

CASE NO.:
Appeal (crl.) 390 of 1994

PETITIONER:
THE PUBLIC PROSECUTOR

Vs.

RESPONDENT:
MAHADI THIRUPATHI REDDY & ORS.

DATE OF JUDGMENT: 04/09/2002

BENCH:
S. RAJENDRA BABU & P. VENKATARAMA REDDI.

JUDGMENT:

J U D G M E N T
RAJENDRA BABU, J. :

On the allegation that the respondents committed the murder of Nadia Venkat Reddi, the trial court on examination of 19 witnesses held that the prosecution case was not established and thus acquitted the accused. The State filed an appeal to the High Court which refused to grant leave to file appeal and dismissed it principally on the basis that there was no trace of the chilly power alleged to have been used for the commission of the offence either on the dead body or near the scene of the occurrence of the incident.

The evidence of PW1, PW2, PW3 and PW4 is clearly to the effect that the accused had caused the death of Nadia Venkat Reddi. It is no doubt true that the trial court adverted to discrepancies in their evidence and found that (1) the medical evidence given in the case is inconsistent with their testimony while PW 1 to PW4 stated that the accused threw chilly power on the face of the deceased, the Doctor who conducted the post mortem examination stated that he did not find chilly powder on the body of the deceased at the time of post mortem; nor such chilly powder could be found at the place of the incident; (2) that, PW-3 did not inform any body at Choutparthy about the incident; (3) that, PW-3 stated that he did not raise any cries but PW-9 stated that he heard certain cries in explanation of the cause for his reaching the spot of incident. Whether these aspects are appropriately explained in the evidence or are of such weight as to overwhelm other evidence when it did point out definitely that on 28.12.1984 deceased Nadia Venkat Reddi came to Choutparthy village; that while the deceased and his brother-in-law Padmanabha Reddi were proceeding to go to Warangal on 28.12.1984 and as they came out of the door, the accused exhorted them and killed the deceased; that the reason of the death of the deceased is the land dispute between A-1 and the deceased. This is not one of those cases in which the High Court should have refused to grant leave to appeal. In this background, we are not satisfied with the manner of disposal of the matter by the High Court. However, it is made clear that we shall not be understood to have expressed any view on the merits and the worth of evidence.

In the result, we set aside the order made by the High Court and restore the appeal. The matter is remitted to the High Court for fresh disposal in accordance with law. Needless to say, that in view of the fact

that this is an old matter, it would be appropriate for the High Court to decide the matter expeditiously.

JUDIS