REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 815 OF 2003

State of A.P. .....Appellant

Versus

V.V. Panduranga Rao .....Respondent

J U D G M E N T

Dr. ARIJIT PASAYAT, J.

1. Challenge in this appeal is to the judgment of a Division Bench of the Andhra Pradesh High Court directing acquittal of the respondent who faced trial for having allegedly committed the murder of his wife Veeranki Bhulaxmi (hereinafter referred to as the 'deceased'). It was the prosecution

case that after committing the murder of his wife, the accused had tried to commit suicide by cutting his throat with knife. He was charged for commission of offences punishable under Sections 302 and 309 of the Indian Penal Code, 1860 (in short the 'IPC'). He was tried for both the offences, but he was sentenced only in respect of offence punishable under Section 302 IPC.

2. Prosecution version, in a nutshell, is as follows:

The accused, the deceased and the prosecution witnesses were the residents of Venkuru village of Vijayawada, Krishna district. The deceased was the wife of the accused. PW-1 was the mother, PWs 2 and 3 were daughters and PW-4 was brother of the deceased. The deceased and PW-2 were attending cooli work and were maintaining the family. They shifted their residence to Venkuru village for their livelihood and were staying in the house of PW-1. On the intervening night of 2/3-3-2000 at about 3.45 a.m. the deceased was sleeping on her cot in their house in Venkuru. The accused hacked her with a knife on her neck and caused her instantaneous death and later he attempted to commit suicide by cutting his throat partially with a knife. PW-1 woke up in the early hours and noticed that the deceased

was lying with bleeding injury on her neck and the knife with blood was in the hands of the accused. Then on seeing PW-1 the accused fled away. A complaint was lodged and it was registered in Cr.No.48 of 2000 of Penamluru police station. Inquest was held over the dead body of the deceased and the same was sent for post mortem examination. PW-8, the Medical Officer conducted autopsy and issued post mortem certificate. The statements of the witnesses were recorded and investigation was undertaken. On completion of investigation charge sheet was filed. As the accused person pleaded innocence trial was held. As noted above, the trial Court placed reliance on the evidence of mother (PW-1) of the deceased and recorded conviction. The High Court found that the evidence of PW-1 on whose evidence the conviction was recorded does not inspire confidence. It was also noted that the report was given to the police officer on telephone as admitted by the brother of the deceased at about 4.00 a.m. The same does not appear to have been recorded in writing and on the other hand the police officer claimed to have come to the place of occurrence and recorded the statement of the mother and converted it into the FIR. The High Court noted that it was not explained by the investigating officer as to why the telephonic message was not reduced into writing.

With reference to the evidence of PW-1 the High Court noted that she stated that her son had informed the police. It is not known as to what the son of PW-1 told the police i.e. whether he told about the details of the crime or that some crime had taken place. If it is former then the message was required to be reduced in writing. The police officer who received the telephonic message is PW-10. According to him he received a telephonic message that some murder had taken place. He categorically admitted that he did not reduce the information into writing. Added to that the High Court noted that the FIR reached the police station after about 7 hours. In the FIR it was noted the injuries which were of very serious nature on the person of the accused were not explained. It did not accept the stand taken that the accused tried to commit suicide.

3. Learned counsel for the appellant-State submitted that the reasons recorded by the High Court to direct acquittal are not sustainable in law. It is stated that the message purported to have been given over telephone was a cryptic one and, therefore, cannot be treated as a FIR.

4. Learned counsel for the respondent supported the judgment of the High Court.

5. Certain facts have been rightly noted by the High Court. Where the information is only one which required the police to move to the place of occurrence and as a matter of fact the detailed statement was recorded after going to the place of occurrence, the said statement is to be treated as FIR. But where some cryptic or anonymous oral message which did not in terms clearly specify a cognizable offence cannot be treated as FIR. The mere fact that the information was the first in point of time does not by itself clothe it with the character of FIR. The matter has to be considered in the background of Sections 154 and 162 of the Code of Criminal Procedure, 1973 (in short the 'Code'). A cryptic telephonic message of a cognizable offence received by the police agency would not constitute a FIR.

6. The object and purpose of giving a telephonic message is not to lodge the FIR but to request the officer incharge of the police station to reach the place of occurrence. On the other hand if the information given on telephone is not cryptic and on the basis of that information the officer in charge is prima facie satisfied about the commission of a cognizable offence and proceeds from the police station after recording such information to investigate such offence then any statement made by any person in respect

of the said offence including details about the participants shall be deemed to be a statement made by a person to the police officer in the course of investigation covered by Section 162 of Code. That statement cannot be treated as FIR. To put it differently any telephonic information about the commission of cognizable offence irrespective of the nature of details of such information cannot be treated as FIR. If in the instant case PW-6 proceeded on the basis of what has been told by PW-1 to him about the murder of the deceased it was but natural that PW-1 would have told him who the author of the crime was. That is not the case of the prosecution. There has been lots of improvements in the evidence of PW-1 i.e. what she had made during investigation when compared with that recorded in Court.

7. During investigation PW-1 had not stated that he had seen the accused standing near the dead body of the deceased or that on hearing her cries her son Venkanna who has not been examined came there and informed the incident to the police by phone. She had also not stated that the accused had told her that he had cut the throat of the deceased with a knife which is available in the house. Interestingly, there was no effort made to match the blood group of the deceased with the blood found on the M.O.1. If the

aforesaid aspects are considered, the inevitable conclusion is that the appeal is without merit, deserves dismissal which we direct.

…….J.
(Dr. ARIJIT PASAYAT)

…….J.
(ASOK KUMAR GANGULY)

New Delhi,
May 04, 2009