

Badavath Lachu Vs. State of A.P.

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Court : Andhra Pradesh

Decided On : Apr-26-1999

Reported in : 1999(1)ALD(Cri)896; 1999(3)ALT704; 1999(2)ALT(Cri)217; 1999CriLJ5032

Judge : Motilal B. Naik and ;Vaman Rao, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 302

Appeal No. : Criminal Appeal No. 1387 of 1997

Appellant : Badavath Lachu

Respondent : State of A.P.

Advocate for Def. : Public Prosecutor

Advocate for Pet/Ap. : C. Padmanabha Reddy, Sr. Counsel and ;C. Praveen Kumar, Adv.

Disposition : Appeal dismissed

Judgement :

Vaman Rao, J.

1. The appellant is the sole accused in S.C. No. 290 of 1995 on the file of the Principal Sessions Judge, Nalgonda. He has been convicted for the offence under

Section 302 of the Indian Penal Code and sentenced to suffer imprisonment for life and also to pay a fine of Rs. 100/-, in default to simple imprisonment for 15 days. This conviction is challenged in this appeal.

2. The brief facts of the case as brought out in the prosecution evidence may be stated as follows:

The accused is a resident of Thettekunta Thanda. The deceased was the resident of Ravikunta Thanda. P.W. 1, Badavath Lachi Ram, is the father-in-law of the deceased and he is also a resident of Thettekunta Thanda. The deceased along with his family were residing in Ravikunta Thanda on the date of the incident. P.W. 1 and the deceased proceeded to Ravipahad Thanda along with a bull (calf) to have it sold at Ravipahad Thanda on the date of incident. The deceased was proceeding in front of P.W. 1 holding the rope of the bull. The bull was proceeding behind the deceased and behind the bull P.W. 1 was proceeding. When they reached the workshop of one Veera Reddy at Kotapahad on the way, the accused came from the opposite direction from the side of one 'dabba' and suddenly dealt blows on the right side of the temple region near the ear with an axe. The accused gave two blows with the axe and ran away. This is said to have occurred at about 12.00 noon. The deceased fell down. P.W. 1 took the deceased to Suryapet on a tractor driven by P.W.2, Nakka Kotiah. On the way after crossing Thummalapen Pahad, the deceased died. They took the deadbody of the deceased to the Hospital, Suryapet at 5.00 p.m. P.W. 1 drafted complaint at hospital and in the meanwhile the Sub-Inspector of Police, Atmakur, P.W.II, went to Hospital where P.W. 1 handedover the complaint to him. P.W.9, the Police Constable, Atmakur Police Station received Ex.P-1 complaint sent by Sub-Inspector of Police and registered the same as a case in Crime No. 38 of 1994 under Section 302 of IPC and issued FIR, Ex.P-10. P.W.12, the Inspector of Police, Suryapet took up investigation in the case on 12-11-1994 at about 8.00 p.m. and he recorded the statement of P.W.2 and another in the Government Hospital, Suryapet while the Sub-Inspector of Police P.W.II earlier recorded the statement of P.W. 1. P.W.12 visited the village of Kotapahad and recorded the statements of P.W.3, Koti Malliah, P.W.4-Pagadala Susheelamma and P. W.6-Shaik Nanne Saheb and others. He visited the scene of offence and seized bloodstained earth (M.O.5) and

control earth (M.O.6) from the scene of offence. On 30-U-1994 P.W.4 conducted inquest over the dead body between 7.00 a.m. and 9.00 a.m. in the presence of P.W.5, Bookya Fakeer and others and prepared the inquest report, Ex.P-4. He seized bloodstained clothes of the deceased, M.Os. 1 to 4. On 11-12-1994, he arrested the accused at about 2.45 p.m. and recorded the statement of the accused in the presence of P.W.8, Kondeti Meeniah and another under Ex.P-13. In pursuance of the statement of the accused, the accused led P.W.12 and others to a place near the road side and produced M.O.7, axe, from the thorny bushes under panchanama, Ex.P-14. The bloodstained axe and bloodstained clothes of the deceased were sent to Forensic Science Laboratory for examination with a requisition, Ex.P-15. Ex.P-18 is the Forensic Science Laboratory report. P.W.10, the Civil Assistant Surgeon, Government Hospital, Suryapet received Ex.P-11 requisition from Atmakur P.S. on 13-11-1994 and he conducted autopsy over the dead body at 11.30 a.m. and issued Ex.P-12 post-mortem certificate. The Doctor gave opinion that the cause of death was due to shock and haemorrhage due to head injury.

