

Peddireddy Subbareddi and Others

Vs

State of A.P.

Criminal Appeal No. 255 of 1990

(S.R. Pandian, K. Jayachandra Reddy JJ)

14.02.1990

JUDGMENT

1. This appeal is preferred by the appellants 1-7 canvassing the correctness of the judgment made in Criminal Appeal No. 815 of 1986 on the file of the High Court of Andhra Pradesh. The appellants took their trial before the Trial Court under four charges for offences under Ss.- 120B, 302 read with 149, 307 read with 149 and 201, I.P.C. on the allegations that all of them formed themselves into an unlawful assembly and entered into a criminal conspiracy to cause the death of Lakshmireddy, the deceased herein, and in prosecution of the same they murdered the deceased; attempted the cause _ the death of PW 1 and caused disappearance of evidence of murder by throwing the dead body into the river Kundu with the intention of screening themselves from the legal punishment. The Trial Court for the reasons given in the judgment convicted the appellants under all the charges - namely under S. 148, I.P.C. and sentenced each of them to undergo rigorous imprisonment for a period of 2 years; under S. 302 read with S. 149, I.P.C. and sentenced them to undergo imprisonment for life and under S. 20 1, I.P.C. and sentenced them to undergo imprisonment for a period of four years with the directions that all the sentences are to run concurrently. However, all the appellants were acquitted of the offence under S. 307 read with S. 149. Of the appellants, appellants Nos. 1 and 2 are brothers and they are residents of Kulur Village. Appellants Nos. 3 to 7 are the residents of Kottala Village which is at a distance of about seven furlongs from Kulur. All the appellants are inter-related. The deceased was a native of Karrapadu Village, about eight miles from Kottala. The maternal grand-father of the deceased by name Chinna Konda Reddi belonging to Kottala brought him to his house and looked after him. He also performed the marriage of the deceased with P.W. 3. The grandfather also executed a will bequeathing his properties to the deceased. On account of this the appellants were economical towards the deceased.

2. The occurrence in question took place on 26-6-85. On the said day, the deceased and his son-in-law P.W. 1 went together to Kulur Village to obtain a loan of Rs. 5,000/- from P.W. 4, co-brother of the deceased. P.W. 4 told them that he was not having any money ready and that he himself would bring the money within two or three days. Thereafter the deceased and P.W. 1 left Kulur at about 6 p. m. When they were proceeding along a path way, after covering a distance of three furlongs from Kulur, A-1 to A-4 armed with axes and A-5 to A-7 each armed with a dagger attacked the deceased and attempted to murder P.W. 1. The deceased fell down crying 'I am dead'. P.W. 1 ran to a distance of 20 yards. Thereafter he ran away from that place to his native village and informed his motherinlaw P.W. 3. P.W. 3 sent word to P.W. 9 and others. Thereafter a crowd collected and searched for the deceased but they could not trace the deceased. On the next morning at about 7 a.m. they once again resumed the search. They went to the scene of offence and found trace of blood and

ultimately found the dead body in the river. According to the prosecution P.W. 2 a resident of Idamadaka village came there. On enquiry, P.W. 1 told that A-1 to A-7 killed the deceased. On the next morning i.e. on 27-6-85 while P.W. 1 and others were at the dead body, the Sub-Inspector (P.W. 14) came to the spot at 8 or 9 a.m. on the information given by P.W. 11 and got the written report Exh. P-1 from P.W. 1. Then Investigating Officer, after noting the features at the scene of occurrence, examined the witnesses. P.W. 6 the woman Asstt. Surgeon attached to the Government Hospital, conducted postmortem on the dead body of the deceased and noticed 12 external injuries as mentioned in the post-mortem certificate, Exh. P-9. The injuries on the head and the chin, according to the Medical Officer were post-mortem injuries and the rest were anti mortem injuries. After completing the investigation P.W. 15 filed the charge-sheet. All the appellants denied their complexity with the offence in question. The trial Court, placing much reliance on the evidence of P.W. 1, convicted and sentenced the appellants as aforementioned. The High Court has affirmed the judgment of the trial Court. Hence this appeal.

3. The learned counsel for the appellants contended that the evidence of P.W. 1 who is the sole eye-witness in this case cannot be accepted and acted upon since his evidence is highly interested besides being highly artificial. We have gone through the testimony of P.W. 1 carefully. As we have pointed out earlier that P. W. 1 is none other than the son in-law of the deceased. After witnessing the occurrence he did not go to the village and inform any one of the villagers, but on the other hand, he went to his village which is said to be at the distance of four furlongs. He states that he informed only his mother-in law (P.W. 3). P.W. 1 came with the present version only on the next morning. The conduct of P.W. 1 in not reporting to any of the villagers about the occurrence throws a considerable doubt on the veracity of his evidence which is incredible. The report about the occurrence was given by a delay of 15 hours.

4. No doubt, plurality of witnesses is not necessary to establish a fact in issue and a conviction can be based on the testimony of a sole witness provided that evidence is wholly believable (Vide *Vadivelu Thevar v. State of Madras*, AIR 1957 SC 614) : (1957 Cri LJ 1000). In the present case as we have come to the conclusion that the evidence of the P.W. 1 is clouded with strong suspicion and as the first information report was lodged by a delay of 15 hours, the false implication of appellants in the present case cannot be completely ruled out. On going through the judgments of both the Courts below we are unable to share with the finding rendered by the two Courts holding the appellants are guilty of the charges with which they stand convicted.

5. In the result we allow the appeal and set 1 aside the convictions and the sentences as recorded by the Courts below under Sections 148, 302 read with 149, IPC and 201, IPC and acquit all the appellants.

Appeal allowed.

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