

CASE NO.:
Appeal (crl.) 403 of 2004

PETITIONER:
Gonchi Rajashekhar Reddy, etc

RESPONDENT:
State of A.P. & Ors

DATE OF JUDGMENT: 03/04/2006

BENCH:
K.G. Balakrishnan & Arun Kumar

JUDGMENT:
J U D G M E N T

(With Criminal Appeal No. 491 of 2004)
K.G. Balakrishnan, J.

Twenty eight accused were tried by the Additional Sessions Judge, Hindupur for various offences and the Sessions Judge convicted A-1 to A-7, A-9 to A-14, A-16 and A-21 to A-23 for the offence punishable under Section 302 read with Section 149 IPC and sentenced them to suffer imprisonment for life. However, A-8, A-15, A-17 to A-20, A-24 to A-28 were acquitted. The second accused contended to be a juvenile at the time of commission of the crime and filed a separate appeal before the High Court. His conviction and sentence was stayed and the matter was remitted for fresh trial.

The High Court, in an appeal preferred by the convict-accused confirmed the conviction and sentence entered by the Sessions Court. They have filed the two instant appeals before this Court.

Brief facts of the case giving rise to these appeals are thus. There were two political groups in a small village by name Susankota. One group was under the leadership of Narasimha Reddy who had at some time been the Village Administrative Officer. The other political faction was under Narasimha Reddy alias Appaiah. The appellants in this case are the followers of Appaiah. The prosecution case was that on 10-12-1997 PW-1 Ramalakshamma and PW-2 Sreelatha, wife and daughter of deceased Sanjeeva Reddy were sleeping on the ground floor of their house. While PW-4 is the elder brother, PW-6 and PW-7 are the children of deceased Narsimha Reddi. On the date of the incident i.e. 10-12-1997, at about 2.30 AM, PW-1 to PW-3 heard some noise outside their house. They woke up and saw A-1 to A-9 and other accused trespassing into their house by breaking open the doors. They dragged deceased Sanjeeva Reddy into the hall and then A-1, A-2, A-6 and A-4 caused various injuries to him. It is also alleged that A-1 drenched a piece of 'banian' (undervest) with kerosene, lit the same and threw it on the body of Sanjeeva Reddy, who died instantaneously. The accused who had trespassed into the house, also caused damage to the household articles.

PW-6 and PW-7 who are the children of deceased

Narsimha Reddy deposed that on hearing the noise outside their house, they opened the front door of the house and saw their father deceased Narsimha Reddy running to his bedroom and closing the door. However, the accused persons broke open the door of the room and killed Narsimha Reddy. Though PWs 6 and 7 tried to intervene, they were attacked by A-1, A-3, A-5, A-6, A-13 and A-21. Deceased Narasimha Reddy was attacked by all the accused persons and he died on the spot. There is also an allegation that after causing these two murders, the accused went to the house of PW-8 and committed mischief in his house and later the accused went to the houses of PWs-11, 12 and 14 and caused damage to the household articles. It is alleged that earlier on the same day, leader of the Appaiah group had been killed on the outskirts of Susankota village. The news of this murder spread quickly and according to the prosecution the accused persons, who belonged to his group, unleashed a reign of attacks on the opposite group and caused the death of Sanjeeva Reddy and Narasimha Reddy. Previously also there were some criminal assaults by the rival groups against each other and cases are said to have been pending before First Class Judicial Magistrate, Hindupur. Proceedings under Section 107 of the Cr. P.C. were said to have been pending before the Sub-Judicial Magistrate, Penukonda. According to prosecution when Appaiah was returning to the village alongwith one Nanjireddy (A-19), they were way-laid and attacked. Appaiah died on the spot but Nanjireddy escaped unhurt and he gave the news to his followers whereafter the present incident happened resulting in the death of the two deceased persons, namely Sanjeeva Reddy and Narsimha Reddy.

To prove the murder of Sanjeeva Reddy, evidence of PWs 1 to 5 has been relied upon. Of course, all the five witnesses are closely related to deceased-Sanjeeva Reddy, being his wife, brother and other close relatives, but in our opinion, the mere fact of their relationship itself is not sufficient to discredit their evidence. They are all residents of the same house and their presence could not have been doubted in any way. It is important to note that all the accused are known to these witnesses and there could not have been any case of mistaken identity. The appellants have no case that PW-1, PW-2 and PW-4 who are respectively the wife, daughter and brother of deceased Sanjeeva Reddy had no acquaintances with the appellants and, therefore, their evidence cannot be relied upon for the purpose of identification. A consistent version has been given by all the eye witnesses about the assault and murder of the deceased Sanjeeva Reddy. Although there is a vague suggestion that these witnesses were not present on the date of the incident as they had gone to attend a marriage in another village which was about 40 kilometers away and that they were brought back after the death of the Sanjeeva Reddy, this suggestion does not appear to be correct as the witnesses have given a detailed version regarding the incidents. PW-1 deposed that she saw 15 persons breaking open the door of the room upstairs and she clearly identified A-1 to A-6, A-9, A-12 to A-14, A-16, A-22 to A-24. They dragged her husband Sanjeeva Reddy out and A-1 hacked him twice with an axe and A-2 attacked him on the forehead and left side of the chest, A-6 caused injuries on the left eye and A-4 inflicted two injuries on the chest. She also deposed that A-16 got a 'banian' (undervest) drenched in kerosene, lit it and threw it on the deceased. PW-1 went downstairs and saw accused A-7, A-8, A-25 to A-28, A-20, A-18 and A-23. At about 6 'o clock in the morning she gave the Exhibit P-1 report and mentioned the names of the assailants in the F.I.

