

Harijana Sunkunha and Others

Vs

State of A.P.

Criminal Appeal No. 781 of 1979

(K. Ramaswamy, A. M. Ahmadi, V. Ramaswami – II JJ)

19.03.1991

ORDER

1. The appellants have been convicted by both the court for the commission of an offence punishable under Section 302/34, IPC. The deceased who was a resident of Pottipadu village was married to PW 1 and had a soft corner for Sunkamma wife of original accused 1 since it appears, the said accused, his father, original accused 2, and this brother, original accused 3, were ill-treating her for which she was filed a complaint Ex. P-13 to the police as she apprehended danger to her life at their hands. PW 9, a Sub-Inspector had enquired into the allegation and had administered a warning to accused 1. The deceased had shifted Sunkamma to another village and hence the three appellants bore a grudge against him. On July 20, 1977, at about 3.30 p.m., when the deceased was returning to his house, the three appellants inflicted injuries with hunting sickles on different parts of his body which resulted in his death. The occurrence was witnessed by PWs 2 and 3 besides PW 1. PW 1 then went to PW 4, the Village Munsiff, and informed him about the occurrence. PW 4 prepared two reports and sent them to the police station and the concerned Magistrate. The investigation was then taken up and all the three appellants plus that acquitted original accused 4 were put up for trial before the learned Additional Sessions Judge, Anantapur. The learned Sessions Judge on an appreciation of the evidence of the three eye-witnesses PWs 1, 2 and 3 and convicted the three appellant under Section 302/34, IPC and sentenced them to suffer imprisonment for life. The convicted accused filed an appeal which was heard by a Division Bench of the High Court. The Division Bench also did not find any infirmity in the evidence of the three eye-witnesses and consequently confirmed and conviction and sentence passed by the learned Additional Sessions Judge. This Court while granted special leave limited it to the nature of the offence and sentence.

2. We have heard counsel for the appellants on this limited question and we are afraid we cannot interfere with the order passed by the two courts below. The evidence clearly reveals that the deceased an unarmed man was attacked by the three appellants with hunting sickles and was virtually killed on the spot. All the three had joined in the assault and since they had a motive it is obvious that they had killed him by concert. We, therefore, do not see any reason to interfere in the order of conviction recorded under Section 302/34 and the sentence awarded by both the courts below.

3. In the result the appeal fails and is dismissed.

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