3. The plea of the accused is of total denial. Thus, P.Ws. 1 to 12 have been examined and Exs.P-1 to P-8 and M.Os. 1 to 7 have been marked on behalf of the prosecution. No evidence has been adduced on behalf of the accused. On this evidence, the learned Sessions Judge believed the prosecution version and recorded the conviction and imposed sentence as stated above.

4. P.W. 1 has been examined as an eye-witness to the occurrence. P.W.3 was examined as another eye-witness who had seen the culprits chasing the deceased with axes in their hands. P.W.3 has been declared hostile and has been permitted to be cross-examined on behalf of the prosecution. P.W.2 is the tractor driver who took the deceased, who was injured and still alive, from near Veera Reddy's workshop as directed by his Master to the hospital along with P.W. 1 and others in his tractor. According to him, the deceased died on the way to the hospital. He, however, took the dead body of the deceased to Suryapet Hospital where he was taken down from the tractor.

5. P.W.4 Pagadala Susheelamma is a resident of Mothey and her parents' place is Kothapadu. According to her, she was staying with her daughter at Kotapadu by the side of the house of Veera Reddy. According to her, two years prior to her deposition at about 3.00 p.m. when she was in her house, she heard noise from the road and she came out of the house and found one person lying with injuries on the road. People gathered and she went away. She was declared hostile. According to the prosecution in her 161, Cr.P.C. statement she has stated to the police that after coming out she enquired about the incident and came to be known from the father-in-law of the deceased P. W. 1 that when he and the deceased were proceeding with a calf to Ravipadu for sale, the accused hit on the head of the deceased with an axe. She denies having made such statement.

6. P.W.5, Bhookya Fakeer, is the panch who attested the inquest report Ex.P-4. He corroborates P.W.12 that during inquest, bloodstained clothes of the deceased M.Os. 1,2,3 and 4 were seized under Ex.P-4 during the inquest held between 7.00 p.m. and 9.00 p.m.

7. P.W.6, Shaik Nanne Sahib, is said to be the village servant of Kotapadu. According to him, he came to know on the date of incident that one person sustained injuries and was lying near the house of one Veera Reddy. He went and saw the injured. On the suggestion of one Maila Reddy, who was there, he went and brought the tractor of one Sreenu and the injured was put on the tractor-trailer and sent to Suryapet Hospital and he went to Atmakur Police Station and informed the police that a person was beaten and injured. According to him, when he went near the injured somebody mentioned there that, the accused had dealt blow on the injured but he is unable to say who said so. This witness was also cross-examined on behalf of the prosecution. According to the prosecution, in his earlier statement to the police, when he questioned, P.W. 1 had told him that it was the accused who hit the deceased with an axe. He denies having made such a statement.

8. P.W.7, Kandla Ramchandra Reddy, has been examined as a witness to the scene of offence panchanama. In his evidence, he stated that the police seized bloodstained earth, M.O.5, and control earth, M.O.6.

9. P.W.8, Kondeti Meeniah, has been examined as a mediator in whose presence the accused is said to have been arrested and in whose presence the statement of the accused is said to have been recorded in Ex.P-8. This witness has been declared hostile by the prosecution.

10. P.W.9, Mohd. Yousef, P.C. 339, is the Station Writer at Atmakur P.S. According to him, when he was in the police station, he received a complaint sent by Sub-Inspector of Police, Atmakur P.S. who endorsed the same for registration purpose. He received Ex.P-1, complaint, from the Government Hospital, Suryapet on which he registered a case in Crime No. 28 of 1994 under Section 302 of IPC and sent First Information Report to the Sub-Inspector of Police and copies to the concerned officials.

11. P.W.10 is the Civil Assistant Surgeon at the Government Hospital, Suryapet who conducted post-mortem examination on the dead body of the deceased. He found four injuries. One of the injuries being a cut injury over the right temple starting from the right ear lobule. He also found another cut injury of 4' x V2' x V2' on the scalp on the right temple region. The third injury was fracture of right temple of the skull 4' x V2' x V2' and the fourth injury was extradural and intra cerebral haemorrhage present on the right temporal side and on the left occipital regions of the brain. According to him, the cause of death to the best of his knowledge and belief was due to shock and haemorrhage which was in turn due to head injury. These injuries are possible by sharp edged weapons. There is certain aspect of this evidence which the accused seeks to rely, which will be referred to in due course.

