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In Re: Ravupalli Ramamurthy

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Court : Chennai

Decided On : Jun-16-1939

Reported in : AIR1941Mad290

Appellant : In Re: Ravupalli Ramamurthy

Judgement :

Mockett, J.

1. The accused has been convicted and sentenced to death for the murder of two women, Annapurna and Savitri. Savitri was his wife, and she was the daughter of Annapurna who had two sons, P.Ws. 15 and 16. The learned trial Judge has described at some length the history of Annapurna, and it is not necessary for us to repeat it. She apparently was at one time the concubine of P.W. 17, and Savitri and P.W. 16 were children of that union. Annapurna left P.W. 17 fourteen years before her death and appears to have become a prostitute, as a result of which habit P.W. 15 and another child were born. P.W. 17 married P.W. 9. The accused who was employed in the Bengal Nagpur Railway Workshop at Vizagapatam, married Savitri, with the approval of P.W. 17 and Annapurna. That was about three years before Savitri's death. Annapurna was the tenant of a house at Vizianagaram, at the time of her death, of which P.W. 17 was the owner. There are many allegations against the character of Annapurna in the evidence it being alleged that she was attempting to lead Savitri into a life of prostitution. The learned Judge, as we have indicated, has dealt fully with this-aspect of the case.

2. So far as the facts in this appeal, which are material are concerned, they may be shortly stated. A few weeks before 18th October 1938 Annapurna and P.W. 15 visited the accused at Vizagapatam. Annapurna was receiving treatment for her eyes from the King George Hospital at Vizagapatam. She returned to Vizianagaram taking Savitri with the consent of the accused. On Saturday, 15th October, the accused came to Annapurna's house and according to the evidence asked for Savitri to return with him but was put off on the ground that her clothes were with the washerman, Annapurna saying that she would return on Tuesday the 18th. The accused, it is stated, left for Vizagapatam. He is supported to this extent by D.W. 5, who says that he was there on Monday the 17th. An examination of the plan Ex. M shows that the deceased's house is next door to P.Ws. 17 and 9, but a little to the north is the house of P.Ws. 11 and 18. It leads to the house in the south of P.W. 19, and further to the south is the house of P.Ws. 7 and 13. At about 1 A.M. both these women were stabbed to death, Savitri dying almost instantaneously, Annapurna surviving until next day. Their wounds, the doctor says, could have been caused with the dagger, M.O. 1.

3. As to the actual event, the evidence is as follows : P.W. 15, who is ten years old, says that Annapurana and Savitri were sleeping on the same cot and he too was sleeping near by. He was awakened by hearing Annapurna cry out 'ammo' and he says he saw the accused, his brother-in-law, running away. His mother told him, 'Your brother-in-law has stabbed us and run away,' to which he replied 'I too saw him run away.' In answer to a question from P.W. 16, Annapurna said he stabbed her with a dagger. P.W. 17 and other persons came. We disregard as inadmissible evidence of this witness and elsewhere where it appears that Savitri had shown M.O. 1 to Annapurna stating that the accused was threatening to kill her with it. These we do not consider as within Section 32, Evidence Act, as they do not relate to the circumstances of the transaction which resulted in her death. P.W. 15 said that there was some moonlight which enabled him to identify the accused. It appears from the calendar that the moon was new then and just rising. It certainly was not 'round shaped' as P.W. 15 said in cross-examination. P.W. 15 said that on the Saturday and Sunday before the murder the accused and Savitri were talking together 'lovingly.' P.W. 16 who was also sleeping near him gives much the same evidence but does not claim to identify the accused. He says there

was slight moonlight the moon having arisen. To him Annapurna said that the accused stabbed both her and Savitri and ran away, and P.W. 15, said, 'Yes, I too saw him run away.' Standing by itself, we should be reluctant to act on this identification of P.W. 15. It may well be that having been told by his mother who had been stabbed he thought he recognized him. But that there was any deliberate attempt dishonestly to implicate the accused seems to be negatived by the fact that P.W. 16 does not pretend to have seen him, and his evidence with regard to the moonlight is no doubt true.

