 and A2  
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had done on the night as against the deceased. We entertain a reasonable doubt whether those accused were present at the scene at all. We have a feeling that those three persons were implicated after PW1 had deliberations with her relatives.

In the result we confirm the conviction and sentence passed on A1- Boya Chinnaramudu and A2- Boya Peddaramudu and dismiss the appeal filed by them. We allow the appeal filed by the remaining three persons A3 to A5 - Bochhu Naganna, Boya Vaddemanu Ramudu, Boya

Talari Venkateswarlu and set aside the conviction and sentence passed on them and acquit them. As they are already on bail the bail bond will stand cancelled. The appeal is disposed of accordingly.

.SP1

.....J.  
(K.T. Thomas)

New Delhi  
March 1, 2001

.....J.  
(R.P. Sethi)