

**SUPREME COURT OF INDIA**

Nelluri Subba Rao

Vs.

State of A.P.

Crl.A.No.318 of 1974

(S. Murtaza Fazl Ali and A. D. Koshal, JJ.)

23.03.1979

**JUDGEMENT**

**FAZAL ALI, J.:-**

1. In this appeal by special leave, the appellant has been convicted under S. 302/34 and sentenced to imprisonment for life. A detailed narrative of the prosecution story has been given in the judgment of the High Court and it is not necessary for us to repeat the same all over again.

2. The entire conviction of the appellant is founded on the oral dying declaration made by the deceased Nalluri Venkatanarasamma to P. Ws. 1 and 2. P. W. 1 was the brother of the deceased and P. W. 2 owner of the shop where P. W. 1 used to work. According to the prosecution the relations between the husband, accused 2 and the deceased wife were not very cordial and even though there was some sort of a compromise, the wife used to live in a separate portion of the house. According to the dying declaration made by the deceased, the two appellants appear to have forcibly administered lethal dose of endrine poison which ultimately resulted in the death of the deceased. The oral dying declaration is fully supported P. Ws. 1 and 2 who stated in their evidence that the

deceased had clearly mentioned that endrine poison was forcibly administered to her. The deceased was taken to the Hospital, but as she was not fully conscious no statement could be recorded at the hospital. The Doctor who examined the deceased and performed post-mortem examination sent the viscera for chemical analysis and according to the report, the viscera did contain endrine poison. Both the Courts below have after careful examination of the facts and circumstances of the case believed the evidence of P. Ws. 1 and 2 and held that the dying declaration made by the deceased has been proved and was true. The dying declaration received intrinsic support from the number of injuries found on the person of the deceased which show that both the appellants used force. After going through the evidence we fully agree with the findings given by the Courts below.

3. Mr. Garg appearing for the appellant tried his best to persuade us to hold that this was not a case of murder but one of suicide, but from the proved circumstances, the theory of suicide is completely excluded. We do not find any error in the judgment of the Courts below. There is no force in this appeal which is dismissed.

Appeal dismissed.