4. It has been stated in the evidence that a great hubbub arose and it can well be understood that that would be so. Other people came to the spot. Some of them have been called. P.W. 9, the wife of P.W. 17, describes how she was sleeping in her house her husband having gone to a bhajana in a dancing girl's house. She says that when the night was well advanced she heard a cry, saw a number of people near the cot where Annapurna and Savitri were, and that Annapurna told her, 'my son-in-law came here, stabbed us and ran away.' We see no reason to suppose that P.W. 9 had any animosity towards Annapurna. Her husband's relationship with Annapurna ceased long before. She says also that there was a little moonlight. It appears from the evidence that the corpse of the deceased was in the shade. P.W. 17 can tell us no more than that he came back between 1 and 2 and discovered what had happened and that Annapurna also told him that the accused stabbed them both and ran away.

5. It is convenient here to mention that both P.W. 15 and P.W. 9 say that the inmates of the deceased's house took their food together just before the lamps were lit, but P.W. 16 states that they took their evening meal at 9 o'clock. It must be remembered that P.W. 15 was a little boy of ten years of age and was likely to have had his meal earlier and gone to bed before his elders. This difference in the evidence was made much of by the defence because it was suggested that if the food was last taken by the deceased Savitri at 7 o'clock the evidence of the doctor would go to show that she must have been killed at about 9 or 10 o'clock, when the accused was at Vizagapatam; in other words, that the murder did not take place after midnight at all. This argument may be dealt with at once. It is founded on a statement in text books that rice takes two to three hours to digest and P.W. 3

appears to accept that in cross-examination. But P.Ws. & and 5 who are doctors used to rice diet are not prepared from their experience to accept this limited time for digestion. There are much more potent reasons however for us being satisfied beyond any doubt that these women were stabbed at about 1 o'clock. The body was still warm at 2-30, says P.W. 3, and death had only occurred within half to one hour before. It must be remembered too that all the witnesses who were upon the spot immediately after the occurrence are all unanimous that the time was after midnight. The moon did not rise till after 1 o'clock according to the calendar. P.W. 11 speaks to the event being after midnight; and so does P.W. 18. P.W. 3 describes how Annapurna and the dead body of Savitri were brought to him at 2-30 A.M. We have already given his view on examination then and there as to when death had occurred in the case of Savitri. P.W. 19 describes how the bhajana finished at 1 A.M. He went to the house of Annapurna hearing a noise and found Annapurna wounded. To him also Annapurna told what she told the others. And it must be added that P.W. 13 also said that it was the accused whom he had seen running away. This aspect of the case presents no difficulty whatever. We are satisfied, and we agree with the learned Judge, that these murders took place at the time these witnesses say they took place, at about 1 A.M., on 18th October. It must be remembered that among these people watches do not figure very frequently and midnight is a wide term. So it is established beyond any doubt that at 1 o'clock or thereabouts these women were stabbed by some one and that, immediately after the stabbing, to several people Annapurna stated that it was the accused who had stabbed her and Savitri. P.W. 3, the doctor, took so serious a view of Annapurna's case that he thought it his duty, and we think rightly to record a dying declaration, that is, Ex. B. It clearly implicates the accused.

6. Before proceeding further with the history of this case, we will go back to the time of the occurrence and consider the evidence of two other witnesses, P.Ws. 13 and 20. Their house is indicated in the plan. According to P.W. 13, he and P.W. 20 were sitting at his house preparing Deepavali sparklers or crackers. He describes the time as midnight. P.W. 13 heard a cry and coming into the street he says he saw the accused running from west to east. He gave chase but after running ten yards stopped. Then he says the accused threw something backwards and the thing fell with a metallic sound. He did not see what it was then. He and

