

Gurram Sambaiah Vs. State

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Court : Andhra Pradesh

Decided On : Aug-27-2004

Reported in : 2005CriLJ238

Judge : P.S. Narayana, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 307 and 325

Appeal No. : Crl. Appeal No. 1537 of 2000

Appellant : Gurram Sambaiah

Respondent : State

Advocate for Def. : Public Prosecutor

Advocate for Pet/Ap. : T.S.N. Murthy, Adv.

Judgement :

P.S. Narayana, J.

1. Heard Sri T.S.N. Murthy, the learned counsel representing the appellant-accused and the learned Additional Public Prosecutor.

2. The appellant-accused had preferred the present criminal appeal aggrieved by the judgment dated 17-7-2000, in Sessions Case No. 320 of 1999, wherein the learned Additional Assistant Sessions Judge, Guntur, convicted and sentenced the

appellant-accused, for the offence punishable under Section 307, IPC to undergo Rigorous Imprisonment for a period of ten years and to pay a fine of Rs. 1,000/- in default, to undergo Simple Imprisonment for six months.

3. The learned counsel representing the appellant-accused, appointed by legal aid, had taken this Court through the First Information Report and also the evidence of P.W. 1, and would contend that except the evidence of P.W. 1 and the medical evidence, there is no other evidence available on record. The learned counsel also would contended that at any rate, the ingredients of Section 307, IPC definitely are not attracted, and further the learned counsel would contend that the sentence imposed is on higher side.

4. On the contrary, the learned Additional Public Prosecutor would point out that certain injuries are of grievous in nature and the same was pointed out by the Doctor, and in view of the clear evidence of P.W. 1, well supported by the evidence of the Doctor, the ingredients of Section 307, IPC are attracted.

5. Both the counsel placed reliance on certain decisions to substantiate their respective contentions.

Ex. P1 made by P.W. 1 reads as hereunder :

'I am resident of Revendrappu village, Duggirala Mandal. I eke out my livelihood by doing Labour work. About 20 years back my elder sister Balagani Venkateswaramma's daughter Gurram Durgamma's marriage took place with Gurram Sambaiah. They have got two sons and one daughter. The daughter's name is Gurram Swapna. Her age was 15 years. One year back Gurram Swapna attained puberty. From then onwards, the father of Swapna quarrelling with his wife to share his bed with Swapna for the purpose of cohabitation. Today i.e., on 7-2-1998 night after 7.00 p.m. Gurram Sambaiah holding toddy tapping knife in his hand and came to our house. Today morning itself Swapna and her mother Durgamma came to our house. Immediately after Gurram Sambaiah coming to our house, scolded Durgamma in vulgar language and told 'you horlet when I asked you to make Swapna sleep with me, without caring my words you went to your maternal aunt.' So saying he caught hold the hand of Swapna and attempted to

drag her and went away. I obstructed him and told 'Sambaiah what is this act, Swapna is your own daughter. You are telling that you wish to have illicit intimacy with her. This act is contrary to world tradition.' When I told him that I won't agree for that act and obstructed him. Sambaiah hacked upon me and with the knife in his hand and told 'harlet unless you are killed obstruction to me will not be eliminated' so saying when he attempted to hack me with the knife in his hand, then I warded off his attempt by keeping my left hand across, my hand was cut off near upper arm completely and hanging. Even though I raised hue and cry, again Sambaiah hacked twice on the left side of my chest. It was cut off severely. I fell down on the ground by raising hue and cry with heavy bleeding. When Sambaiah was hacking me Gurram Durgamma, Ponnuru Koteswaramma, Gurram Swapna, and some others when warded off him, Sambaiah pushed all of them and fled away. Gurram Durgamma lifted me when I was fell down on the ground, when my left hand was cut off and hanging and admitted me in the Tenali Government Hospital. There, doctor treated me. When Police personnel enquired me, I told to them the facts which were happened to me by way of statement. When read over and heard it is correct.'

6. The Sub-Inspector of Police, Duggirala, in Crime No. 21 of 1998 of Duggirala Police Station, filed the charge-sheet against the accused under Section 307, IPC, and the version of the prosecution in short is as hereunder :

The accused is a resident of Revendrapadu village, Duggirala Mandalam. The offence took place at Revendrapadu. Accused is originally native of Achthuthapuram village of Nizampatnam Mandal. Two years prior to the offence, they came to Revendrapadu and are residing and that the accused is having two sons and one daughter, and her name is Swapna, aged about 15 years. She attained her puberty. Addanki Lakshmikanthamma L.W. 1 is the maternal aunt of Gurram Durgamma L.W. 2. Accused used to pick up quarrel with his wife Gurram Durgamma L.W. 2, pressing her to allow him to have sexual relationship with Gurram Swapna L.W. 3, their own daughter, and Gurram Durgamma L.W. 2, refusing the same. On 7-2-1998 morning he went to the house of Addanki Lakshmi Kanthamma L.W. 1, abused Durgamma L.W. 2 and forcibly taking away Gurram Swapna L.W. 3, from the house of Lakshmi Kanthamma, and when they reached

