

CASE NO.:
Appeal (crl.) 227 of 2006

PETITIONER:
YERRAM BHASKAR REDDY & OTHERS

RESPONDENT:
STATE OF A.P.

DATE OF JUDGMENT: 30/01/2008

BENCH:
P.P. NAOLEKAR & LOKESHWAR SINGH PANTA

JUDGMENT:
JUDGMENT
O R D E R

1. The appellants along with accused No. 4 Yerram Badikadi Venkata Reddy were convicted under Section 302 of Indian Penal Code (hereinafter referred to as \023I.P.C.\024) and sentenced to undergo imprisonment for life and to pay a fine of Rs. 1,000/- each (rupees one thousand) and in default to undergo simple imprisonment for six months. Aggrieved by the order of the learned Sessions Judge, Criminal Appeal No. 1412 of 2002 was filed before the High Court. During the pendency of the appeal before the High Court, accused No. 4 Yerram Badikadi Venkata Reddy expired and, therefore, the judgment and order passed by the Sessions Court was confirmed by the High Court against appellant Nos. 1 to 3 and 5 before it. Aggrieved by the impugned judgment passed by the High Court, the present appeal by special leave has been filed in this Court.

2. In nutshell, the case of the prosecution is that on 21.4.1996 at about 5 .30 p.m. Saddala Naganna (since deceased) was beaten by appellant No. 1 and some other

persons. Saddala Naganna lodged a complaint in the police station and a case was registered against appellant No.1 and other persons under Section 324 of I.P.C. and Section 3(1)(X) of SC and ST (POA) Act. Matter was settled between appellant No.1, other accused and Saddala Naganna provided Saddala Naganna (since deceased) was given Rs. 1500/-. Out of Rs. 1500/-, an amount of Rs. 1,000/- was given to Saddala Naganna. Thereafter Saddala Naganna and appellant No.1 used to quarrel over the balance amount of Rs. 500/-. On 20.9.1999 at about 4.p.m., appellants along with accused No. 4 were sitting on the pial near the hotel of P.W. 3 Ediga Ankanna. At that time Saddala Naganna was talking to PWS 1,2 and S. Yerranna in his house. On coming to know that appellant No. 1 was in the hotel of PW 3 Ediga Ankanna, Saddala Naganna went to the hotel and asked appellant No. 1 to pay the balance amount of Rs. 500/-. While Saddala Naganna was proceeding to the hotel, PWS 1,2 and S. Yerranna followed him. There was exchange of words and quarrel between appellant No.1 and Saddala Naganna (since deceased). During the quarrel, appellants took out natu sticks from nearby carts and appellant Nos. 1,2 and 3 gave a blow each on the head of Saddala Naganna with natu sticks and caused fracture of bones on his head. Accused No. 4 Yerram Badikadi Yenkata Reddy beat Naganna on the left temple with stick and

caused fracture of the frontal bone. Appellant No.4 (accused No. 5 Yerram Venkata Reddy) beat Naganna on the right knee with natu stick and caused injury. Due to the beating, Saddala Naganna succumbed to the injuries and died on the spot.

3. PW 8 Dr. G. Thirupalu who conducted post-mortem examination on 21.9.1999 found the following injuries on the dead body of the deceased.

\023External injuries:

1. Lacerated injury present over back of head over middle of occipital region 4 cms x 1 cm x bone deep, edges irregular.
2. Lacerated injury present over back of head over upper part of occipital region 4 cms away injury No. 1 measuring 3 cms x 1 cm x bone deep.
3. Lacerated injury over back of head over lower aspect of occipital region 2 cms below and behind injury No.1 measuring 2.5 cms x 1 cm x bone deep, edges irregular.
4. Contusion with swelling over left frontal region 4 cms x 3 cms.
5. Upper 2 contains and two incisors loosened.
6. Abrasion over anterior aspect of right lower leg 6 cms below right patella 3.5 cms x 2 cms.
7. Lacerated injury over anterior aspect of middle part of right lower leg 4 cms x 1 cm x skin deep, edges irregular.

Internal injuries:

1. Fracture of occipital bone, right and left parietal bones present corresponding to external injuries 1,2 and 3.
2. Fracture of frontal bone present corresponding to external injury No. 4.\024

In his examination-in-chief, PW 8 opined that Saddala Naganna appeared to have died of shock and haemorrhage due to fracture of occipital both parietal, frontal bones and injury to brain. As far as injuries to the leg are concerned, there is no opinion given by PW 8. The injuries caused to the leg are stated to be abrasion over anterior aspect of right lower leg 6 cms below right patella 3.5 cms x 2 cms and lacerated injury over anterior aspect of middle part of right lower leg 4 cms x 1 cm x skin deep, edges irregular.

4. It has come in the evidence of PW 2 Saddala Madduleti that appellant No.1 and Naganna (since deceased) were grappling with each other and during that time, other appellants were simply sitting on the pial. The other appellants then picked up the cart pegs from the bullock cart stationed near the hotel and each accused caused one injury on the body of Naganna (since deceased). From this evidence, it is apparent that there was no common intention of the appellants to cause the death or to cause such other bodily injuries which may cause death and, therefore, each accused was held responsible for his own act.

5. We have heard learned counsel for the parties and scrutinised the evidence of PWs 1 and 2 who were the eye-witnesses and we do not find any good or

sufficient reason to disbelieve their testimony. Therefore, the conviction of appellant-accused No. 1 Yerram Bhaskar Reddy, No. 2 Yeram Thirupathi Reddy and No. 3 Yerram Aravindra Reddy under Section 302 I.P.C. is maintained. However, so far as appellant No. 4 Yerram Venkata Reddy (accused No. 5) is concerned, as there was no common intention to cause the death of Saddala Naganna (since deceased) and appellant No. 4 caused the injuries only on the leg of Saddala Naganna (since deceased), he could not have been convicted under Section 302 I.P.C. At best, appellant No. 4 could have been convicted under Section 323 I.P.C.. We, accordingly, acquit appellant No. 4 under Section 302 I.P.C. and instead convict him under Section 323 I.P.C. and sentence him to undergo R.I. for one year. We have been informed that appellant No. 4 has already undergone the sentence for a period more than that for which he has been convicted and, thus, he shall be set at liberty immediately if he is not required in any other case.

6. Appeal stands disposed of accordingly.