P.W. 20 went to Annapurna's house and he confirms the evidence of the other witnesses that she said that her son-in-law stabbed her and Savitri. P.W. 13 says he said, 'I too saw him.' Here again, if it were a matter of identification alone, while accepting generally the facts as given by P.W. 13 and as borne out by P.W. 20, we are unable to accept the identification of the accused by P.W. 13 because he subsequently told the police that he could not identify the runner. We do not attach much importance to whether the accused threw the knife away or threw it at him, or whether he searched for the knife then and there. It must be remembered that he must have been in a state of excitement. We are, however, satisfied that he did chase somebody and, as will later appear, that somebody threw away what subsequently was shown to be a knife. P.W. 20's evidence seems to negative the argument put forward with force that the whole of this case is the result of a conspiracy against the accused. This contention so far as it concerns P.W. 20 may be rejected as groundless. P.W. 20 does not pretend to identify the runner. Next morning at 6 A.M. these two persons, P.Ws. 13 and 20, got up and went out for purposes of nature, and P.W. 13, corroborated by P.W. 20, states that he took up M.O. 1, the knife, lying some six yards to the east of his house. His conduct thereafter, although much criticised, is not really so surprising when viewed with any experience of the manner in which this class of persons behaves when a crime has been committed. He picked the knife up, but then thinking that it might lead to trouble for him threw it into a bush. He says then there was blood on the blade from the tip. He threw it away some 200 yards to the west of his house. The subsequent history of this knife and the part played by P.W. 13 will be dealt with later. Annapurna was taken to the hospital after some little delay. She died the next day at Vizagapatam where she had been taken in an ambulance after an operation which failed to save her life. But, in the meanwhile, she had made a further dying declaration to P.W. 6, the stationary Sub-Magistrate of Vizianagaram, Ex. F. That too implicates the accused very clearly. It will be noticed that both in Ex. P and in Ex. B, Annapurna states that the accused did not return to Vizagapatam at all but lurked at the station. In answer to a question 'What sort of a knife was it?' she says, 'It is a curved knife admitting of easy handling.' In fact that is a fair description of M.O. 1. So, in addition to the statements of those who gathered at her house after the stabbing, in two more formal declarations to P.W.

3 and P.W. 6 respectively, this woman declared that the murderer was the accused. It is a well accepted practice that dying declarations should be corroborated in material particulars and by independent testimony. We are therefore to see to what extent this woman's statement is corroborated. We have already dealt with the events earlier in the evening, and have indicated that from them alone we would be reluctant to hold that the statements have been corroborated. There were however events of great importance next day. An inquest was held on the body of Savitri by P.W. 21, the Sub-Inspector of Police. It is well to remember that at 3-30 on that morning he was aware of the nature of the declarations of Annapurna. The inquest report, Ex. H dealing with the cause of death is a formal document entered on a form. It will be observed that the duration of the inquest is stated to be two hours commencing at 7 A.M. and closing at 9 A.M. According to P.W. 21, at 7-15, that is a quarter of an hour after, the inquest started, the accused came and appeared anxious to come in. He was brought in. 'When he stated that his name was Ramamurthi and that he was the son-in-law of Annapurna and the husband of Savitri, P.W. 21 arrested him and searched him but found no bloodstained-weapons on him or blood marks on his clothes. In this connexion, P.W. 3 stated that, blood need not have spurted out when these women were stabbed.

7. Then according to P.W. 21, the accused stated that he would show the knife with which he had stabbed Annapurna and Savitri which he had thrown away. The Sub-Inspector, the accused, and P.W. 12, who was requested to go with the Sub-Inspector, proceeded to a spot eight yards east of P.W. 13's house but no knife was found. The Sub-Inspector, one may say, broadcast that whoever had taken the knife away should return it or search would be made of the houses. Then P.W. 13 came forward and stated, the accused being present, be it remembered, that he had picked up the knife from that very spot. He took the party to the easing ground some 40 or 50 yards to the west of his house and showed the knife, the blade sticking in the earth. A panchayatnama Ex. J was made out and signed, one of the signatories being P.W. 12. P.W. 12 entirely bears out this story. Blood was not found on the knife, but as it was sticking in the ground and had been out all night this is not very strange. Here again the vagueness of these people about time is striking and has rightly been made much of by the defence. P.W. 12 said

the knife was recovered between 10 and 11 A.M. In Ex. N, a list made out on the 20th, that is two days after, the time is put down as 10 and it is signed by the Sub-Inspector. But it must be remembered that the inquest report signed on the 18th by the Sub-Inspector says that the inquest closed at 9. P.W. 8 was one of the panchayatdars at the inquest. He says that the accused came at 7-15. It appears that a long statement was made by the accused to the Sub-Inspector, a greater part of which was rightly rejected by the learned Sessions Judge although there are parts of it which might well have been received under Section 27, Evidence Act, because we do not quite understand why the fact that he was arrested by the Sub-Inspector and that the accused told him and showed him the spot where he had thrown the knife with which he had murdered his wife and Annapurna could be receivable in evidence rightly, and yet the actual statement taken down should be rejected. It is obviously of importance to ascertain whether in fact the officer recorded the statement from the accused because it will be extremely dangerous to accept the fact when so important a statement was made if it was not recorded. Ws have therefore thought it right to exercise our powers in the interests of justice under, Section 172, Criminal P.C., and look at the case diary. It is enough for us to say we are; satisfied beyond any doubt that the learned Judge rightly believed the Sub-Inspector when he said that the accused told him that; he would show the spot where he had thrown the knife with which he had stabbed Annapurna and Savitri. The portions of the case diary printed are of little assistance to us, being only parts of the original.

