

In Re: Dangeti Satteyya

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Court : Andhra Pradesh

Decided On : Jun-30-1955

Reported in : 1957CriLJ814

Judge : Chandra Reddy and ;Bhimasankaram, JJ.

Appellant : In Re: Dangeti Satteyya

Judgement :

Bhimasankaram, J.

1. This is an appeal against the judgment of the learned Sessions Judge of East Godavari Division at Rajahmundry, convicting the appellant of murder and sentencing him to transportation for life.

2. Briefly stated, the case for the prosecution is that the appellant who belongs to the washerman caste contracted illicit intimacy with the deceased who belonged to the Setti Balija Caste that they were living together as man and wife for about five years in the village of Gummallapeta and that shortly before the occurrence the deceased fell in love with one Kommoju Suryanarayana (P. W. 14) a young man of the Kamsali community and was unfaithful to the appellant who coming to know of the betrayal, reproached her with the same, destroyed the hut they were living in and took her away elsewhere.

A few days later however both the appellant and the deceased are stated to have returned to Gummallapeta village and were living in an unoccupied hut belonging to one Kondela Sathemma. It is stated further that since their return they were no longer washing the clothes of the villagers as they formerly used to do but were idling away their time and living upon the charity of the villagers whom they begged for food. On the evening of the occurrence that is on 17-2-54 at about 8 p.m. there is evidence to show that both the appellant and the deceased, who was known as Mahalakshmi went together and begged for food. P. Ws. 6, 7 and 12 depose that each of them in turn gave some food to the couple that evening.

All that we know thereafter is that the dead body of the deceased was discovered in the hut by the villagers next morning. The police came upon the scene soon afterwards on information given to them by P. W. 5. There were two injuries on the deceased and according to the evidence of P. W. 1 who conducted the post-mortem examination at 8 a.m. on the next day (19-2-1954) it is the second injury that was the fatal one. The appellant is stated to have made himself scarce until he surrendered to the police at Coringa Police Station on the morning of the 22nd, On the 24th, the additional Stationary Sub-Magistrate of Kakinada recorded a statement made by the appellant under Section 164, Cr, P. C. (Ex. P-9).

It is not a confessional but a self-exculpatory statement. According to that statement, the deceased and the appellant were together in the hut at about 10 or 11 p.m. on the fateful night. P. W. 14 is stated to have arrived upon the scene and demanded that the door should be opened. (It is to be noted that the witnesses say that there are no doors to the hut in which the couple were living.)

The appellant thereupon put out the light and went out. The young man went in & shouted 'Where is he?' The deceased is stated to have replied that there was nobody in the hut. A little later the appellant heard the deceased crying out 'Baboyi'. Fearing that Mahalakshmi, the deceased, was being beaten and that he too would be so treated the appellant ran away from that place to return after day break and find Mahalakshmi lying dead. The appellant claims thereupon to have gone and reported the matter to the police.

3. There being no direct evidence in the case, the decision must turn only upon circumstantial evidence. It may be stated however in this connection that the oral evidence of P. Ws. 8, 9 and 10 seeking to establish an extra judicial confessional statement alleged to have been made by the appellant has been rejected by the lower Court as having been given under police pressure. The learned Public Prosecutor, very rightly in our opinion, did not seek to place any reliance upon that evidence. That being so, the only evidence available, is that afforded by the following circumstances. (1) The appellant and the deceased were seen moving together at about 8 p.m. on the day of the occurrence. (2) The appellant had reasons to suspect the faithfulness of the deceased to him. (3) After the occurrence the appellant made himself scarce in the neighbourhood until he surrendered to the police at the Coringa Police Station on the 22nd.

These circumstances are, in our opinion clearly insufficient to sustain a conviction of the accused for the offence of murder. The learned Sessions Judge, however, relied upon Ex. P-9 the statement of the appellant already referred to and also upon Ex. P-20 his statement before the committing Magistrate as establishing the presence of the appellant in the hut at the time of the occurrence and his own consciousness of his guilt. The substance of Ex. P-9 has already been stated above.

4. Exhibit P-20 gives a slightly different version and is as follows:

I do not know anything. That person (the deceased) and myself were on good terms. That night that person (the deceased) was sleeping inside the house. I was sleeping outside on a pial. After midnight I heard a cry from within the hut 'Where is that whore's son? I will cut him.' I got up and ran away into the forest. Being afraid that I would be beaten if I go back to that place, I went away to Kakinada.

5. Referring to Ex. P-9 and Ex. P-20 the learned Sessions Judge says thus:

If what the accused had stated in Ex. P-9 is true, there was really no reason why he should not have raised a hue and cry and also made a report to the proper authorities about this crime. In fact, he would say that he came back to the village on the next morning and found Mahalakshmi dead and then went and informed the

police. This should have been on the morning of the 18th. One wonders how the police would have kept quiet without taking a report from him. Absolutely no reasons are suggested why the police should have ignored what he had told them. That the caste put forward in Ex. P-9 is not entitled to any weight is clear from his own statement before the committing Magistrate. In that statement he did not say about any Kamsali boy coming and asking for the door being opened or his having noticed anybody entering the house. He stated that on that night the woman slept inside and he slept on the pial outside. After midnight, he heard a cry 'Where is that Whore's son? I will cut him'. Immediately he went away into the forest. Another important thing is that in the statement he does not mention about his coming back to the village or seeking the dead body of Mahalakshmi or about his going to Coringa Police Station and making a report to the police. He states that he went away to Kakinada being afraid to go back to the village and he further says that in Kakinada he was caught by the police on the evening of Sunday, which would mean on the evening of the 21st.

As stated already, these statements (Exs, P-9 and P-20) are highly indicative of the consciousness of the accused himself regarding his presence at the time of the occurrence.

Though they are exculpatory in character, so far as the guilt of the accused himself is concerned, I fail to see why an inference should not be drawn of the accused's own consciousness regarding his presence at the time of the occurrence. If that fact can be inferred, in the face of the fact that he did not raise any hue and cry at the time of the occurrence or report the same to the village Munsiff or to the police at the next possible opportunity, it appears to me that it can be fairly inferred that he alone must have committed the crime.

6. We are unable to agree with this reasoning, of the learned Judge. It is clear that he has used parts of both these statements (Exs. P-9 and P-20) in a manner which is altogether unjustified. He failed to realise that it is not open to a Court to dissect such statements accepting them in part and rejecting the rest. As stated by the Supreme Court in *Hanumant Govind v. State of Madhya Pradesh* : 1953 CriLJ129 :

It is settled law that an admission made by a person whether amounting to a confession or not cannot be split up and part of it used against him. An admission must be used either as a whole or not at all.

We are, therefore, persuaded that the learned Sessions Judge was wrong in using Exs. P-9 and P-20 as he did. If the inferences to be drawn from these alleged admissions are to be ruled out, the circumstantial evidence above referred to cannot be considered as we stated above legally sufficient to establish the guilt of the appellant. It follows that the appellant must be acquitted.

7. The appeal is, therefore, allowed and the appellant directed to be set at liberty.

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