near the house of Ponnuru Koteswaramma L.W. 4, Lakshmikanthamma and Durgamma followed the accused, and they requested the accused not to spoil her, and on that the accused grew wild pounced upon Lakshmikanthamma L.W. 1, and uttered as 'LANJA NINNU CHAMPITHE GANUKA, NAAKU ADDAMU POTHDDI' and so saying the accused hacked on her left hand with tappers knife and on her left breast and on left back with the result Lakshmikanthamma L.W. 1 sustained multiple cut injuries. This was witnessed by Gurram Durgamma, Gurram Swapna, Ponnuru Koteswaramma, Tadichettu Raghavulu, and Kagga Pamulu L.Ws. 2 to 6, when Gurram Durgamma and Gurram Swapna L.Ws. 2 and 3, came to the rescue of Lakshmikanthamma, accused pushed them aside and went away. Durgamma shifted the injured to Area Hospital, Tenali for treatment, and got her admitted. Dr. G. Hasanthi L.W. 9, sent an intimation to Station House Officer, Tenali I Town Police Station and Head Constable of Tenali I Town Police Station visited Area Hospital, Tenali and recorded the statement of the injured and transferred the same to Station House Officer, Duggirala Police Station on point of jurisdiction. Former Sub-Inspector of Police, Duggirala Police Station registered the same as a case in Crime No. 21 of 1998 under Section 307, IPC, and submitted F.I.Rs. to all the concerned officers including the Court of II Additional Munsif Magistrate, Tenali, and investigated into. During the course of investigation, the Sub-Inspector of Police visited the scene of offence in the presence of mediators and got an observation report drafted, duly attested by them, and examined the witnesses under Section 161, Cr. P.C. The injured was referred to G.G.H., Guntur for better treatment. The Sub-Inspector of Police Duggirala Police Station, continued further investigation into this case. He arrested the accused on 7-2-1999 at 6.00 p.m. and sent the accused for judicial remand to the Court. The Medical Officer who treated the injured Addanki Lakshmikanthamma L.W. 1, issued wound certificate opining that the injuries are simple and grievous in nature. Thus it is evident that the accused attacked Addanki Lashmikanthamma L.W. 1, and inflicted multiple cut injuries with tappers knife, which are grievous in nature with an intention to kill her, and thereby the accused rendered himself liable for punishment under Section 307, IPC.

7. The learned II Additional Munsif Magistrate, Tenali had taken the same as P.R.C. No. 18 of 1999 and committed the case to the Court of Session, Guntur,

and the learned District and Sessions Judge, Guntur, made over the same to the learned Additional Assistant Sessions Judge, Tenali, who had recorded the evidence of P.Ws. 1 to 8 and marked Exs. P1 to P7 and M.Os. 1 and 2, and ultimately, the learned Additional Assistant Sessions Judge, found the accused guilty under Section 307, IPC and convicted him and sentenced him to undergo Rigorous Imprisonment for a period of ten years and to pay a fine of Rs. 1,000/- in default, to undergo Simple Imprisonment for six months.

8. The de facto-complainant-P.W. 1 in detail had deposed what had happened on the fateful day. This witness deposed that on 7-2-1998 at about 6-00 a.m. the wife and daughter of the accused came to her house by weeping and told her that the accused attempted to rape his daughter, and then she asked them to stay in her house and they need not worry. She deposed that the accused came to her house at about 7.00 p.m. and asked his wife and daughter to come to his house, and then she questioned the accused as to why he did like that to his daughter, and then the accused grew wild and attempted to hack her with a knife and she warded off the blow with her left hand, and the left hand was cut separating the palm. She deposed that the accused also hacked her on the left side of her chest twice and on the left side of her waist, causing bleeding injuries and loss of left breast. She deposed that the wife of the accused Durgamma, his daughter-Swapna and her 2nd elder sister Ponnuru Koteswaramma were present in her house at that time, and they have witnessed the incident, and the incident took place in front of her house. Her sister-Koteswaramma and the wife and the daughter of the accused had taken her to the Government Hospital in an auto and the Doctor gave an injection to her, and she was conscious in the hospital, and then the police came to the hospital, and recorded her statement-Ex. P1. This witness was cross-examined at length and certain suggestions were put to this witness. This witness specifically deposed that it is not true to say that suspecting illicit intimacy between her and one Saheb, Veeranjaneyulu hacked her hand, and Veeranjaneyulu himself got this case falsely foisted against the accused.

9. P.W. 2 who is the sister of P.W. 1 was declared hostile. P.W. 3 who was examined in relation to Ex. P3 and M.Os. 1 and 2, deposed that the police seized the control earth and blood stained earth at Revendrapadu in his presence, under

a mediator's report-Ex. P3 and M.O. 1 is the blood stained earth and M.O. 2 is the control earth and he had signed in Ex. P2 at Revendrapadu bus stand and the Sub-Inspector of Police shown him M.O.1 and 2 at Revendrapadu Bus Stand. P.W. 4 was no doubt declared hostile.

