

CASE NO.:
Appeal (crl.) 391 of 2001

PETITIONER:
PODAPATI MALAKONDAIAH

Vs.

RESPONDENT:
STATE OF ANDHRA PRADESH

DATE OF JUDGMENT: 25/07/2002

BENCH:
R.C. LAHOTI, RIJESH KUMAR.

JUDGMENT:

R.C. Lahoti, J.

The accused-appellant has been held guilty of an offence punishable under Section 302 IPC and sentenced to imprisonment for life and also to pay a fine of Rs.2000/- and in default to undergo simple imprisonment for six months by the Trial Court. The conviction and sentence have been maintained by the High Court. The accused has filed this appeal by special leave.

The charge found proved against the accused-appellant is of causing the death of one Pedapati Basavaiah on 11.9.1993 at 3.30 p.m. in village Kondamudupalem.

The deceased was the uncle of the accused. There are four eye-witnesses to the incident. PW1, an eye-witness, is brother-in-law of the deceased. PW2, PW3 and PW7, the three other eye-witnesses are independent eye-witnesses being villagers having their land in the vicinity of the scene of occurrence and not related to either the accused or the deceased. The deceased had executed a deed of settlement in favour of the accused in respect of certain property belonging to the deceased. Such settlement was not to the liking of PW5, the daughter of the deceased. She had filed a civil suit laying challenge to the validity of the deed of settlement wherein the accused and the deceased were impleaded as parties. This civil litigation had resulted in the relations between the accused and the deceased being strained. It is on account of such strained relationship that the accused on the fateful day inflicted a blow on the left side of the head of the deceased with a heavy stick. The deceased fell down and was then dragged by the accused. Thereafter also the accused caused some more injuries on the person of the deceased.

From the place of the incident the victim was removed to the village and taken to PW12, a private medical practitioner who gave first-aid to the injured and advised him to be taken to government hospital. He also sent an intimation to the police station on receipt whereof PW16, the Assistant Sub-Inspector of Police proceeded to the government hospital and recorded the statement of PW1 which was registered as FIR, Exhibit P1. An offence under Sections 324 and 307 of IPC was registered and

investigation commenced. On 12.9.1993, PW1 sent an information to the police station that the injured had died whereupon the offence was converted into one under Section 302 IPC.

There is overwhelming evidence of the accused having caused injuries including the fatal one on the person of the deceased. PW1 is the brother-in-law of the deceased. He is related to the deceased and the accused both. No reason has been assigned why he would tell any lie to falsely implicate the accused and save the real culprit if anyone else than the accused was responsible for the death of deceased. So also PW2 and PW7, the two independent eye-witnesses have fully corroborated the version of PW1. We have carefully perused the statements of the three eye-witnesses with the help of the learned counsel for the appellant. We do not find the ocular evidence suffering from any infirmity so as to be doubted in any manner whatsoever. Autopsy on the dead body of the victim was performed by the doctor, PW13 at the government hospital, Kandukar on receipt of requisition in that regard from police. The post-mortem revealed a lacerated wound over left parietal area of scalp just behind the front to parietal line 5 cm lower to the mid-line of 2 cm x cm x scalp deep. On internal examination, this external injury was found to be accompanied by big haematoma present underneath the contusion. 11th and 12th ribs on the right side were fractured at mid scapular line. Left parietal bone too had a fracture of 10 cm in length. The fracture extended upto posterior part of temporal bone. This injury was in the opinion of the doctor sufficient to cause death in the ordinary course of nature.

Apart from the abovesaid injuries there were three other injuries, namely, (i) an abrasion over the posterior aspect of left fore arm of 15 cm x 1 cm; (ii) a lacerated wound over the left leg anterior aspect lower 1/3rd, 2 x 1/4th x 1/8th cm.; (iii) a contusion over the right penal area of back 10 x 6 cm.

The injuries found in the post-mortem examination support the version of the eye-witnesses. The medical evidence also proves the act of the accused falling within the meaning of murder punishable under Section 302 IPC.

The learned counsel for the appellant submitted that in the statements of the eye-witnesses there are contradictions about the exact distance wherefrom the witnesses saw the incident. The distance has been stated by witnesses differently to be 30 yards, 40 yards and 100 yards. Suffice it to observe that each one of the witnesses has given his own estimate of the distance without having actually measured the same. The witnesses are villagers and cannot be expected to have a clear or definite assessment of distance. In their cross-examination nothing has been brought out to hold that they or any of them had not actually seen this incident and was drawing upon imagination without having actually witnessed the incident. The three eye-witnesses have been believed by the Trial Court and the High Court and we find no reason to doubt the veracity of the testimony of any one of them.

The appeal is held devoid of any merit and liable to be dismissed. The conviction of the accused and the sentence passed thereon are maintained.

JUDIS