

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 263 OF 2008

MUDUSU SAMRAJYAM .. APPELLANT(S)

vs.

STATE OF ANDHRA PRADESH .. RESPONDENT(S)

ORDER



The deceased Mudusu Bhadramma was the first wife of Mudusu Sura Reddi. About 24 years earlier on account of a dispute between the couple, Sura Reddi had deserted her and started living with the appellant, Samrajyam as a second wife. The relations between the first and second wife were, as expected, strained. As per the prosecution story, on the night of 25th October, 1998 Sura Reddi had beaten the deceased and at about 8.30 on the next day when the deceased was taking her clothes out

of the cupboard, the appellant herein poured kerosene oil on her body whereafter both the accused set her on fire. On hearing the cry of the deceased, Sura Reddi aforesaid and the neighbours who had been attracted to the place put out the fire and shifted her to the Government Hospital where her statement was recorded by PW.16 Head Constable at 10.15 a.m. and on its basis the FIR was duly registered. The attending Doctor also sent a message to the police station and the police arranged for a Magistrate to record the dying declaration of the deceased.



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The dying declaration was recorded on the same day by PW.19 M. Rama Devi. In this statement, as well, the deceased named the appellant herein as the perpetrator of the crime. The injured died on 26th of October, 1998,

and the dead body was subjected to a post-mortem examination on the afternoon of the 27th October, 1998. The Doctor found 70-80% second degree ante-mortem burn injuries from the neck to the knees and opined that the cause of death was shock due to ante-mortem burn injuries. On the completion of the investigation Sura Reddi aforesaid and the appellant Samrajyam were brought to trial. During the course of trial most of the prosecution witnesses including the parents of the deceased PWs'.6 and 7 did not support the prosecution and were declared hostile. The trial Court,



however, relying on the two dying declarations acquitted Sura Reddi but convicted and sentenced the appellant herein for an offence punishable under Sec.302 IPC and to a sentence of life imprisonment and a fine of Rs.10,000/-, in default, to undergo simple imprisonment for one year.

The appeal filed by the appellant before the High Court was dismissed. The present appeal is before us by way of special leave.

Ms. T.Anamika, the learned counsel for the appellant has pointed out that the entire prosecution story would rest on the two dying

declarations, one recorded by the Head

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Constable and other by the Magistrate and if a doubt was created as to their veracity, the entire prosecution story would fail. She has pointed out that there were huge improvements in the second dying declaration



recorded by the Magistrate vis-a-vis the first one and this by itself caused suspicion warranting the rejection of both the dying declarations. She has also pleaded that in view of the medical evidence on record including the post mortem report, it was apparent that the injured had not been in a fit condition to give her statements.

The learned counsel for the State Ms. Altaf Fathima has, however, supported the judgment of the courts below.

We agree with the learned counsel for the appellant that the

entire case would hinge on the two dying declarations. We find that there are indeed substantial improvements and changes with respect to the role assigned to the appellant for the commission of the crime, but both the dying declarations have a common content, when it comes to the fact that it was the appellant who had poured the kerosene oil on the deceased and had set her on fire. To our mind, the improvements in the second dying declaration such as a narration of events prior to the actual crime or the history as to what had happened over the years were not relevant to the



main incident.

It has also been submitted by the learned counsel for the appellant that the medical evidence revealed that the injured was not in a position to have made the statements to the Head Constable and to the Magistrate. She has taken us through the statement of the attending Doctor PW.15 who had treated the injured when she was in hospital prior to her death. We find, however, that the Doctor, did state that she was in a position to give her statement. Significantly the Doctor was not even cross-examined on this aspect. We have, therefore, not the slightest



hesitation in accepting as true, both the dying declarations.

We accordingly dismiss the appeal.

.....J.
(HARJIT SINGH BEDI)

(J.M. PANCHAL)

.....J.

New Delhi,
July 29, 2009.

SUPREME COURT OF INDIA



JUDGMENT