

In Re: Chundru Pallayya

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Court : Chennai

Decided On : Oct-24-1941

Reported in : AIR1943Mad315

Appellant : In Re: Chundru Pallayya

Judgement :

Burn, J.

1. The appellant and one Venka Narayudu were tried together by the learned Sessions Judge of West Godavari for the murder of a woman named Reddi Venka-yamma late at night on 19th April 1941, or rather on the early morning of the 20th. The case against them was that accused 2 had been carrying on an intrigue with Reddi Venkayamma, who was a married woman, and that early in the morning of 20th April before day light he had decoyed her to the compound of the Local Fund School and there both the accused had killed her. The motive alleged was that of the woman's jewels (M.Os. Nos. 1 to 5) which are unusually valuable. The learned Sessions Judge acquitted accused 2, but convicted accused 1 and sentenced him to death. Hence this appeal.

2. There is no dispute about the fact that Venkayamma was murdered by strangulation and there is no dispute about the place or the time of the occurrence. There is no dispute also about the identity of jewels (M.Os. 1 to 5) which were the property of the murdered woman. The evidence against the appellant consists

partly of the statements of witnesses who say that they saw him and accused 2 near the scene of offence late on Saturday night or very early on the morning of Sunday, 20th April, partly of evidence that accused 1 on 19th April possessed himself of an instrument suitable for cutting gold jewels, and partly of the evidence of witnesses who say that, very soon after the offence, accused 1 was trying to conceal the jewels of the murdered woman. Besides this, there is evidence that, on 2nd May accused 1 gave information to the Sub-Inspector (P.W. 22) about the murder and about the disposal of the jewels of the murdered woman. The statement in which he gave this information, it is stated, resulted in the discovery of M.Os. Nos. 1 to 5 on the afternoon of 2nd May. The learned Sessions Judge did not accept the evidence of P.Ws. 11, 12 and 13, who said that they had seen both the accused near the school compound not very long before the murder must have taken place. The learned Sessions Judge disbelieved also the evidence of a goldsmith (P.W. 3) who said that on 19th April, accused 1 borrowed from him a pair of goldsmith's scissors and returned them the next morning. The learned Sessions Judge disbelieved the evidence of Papayamma (P.W. 2), corroborated by that of P.Ws. 8 and 9, which was to the effect that, on 21st and 22nd April accused 1 was discussing the concealment of the jewels of the deceased. The learned Judge believed the evidence of the husband of the deceased, P.W. 5, his adoptive mother, P.W. 6, father, P.W. 10 and P.W. 7, the sister of the deceased, who said that Venkayamma was always wearing the jewels, M.Os. Nos. 1 to 5 and that she had them on, on Saturday night the 19th April. The learned Sessions Judge accepted also the evidence of the Sub-Inspector of Police (P.W. 22) corroborated by that of P.Ws. 18, 19 and 20 about the information given by accused 1 which led to the discovery of the jewels M. OS 1 to 5 in a field belonging to a sister of accused 1.

3. Mr Jayarama Ayyar for accused 1 has devoted the greater part of his argument to showing that the information given by accused 1 to the Sub-Inspector and recorded in Ex. F ought not to have been admitted in evidence. The contention is that the evidence about this statement and about the recovery of the jewels is the only important evidence against the appellant. The attack upon Ex. F and the subsequent proceedings to discover the jewels, is based upon the fact that, although accused 1 was arrested on 22nd April, he gave no information to the

police about the murder or the jewels until 2nd May and then, he gave this information in very unusual circumstances. The Head Constable (P.W. 17) who was in charge of the sub-jail guard, says that, on the evening of 1st May, accused 1 said that he would like to speak to the Sub-Inspector. This was reported by P.W. 17 to the Sub-Inspector at 6-15 P.M., and at 7 the next morning the Sub-Inspector with the permission of the Sub-Jail Superintendent went to the sub-jail and spoke to accused 1. At 10-55 A.M., accused 1, on an application put in by the Sub-Inspector, was taken out of the sub-jail, and remitted to the custody of the police for 24 hours. At 7-80 P.M., accused 1 was taken back to the sub-jail, having in the meantime made a long statement (EX. F), about the murder and the disposal of the jewels, and having shown the place where the jewels were hidden and having with his own hand unearthed them.

4. Learned counsel for the appellant points out that under the Jail Rules and the Madras Police Standing Orders, no police officer of lower rank than a Deputy Superintendent is permitted to interview the prisoner. That appears to be so, but it is not quite clear that the rules in the Jail Manual, which are reproduced in the Police Standing Orders, refer to sub-jails as well as to central jails. Further, it does not follow that if the Jail Rules or Police Standing Orders have been violated the evidence about the information given by accused 1 is inadmissible. Mr. Jayarama Ayyar attacks Ex. F, also on the ground that before Ex. F was recorded, the Sub-Inspector knew what information accused 1 was going to give. This contention is based upon the fact that the Sub-Inspector had an interview with accused 1 on the morning of 2nd May before accused 1 was removed from the sub-jail. The Sub-Inspector says that he talked to accused 1 for about ten minutes but that accused 1 did not at that time tell him about the murder or about the disposal of the jewels. And although Mr. Jayarama Ayyar is quite justified in suggesting the possibility that this statement might not be true, there is certainly no evidence to show that the Sub-Inspector was not telling the truth. It cannot, therefore, be said fairly that before accused 1 made the statement (EX. F), the police knew the substance of what he was going to say.