statement. PW-2, the daughter of the deceased was sleeping in the upstairs rooms. She heard a commotion and switched on the lights. She saw the accused entering the room and dragging the deceased Sanjeeva Reddy and causing injuries to him. She had identified the 15 persons who had come upstairs. PW-4, the brother of deceased Sanjeeva Reddy, was sleeping downstairs in the house. On hearing some noises, he switched on the lights and saw the appellants trying to break open the door. They were carrying sticks and other weapons. He deposed that the appellants went upstairs and when he reached there, he saw deceased Sanjeeva Reddy in a pool of blood. This witness had spoken of the various acts committed by the accused while causing death of Sanjeeva Reddy. In view of the consistent version given by these witnesses, the Sessions Judge held that the prosecution had proved the guilt of the accused. The learned Sessions Judge meticulously considered the depositions of all these witnesses.

Counsel for the appellants contended that the whole prosecution story is highly improbable. It was argued that Appaiah had been murdered earlier on that day and it is highly improbable that rather than performing his funeral, his close relatives would mount an attack on the deceased on the very same night. The plea raised by the counsel for the appellant cannot be accepted in view of the direct evidence given by the witnesses. There were two political parties headed by different leaders and the enmity and passion to assault members of the rival group was ever so much that they would retaliate at the earliest point of time.

Coming to the second incident of murder, it is pertinent to note that the house of deceased Narasimha Reddy was near the house of deceased Sanjeeva Reddy. PWs 6 and 7 are the key witnesses examined to prove this incident. PW-6 and PW-7 are the daughter and son respectively of deceased Narasimha Reddy. These witnesses were sleeping in the hall. At about 2.30 AM they heard a commotion outside the house. They woke up and switched on the lights and saw about 30 persons breaking open the iron-grilled door and entering the house. The first accused caused an injury on the right hand and A-2 dealt a blow on the head of PW-7. The accused then broke down the TV set and other household articles. Though these two witnesses pleaded for mercy, the accused did not accede to their pleas and caused various injuries on both of them and then they headed towards the bedroom where the deceased Narasimha Reddy was sleeping. The first and the sixth accused dragged the deceased out of the bedroom. The first accused attacked the deceased with an axe. A-2, A-3 and A-8 also indiscriminately inflicted injuries on the deceased as a result of which he died immediately. The fact that PWs 6 and 7 sustained injuries on their hands is not disputed. PW-7 had sustained injuries on his right hand and also on the right shoulder. These witnesses gave a consistent version regarding the incident.

The medical evidence adduced in this case satisfactorily proved that the two deceased had sustained series of injuries which resulted in their death. The motive for the murder is also spoken of by the witnesses. There was no delay in dispatching the FIR to the Magistrate. All these facts inspire confidence in the prosecution case.

The learned counsel for the appellants contended that because of the political rivalry, it is likely that some of these

appellants must have been falsely implicated to avenge some past enmity. It may be true that in political murders there may be a likelihood of revenge, but if the witnesses have spoken of the incidents consistently and given meticulous evidence corroborated by other items of evidence, the possibility of false implication can be ruled out especially when the witnesses know the assailants and there is no likelihood of any mistaken identity.

The learned Counsel further contended that the evidence of PW-1 regarding the lodging of FIR is highly suspicious and it is quite possible that the original complaint itself was substituted. This argument has been built up on the basis of the evidence of PW-1 that PW-1 in her evidence stated that she informed PW-5 as to what had happened in her house and PW-5 later informed the police and the Sub-Inspector of Police Parigi was suppressing this information. We do not find much force in this contention. PW-1 was elaborately cross-examined and she stated that she gave the entire narration of the incident and based on this, F.I. statement was prepared. Mainly because there is some contradiction in the statement of PW-1, it cannot be said that the FIR was lodged later and that the police had prior information and the same was not recorded. The witnesses had been examined after a long period and it is possible that some mistakes may occur when they give evidence before the Court.

The learned Counsel for the appellant in Criminal Appeal No. 403 of 2004 contended that A-15 was acquitted by the Sessions Court on the ground that PW-5 did not give evidence about the presence of A-15 and only PW-4 gave evidence against A-15 and as there was no corroborative evidence to support the evidence of PW-4, he was acquitted and the same reasoning would apply to A-7. But this plea raised by the appellant in Criminal Appeal No. 433 of 2004 is not fully correct. The presence of this appellant is spoken of by PW-3 and PW-7. There is ample corroboration and his presence is spoken of by more than one witnesses. We do not think that he is entitled to acquittal.

In these appeals, we see no reason to take a view different than the courts below and the conviction and sentence entered against all the appellants are only to be confirmed. The appeals are without any merit and, therefore, dismissed.