12. P. W.11 is the Sub-Inspector of Police. On receiving information, he went to Suryapet Hospital and obtained complaint from P.W. 1 and he sent the same to Athmakur P.S. through P.C. 1854 for registering as FIR. He informed the Inspector of Police on telephone. The Inspector of Police came at about 8.00 p.m. to the hospital and FIR itself was received at the hospital at 9.00 p.m. and Inspector of Police took up further investigation.

13. P.W.12 is the Inspector of Police who conducted investigation and filed the charge-sheet. He arrested the accused and recorded his confessional

statement on 11-12-1994 at about 2.45 p.m. in the presence of P.W.8 and another. In pursuance of the statement, the accused led them to outskirts of Kotapahad village to the field of one Chakali Ramachandrudu on the way to Thummala Penpahad village. He took out the axe from thorny bushes by the side of the road. M.O.7 is the said axe. It contained blood-stains. The accused was sent for judicial remand and he sent the material objects M.Os. 1 and 6 to Forensic Science Laboratory with a requisition Ex.P-15. Ex.P-16 is the covering letter of the Magistrate and Ex.P-17 is the letter of advice. Ex.P-18 is the Forensic Science Laboratory report.

14. It would thus be seen that the prosecution relies on the evidence of solitary eye-witness P. W.1 in as much as the other eye-witness, P.W.3, has failed to support the prosecution case and gives entirely a different version.

15. The crucial question is, whether the evidence of solitary eye-witness can be relied upon as the basis for convicting the accused in this case?

16. The contention of the learned Senior Counsel Sri C. Padmanabha Reddy is that in this case the prosecution seeks to rely on the evidence of solitary eye-witness who cannot be said to be wholly reliable. The learned Counsel relies on the judgment of the Supreme Court in the case of V. Thevar v. State of Madras, : 1957 CriLJ1000 and contends that at best P.W. 1 in this case may be categorised as a neither wholly reliable nor wholly unreliable witness and in view of this as laid down by the Supreme Court in the above said judgment, the Court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial.

17. The contention is that in this case there is no corroborative evidence and as such the solitary evidence of P.W. 1 cannot form basis of conviction. It is further contended by the learned Counsel that far from there being sufficient corroboration to the evidence of P.W. 1, the medical evidence in this case shows that P.W. 1's evidence is contrary to the medical evidence and as such the prosecution case must fail.

18. The learned Public Prosecutor on the other hand contends that the evidence of P.W. 1 is wholly reliable in this case and his presence at the scene of offence

cannot be doubted and there is no reason why the evidence of P.W. 1, which is corroborated in certain material aspects, should not be relied upon.

19. To appreciate these contentions, the second contention of the learned Counsel for the appellant as to contradiction between the oral testimony of P.W. 1 and the medical evidence as given by P.W.10 may be examined. P.W. 1 in his evidence has stated that the accused came from the opposite direction and suddenly dealt blows on the right side temple region near the ear with an axe. According to him, the accused dealt two blows with the axe and ran away. However, in his cross-examination he admitted that in his statement to the police and also in the complaint Ex.P-1, he stated that the accused dealt one blow on the right temple region and another blow on the right side of the chest with an axe and he denies that there was no injury on the right side of the chest. A perusal of Ex.P-1 would show that this is the version given by P.W. 1 in his first information given to the police. The contention is that the version of P.W. 1 in the Court that the accused gave two blows on the right side temple region of the deceased is at variance with his earlier oral version in which he categorically stated that one blow was given on the head and one on the chest, and the medical evidence does not disclose any injuries on the chest.

20. The learned Counsel for the appellant relies on the decision of the Supreme Court in *Amar Singh v. State of Panjab*, : 1987 CriLJ706 to buttress his contention that, where there is inconsistency between the testimony of sole eye-witness and the medical evidence, the evidence of eye-witness cannot be accepted. Firstly, the facts in the judgment cited (2nd supra) by the learned Counsel would show that eye-witness in that case deposed that several injuries were caused on ribs and abdomen of the deceased with sharp edged weapons but a single incised wound was found on the body of the deceased besides certain contusions, abrasions and fractures. It was also found, in that case, that the evidence of eye-witnesses as to the place of incident was also inconsistent. It is in this background that the evidence of solitary eye-witness was said to be unreliable.

