In Re: Pullugari Subhanna

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Court : Andhra Pradesh

Decided On : Jul-14-1955

Reported in : 1957CriLJ1222

Judge : Chandra Reddy and ;Satyanarayana Raju, JJ.

Appellant : In Re: Pullugari Subhanna

Advocate for Pet/Ap. : Mr. Srinivasulu

Judgement :

Chandra Reddy, J.

1. The appellant was charged that on 10th July, 1954, he committed an offence punishable under Section 302, Indian Penal Code, by causing the death of one Balipaka Gangadu, and at the same time and place and in the course of the same transaction robbed the aforesaid Gangadu, and thereby committed an offence punishable under Section 392, Indian Penal Code. The Sessions Judge found him guilty of both the offences and sentenced him to transportation for life under Section 302, Indian Penal Code, and to undergo rigorous imprisonment for one year under Section 392, Indian Penal Code, both the sentences to run concurrently.

2. The case for the prosecution may be briefly stated. The deceased, a Harijan, had some hides for sale. On 10th July, 1954, P.W. 1 wanted to buy one for making

a bucket for bailing out water from the well. The deceased offered to sell it for Rs. 14. P. W. 1 accepted the price and asked the deceased to take it to his house the next morning. When, next day, the deceased went to the house of P.W. 1 with the hide, P.W. 1 wanted it for Rs. 13. This price the deceased was not willing to accept, and was going back with the hide. Thereupon, the appellant, who happened to come there, inquired what the matter was and on knowing the details he went and brought back the deceased with the hide and settled the price of the hide at Rs. 13-12-0.

The bargain was accepted by both the parties and the deceased was paid Rs. 13-12-0. The deceased, with this money, proceeded towards his house accompanied by the appellant. On the way, the appellant cut the deceased with a bill-hook and robbed him of Rs. 13-12-0 which the latter had with him at that time. Out of this sum, the appellant spent half anna in purchasing beedis. The deceased walked home with bleeding injuries, and on being questioned told P.W.s. 5, 6 and some others that he was cut by the appellant. Thereupon P.Ws. 6, 7 and some others went to P.W. l's village and returned by about 3 or 3-30 p.m.. with P.W. 1 and the appellant. By that time the deceased lost consciousness. 'While he was being taken to the Village Munsif of Reddipalli, he died near the railway gate, P.W. 11 then went to the Village Munsif and gave a complaint Exhibit P-10 at about 5 o'clock in the evening wherein the prosecution case has been put forward.

The Village Munsif despatched reports based on Exhibit P-10 to the Police at Pullampet which reached them at about 10 p.m. On receipt of this P.W. 13, who was then in charge of the station proceeded to the spot and saw the dead body under a tree and kept a watch over the body. The Circle Inspector went there next morning and started the investigation. The appellant was arrested by the Inspector of Police immediately after the inquest. The appellant then made a statement which led to the recovery of Rs. 13-11-6, 4 beedis and blood-stained cloth from his house. The autopsy held on the body of Gangadu disclosed 8 injuries. According to the doctor, the deceased died of shock and hoemorrhage as a result of these eight injuries. After the completion of the investigation, a charge-sheet was laid against the appellant for the two offences mentioned above.

3. There are no direct witnesses to the occurrence. The case for the prosecution rests mainly on the dying declaration made by the deceased implicating the accused to P.Ws. 5, 6, 10 and 11, on the circumstance that the deceased was found in the company of the appellant shortly before the commission of the offence, and lastly on the recovery of the bill-hook, the sum of Rs. 13-11-6 and blood-stained cloth from the house of the appellant.

4. P.W. 5, the widow of the deceased, deposed that her husband left on the morning of the 10th of July with a hide to be sold to P.W. 1 and he came back by noon with bleeding injuries, and when questioned as to how he received those injuries he said that he sold the hide to P.W. 1 for Rs. 13-12-0, that the price was settled by the appellant and that while he was returning home, the appellant who was following him with a billhook pretending that it was to be used for cutting fuel cut him from behind and took away the money. This was heard by P.Ws. 6, 11 and some others. Thereupon, the ryots went to P. W. 1's village and came back with P.W. 1 and the appellant. By that time, the deceased had lost his power of speech. Then the injured man was put on a cot to be taken to the village Munsif, Reddipalli, but on the way he died. P.W. 11, Venkatigadu, gave the complaint to the Village Munsif. The Circle Inspector examined her the next day.

