

**THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM
AND
THE HON'BLE SMT. JUSTICE T. RAJANI**

CRIMINAL APPEAL No.422 OF 2013

J U D G M E N T: (Per the Hon'ble Smt. Justice T.Rajani)

This Appeal is preferred against the judgment of the III Additional District & Sessions Judge (FTC) at Medak in S.C.No. 317 of 2011, dated 27.12.2012 convicting the appellant/accused for the offence punishable under Section 302 of the India Penal Code (IPC) and sentencing him to undergo imprisonment for life and also to pay a fine of Rs.500/-, in default to undergo simple imprisonment for two months.

Briefly, the facts of the case, as reflected in the charge-sheet, are as under:

The accused, who is the father of the complainant, had two wives, one being the mother of the complainant and another by name Smt. Padma. The accused was staying few days with his mother (deceased). He was not doing any work and was addicted to liquor. He used to quarrel with his mother. On 27.09.2010, his father and mother quarrelled during night time and later had dinner and slept in their house. At about 04.00 in the early morning of 28.09.2010, the complainant heard cries of his mother and woke up and saw his father beating his mother. His mother had bleeding injuries. He went to rescue his mother, but his father pushed him away, stating that on that day, he intended to kill his mother and as such, he beat her on her head with a pestle, as a result of which, the deceased died on the spot and his father ran away. With the above facts, he lodged a report on 28.09.2010. Based on the said report, a case was registered in Crime No.60 of

2010 for the offence punishable under Section 302 IPC. After due investigation, charge-sheet was laid against the accused for the same offence. The case was taken on file by the Judicial Magistrate of I Class, Medak and as it is triable by the Court of Session exclusively, the same was committed to the Sessions Division, Medak by virtue of the orders in P.R.C.No.34 of 2011. The Sessions Judge, in turn, made over the case to the III Additional District & Sessions Judge at Medak, who after due trial, passed the impugned judgment.

The said judgment is assailed on the grounds that the lower Court failed to see that P.W.1 is a school-going boy and he stated that he was sleeping in a separate room and that the incident occurred at 04.00 A.M. and that the said witness does not specify as to why he woke up at that time and that the same would throw a doubt on the case of the prosecution; the evidence of P.W.2 and that of P.W.3 is interested; the Court failed to see that there is no evidence that the accused married another woman as a second wife and that he is living with her at Nizamabad; the lower Court ought to have seen that P.Ws.4 and 5, who are the village elders, were also not directed to P.Ws.1 and 2 about the character of the accused, whether he is married to another woman or not.

Heard the arguments of the counsel for the appellant and the Public Prosecutor.

The counsel for the appellant contends that the evidence is not adequate enough to hold that the accused committed the offence, while the Public Prosecutor submits that the evidence proving the guilt of the accused, is ample.

Now the points that come up for determination by us are:

- 1) *Whether the evidence of the prosecution witnesses proves the guilt of the accused beyond all reasonable doubt and whether the judgment of the lower Court is sustainable.*
- 2) *To what relief.*

POINT No.1: The report given by P.W.1 can be looked into in the foremost. The report dated 28.09.2010 is to the effect that the accused, who is the father of the complainant, had a second wife. His mother is the first wife. His father has been residing with both the wives, by sharing days with each of them. He was not doing any work, addicted to liquor and was always quarrelling with his mother. On 27.09.2010, he quarrelled over domestic matters. After that they had meals and slept in the house. The complainant's mother and father slept in a room. At about 04.00 A.M., on hearing the weeping of his mother, he woke up and found that his father was beating his mother and that there was bleeding. He intervened and tried to separate them. The accused expressed that he would kill the deceased and he pushed him aside and took the pestle and beat his mother on her head, due to which, she sustained severe bleeding injury and fell down and died on the spot. The evidence of P.W.1 shows that he stuck to his version which he put-forth in the report and absolutely, the evidence is not affected by any incredibility. The cross-examination of P.W.1 does not elicit any fact, which would throw any doubt on the credibility of his evidence. It only shows that his house is surrounded by other houses. A further clarification, that by the time he woke up, he saw the accused holding a pestle, came up in the cross-examination. One fact,

which was elicited, is that the accused and the deceased were inside the house when he woke up and the deceased fell down inside the house. The reason for his waking up at that odd hour of the day is very well-stated in his chief-examination itself, wherein he stated that he heard the cries of her mother and woke up. Hence, the contention of the counsel for the appellant that P.W.1 did not explain as to why he woke up at that point of time, is completely baseless.