8. It must be remembered the accused made a very long statement taking 20 minutes or more to record. We must observe that the learned Judge has overlooked the decision of a Full Bench of this High Court in Athappa Goundan v. Emperor ('37) 24 A.I.R. 1937 Mad. 618 where the learned Chief Justice emphasizes that these statements under Section 27, Evidence Act should be recorded in the first person, that is to say, as far as possible in the actual words of the accused; they should not be paraphrased. But that is what has been done in this case. The statements made by the accused are given, in the third person; that is, it is recorded in the Sub-Inspector's evidence in this form : 'He stated that he would show me the knife with which he had stabbed etc.,' and then later on in cross-examination, 'I went with the accused as he offered to show the spot where

he threw the knife.' We have no doubt what the effect of the accused's statement was, namely that he said that he would show the Sub-Inspector the spot where he had thrown the knife with which he had stabbed these women. In this case there has been no cross-examination to suggest that the statement was in some other form. The defence is that no such statement was made at all. We feel no anxiety with regard to this part of the case. But in all these cases the exact words of the accused should be recorded in the first person and the learned Judge should admit, those parts which he considers admissible but leave some record for the consideration of the appellate Court of any other words which the prosecution claimed should be received in evidence. It has however been contended by the defence that the statement is not admissible under Section 27, Evidence Act as no discovery was made in consequence of information received from the accused. We do not agree.

9. Section 27 refers to a fact being discovered and Section 3 defines 'fact' as meaning and including 'anything, state of things, or relation of things capable of being perceived by the senses.' It seems to us that these facts wore discovered : (1) the fact that a knife had been seen to be thrown away and was later found by P.W. 13 at the spot indicated, and (2) the knife itself. It was the statement of the accused that led the party to the scene and we consider that the subsequent discoveries were directly in consequence of the information received from him. It would be strange if, for example, an accused person stated that the body of a person murdered by him would be found in a certain spot and on the police going to that spot not finding it there but in a mortuary to which it had by then been removed by, e.g., the village officers, it could be held that the ultimate finding of the body was not in consequence of the information received from the accused. A decision in Ramasami Boyan v. Emperor ('20) 7 A.I.R. 1920 Mad. 109 has been brought to our notice. With all respect to the learned Judges, we find some little difficulty in following the reasoning therein and are unable to follow it. It does not appear that there was any sort of discussion as to the meaning of the word 'fact.' This High Court in Emperor v. Ramanuja Ayyangar ('35) 22 A.I.R. 1935 Mad. 528 has stressed the comprehensive meaning of the word 'fact.' Thus far, we have considered the admissibility of the accused's statement under Section 27, Evidence Act. So far as a consideration of whether the accused's statement is

corroborated is concerned, and Annapurna's statements, it is established that the accused having made a statement that at a certain spot to had thrown away a knife, that statement is shown to be true by the appearance of a man who saw him throw a knife away, because the accused's case is that it was he himself who threw it away. Moreover, a knife was picked up at the very spot indicated by the accused. On these facts the prosecution claim that they have established the guilt of the accused. It is necessary to Consider his own statements. It appears that at his request a statement was recorded from him under Section 164, Criminal P.C. In that statement he admits that he was questioned at the inquest at 8-30 but states that he was arrested at 11 A.M. This is wholly incredible. The police, of course, would at once, and we are satisfied that they did, arrest a man of whom it had been stated on all sides that he had murdered two women. He then proceeds:

On the morning of 18th October 1938 I came to Vizianagaram from Waltair by the 6 A.M. train to take my wife back. I heard about this murder at the clock tower. By the time I arrived at the Municipal Hospital my wife's corpse was lying at the gate. I saw this and asked the police there to open the gate. They opened it. I went inside. They asked me who I was. I told them that I was the husband of the deceased. They said : 'All right. Sit down.' I accordingly sat down.

