

SUPREME COURT OF INDIA

G. Laxmanna

Vs.

State of A.P.

CrI.A.No.1045 of 2001

(N. Santosh Hegde and B. P. Singh JJ.)

10.10.2002

JUDGEMENT

B. P. Singh, J.

1. In this appeal by special leave, appellants, 9 in number, have impugned the judgment and order of the High Court of Judicature of Andhra Pradesh at Hyderabad dated 13th December, 2000 in Criminal Appeal No. 806 of 1999.

2. 19 accused persons were put up for trial before the IVth Additional Sessions Judge, Kurnool, who by judgment and order dated 9th April, 1999 found all of them guilty of offences under various provisions of the Indian Penal Code. An appeal was preferred before the High Court by all the 19 convicted persons, out of whom accused Nos. 7 and 11 died during the pendency of the appeal, hence the case as against them stood abated. Of the remaining 17 accused persons, 6 have been acquitted by the High Court. The appellants before us are 9 of the 11 accused persons who have been convicted under various provisions of the Indian Penal Code and sentenced to terms of imprisonment as indicated below. For the sake of convenience they are referred to by reference to their number as accused at the trial. Accused Nos. 2 and 12 have not preferred appeals against their conviction.

3. Accused Nos. 1, 2, 3, 4, 5, 6, 12 and 14 have been found guilty of the offence under S. 302 read with S. 34 of the Indian Penal Code and sentenced to suffer imprisonment for life. Accused Nos. 8, 10 and 16 have been sentenced to five years rigorous imprisonment and to pay a fine of Rupees 1,000/- under S. 326 of the Indian Penal Code.

4. The case of the prosecution is that accused persons belong to the group of A.13 who was charged along with others of the murder of the father of P.W. 1 and his two uncles. Accused A.13 along with others was facing trial for the aforesaid murders. The trial had commenced on 1st February, 1994 and the witnesses were being pressurised to compromise the matter. In view of the pressure exerted by him, P.W. 2, P.W. 4, P.W. 9, the deceased and some other witnesses had been sent to Kurnool about 15 days before the occurrence. They returned to their village only a day before the occurrence, which took place on 21st January, 1994. So far

as the deceased and the witnesses are concerned they belong to one family. Deceased-Janardhana Naidu (for short 'D-1') was the brother of P.W. 1, P.W. 5 and P.W. 11. Their father Balaramdu and two of their uncles were murdered by accused No. 13 and others in the year 1991. P.W. 3 is a grand uncle of these witnesses being the uncle of their father. The sons of P.W. 3 are P.W. 2, P.W. 4 and the deceased-Venkatesu (for short 'D-2').

5. The case of the prosecution is that on the date of occurrence i.e. 21st January, 1994 P.Ws. 1, 2, 3, 4, 5, 11 and D-2 were arranging groundnut stalk in their field. At about 3.00 p.m. D-1 came and joined them. Later on at about 5.00 p.m. D-1 left for his house to drink water accompanied by P.W. 2 and P.W. 3. P.W. 1 followed them. As they were proceeding, all the accused emerged from the side of the house of Pinjari Pedda Dasthagiri. While accused Nos. 9 and 13 were armed with guns, rest carried hunting sickles. They surrounded D-1 and started assaulting him. A.1, A.2 and A.3 assaulted him on his head while A.6 assaulted him on his hand. When D-1 fell down, A-4 injured his knees and A.17 and A.18 also assaulted him. P.W. 2 and P.W. 3 intervened but they were also surrounded and assaulted by A.7, A.8, A.10 and A.16. Seeing the assault on D.1, P.W. 2 and P.W. 3, P.W. 1 got scared and ran towards his hayrick yard, chased by the appellants. He and some other witnesses started pelting stones and that is how P.W. 1 managed to save himself from the assailants. A.9 and A.13, who were carrying guns, opened fire while A.5, A.11, A.12, A.14 and A.15 trespassed into their hayrick yard. A.5 and A.7 assaulted D-2 who fell down whereafter A.12, A.14 and A.15 further assaulted him. The witnesses ran helter-skelter and P.W. 1 managed to escape, though he was chased up to some distance by assailants. After the assailants went away, P.W. 1 returned to his field and found D-1 and D-2 dead while P.W. 2 and P.W. 3 were lying injured. From the record, it appears that at about 5.10 p.m. P.W. 14, Sub-Inspector of Police of Devanakonda Police Station got a telephone message from a constable stationed in the village about the occurrence. Similar information was given to Circle Inspector of Police, Pattikonda, P.W. 15, who reached the place of occurrence at about 5.30 p.m. along with other police officers. When he reached the village, he found that Sub-Inspector, P.W. 14 had already arrived and he was attempting to extinguish the fire which had engulfed a few houses in the village. P.W. 15 proceeded to the place where the dead bodies were lying. He found P.W. 2 and P.W. 3 lying unconscious with bleeding injuries, who were sent by him to the hospital for medical aid. He then went to the place where the dead body of D-2 was lying. He recorded the statement of P.W. 1 at 6.30 p.m. and sent it to the police station for registration of the formal First Information Report. The formal First Information Report was recorded by P.W. 10 at 9.00 p.m. and copies sent to all concerned. P.W. 15 held inquest on the dead bodies of D-1 and D-2, witnessed by P.W. 9. The statements of P.Ws. 1, 4, 5 and 11 were recorded by him. On 22nd January, 1994 P.W. 7 held autopsy over the dead bodies of D-1 and D-2 and his reports are Exts. P.4 and P.5. P.W. 2 and P.W. 3, who were injured and lying in the hospital were examined by P.W. 15 on 27th January, 1994. They were earlier examined by the doctor, P.W. 8 on their arrival at the hospital.