P.W.2 is the father of the deceased. According to his evidence, the accused was brought as illetam son-in-law to his house. Accused used to quarrel with the deceased regularly and later, he married another woman. He used to suspect the character of the deceased. Panchayat was held two or three times, in the presence of the Sarpanch Sri Narender Reddy (L.W.8) and Sri Baga Goud (L.W.9). The accused was advised by them to look-after the deceased properly. In the early morning, on the date of incident, he came to know from the villagers that the deceased died, on which he went and saw the dead body. In the cross-examination, he explained that P.W.1 was staying with the deceased in her house, while L.W.4 Naveen, the second son of the deceased was staying with them.

P.W.3 renders strong support to the evidence of P.W.1, as he is the witness, who went to the spot on hearing the cries from the house of the deceased at 04.00 A.M. According to him, P.W.1 was calling him from the window. He opened the door, then P.W.1 informed him that his father killed his mother and ran away, by closing the door. It is P.W.3, who opened the door and went inside the house. Though P.W.1 does not speak about the fact of

his calling P.W.3, there is absolutely no reason to disbelieve the evidence of P.W.3 against whom no motives are attributed and proved.

P.Ws.4 and 5 are the witnesses, who support the evidence of P.W.2, with regard to the panchayats that were held. P.W.4 states that the accused married another woman after marrying the deceased and after the said marriage, he used to quarrel with the deceased and panchayat was held in that regard. They advised the accused to look-after the deceased properly. The presence of P.W.5 also, in the said panchayat, is spoken to by P.W.4. Likewise, P.W.5 also speaks about the presence of P.W.4 in the panchayat. P.W.5 corroborates the evidence of P.W.4 with regard to the reason for convening the said panchayats.

P.W.6 is a witness for the scene of offence panchnama conducted by the police. Blood-stained earth was seized from the scene which shows that the incident, as stated by P.W.1, took place at the scene of offence. P.W.7 is a witness for the inquest whose evidence is not much material. P.W.8 is a witness for confession of the accused and based on the confession of the accused, a pestle M.O.1 was recovered from the culvert of China Ghanpur. P.W.9, Civil Assistant Surgeon in Government Hospital, who conducted post-mortem examination on the dead body of the deceased, and who speaks about the injuries present on her body, which include a fracture on left parietal bone and hematoma on the left parietal lobe of brain, both of which would support the evidence of P.W.1 that the accused beat the deceased on her head with a pestle. The evidence of P.W.9 is categorical that the cause of death is 'head injury' and he also stated that the said injury is

possible with a blunt object like M.O.1 pestle. P.W.10 received the report from P.W.1 and registered the case and P.W.11 is the Investigating Officer, who conducted the investigation and filed the charge-sheet. There are absolutely no omissions pointed out in the statements of P.W.1 and the other witnesses and the evidence of P.W.1 remains unshattered by the cross-examination and it continues to inspire confidence, in spite of the witnesses being subjected to lengthy cross-examination. The motive is conclusively proved by the evidence of P.W.2, which is supported by the independent evidence of P.Ws.4 and 5. With the above evidence, there cannot be any reason for us to differ from the verdict, which was arrived at by the lower Court with regard to the guilt of the accused.

POINT No.2: In the result, the Appeal is dismissed.

As a sequel, miscellaneous petitions, if any, pending shall be closed.

CHALLA KODANDA RAM, J

T. RAJANI, J

Date: 31st March, 2018
ksld