5. P.Ws. 6, 10 and 11 corroborate this witness. In spite of lengthy cross-examination, nothing has been elicited either from P. Ws. 5, 6, or 11 to suggest that the witnesses perjured themselves against the appellant. So far as P. W. 10 is concerned, his evidence can be disregarded having regard to the fact that he did not state in the committal Court that he was also present when the dying declaration was made by the deceased. But this does not make any difference so far as the result is concerned, as we have got the unimpeachable testimony of P.Ws. 5, 6 and 11 that the deceased did make a statement to them attributing the stab injuries found on his person to the appellant.

6. We have next the evidence of P.W. 4, who went that morning to Kammapalli to purchase some grain. On his way, he saw the appellant and the deceased coming in the opposite direction from his village, the deceased in from and the appellant behind him. The latter had a bill-hook like M.O. 2, The place where he met them

was about half a mile from the village. On that evening P.W. 11 told him that the appellant had cut the deceased. He then said that he too saw the appellant and the deceased going together on that morning. His evidence establishes the circumstance that the deceased was found in the company of the appellant shortly before the occurrence.

7. The evidence regarding the recovery of the articles mentioned above as a result of the statement made by the appellant under Section 27 of the Evidence Act is furnished by P.Ws. 12 and 14. It appears from their evidence that the appellant, after making the statement, took them to his hut, opened the door of the house which was secured by a lock and the key for which was with the appellant, and produced a cloth bundle from the northern eaves of his house which contained some currency notes, rupee coins and change amounting to Rs. 13-11-6. He also produced 4 beedies from the niche of his wall and M.O. 2 from behind the door of his house and the blood-stained cloth (M.O. 6).

8. The learned Sessions Judge, accepting the circumstances, found the appellant guilty under Sections 302 and 392, Indian Penal Code and sentenced him to terms of imprisonment mentioned above.

9. The conviction of the appellant is assailed before us mainly on the ground that having regard to the medical evidence, the evidence of witnesses regarding the dying declaration said to have been made by the deceased should be rejected. It is urged by Mr. Srinivasulu learned Counsel for the appellant, that it was utterly impossible for the deceased to have talked after receiving these injuries, and support for this is sought from the deposition of P.W, 7, the Medical Officer, who conducted the post-mortem on the, body of Gangadu. We think that the medical opinion in this case far from helping the appellant demolishes his contention.

The doctor has categorically stated that in spite of shock and haemorrhage, it is possible for a healthy and strong man to have walked for some time and also talk to others retaining consciousness. The fact that eight injuries of the nature described in the post-mortem certificate Exhibit P-2 were received by the deceased would not have made him incapable of speech as argued by Mr. Srinivasulu. In our opinion, the circumstances relied on by the prosecution are

conclusive and are only explicable on the hypothesis of the guilt of the appellant, and the appellant has been rightly convicted.

10. On the question of sentence, the learned Judge thought that the extreme penalty of law was not called for, because,

the predominant motive for the accused appears to be to rob the deceased of the money and for that purpose he appears to have cut the deceased on the spur of the moment and made him fall down and ran away with the money.

We are surprised at the reasons which induced the learned Judge to give the lesser sentence. According to the Judge, if the motive for the commission of a ghastly murder is to rob a man of money, the extreme penalty of law is not called for, and a lesser sentence will meet the ends of justice. We are unable to appreciate the reasoning of the learned Judge. If an offender is actuated by a base motive in the commission of a murder, that does not go in mitigation of the crime. On the other hand, that is an aggravating circumstance. In our opinion, in such a case, the proper sentence is death. If a cold-blooded murder like this does not deserve death sentence, we cannot conceive of cases where such a sentence could be imposed. Here the murder was carried out deliberately and with ferocity as seen from the nature of the injuries inflicted on the victim. We deprecate the tendency on the part of some of the Sessions Judges to award lesser sentences to culprits who commit gruesome murders on the ground that the commission of murder was necessitated by their desire to commit theft or robbery and it was not a preplanned murder. A copy of the judgment will be sent to the Judge concerned.

11. The conviction and sentence are confirmed and the appeal is dismissed.