SUPREME COURT OF INDIA

Manthuri Laxmi Narsaiah

Vs.

State of A.P.

Crl.A.No.2111-2112 of 2008

(Harjit Singh Bedi and Gyan Sudha Misra,JJ.,)

18.08.2011

ORDER

1. The deceased, Venkatram Reddy, owned some agricultural land bearing Survey No. 678 in Village Pedched. The paddy crop that had been sown on this land had been harvested four or five days earlier to the date of the incident and the deceased would sleep in the fields at night to keep a watch on the paddy and the deceased as per routine, went to the fields on the evening of the 1st of May, 2004. At about 6:30A.M. the next morning P.W. 6, the servant of the family, informed the family members that Venkatram Reddy had been murdered and the injuries had been caused with an axe. P.W. 1, the son of the deceased, rushed to the field and found that his father was lying dead on which he registered a First Information Report against unknown persons. During the course of the investigation it transpired that P.W. 2, another son of the deceased, had seen the wife of A1 requesting the deceased to go to the fields the next morning as the paddy had to be thrashed and that P.W. 9 had seen A1, his wife and son returning on a bullock cart at mid night on the 1st of April, 2004 and when he had questioned them they told him that they were going to the field to thrash the paddy crop. P.W. 9 also stated that he had also asked A9 to supply water from his cart for the marriage of his daughter which was scheduled to take place the next morning. The police also recorded the statement of P.W. 10 to whom the two accused had made an extra judicial confession about 20/25 days after the murder and had sought his help in dealing with the police and that he had advised them to surrender to custody. The accused were, accordingly, arrested soon after the extra-judicial confessions had been made and on the statements made by both of them, the weapons of offence i.e. axe etc. were recovered in the presence of P.W. 12. The trial court relying on the aforesaid evidence convicted the two accused under Section 302/34 of the Indian Penal Code and sentenced them to imprisonment for life. In appeal, the High Court observed that there were four piece of evidences Crl.A. Nos. 2111-2112 of 2008 against the appellant viz:

> "a) A-1 cultivated the lands of the deceased on crop sharing basis, there arose differences in the context of the demand made by A1 to give the other lands of the deceased also on lease to him;

b) PW-9 had seen A-1, his wife and son coming on a bullock cart towards the same field, late in the night on the date of occurrence.

c) That A-1 and A-2 have confessed before PW-11 that they have committed the murder of Venkatram Reddy and

d) the recovery of material objects at the instance of A-1 and A-2 was evidenced by PW-12." and on an analysis of the evidence concluded that no case was made out against A2 and as such his appeal was allowed whereas the appeal of A1 was dismissed. It is in this situation that the matter is before us after the grant of special leave.

2. We have heard Mr. Niroop, the learned counsel for the appellant, and Mr. R. Sundaravardhan, the learned Senior Counsel for the State of Andhra Pradesh. We notice that there are four circumstances which the High Court has made out against the appellant. We deal with them ad seriatim:

"(a) It is the prosecution story that A1 had cultivated the land of the deceased on crop sharing basis for some time and that the two had later fallen out on account Crl.A. Nos. 2111-2112 of 2008 of the refusal of the deceased to give some more land to A1 for cultivation purposes. We see from the record that the facts relating to the difference of opinion between the accused and the deceased did not figure in the statements given by any of the prosecution witnesses given under Section 161 of the Code of Criminal Procedure and was an improvement made during the course of the evidence. In that eventuality, this evidence by itself has virtually no value.

(b) This point has been taken to be the evidence of last seen. This is a wrong perception for the reason that when P.W. 9 had seen A1 and his son returning from the fields late at night, the deceased was not with them. To our mind, therefore, this evidence too is of no importance and merely because the accused had been seen coming from the field in which the murder had apparently been committed could not be taken as evidence of last seen as it is the admitted case that A1 was also cultivating part of the land in which the murder had been committed.

(c) This is the primary evidence which the prosecution has relied upon against the appellant. First of all, we find that the extra-judicial confession was jointly made by the accused to P.W. 10. We have also gone through the evidence of P.W. 10 and find from a reading thereof that he was a convenient witness for the police as he admitted that he had stood bail in a large number of excise cases and that he was running a toddy shop. He also admitted in his cross examination that he was associated in some kind of business with P.W. 1 the first informant and the son of the deceased. In the face of the above, we are of the opinion that the recovery of the axe and other incriminating articles do not constitute a material chain of circumstances against the appellant. It is by now well-settled that in a case relating to circumstantial evidence

the chain of circumstances has to be spelt out by the prosecution and if even one link in the chain is broken the accused must get the benefit thereof. We are of the opinion that the present is in fact a case of no evidence. We, accordingly, allow the appeals, set aside the judgment of the High Court insofar as the appellant is concerned and order his acquittal. He is directed to be released forthwith if not required in connection with any other case."