

CASE NO.:
Appeal (crl.) 964 of 2005

PETITIONER:
Namala Subba Rao

RESPONDENT:
State of A.P.

DATE OF JUDGMENT: 17/10/2006

BENCH:
G.P. Mathur & A.K. Mathur

JUDGMENT:
J U D G M E N T

A.K. MATHUR, J.

The present appeal is directed against an order passed by the Division Bench of the High Court of Judicature at Andhra Pradesh in Criminal Appeal No. 77 of 2002 whereby the Division Bench has affirmed the conviction of the accused-appellant under Section 302 of the Indian Penal Code (hereinafter to be referred to as "I.P.C.") and sentence of imprisonment for life and a fine of Rs. 1000/-.

Aggrieved against this order, the accused-appellant has preferred the present appeal.

Brief facts giving rise to this appeal are that the accused is the husband of Namala Kannamma (for short deceased). The accused had a daughter by name Namala Venkata Laxmi. He alongwith his deceased wife and daughter was residing in the house situated at 18th Ward, Old Town, Tanuku. He suspected his wife's fidelity because of the illicit intimacy with PW-2 Kokkirigadda Someswara Rao. He asked his daughter PW-6 to keep a watch on the deceased wife. He also communicated to the deceased wife to snap her relationship with PW-2. But his wife did not listen to him. Four or five days prior to the incident i.e. on 12th November, 1996, deceased had left the house of the accused and started residing with PW-2. On 12th November, 1996, the accused sent a word to his deceased wife through PW-3 Velagada Suramma to return home. PW-3 communicated the message to the deceased that her presence was required at her house by her husband. The deceased told PW-3 to inform her husband that she would come sometime later. The reply of the deceased got the accused enraged. He went to the house of PW-2 and on his way he picked MO.2 Baditha from PW-4 Sambhana Satyanarayana, a carpenter. After reaching at the house of the PW-2, the accused dealt blows to the deceased with MO.2 Baditha and killed her. Later on the accused went to PW-1, Atchuyutharama, Rao, an Administrative Officer of that village at 1.45 P.M. and informed him the circumstances under which he has killed his wife. The accused's clothes were stained with blood and he was armed with MO.2 Baditha in his hand. PW-1, an Administrative Officer wrote out a report & obtained the signature as well as the thumb impression of the accused thereon and produced the same as Ex.P-1 before PW-11, A.V.R.P.V. Prasad, Incharge, Police Station, Tanuku. The Sub-Inspector of Police, PW-11 received the statement of the accused alongwith the endorsement of PW-1 thereon and registered a case under Section 302, I.P.C. He seized the blood-stained shirt and blood-stained Baditha from the accused and the same was kept under the cover of Ex. P-19 in the presence of P.W.9, Bhogaraju Subba Rao, P.W.1-

Administrative Officer and other Panch witnesses of the village. Thereafter, PW-12 B.V. Chandra Rao, Inspector of Police, Tadepalligudem Circle, inspected the scene of occurrence and seized two pairs of hawai chappals, broken bangles and found the blood-stained earth. Necessary panchanama of the deceased body was also prepared in presence of the witnesses. After completion of investigation a charge-sheet was filed against the accused under the aforesaid section. The prosecution in support of its case examined 14 witnesses and got the documents marked Ex. P-1 to P-24 and material objects 1 to 11.

On the basis of necessary evidence, the learned Sessions Judge found the accused guilty for the offence under Section 302 IPC and sentenced him to suffer imprisonment for life and to pay a fine of Rs. 1000/-. Aggrieved against the conviction by the trial court, an appeal was preferred by the accused before the High Court and the High Court confirmed the conviction of the accused. Hence, the present appeal.

We have gone through the judgment of learned Sessions Judge as well as the High Court and necessary evidence produced on record. We have also gone through the statement of PW-1, an Administrative Officer who has recorded the extra-judicial confession of the accused and the statement of PW-2 from whose house the dead body of the deceased was recovered. We have also gone through the statement of P.W.4, carpenter from whom the accused has taken the Baditha. We have also gone through the testimony of other witnesses who have seen the accused with blood-stained clothes along with Baditha. These statements make one chain which leads to one conclusion i.e. the guilt of the accused.

Learned counsel for the appellant has strenuously urged before us that the testimony of these witnesses is unreliable and he has criticized the statement of PW-1 being a Police stock witness. P.W.2 is interested witness as he had illegal intimacy with deceased and P.W.4's testimony suffers from contradiction.

After having considered all submissions, we find that the extra judicial confession recorded by PW-1 has ring of truth and the same is corroborated by the recovery of the blood-stained clothes and Baditha with which the accused has attacked the deceased to death. The testimony of PW-2 and PW 4 fully corroborates the extra judicial confession recorded by PW-1, an Administrative Officer. Therefore, there is no manner of doubt that the accused

was the assailant as he was annoyed with his deceased wife because of co-habitation with PW-2.

Learned counsel next submitted that this case is covered under exception 1 to Section 300, IPC as the accused was under grave and sudden provocation of his wife not abiding his direction. We do not think, in the present case, it can be said to be on account of grave and sudden provocation to the accused for dealing his wife in this manner. This cannot be said to be sudden provocation that the wife did not come to the house of the accused on message sent to her. Accused had reasonable time to go to carpenter's shop for picking up Baditha and dealt the deceased with the Baditha. This was not a grave and sudden provocation to give a cause to such fatal injuries to his wife. Therefore, this case cannot cover under the clause of grave and sudden provocation. Hence, the contention of the learned counsel for the accused cannot be sustained and accordingly we reject the same.

Hence, we do not find any merit in this appeal and the same is dismissed.

JUDIS