

SUPREME COURT OF INDIA

Rachapalli Abbulu

Vs.

State of A.P.

Crl.A.No.685-686 of 1992

(R.P. Sethi and K.G. Balakrishnan JJ.)

08.04.2002

JUDGMENT

K.G. Balakrishnan, J.

1. 18 persons were charge-sheeted before the Court of Sessions, East Godavari Division at Rajahmundry in Andhra Pradesh, for offences punishable under Section 302 read with Section 149 IPC and for other allied offences. One accused, by name, Rachapalli Bhanuraju was absconding and his case was separated and only 17 persons were tried by the Court. Out of them, Sundarapalli Apparao (A4), Sundarapalli Kama Raju (A5), Vajrapu Satyanarayana (A9), Ghetla Veeraraju (A13), Chetla Suribabu (A14) and A17 were acquitted of all charges. Arellasattabbayi (A7) was sentenced to rigorous imprisonment for one year under Section 324 IPC for causing injury to the wife of Thota Abbayi (D-2). Rachapalli Abbulu (A2), Chakkidala Nageswara Rao (A3), Nitta Subbarao (A6), Chakkidala Papamma (A8), Mokamati Jayara (A10), Mokamati Satyanarayana (A11), Sundarapalli Veeraraju (A15) and Sanku Daveedu Raju (A18), were found guilty of offences under Section 302 read with Section 149 IPC for having caused the death of Thota Nagaraju (Deceased 1) and Rachapalli Abbulu (A2), Chakkidala Nageswara Rao (A3), Mokamati Jayara (A10), Mokamati Satyanarayana (A11), Injamalla Yesudasa (A12), Arella Bhadra Rao (A16) and Sanku Daveedu Raju (A18) were found guilty of the offences under Section 302 read with Section 149 IPC for having caused the death of Thota Abbayi (Deceased 2). In all, 10 accused persons were found guilty of the offences punishable under Section 302 read with Section 149, IPC. They went up in appeal before the High Court and by the impugned judgment their appeals were dismissed. Aggrieved by the same, the present appeals are preferred. Briefly stated, the facts of the case are thus.

2. The appellants and the two deceased persons belonged to the same community, but they led two different factions. One group was under the leadership of deceased Thota Nagaraju (D-1) and the other group was led by absconding first accused Rachapalli Bhanuraju. All these persons were the residents of Patha Peddapuram village. There used to be frequent quarrels between these two groups of persons and some criminal cases were registered against them. In view of frequent quarrels between these two groups, a police picket was

posted in the locality. However, due to the parliamentary elections in the area, the armed police picket was withdrawn from the village on 25.12.1984. Taking advantage of this situation, on 27.12.1984 at about 1 p.m., the accused persons came to the residence of Thota Nagaraju (D-1). At that time Thota Nagaraju (D-1) was sitting in the verandah of his house and was taking his mid-day meal. All the accused persons, armed with spears, knives and sticks started attacking him. Thota Nagaraju (D-1) tried to run away, but he was chased and surrounded by the accused. According to the prosecution, Rachapalli Bhanuraju (A1) and Rachapalli Abbulu (A2) caused various injuries on the body of Thota Nagaraju (D-1). PW2, the wife of Thota Nagaraju (D-1), tried to intervene in order to rescue her husband, but she was also beaten up by Rachapalli Abbulu (A2). After causing injuries to Thota Nagaraju (D-1), the accused went to the house of his brother Thota Abbayi (D-2). On seeing the group of persons, Thota Abbayi (D-2) ran away to a nearby public lavatory, but all the accused persons managed to drag him out of the lavatory and caused multiple injuries on his person. The accused persons also caused injuries to the wife of Thota Abbayi (D-2).

3. At about 1.30 P.M., the Sub-Inspector of Police, Peddampuram, [PW-19] received information regarding the incident. He immediately rushed to the place of occurrence and found the two dead bodies lying there. He recorded Ex. P-1 statement made by PW-1 and returned to the police station and registered Crime No. 210/1984 at Peddampuram Police Station. PW-20, the Inspector of Police, Peddampuram, who was on election duty, reached the place of incident at 3.30 PM and took over the investigation. He inspected the scene of offence and prepared a sketch of the same. He held inquest over the dead body of the two deceased persons. PW-2 and PW-3, who were injured, were examined by Assistant Surgeon attached to Peddampuram Govt. Hospital and issued Ex. P-8 & P-9 wound certificates. PW-15 Assistant Surgeon conducted the post mortem examination on the body of deceased Thota Nagaraju, while PW-16 conducted the post-mortem examination on the body of deceased Thota Abbayi. Multiple ante-mortem injuries were found on both the dead bodies.

