

Sankara Nagamalleswara Rao and Another

Vs

State of A.P.

Criminal Appeals No. 691 of 1990

(G. T. nanavati, V. N. Khare JJ)

26.02.1998

JUDGMENT

NANAVATI, J. –

1. Both these appeals arise out of the judgment of the Andhra Pradesh High Court in Criminal Appeal No. 1031 of 1987. Criminal Appeal No. 691 of 1990 is filed by S. Nagamalleswara (A-3) and S. Babu Rao (A-4). Criminal Appeal No. 8 of 1991 is filed by V. Mankyala Rao (A-2).
2. The appellants have been convicted under Section 302 IPC for causing death of K. Sivaramakrishnaiah. Their conviction is based upon the evidence of PWs 1, 2 and 3 and the two dying declarations - Ex. P-15 and Ex. P-13. The High Court confirmed their conviction mainly relying upon the two dying declarations. It held that though PWs 1, 2 and 3 are partisan witnesses their evidence could be utilised for the purpose of corroboration.
3. Learned counsel for the appellants was not able to point out how PWs 2 and 3 who were not related to the deceased could be regarded as partisan witnesses. As their services were hired for the day for cultivating his land they were with the deceased while he was returning from his field and when the incident took place. Nothing was brought on record to show that they had any enmity with the deceased (sic accused). The trial court had rightly placed reliance upon their evidence. As stated earlier, the High Court has also relied upon their evidence though for the purpose of corroboration. The dying declaration Ex. P-15 was recorded by the Investigating Officer at about 7.15 p.m. and Ex. P-13 was recorded by the Judicial Magistrate at about 9.30 p.m. Both the dying declarations have been found as genuine and true and nothing could be urged by the learned counsel for taking a contrary view. The evidence of PWs 2 and 3 and the two dying declarations Ex. P-15 and Ex. P-13 clearly establish that the appellants were responsible for causing the death of K. Sivaramakrishnaiah.
4. It was contended by the learned counsel for the appellants that as no injuries were caused on the vital parts of the deceased, they should not have been convicted under Section 302 IPC. This contention cannot be accepted because the medical evidence clearly shows that the deceased had died due to the injuries caused to him and the injuries were sufficient in the ordinary course of nature to cause death. Though not on the vital parts, the injuries caused were serious. Therefore, the appellants have been rightly convicted under Section 302 read with Section 34 IPC.
5. As we find that they have been rightly convicted these appeals are dismissed.
6. The appellants were released on bail during the pendency of these appeals. Their bail is cancelled

and they are ordered to surrender to custody to serve out the remaining part of their sentence.