21. Further, there is a qualitative difference between the variance between the version of eye-witness and the medical evidence in the case cited (2nd cited

supra) and inconsistency between P.W. 1's version and medical evidence relied upon in this case before us. In the case before the Supreme Court, the solitary eye-witness gave the version that a large number of injuries were caused on the ribs and abdomen of the deceased by a sharp edged weapon but according to medical evidence only a single incised wound was found. The inconsistency there is of a fundamental nature inasmuch as the injuries said to have been caused and witnessed by the eye-witness, namely, a number of incised injuries with sharp edged weapon, were not found at all. Not a single incised injury having been found and only abrasions and contusions have been found, the evidence of solitary eye-witness creates doubt as to whether really he witnessed the incident at all.

22. But, in this case, the facts are distinguishable. The narration of the incident as given by P.W. 1 in this case assumes crucial significance. According to P.W. 1, the deceased was proceeding in front of him holding the rope of the bull and the bull was proceeding behind him and he himself was proceeding behind the bull. When they reached near the workshop of Veera Reddy, the accused came from the opposite direction from the side of 'dabba' and suddenly dealt blows on the right side temple region with an axe. According to him the accused dealt two blows with an axe and ran away.

23. Thus, it is clear that P.W. 1 witnessed the actual dealing of blows standing behind the deceased. What he could have seen was, the accused holding axe in his hand and hitting the deceased twice. It is possible that he might have clearly seen one blow falling on the head of the deceased and he might not have observed, considering the fact that he was behind the deceased as to where exactly the second blow landed on the front side of the deceased. As he might have clearly seen the landing of one blow on the right side of the temple, he might have imagined that the other blow which might not have been seen clearly, might have landed on the chest of the deceased. It is not a case where the injuries, the infliction of which, P.W. 1 claims to have witnessed are not possible at all inasmuch as there were two injuries on the right side temple itself which could have been caused with an axe. Absence of injuries on the chest and ribs of the deceased in conformity with the version of P.W. 1 as given in the complaint Ex.P-1, and the statement given to the police does not constitute such an irreconcilable

inconsistence with the medical evidence as to doubt his veracity as an eye-witness itself. However, P.W. 1 in his deposition in the Court has made an effort to conform his evidence to the medical evidence giving a go-by to his earlier version. This is not a circumstance which renders the evidence of P.W. 1 totally unworthy of credit.

24. There is another discrepancy with reference to the medical evidence as pointed out by the learned Counsel for the appellant. P.W.10, the Medical Officer, has stated that the axe which he had seen in the Court appears to be short in cutting edge because injury No. 2 was having 4' length but according to him injury No. 1 is possible with the axe seen by him in the Court. Thus, it is hinted that injury No. 2 which is of 4' length might not be possible with the weapon M.O.7 seen by P.W.10 in the Court which according to him was short in cutting edge.

25. Firstly, it is not the definite opinion of P.W.10 that injury No. 2 was not possible with the weapon in question under any circumstances. Further, P.W. 1 (sic. P.W.10) has not cared to measure the width of the knife seen by him in the Court. He has given expression to his impression on seeing M.O.7 that it was of a shorter edge compared to the length of injury No. 2 found on the deceased. Apart from the fact that it was not the definite opinion of P.W.10 that injury No. 1 (sic.2) is not possible from M.O.7, his very premise that the length of injury is invariably related to the width of the cutting edge of the weapon appears to be unsound. It maybe mentioned, in Modi's Medical Jurisprudence and Toxicology {21st edition) at page 255 (Section I: Medical Jurisprudence) it is stated that the length of the incised wound has no relation to the length of the cutting edge of the weapon, but it may give some idea of the depth of penetration. In view of this, it cannot be contended that this is another discrepancy with the medical evidence.

26. The learned Counsel for the appellant further seeks to contend that the finding of two injuries which are possible by two different weapons if read in juxtaposition with the evidence of P.W.3 that he saw two persons chasing the deceased would render the evidence of P.W. 1 highly doubtful. It may be mentioned that P.W.3, no doubt has stated that he saw when he came to the road along with his brother-in-law, one person coming in the opposite direction with bleeding injury and two

persons chasing him with axe and that the person who was with bleeding injuries fell down on the road and two persons chasing him ran away. This version of P.W.3 does not find support from any other source. P.W.3 has been declared hostile. As observed by the learned Sessions Judge it is possible that P.W.3 might have been gained over by the accused and might have given a version which would be destructive of the prosecution case. The version given by him is quite at variance to the earlier version given to the police under Ex.P-2. Thus, the evidence of P.W.3 cannot be pressed into service to discredit the evidence of P.W. 1.