4. On 9.1.1985, accused A2 to A6, A11, A15, A16 & A18 were arrested. Later, the other accused were also arrested. The first accused, however, was reported absconding. Charge sheet was filed against all the accused. On the prosecution side PW1 to PW20 were examined and on the defence side DW1 to DW3 were examined. Out of the prosecution witnesses, PW1 to PW10 were examined as eye witnesses.

5. PW-1, Itha Merry, is the daughter of deceased Thota Nagaraju. She deposed that A-1, A-2, A-6 & A-15 caused injuries on deceased Nagaraju by knife and other weapons. She also deposed that A-2 & A-11 beat her mother, PW-2. PW-2, Thota Appayamma, is the wife of deceased Thota Nagaraju. She also narrated the entire incident and deposed that she had seen A-2, A-6, A-15 and A-3 causing injuries to deceased Thota Nagaraju. Evidence of these two witnesses is further corroborated by PW-5 Bathiya Yohan, PW-6 Nuthalapati China Apparao and PW-7 Thota Daveedu. PW-10 also deposed regarding the entire incident. As regards injuries caused to deceased Thota Abbayi, PW-3 and PW-4, in their depositions, gave details regarding the injuries caused to the deceased. Their evidence also is fully supported by PW-5, PW-6, PW-7 and PW-10.

6. The evidence of the eye witnesses is fully corroborated by the medical evidence that the two deceased persons sustained extensive injuries. The evidence of PW-15, Dr. (Mrs.) Swarnalatha, who conducted the post mortem examination on the body of Thota Nagaraju, shows that D-2 had sustained as many as 21 injuries on his body. Most of these injuries were incised wounds and both bones of the left hand of the deceased were completely cut off at the wrist joints. PW-15 also examined injured PW-2, Thota Appayamma, who had sustained two contusions, one on the right elbow joint and the other on the right back of the chest at the infra scapular region.

7. PW-16, Dr. P. Subbarao, conducted the post mortem examination on the body of deceased Thota Abbayi. He had also sustained as many as 12 injuries on his body and most of the injuries were incised wounds. Injury no. 3 was on the right side of the neck just 2-1/2" below the injury no. 2 and carotid arteries and internal jugular veins were cut.

8. From the extent of injuries sustained by the two deceased persons, it is clear that the ocular version given by the various witnesses is true and correct.

9. There is overwhelming evidence on the prosecution side to show that the appellants came to the place of incident in a group and caused various injuries to deceased Thota Nagaraju and Thota Abbayi. These witnesses were extensively cross-examined, but nothing could be brought out in their evidence to show that they were either not present or that they had not seen the incident. Their evidence also would show that most of the accused were armed with various deadly weapons and that they had come to the scene of occurrence with the purpose to cause the death of the two deceased persons and to cause injuries to others. It is proved beyond doubt that the appellants formed themselves into an unlawful assembly and their common object was clearly discernible from the way in which they caused the death of the two deceased persons.

10. The defence side examined DW-1, a notary public who gave evidence to the effect that PW-1 to PW-10 had visited his office and sworn to affidavits, the contents of which were read out by him to these witnesses and that those affidavits were filed before the Sessions Court. DW-2 was a Municipal Councilor, who claimed to have identified these witnesses before DW-1. DW-3 is a finger print expert who was examined to prove the thumb impression of these witnesses in the various affidavits filed before the court. In these affidavits, PW-1 to PW-10 had stated that they did not see the occurrence. However, when confronted with the affidavits, these witnesses denied them and chose to depose before the court. The practice adopted by the defence side in getting the affidavits of these witnesses in advance is to be deprecated. That, in a way, amounts to an attempt aimed at dissuading the witnesses from speaking truth before the court. The trial Judge as well as the High Court rightly rejected the defence contention. These witnesses appear to be illiterate persons. Their so-called affidavits must have been either cooked-up or obtained by playing a fraud on them. This type of interference in the criminal justice shall not be encouraged and is to be viewed seriously.

11. There was some semblance of doubt regarding the presence of some of the accused at the place of occurrence and those accused were given the benefit of doubt by the Sessions Court. We do not find any reason to interfere with the findings recorded by the Sessions Courts, which were affirmed by the High Court. These appeals are without any merits and are dismissed accordingly. The appellants who are on bail shall surrender to their bail bonds to serve out the remaining sentence.