5. Mr. Jayarama Ayyar attacked Ex. F again on the ground that before Ex. F was recorded, the police already knew that the jewels had been hidden in the field

belonging to accused 1's sister and that, therefore, it cannot be said that the jewels were discovered in consequence of the information given by accused 1 on 2nd May. This contention is based upon the evidence given by P.Ws. 2, 8 and 9. P.W. 2 is alleged to have said that accused 1 told her that he would hide the jewels in his fields. P.W. 9 says that on 22nd April, accused 1 said that he had already hidden the deceased's jewels in the field. P.Ws. 2, 8 and 9 were examined by the police by 22nd April, but we do not think it possible to hold that, on the information given by them to the police, the location of Venkayamma's jewellery was known to the police. The evidence is that accused 1 took the Sub-Inspector and the witnesses to a particular place in the field and that he then dug up the ground with a stick to a depth of about a foot and disclosed the jewels. There is no justification for saying that the police knew exactly where in the field the jewels were hidden. Moreover, even if the statements of P.Ws. 2, 8 and 9 to the police were exactly the same as the evidence which they gave in Court (that of course could not be precisely proved) it would only mean that those witnesses told the police that accused 1 had said that he had hidden the jewels in his or in his sister's field. Therefore, even if the Police believed all that the witnesses told them, they knew no more than that accused 1 had alleged that he had buried the jewels in some field or other. This is a very different thing from saying that the Police knew that the jewels had, in fact, been buried in any particular field. Not everything that is said by witnesses to the Police turns out to be true.

6. But even if it were shown that after taking the statements of P.Ws. 2, 8 and 9 the Police knew where the jewels of Venkayamma were hidden, it is not clear how this could help the present appellant, for P.Ws. 2, 8 and 9 derived their information from the appellant, and it would still be true to say that the jewels were discovered in consequence of information given by the appellant. The evidence about the information given by accused 1 to the Sub-Inspector on 2nd May cannot, we think, be rejected as inadmissible under Section 27, Evidence Act. It would be difficult and it is not necessary to go in detail through the portions of Ex. F which the learned Sessions Judge has admitted under Section 27 of the Act. It is not always easy to say how much of the information in such cases 'relates distinctly to the fact thereby discovered.' In the present case, for instance, it is not easy to say whether the manner in which Venkayamma was murdered, namely, by strangulation and

suffocation relates distinctly to her jewels which were discovered. But it is possible to say that the portions of the statement which say that she was wearing these jewels when she was murdered and that they were taken from her person are admissible and, if those are admissible, it is of no practical importance whether the other portions are admitted or rejected. The learned Sessions Judge was quite justified in admitting in evidence the statements in Ex. F that the jewels were taken from the woman after she had been murdered and that accused 1 had hidden them in a certain place.

7. But apart from the confession of accused 1 which is recorded in Ex. F, we must agree with the learned Public Prosecutor that there was considerable evidence pointing to the guilt of accused 1. As already observed, the learned Sessions Judge rejected the evidence of P.W. 3 about the borrowing of the scissors (M.O. 9) by accused 1 on 19th April and their return on the 20th. But P.W. 3 was corroborated by one Satyanarayana (P.W.4). Both these witnesses were examined by the Police on 23rd April; neither of them is alleged to be an enemy of accused 1 and there is no suggestion in the cross-examination of them that they did not tell the Sub-Inspector about the borrowing of M.O. 9 from P.W. 3 by accused 1. The necklace (M.O. 2) shows very clear marks of having been severed with a sharp cutting instrument. This is a small matter, but we must agree with the learned Public Prosecutor that it is highly significant. Nine days before accused 1 made his statement (EX. F) these two witnesses told the Sub-Inspector that accused 1 had borrowed a pair of goldsmith's scissors on the pretext that he wanted to cut off a child's nose-ring. The learned Sessions Judge says that such evidence is easily fabricated. If he only means that such witnesses as P.Ws. 3 and 4 can be easily procured, he may be right, though, as we have already said, neither of them has been shown to have any reason for giving false evidence against this accused. But, if the learned Judge means that it would be quite easy to invent this incident, we are quite unable to agree with him. It is inconceivable that the Sub-Inspector or anybody else should have guessed on 23rd April that, when the murdered woman's jewels were found one at least of them would be seen to have been cut off her neck with a sharp instrument. The evidence of P.Ws. 3 and 4, therefore, though with regard to a small point, is of extreme importance. The evidence of P.Ws. 2, 8 and 9 is also very deadly from the point of view of accused 1. P.W. 2

can be discredited to some extent on the ground that she is a woman of loose character and it is true also that her story does not precisely agree with the story told by P.W. 8. But, it is not possible to doubt that, on 21st or 22nd April, accused 1 was discussing with P.Ws. 2, 8 and 9 the concealment of the murdered woman's jewels. There was no suggestion of enmity between the appellant and P.Ws. 8 and 9. The appellant alleged that he was on bad terms with P.W. 2, but this is almost certainly not true. On the contrary, he had been in illicit intimacy with P.W. 2 for a considerable time. This was admitted by himself as well as by the woman and, it was well known to others and there was no proof of the appellant's allegation that he and P.W. 2 had quarrelled because he had failed to repay to her some money which she had lent him.

8. Even without the evidence of the appellant's confession we think that on the evidence of P.Ws. 2, 3, 4, 8 and 9 taken together with the fact that M.Os. 1 to 5 were the property of the murdered woman and were being worn by her on the night of 19th April there can be no reasonable doubt about the guilt of the appellant. He has been rightly convicted of the murder of Venkayamma and, although, according to him, the principal part in the actual murder was played by accused 2, the sentence of death is certainly the only proper sentence in a case like this, where a woman has been strangled and suffocated to death by two men in order to steal her jewels. We confirm the conviction of the appellant for murder and the sentence of death and dismiss this appeal.