27. On the other hand, a careful scrutiny of the prosecution evidence would disclose that P. W. 1's version finds corroboration in material aspects from other evidence on record. Firstly, the presence of P.W. 1 at the time of incident is corroborated by the evidence of P.W.2, the tractor driver. It may be mentioned that though P.W. 1 has given the time of incident as 12 noon but the earliest report Ex.P-1 mentions time as 3.00 p.m. P.W. 1 being an illiterate witness, the time mentioned by him cannot be taken literally and with exactitude. It is in the evidence of P.W.2, who himself is an illiterate witness, that on the date of incident at about 1 or 1.30 p.m., he took the injured in the tractor belonging to one Sreenu to Suryapet Hospital and that the injured died on the way to the hospital. The significance of his evidence is that he specifically states that he took up the injured from the road side by the side of Veerareddy's workshop, which undisputedly is the place of incident. According to P.W.2, among those who travelled in his tractor along with the injured was the one introduced to him as the father-in-law of the injured who is no other than P.W. 1. Though P.W.2 does not specifically identify P.W. 1 as the person who travelled with him as he was not asked to identify, but the fact that he was told that the father-in-law of the injured was among the occupants of the tractor along with the injured would go to show that P.W. 1 did travel along with the deceased in the tractor driven by P.W.2. This was soon after the incident. This lends assurance to P.W. 1's version that he was present with the deceased at the time of incident. Even P.W.6, the Village Administrative Officer, who has been declared hostile by the prosecution has deposed that when he was in the village he came to know that some person was lying with injuries near the workshop and house of one Veerareddy. According to P.W.6, one Malla Reddy also came there and he asked him to get the tractor as the injured may die. It is

the version of P.W.6 that then he went and brought tractor of one Sreenu and the injured was put on the tractor-trailer and sent to Suryapet Hospital. Though he does not mention about P.W.1's presence at the scene of offence, this evidence goes to show that some time after the incident the injured was put in the tractor driven by P.W.2. This fact coupled with the evidence of P.W.2 would further strengthen the fact of P.W. 1's presence at the time of incident. P.W.4 has been declared hostile by the prosecution. She states that she was staying with her daughter at Kotapadu and her house is by the side of the house of Veera Reddy. According to her, on the date of incident at about 3.00 p.m. when she was in the house, she heard noise from the road and she came out of the house and found one person lying with injuries on the road and people gathered and after seeing it she went inside the house. Thus, according to her also, the incident occurred around 3.00 p.m.

28. Considering the above version, the discrepancy in the evidence of P.W.1 that incident occurred at 12 noon as against his version in Ex.P-1 that it occurred at 3.00 p.m. cannot be considered as significant having regard to the fact that these witnesses are illiterate persons without exact sense of time.

29. Thus, the fact that P.W. 1 accompanied the deceased to the hospital would vouch safe his presence at the time of incident. It is nobody's case and it was not elicited during the cross-examination of the Investigating Officer that P.W. 1 came to Kotapadu from his village after the incident, on being informed by somebody. Thus, the presence of P.W. 1 at the time of incident cannot be doubted.

30. Apart from the discrepancies in the medical evidence from the version of P.W. 1 discussed above it cannot be doubted that broadly speaking the medical evidence corroborates the evidence of P.W. 1 as to the weapon used and injuries inflicted on the deceased. The fact that the accused was not a stranger to P.W. 1 and that the incident occurred in broad day light would render the evidence of P.W. 1 that it was the accused who dealt blows on the deceased with an axe has to be accepted.

31. Further, there is another powerful piece of corroborative evidence which supports the prosecution version. Though P.W.8, the mediator who was said to be

present when the accused was arrested and his statement was recorded and M.O.7, the weapon of offence recovered turned hostile, except a bald suggestion to P.W.12 that M.O.7 was not picked up by the accused, nothing has been elicited in the cross-examination of the Inspector of Police, P.W.12 to detract from his version that he arrested the accused and recorded his alleged confessional statement and that thereafter the accused took them to a place near the road side and from under the thorny bushes he took out the axe, M.O.7 which had bloodstains on it. P.W.12 seized M.O.7 under panchanama, Ex.P-14.

