

## NON-REPORTABLE

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO. 11 OF 2008  
Bandaru Ramesh â- | Appellant

Versus

State of Andhra Pradesh â- | Respondent

J U D G M E N T

Prafulla C. Pant, J.

The appellant has challenged the judgment and order dated 15.12.2006, passed by High Court of Judicature, Andhra Pradesh at Hyderabad whereby said Court has dismissed the appeal, affirming the conviction and sentence recorded by the First Additional Metropolitan Sessions Judge, Hyderabad, against appellant Bandaru Ramesh relating to offences punishable under Sections 302, 380 and 411 of Indian Penal Code (IPC).

2. We have heard learned counsel for the parties and perused the documents on record.

3. Prosecution story succinctly is that appellant Bandaru Ramesh is cousin of Rajnikanth (deceased). On 01.09.2001 at

2

about 6.00 p.m. the appellant went to the house of the deceased and they slept in a hall. On the next day at about 9.00 a.m. B. Laxmi Bai, mother of Rajnikanth went to market to purchase vegetables and returned at about 10.00 a.m. At that point of time she noticed that her son Rajnikanth was not there. She enquired about her son from the appellant, on which he informed that he has sent him (deceased) to bring â- ÜPaanâ- " (betel). When Rajnikanth did not return till noon, B. Laxmi Bai along with the appellant, started search of her son. She came back at about noon. Thereafter, she made search alone and left keys of house with the appellant. When till 6.30 she could not trace her son, she came back to her house but found that the appellant had gone with keys, and the house was locked. Thereafter she went to Police Station, Mangalhat, and gave complaint (Exh. P-1). On the basis of said complaint Crime No. 245 of 2001 was registered. At about 7.30 p.m. police came to her house and broke open the door of the house, keys of which were with the appellant. During search police noticed a blanket under the cot and when the same was removed, it was found that Rajnikanth was lying dead. At that point of time PW-1 B. Laxmi Bai attempted to talk to her brother, but failed as the chord of the telephone connection was found cut. The police took the dead

3

body of Rajnikanth in its possession and after preparing the inquest report, sent the same to Osmania Hospital Mortuary. On instructions of police PW-1 B. Laxmi Bai opened the almirah and it revealed that the cash of 80,000/-, pair of gold â- ÜKankanasâ- "!, â<sup>1</sup> one gold chain and one gold ring were missing.

4. On 03.09.2001 autopsy was conducted on the dead body of the deceased by PW-7 Dr. P. Vidya Sagar, who prepared the post mortem examination report (Exh. P-6). On 07.09.2001, the appellant was arrested and at his instance cash of 70,600/-

â<sup>1</sup>

and gold ornaments were recovered. The keys of the house were also recovered from him. On completion of the investigation, charge-sheet appears to have been filed against the appellant for his trial in respect of offences punishable under Sections 302 and 380 IPC. The case appears to have been committed to the Court of Sessions after copies were provided to the appellant. The trial court framed charge in respect of offences mentioned above to which the appellant pleaded not guilty and claimed to be tried.

5. To prove the charge, the prosecution got examined PW-1 B. Laxmi Bai (informant), PW-2 T. Devender (brother of the

informant), PW-3 Chatru Singh (neighbour), PW-4 Syed Asadullah Hussaini, PW-5 M. Malleswar Rao, PW-6 Jai Singh,

4

PW-7 Dr. P. Vidya Sagar (who conducted the post mortem examination), PW-8 T. Suresh (Scientific Officer, RFSL, Guntur), PW-9 Pujari Sri Lingamaiah, PW-10 K. Mallesh Kumar (photographer), PW-11 Sub-Inspector S.R. Damodar Reddy (who registered the crime), PW-12 S.I. M. Gurappa and PW-13 Inspector P.V. Radha Krishna (who investigated the crime).

6. The evidence of the prosecution witnesses and the documents proved were put to the accused under Section 313 of Code of Criminal Procedure (Cr.P.C.), to which he replied that the same are false. The trial court, after hearing the parties, found the accused Bandaru Ramesh guilty of charge of offences punishable under Sections 302, 380 and 411 IPC, and on hearing on sentence, sentenced him to imprisonment for life and directed to pay fine of 200/- in default one month's simple imprisonment (under Section 302 IPC), rigorous imprisonment for a period of five years and to pay a fine of 200/- in default one month's simple imprisonment (under Section 380 IPC), and fine of 100/- in default fifteen days' simple imprisonment (under Section 411 IPC).

7. Aggrieved by the judgment and order dated 19.04.2005, passed by the First Additional Metropolitan Sessions Judge, Hyderabad, in Sessions Case No. 104 of 2004 against the convict

5

as above, he preferred appeal before the High Court, which was dismissed by the impugned order by said Court. Hence this appeal through special leave.

8. As is evident from the above facts, it is a case based on circumstantial evidence. There is no eye witness of commission of murder. Before further discussion, we think it relevant to mention here the ante mortem injuries found on the dead body of the deceased recorded by PW-7 Dr. P. Vidya Sagar at the time of autopsy. The same are being reproduced below: -

(1) A horizontally placed ante mortem ligature mark of 32 cms length and 2 to  $\frac{1}{2}$  cm variable width present all around the lower part of the neck below the thyroid cartilage.