10. P.W. 5-Head Constable, who was in charge of the Police Station deposed that he received intimation Ex. P4 from the Government Hospital, Tenali at 10.20 p.m. and he immediately proceeded to the Hospital, and recorded the statement of P.W. 1 and sent the same to Duggirala Police Station on the ground of jurisdiction. In the cross-examination, this witness deposed that at the time of recording Ex. P1, no others were present along with P.W. 1.

11. P.W. 6 Civil Assistant Surgeon, who deposed that on 7-2-1998 at 10.25 p.m., she examined P.W. 1 and found the following injuries :

1. A semiluner shaped incised injury from middle of steremn arterial axillary fold. 20 cm x 3 cm muscle depth. Red in colour. Bleeding present.
2. A transverse incised wound from anterior axillary fold to middle aspect of deltoid area 15 cm x 3 cm x 4 cm in size and red in colour. Bleeding present.
3. An oblique incised wound 2' below and lateral aspect of left elbow joint 6 cm x 3 cm x 3 cm in size. Red in colour. Bleeding present.
4. A crush injury of lower 1/3rd of left Fore arm to hand exposing bones, muscles, tendons. Hand crushed.
5. A transverse incised wound on left lower 1/3rd of back, 16 cm x 6 cm x 6 cm in size. Bleeding present. Red in colour.

She deposed that the case was referred to G.G.H., Guntur, for opinion and treatment on the same day. Medico legal X-ray report of G.G.H. Guntur 351 of 1998 dated 8-2-1998, is as follows :

1. X-ray chest P.A. View-No Bony injury.
2. Abdomen erect with both domes. No abnormality.

3. Left Forearm, with elbow A.P. and lateral view. Fracture of ulna and radius.

4. Left hand A.P. and later views. First and 2nd metacarples and phaylinges missed. Fracture of 3rd metacarp bone.

The doctor expressed her opinion that according to G.G.H., Guntur, and on her clinical examination, injury Nos. 3 and 4 are grievous in nature and may be caused by sharp and heavy objects and injury Nos. 1, 2 and 5 are simple in nature and may be caused by sharp and heavy object. The Age of the wounds 2 to 4 hours, prior to her examination. Ex. P5-wound certificate issued by her.

12. P.W. 7-Circle Inspector of Police, who arrested the accused and also later obtained wound certificate and filed the charge-sheet. P.W. 8 Sub-Inspector of Police, who narrated about the details of investigation and also further investigation done by P.W. 7.

13. On this evidence, the learned Judge, recorded findings in detail, and had arrived at a conclusion that the offence under Section 307, IPC had been proved by the prosecution. It is no doubt true that the evidence of P.W. 1 is available on record and in corroboration thereof, the evidence of P.W. 6, the medical evidence is available, who had deposed that injury Nos. 3 and 4 are grievous in nature, and the other injuries are simple in nature. Reliance was placed on *Sadha Singh v. State of Punjab*, : 1985 CriLJ1361 and *Jose v. The State of Kerala*, : 1973 CriLJ687 .

14. Both the learned counsel made elaborate submissions in relation to the appreciation of evidence, and the uncorroborated testimony of P.W. 1 and P.W. 1 alone. The learned counsel for the appellant-accused submitting that such evidence of P.W. 1 is not sufficient, and on the contrary the learned Additional Public Prosecutor contending that would be sufficient to sustain a conviction, especially when the same is well supported by the medical evidence.

15. Section 307, IPC dealing with attempt to murder, reads as hereunder :

'Whoever does any act with such Intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of murder,

shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine, and, if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.'

The words 'whoever does any act with such intention or knowledge' in Section 307, IPC would assume some importance.

16. The evidence of PW-1 is that on the fateful day, due to some problem when the accused came there and PW-1 questioned the attitude of the appellant-accused towards his own daughter, the accused had inflicted the said injuries. No doubt, certain injuries are grievous in nature. In view of the relationship between the parties, from the facts, it cannot be said that he had any requisite intention to do away with the life of PW-1 on the fateful day. But however, there was an attack and voluntarily he had caused grievous hurt, and hence, the ingredients of Section 307, IPC as such are not satisfied. But, definitely, the ingredients under Section 35, IPC are satisfied in the present matter.

17. In the result, the conviction and sentence imposed by the learned Additional Sessions Judge, Guntur in Sessions Case No. 320 of 1999 against the appellant-accused on 17-7-2000, for the offence under Section 307, IPC to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs. 1,000/- in default, to undergo simple imprisonment for six months are hereby set aside and the appellant-accused is convicted under Section 325, IPC and sentenced to undergo rigorous imprisonment for a period of four years and also to pay a fine of Rs. 500/- in default, to undergo simple imprisonment for a period of three months.

It is represented that the accused has been in jail for sufficiently a long time. It is needless to say that the accused shall serve the rest of the sentence and if already the accused had served the sentence, after computing the period of imprisonment already undergone by the accused, on computation of the period, the accused is to be let off, if already he had served the sentence which had been imposed by this Court.

Accordingly, the Criminal Appeal is partly allowed to the extent indicated above.

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