10. Then questions followed obviously put on the supposition that the accused desired to make a confession, which he definitely negatived. Before us two main points have been argued. First that these women were in fact murdered at 9 o'clock on the Monday night. We have already dealt with this. We think there is no basis whatever for it. We entirely accept the prosecution story that these women were murdered at 1 o'clock. It is then argued, although it is a little difficult to follow, that because of the variance in the times with regard to the discovery of the knife and the closing of inquest, no statement at all was made by the accused and therefore no discovery was made. We wholly decline to accept this position. We find no room in this case for supporting any suggestion of what is commonly known as a foisted case. Several witnesses were well disposed towards the accused. We wholly decline to believe that the police have been a party to an elaborate conspiracy to victimize an obscure worker on the railway. Our view is that this inquest started and ended at the time indicated in the inquest report and

that thereafter no one was paying any great attention to actual times. We think that the Sub-Inspector's version is substantially true and that he signed Ex. G two days after' carelessly. It is not the time of the end of this inquest so much as the beginning of it that is important. Obviously after it had started there was a long interval in which the statement was written down. The parties repaired to the spot where the knife was found and it seems possible that no particular record of actual times was made. The safest guide is the inquest report written at the time with the times recorded. Any argument based on the accused's statement in Ex. 4 that he was not arrested until 11 A.M., and that therefore he was not under arrest at the time of his statement to the police, can be summarily rejected for the reasons we have already indicated namely, that he must have been arrested immediately the police saw him.

11. In the Magistrate's Court the accused contented himself by saying that he was not guilty and would call witnesses at the Sessions. No application was made, says the learned trial Judge, for the summoning of any defence witnesses until the case was taken up for trial. Then D.Ws. 2, 3 and 4 were called for proving uniform alibis at Vizagapatam late on the evening of Monday and his presence there early on Tuesday morning. We observe that everybody at the original trial being conversant with such local conditions as the times of trains no formal proof of the relevant time table has been made. We have directed that a time table shall be attached to this record and received in evidence. The following times are however accepted by both prosecution and defence before us. The evening train leaves Waltair at 9-50 P.M., and reaches Vizianagaram at 11-21 P.M. and the morning train leaves Waltair at 6-5 A.M. reaching Vizianagaram at 7-55 A.M. It was therefore possible for the accused to have caught the morning train provided that he did in fact go back to Vizagapatam on Sunday, in which case he could have been on the spot in time at the time of the murder. If however he was in Vizagapatam at 5 A.M. catching the early morning train and reaching Vizianagaram at 7-55 he could not have been at the inquest much before 8-30, the station being about one and half miles from the hospital. Therefore, he could not have been at the inquest at 7-15 A.M. as alleged by the prosecution. His alibi therefore at Vizagapatam is of importance. We do not propose to discuss, although we have examined, the alibi in full. It is enough for us to say that we have

considered and wholly agree with the estimate of its value given by the learned Sessions Judge. We agree with him in rejecting it and do not consider that it is necessary to repeat the criticisms which he has directed towards it. There is however one striking feature regarding this alibi and that is that the detailed story told by the witnesses is not so much as mentioned by the accused in any of his statements. It is true that he states at the Sessions and in Ex. 4 that he was at Vizagapatam, but there is no reference at all to any of the defence witnesses or any of the events spoken to by them.

12. The learned Sessions Judge has reviewed the evidence at great length. This is one of those cases where the evidence as a whole must be considered and weighed. There is ample material on the record to show that the accused might well have desired the death of his mother-in-law and wife. We have the fact that on this night Annapurna stated not once but many times that it was the accused who stabbed them. She is supported by P.Ws. 13 and 15, although standing alone we have indicated we should hesitate to accept their evidence as to the identity of the accused. We have the fact also that this man so far from being at Vizagapatam was at Vizianagaram (they are 34 miles apart) soon after 7 o'clock on the morning of the 18th. In the course of a statement to the police he told them that the knife with which he had murdered these women was at a certain spot and he took the police there. At that very spot immediately after the murder the night before a man had been seen running and throwing away a knife. That knife was picked up from that spot by P.W. 13. Immediately these facts are known, we consider that by the accused's own conduct and words the statements of Annapurna and his own retracted statement are amply corroborated and the statements of P.Ws. 13 and 15 receive added strength; and it must be remembered with regard to P.W. 15 that he had repeatedly said to all the persons' that had assembled the night before that he had seen his brother-in-law running. All these matters have received from the learned Judge the fullest consideration. Agreeing with him we are satisfied that the facts lead to one conclusion only, namely that it was the accused that committed this act. We therefore confirm his conviction. It was a deliberate murder of two defenceless women and the learned Judge did his duty in passing the sentence of death. We accordingly also confirm the sentence and dismiss the appeal.

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