

CRIMINAL APPEAL NO.841 OF 2009

Koshuri Suri Babu ...Appellant

Versus

The State of Andhra Pradesh ...Respondent

ORDER

1. This appeal has been preferred against the impugned judgment and order dated 17.4.2007, passed by the High Court of Judicature, Andhra Pradesh at Hyderabad in Criminal Appeal No.1269 of 2005 affirming the judgment and order dated 26.4.2005, passed by the IIIrd Additional District & Sessions Judge, Kakinada in Sessions Case No.350 of 2003 by which and whereunder the appellant had been convicted under Section 302 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and has been awarded the imprisonment for life for causing the death of his wife, pay fine of Rs.2,000/- and in default to undergo RI for six months.

2. Facts and circumstances giving rise to this appeal are:

A. That Kosuri Chinni (since deceased) was the wife of the appellant/accused. The appellant was working as a car driver of Valluri Surya Prakasarao (PW.5). At that time, the deceased was also working as a maid servant in the house of Valluri Surya Prakasarao (PW.5). The deceased fell in love with the appellant and developed intimacy with him and got pregnant prior to the marriage. On coming to know about the same Datla Varalakshmi (PW.1), mother of deceased informed the matter to Valluri Surya Prakasarao (PW.5) who called the parents of the appellant but they refused to settle the matter and refused to perform the marriage of appellant with the deceased. When Datla Varalakshmi (PW.1) threatened to lodge a complaint with the police, the appellant agreed to marry the deceased and thus, their marriage was performed on 10.5.2003. Both of them started living in the house of Datla Varalakshmi (PW.1). The appellant wanted his wife to get rid of the pregnancy as he was not willing to have children at the young age but the deceased and Datla Varalakshmi (PW.1) refused to do so.

B. On 2.7.2003 at about 9 A.M. grand children of Datla Varalakshmi (PW.1) went to school whereas Datla Varalakshmi (PW.1) and Panthadi Venkatalakshmi (PW.2) went to bazaar at about 11 A.M. for shopping. At about 1 P.M. when Datla Varalakshmi (PW.1) and Panthadi Venkatalakshmi (PW.2) were proceeding to their

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house, on the way they found the appellant near Durgamma temple in a confused manner. Datla Varalakshmi (PW.1) called the appellant but he did not respond. By the time they reached the house, Panthadi Durga Prasad (PW.3) was weeping and he informed Datla Varalakshmi (PW.1) that the deceased was not talking. They found the dead body of the deceased. Thereafter, at about 3 P.M., Datla Varalakshmi (PW.1) went to Indrapalem Police Station and lodged the FIR and submitted a written report Ex.P1 to A. Srinivasarao, Sub-Inspector of Police (Investigating Officer) who lodged the complaint and started investigation. K. Raghuvveera Reddy (PW.11), Inspector of Police, Kakinada took up the investigation, went to the scene of offence, secured the presence of Kosanakurthi Veerabhadram, Village Panchayat Secretary, Turangi and others and prepared the site plan in the presence of Kosanakurthi Veerabhadram (PW.6) and others. K. Raghuvveer Reddy (PW.11) seized the bangle pieces of two colours and other material like silk voni and a pillow from the place of occurrence. He conducted inquest over the dead body of the deceased under Ex.P3 inquest report. He also recorded the statements of Datla Varalakshmi (PW.1), Panthadi Venkatalakshmi (PW.2) and Panthadi Durga Prasad (PW.3) and sent the dead body of the deceased for post-

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mortem examination. Dr. G.K.V. Prasad (PW.10), Professor in Forensic Science Medicine Department, Rangaraya Medical College, Kakinada conducted the autopsy over the dead body of the deceased and opined that deceased died of asphyxia due to throttling.

C. On 6.7.2003 at about 3.00 P.M. Kosanakurthi Veerabhadram (PW.6) and Adduri Phaneeswara Ravi Raj Kumar (PW.7) came to the

Police Station alongwith the appellant-accused. K. Raghuveera Reddy (PW.11) interrogated the accused in their presence and the accused made a confession. He was arrested and after conclusion of the investigation, chargesheet was filed against him. After conclusion of the trial, the appellant stood convicted and sentenced as referred to hereinabove and his appeal also stood dismissed by the High Court against the conviction by the Trial Court.

Hence, this appeal.

3. We have heard Mr. R. Needumaran, learned counsel for the appellant and Mr. A.T.M. Rangaramanujam, learned senior counsel for the respondent and perused the record.

4. In fact, it is a case of circumstantial evidence as none has witnessed the incident. The courts below believed the deposition of Datla Varalakshmi (PW.1) who is none other than the mother of the

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deceased that at the time of marriage the deceased was having three months pregnancy and supported the case of the prosecution stating that the appellant had married her daughter only under the threat of lodging the FIR and the appellant had been insisting that the deceased should get the pregnancy terminated. However, the deceased did not agree to the said proposal. On the fateful day when she came back from the market she found Panthadi Durga Prasad (PW.3) weeping and he informed her that deceased was not talking and she found the dead body of her daughter. Panthadi Venkatalakshmi (PW.2) is the elder sister of the deceased who had corroborated the evidence of Datla Varalakshmi (PW.1). She has further deposed that when she left for market alongwith her mother, the deceased and appellant were present in the house. Panthadi Dura Prasad (PW.3), 11 years child had deposed that he had gone to the school at about 9 A.M. and came back to the house at about 1 P.M. at lunch. By the time he reached the house, the appellant/accused was running towards main bazaar. He called the appellant but he did not care about his words. He entered into the house and found the deceased dead. The hands of the deceased were tied with voni and it was only after Datla Varalakshmi

(PW.1) and Panthadi Venkatalakshmi (PW.2) had come into the house

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they called the neighbours. Bojja Bhaskara Varalakshmi Pani (PW.4) has supported the case of the prosecution only to the extent that she has seen the accused leaving his house at 1 P.M. and proceeding towards main road saying that "Erojutho Chinni Peeda Vadilinadi". On suspecting something, they proceeded to the house of Varalaxmi and heard some cries from the house. They found the dead body of the deceased in the house. She also deposed that she had seen a pillow on the face of the deceased and she informed about the death of deceased to other villagers. Other witnesses have deposed about other issues on other factual matrix and particularly, about preparation of the inquest report and recovery etc. Kosanakurthi Veerabhadram (PW.6) and Adduri Phaneeswara Ravi Raj Kumar (PW.7) have also deposed about the extra judicial confession made by the appellant before them about the incident and the appellant had admitted before them that he has killed his wife Kosuri Chinni by pressing her neck and it was Adduri Phaneeswara Ravi Raj Kumar (PW.7) who had handed over the appellant to the police.

5. Taking all the facts and circumstances into consideration, the courts below came to the conclusion extra judicial confession stood corroborated by other circumstantial evidence and in case the

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appellant was not the real culprit there was no occasion for him to make an extra judicial confession before Kosanakurthi Veerabhadram (PW.6) and Adduri Phaneeswara Ravi Raj Kumar (PW.7). More so, there could be no reason for those witnesses to depose falsely and entrap the appellant. There was a motive for the appellant to kill his wife as she refused to get rid of the pregnancy. Thus, the circumstances established by the prosecution were conclusive in nature with completion of chain of circumstances leading to irresistible and unmistakable conclusion that it was the appellant and no body else who had committed the offence. The ocular testimony stood fully corroborated with the medical evidence.