32. Thus, we believe the evidence of P.W.12 that it was the accused who produced M.O.7 from thorny bushes.

33. It is sought to be contended that the weapon was said to have been picked up from the road side which has access to everyone and that exclusive knowledge of secreting of the weapon cannot be attributed to the accused. But, it may be mentioned that it was not from an open area which could be accessible to passers-by that M.O.7 was picked up by the accused. It is the specific evidence of P.W.12 that the weapon was picked up from under the thorny bushes. Nothing has been elicited in the cross-examination of P.W.12 as to the nature of those bushes to support the contention that it was accessible to one and all.

34. Considering the place from where the accused picked up the axe, M.O.7, there could be no escape from the inference that the accused had knowledge that the knife was secreted at that place.

35. The significant aspect of this evidence is that M.O.7 along with the clothes of the deceased, M.Os. 1 to 4 were sent to Forensic Science Laboratory for analysis. The report of Forensic Lab is Ex.P-18.Ex.F-18 discloses that bloodstains detected on items 1,2,3 and 5, namely, blood-stained white terricotton full shirt, blood-stained white cut banian, blood-stained lungi and blood stained earth scraped from the scene of offence and blood-stained axe, M.O.7, were all stained with blood of human origin. It is remarkable to note that blood group of stains on M.Os. 1, 2, 3 and 7 was determined and they all were of 'A' blood group. Inasmuch as M.Os. 1, 2 and 3 are clothes seized from the body of the deceased, and inasmuch as M.O.7 is the weapon of offence, this clearly shows that M.O.7 axe had blood-stains

originating from the deceased.

36. In regard to this evidence, two arguments were advanced on behalf of the accused.

37. Firstly, it was contended that all these articles were sent in a common bag and that it is possible that the blood-stains from M.Os. 1 to 3 and 5 might have been transferred to M.O.7. It is a far-fetched theory. Ex.F-17, the letter of advice which was sent along with the material objects to the Forensic Science Laboratory would show that each of these articles was packed separately in a white cloth bag, stitched and sealed. Even assuming that all these bags were sent in a common bigger pack, this in itself would not lend any credence to the contention advanced that blood-stains from M.Os. 1 to 3 and 5 could have been transferred to M.O.7. Further, as would be seen from the covering letter of the concerned Magistrate, Ex.P-16, these articles were forwarded to Forensic Science Laboratory on 13-12-1994 i.e., about a month after the date of incident. It is inconceivable that the blood-stains which had already dried up by then would have been transferred from M.Os. 1 to 5 to M.O.7.

38. The other contention is that there is no evidence to conclude that it was M.O.7 which was used during the offence. It is true that it was not elicited from P.W. 1 that it was M.O.7 which was used by the accused during the assault on the deceased. This argument would have had some force, had the prosecution relied upon this evidence as the only basis for conviction. In fact, in that case, this omission would have been fatal for the prosecution case. But, in this case, the question is whether this evidence corroborates the version of F.W.I.

39. The circumstances that it was the accused who picked up M.O.7 from thorny bushes and that M.O.7 contained blood originating from the deceased are significant in themselves which shows that the accused had the knowledge of the hidden place and picked up the axe from there, which had blood-stains originating from the deceased. This shows that the accused had knowledge of the place where the knife was hidden on which ultimately blood-stains originating from the deceased were found. This itself leads to a reasonable inference that M.O.7 was used in hitting the deceased. The possibility of the blood of the deceased sticking

on to a weapon which was found at a place other than the place of incident, by any other means is very remote. This constitutes an additional circumstance to buttress the ocular evidence given by P.W. 1 which has a tendency to incriminate the accused.

40. Considering the totality of the circumstances, we are of the opinion that in this case, there are no acceptable reasons for discarding the evidence of P.W. 1 as an eye-witness to the incident, we are inclined to believe the version of P.W. 1 which is sufficient to convict the accused and which is also corroborated by other circumstances. We do not find any error or infirmity in the findings recorded by the learned Sessions Judge. The learned Sessions Judge has rightly held that the prosecution has succeeded in bringing home the charge against the accused beyond reasonable doubt.

41. In the result, the appeal is dismissed confirming the conviction and sentence imposed by the trial Court in S.C. No. 290 of 1995 on the file of the District and Sessions Judge, Nalgonda.