6. The trial Court as well as the High Court considered the evidence on record and on a consideration of the evidence of the doctor, P.W. 7 and the post-mortem reports Exts. P.4 and P.5 reached the conclusion that D-1 and D-2 met homicidal deaths.

7. We have examined the material on record and we are satisfied that the trial Court and the High Court have correctly recorded a finding that the deceased met homicidal deaths. This was not even challenged before us by the appellants. The Courts below have concurrently held that P.Ws. 2 and 3 were also injured in the same occurrence.

8. The prosecution examined as many as 6 eye-witnesses, namely P.Ws. 1, 2, 3, 4, 5 and 11. P.W. 1 is the first informant while P.Ws. 2 and 3 are injured witnesses. They have fully supported the case of the prosecution and there is hardly anything in their testimony to discredit them. In fact the trial Court found it safe to rely upon the testimony of these witnesses in recording conviction against the appellants. At the outset we may observe that though a charge was framed against some of the accused persons under Ss. 302/149 and 307/149, I.P.C., they have been acquitted of those charges by the trial Court itself. In fact the trial Court as well as the High Court have given to the accused the utmost benefit that could be given to them in the facts and circumstances of the case because having regard to the facts proved at the trial, all the accused could have been found guilty of the offence under Ss. 302/149, I.P.C. The approach of the High Court has been very cautious, and it has convicted only those persons against whom there is direct evidence of overt act so as to exclude any possibility of false implication. In fact the High Court gave the benefit of doubt to some of the accused persons on the slightest inconsistency in the evidence of the witnesses. That is why A.17 and 18 whose presence with guns was mentioned in the FIR have been acquitted since it was not stated that they had fired their guns.

9. The High Court has mainly relied upon the testimony of P.Ws. 1, 2 and 3 and has found their evidence to be reliable and convincing. We have noticed that the testimony of P.Ws. 1, 2 and 3 is fully corroborated by the testimony of P.Ws. 4, 5 and 11, though the High Court has not discussed their evidence. Since the High Court found the evidence of P.Ws. 1, 2 and 3 to be sufficient to prove the case of the prosecution, it did not consider it necessary to discuss the evidence of the other eye-witnesses. With the assistance of counsel appearing for the parties we have gone through the evidence on record but we find no reason to take a view different from the view taken by the High Court. P.Ws. 2 and 3 are injured witnesses. P.W. 1 is the first informant who lodged the report immediately after the occurrence. There was no scope for fabricating a false case having regard to promptitude with which the First Information Report was lodged. The witnesses are natural witnesses as they all belong to the same family and were working together in the same field. The accused had a strong motive for the commission of the offence because it is not disputed that accused No. 13 and others were being tried for the murder of the father and two uncles of P.W. 1. The case of the prosecution is that they were pressurising the members of the prosecution party to settle the dispute out of Court while the prosecution witnesses were not willing to do so having regard to the fact that three of their family members had been murdered.

10. The trial Court as well as the High Court, after detailed consideration of the evidence on record, have recorded the conviction of the appellants and we find no good reason to disturb the concurrent findings of fact recorded by the courts below so far the appellants are concerned. The mere fact that the prosecution witnesses are related to each other does not impress us, having regard to their natural presence and the consistency in their evidence.

After all the deceased were also related to the witnesses as they belonged to the same family. Similarly many of the accused are also inter-related. Having considered all aspects of the matter, we find no merit in this appeal and the same is accordingly dismissed.

11. By order dated 15th October, 2001 appellants 6, 7 and 9 herein were released on bail. Their bail bonds are cancelled and they are directed to surrender forthwith to serve out the remaining part of their sentence.

Appeal dismissed.