(2) The mark is 6 cm below the right mastoid 8 cm below the right ear, 8 cm below the right angle of the jaw. 8 cm below the chin on extension of the neck, 9 cm above the supra sterna notch. 6 cm below the left angle of the jaw. 6 cm below the left ear and 7 cm below the left nastero.

(3) multiple abrasions of 0.25 x 0.25 cm present 2 cm below the ligature mark on the front side.

(4) A ligature mark of 7 cm length and 2 cm width extending from the midline of front of the neck and 1 cm below the above ligature mark.

(5) The ligature mark is reddish brown and parchmented.

(6) Both the borders of the mark abraded.

(7) The underlying subcutaneous tissues contused.

6

(8) The inner side of both the lips contused.

9. In the opinion of the Medical Officer (PW-7), the deceased died due to asphyxia secondary to ligature strangulation. From the above medical evidence on record it is established that the deceased died homicidal death.

10. Now, we have to examine whether the prosecution has successfully proved the charge as held by the courts below that the appellant committed murder of the deceased and also committed theft of cash and jewellery, and also as to whether the

same were retained and recovered from him. Following are the seven circumstances against the appellant which are found proved from the evidence on record: -

- (i) The appellant came to the house of the deceased on 01.09.2001 and stayed there in the intervening night of 01.09.2001 and 02.09.2001.
- (ii) The deceased was last seen in the house in the company of the appellant in the fateful night.
- (iii) On the next morning, when PW-1 B. Laxmi Bai enquired about the deceased, the appellant misled her by telling that he had gone to Paan shop.
- (iv) In the afternoon keys of the house were left with the appellant, by B. Laxmi Bai (PW-1).
- (v) When PW-1 returned at 6.30 p.m., she found that the appellant had left the house with keys.
- (vi) After the matter was reported to police, at 7.30 p.m. police came and broke open the door of the house and the dead body of Rajnikanth (deceased) was found under the cot covered with a blanket, and cash and ornaments were also missing from the house.
- (vii) After the appellant was arrested, recovery of major part of

7

cash and ornaments was made at his instance.

11. Taking the above established circumstances together, we agree with the courts below that the chain of circumstances as against the appellant, is complete to prove the charge of offences punishable under Sections 302, 380 and 411 IPC.

12. Shri S.N. Bhat, learned counsel for the appellant, argued that had the appellant committed the murder or theft he would have run away from the house, but he remained in the house till 10.00 a.m. when PW-1 B. Laxmi Bai came back after purchasing the vegetables, and made search with her till noon. It is further argued that it has come on the record as stated by PW-1 B. Laxmi Bai that the deceased did not enjoy cordial relations with his real brother who used to live separately, as such, commission of murder by a third person cannot be ruled out. We have considered the contentions of learned counsel for the appellant. In our opinion, had the appellant not misled PW-1 B. Laxmi Bai that Rajnikanth (deceased) had gone to Paan shop, the arguments advanced on behalf of the appellant could have been accepted to create a reasonable doubt in the prosecution story. But misleading PW-1 and pretending to search the deceased with her, thereafter in the afternoon leaving the house with the keys, and recoveries made at his instance, makes easier for us to read

8

the circumstances enumerated above against the appellant. As such, we do not find any break in chain of circumstances and there is no reason to disagree with the view taken by the courts below.

13. Shri Bhat also drew our attention to the case of Hanumant Govind Nargundkar and another v. State of Madhya Pradesh 1

, and it is submitted that in the case of circumstantial evidence, the circumstances from which conclusion of guilt is drawn should not only be established but should be consistent only with the hypothesis of guilt of the accused. We have carefully gone through the evidence on record, and we have no hesitation in holding that all the circumstances are consistently pointing out at the appellant, and none else, as such, the case of Hanumant Govind (supra) is of little help to the appellant in the present case.

14. For the reasons, as above, in our view, the appeal is liable to be dismissed. Accordingly, the same is dismissed.

â |â |â |â |â |â |â |â |â |â |â |â | J.

[N.V. RAMANA]

â |â |â |â |â |â |â |â |â |â |â |â | J.

[PRAFULLA C. PANT]

New Delhi;

1

AIR 1952 SC 343

9

May 08, 2017.

10

ITEM No. 1B  
(For Judgment)

Court No. 11

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. 11 of 2008

BANDARU RAMESH

Appellant(s)

VERSUS

STATE OF A.P.

Respondent(s)

Date : 08.05.2017 This matter was called on for pronouncement of judgment today.

For Appellant(s) Mr. S.N.Bhat, Adv.

For Respondent(s) Mr. S.Udaya Kumar Sagar, Adv.

Mr. Mrityunjai Singh, Adv.

Honble Mr. Justice Prafulla C.Pant pronounced the judgment of the Bench comprising Honble Mr. Justice N.V.Ramana and His Lordship.

The appeal is dismissed in terms of the signed non-reportable judgment.

(Shashi Sareen)

AR-cum-PS (S.S.R.Krishna)

Assistant Registrar

(Signed non-reportable judgment is placed on the file)