

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.1225 OF 1998

S. JYOTHEESWARA REDDY Appellant (s)

VERSUS

STATE OF A.P. Respondent (s)

Date : 07/04/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE ARIJIT PASAYAT

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

For Respondent (s)Ms. T Anamika, Adv. for
Mr. G Prabhakar, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard the learned counsel for the parties. The appeal is dismissed in terms of the signed order.

(D.L.Chugh) (Vijay Aggarwal)
AR-cum-PS Court Master

Signed order is placed on the file

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1225 OF 1998

S. JYOTHEESWARA REDDYAppellant(s)

versus

O R D E R

The above appeal has been filed by Accused No.1, who faced trial along with another accused before the 1st Additional district and Sessions Judge, Chittoor, in Sessions Case No.345 of 1995 and got convicted for the offence punishable under Section 302 and section 307 of the Indian Penal Code and sentenced to suffer imprisonment for life, in addition to the payment of fine of Rs.3000/- with a default clause therefor under Section 302 IPC. He was also sentenced to four years rigorous imprisonment under Section 307 IPC in addition to a fine of Rs.500/- with default clause therefor as well. Both the sentences were ordered to run concurrently. A-2 was convicted for the offence under Section 302 read with Section 34 IPC and Section 307 read with Section 34 IPC and was ordered to suffer punishment likewise. Aggrieved, the appellants pursued the matter before the High Court in Criminal Appeal Nos.520 and 521 of 1997. A Division Bench of the High Court of Andhra Pradesh, while confirming the conviction and sentence imposed on A-1, the appellant before us, altered the conviction of A-2 into one under Section 324 read with Section 34 IPC and sentenced him to RI for a period of three years, in addition to the payment of fine of Rs.3000/- with a default clause therefor. Hence this appeal by A-1 alone.

Mr. A Subba Rao, learned counsel for the appellant, while inviting our attention to the relevant portions of the judgments of the courts below as well as the evidence on record, strenuously contended that the conviction of the appellant under Section 302 and Section 307 IPC was not justified keeping in view that he had punched the deceased only with a broken piece of beer bottle and the same could not be said to be with the knowledge or intention of causing the death of the victim. For the same reason, the conviction under Section 307 IPC was also questioned. In substance, it was urged that if, at all, the conviction could be only for an offence punishable under Section 324 IPC as has been done in the case of the second accused, at the most. Per contra, learned counsel for the respondent-State while adopting the reasoning of the courts below with the equal force contended that the concurrent findings recorded by both the courts below were well merited, based on proper appreciation of the substantive evidence on record and, therefore, cannot be said to be vitiated in any manner, to call for our interference in this appeal.

We have carefully considered the submissions of learned counsel appearing on either side. Apart from the fact that the concurrent findings of the courts below so far as the appellant is concerned are found to be recorded on the basis of concrete and sufficient evidence and the same could not be said to be vitiated on account of any perversity of approach in appreciating the same or any omission to take in to material on record which would go to help the accused, the appellant cannot be treated on par with the second accused having regard to the fact that he is the person who actually inflicted the injuries causing the death of the victim. The mere fact that the injury was caused with a broken beer bottle is no reason to belittle the nature of the murderous assault or mitigate the seriousness of the offence. Though it is a broken beer bottle only, it was found to have had sharp edges capable of inflicting grievous injuries, if used with such determination. At times, the manner of its use and the part of the body of the victim against which and the force with which it has been used could make it a dangerous one. For purposes of Section 299, 300 and 302 IPC, use of dangerous or deadly weapon is not a must or necessary ingredient, though at times, it may lend credence or support to find out the intention or in discerning the required knowledge or mental attitude of the person committing the offending act. On the other hand, an act committed with the intention of causing death, or with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom it is caused or with the intention of causing such bodily injury which if inflicted is sufficient in the ordinary course of nature to cause death or with the knowledge that the act is so imminently dangerous that it must in all probability cause death or such bodily injury as is likely to cause death by themselves would suffice to attract Section 300 IPC which is punishable under Section 302 IPC.

The courts below have specifically noticed the fact that the multiple injuries caused though with a broken beer bottle, would not only indicate the grievous nature of the injuries but the one incised wound caused on the right side of front of the neck below thyroid area of the deceased and also on the left upper arm mediaeval region of PW 1 and since as an inevitable consequence of the said injuries inflicted on the deceased the common artery veins were severed causing the ultimate death it could not be contended that, as a reasonable man the accused was ignorant of the likelihood of its causing death. Keeping in view all these factual aspects which were found staring against the accused have been specifically noticed and appreciated by the courts below, we are unable to persuade ourselves to take a different view than the one arrived at by the courts below. Consequently, the appeal fails and shall stand dismissed. T

he appellant shall be taken into custody for serving the remaining period of sentence imposed against him.

.....J.
(DORAISWAMY RAJU)

.....J.
(ARIJIT PASAYAT)
New Delhi,
APRIL 07, 2004