
(2014) 02 AP CK 0073

In the Andhra Pradesh High Court

Case No : Criminal Appeal No. 1445 of 2009

M. Raghuramaiah and Others

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 21-02-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 428
Penal Code, 1860 (IPC) — Section 147, 148, 149, 302, 304

Citation : (2014) 02 AP CK 0073

Hon'ble Judges : M.S.K. Jaiswal, J; L.N. Reddy, J

Bench : Division Bench

Advocate : D. Kodanda Rami Reddy, Advocate for the Appellant

Final Decision : Partly Allowed

Judgement

L. Narasimha Reddy, J.—A1 to A11 were tried by the Court of V Additional Sessions Judge, Rayachoty in S.C. No. 238 of 2006. As many as 16 charges were framed by citing various provisions of law.

2. The entire case pertains to the attack upon one Sri Chinthala Gangisetty and the consequential murder of that gentleman on 03.04.2005, at Pedaballivandlapalli H/o. Hasanapuram Village, Ramapuram Mandal, Kadapa District.

3. Through its judgment, dated 13.10.2009, the trial Court convicted A1 and A2 of the offence punishable u/s 302 I.P.C. and sentenced them to undergo imprisonment for life and to pay fine of Rs. 1,000/- each, in default to undergo simple imprisonment for one year. They were also convicted for the offence punishable u/s 323 I.P.C. and were sentenced to undergo rigorous imprisonment of six months, each.

4. A3 was convicted of the offence punishable u/s 302 read with 34 I.P.C and was sentenced to undergo imprisonment for life and to pay fine of Rs. 1,000/-, in default, to undergo simple imprisonment for one year.

5. A4 was convicted of the offence punishable u/s 324 I.P.C. and was sentenced to undergo simple imprisonment for three months and also to pay fine of Rs. 2000/-, in default to undergo simple imprisonment for two months.

6. A6 and A8 were sentenced to pay fine of Rs. 1000 each, in default to undergo simple imprisonment for one month each on being convicted of the offence punishable u/s 323 I.P.C.

7. A1 to A9 and A11 were acquitted of the offences alleged under Sections 148, 324 read with Section 149 I.P.C., u/s 326 read with Section 149 I.P.C., u/s 307 read with Section 149 I.P.C. and 307 I.P.C. and A3 was acquitted of the offence alleged u/s 364 I.P.C. A4 to A9 and A11 were also acquitted of the charge of murder u/s 302 read with Section 149 I.P.C.

8. The period of detention undergone by A1 to A4 as under-trial prisoners was directed to be set off against the period of imprisonment imposed in this case, u/s 428 Cr.P.C. The two sentences of imprisonment imposed against A1 and A2 were directed to run concurrently.

9. This appeal is preferred by A1 to A3.

10. The machinery of law was set in motion with the recording of statement of P.W.1 by the Station House Officer, Ramapuram in Government Hospital, Rayachoty. He stated that he married the daughter of the deceased about eight years ago and the deceased, Gangisetty, was working in Kuwait. P.W.1 is said to have occupied Government land abutting his back side of the house and when A1 to A5 asked the deceased to arrange for giving of that land, the deceased is said to have asked them to occupy the land which was in the possession of his sister, Gangamma, situated left side of the house of P.W.1. Not satisfied with the said arrangement, the accused were said to have turned inimical to Gangisetty and that they are waiting for an opportunity.

11. P.W.1 stated that on 03.04.2005, at about 2.30 p.m., when himself and his wife, P.W.2, were in the house, the deceased was proceeding in the street and when he was crossing the house of A1, the deceased was dragged into the house, by A3. On noticing this, P.Ws.1 and P.W.2 are said to have gone into the house of A1. They are said to have noticed the presence of all the accused, armed with various weapons. He further stated that A1 dealt a blow with an axe upon the head of the deceased and thereafter, A2 hit the deceased with a grinding stone. All through, A3 is said to have held the hands of the deceased preventing him from escaping or offering resistance. Other acts were also attributed to different accused. He further stated that when himself and his wife tried to intervene, they were attacked and both of them received injuries. P.W.1 further alleged that P.W.3, brother, and P.W.4, wife of the deceased, who too rushed to the spot, were attacked and they also received injuries.

12. Soon after the police came to know about the incident, through the statement of P.W.1, an F.I.R. was issued, they rushed to the spot and the Station

House Officer got the scene of offence panchanama, caused inquest and sent the body for post-mortem examination. After a detailed investigation was conducted, the charge sheet was filed. Taking the same into account, the trial Court framed as many as 16 charges. The nature of disposal given to the case has already been indicated in preceding paragraphs.

13. Learned counsel for the accused submits that even according to the prosecution, it was a case of almost a free fight between two groups and in the process, it is difficult to fix the responsibility upon any one of the accused. He contends that the version presented by P.Ws.1 to 4 cannot be accepted in view of the inherent contradictions in their statements. He has also pointed out that serious inconsistency is noticed between the statements recorded from the injured witnesses and the depositions made by them in the Court.

14. Learned Public Prosecutor, on the other hand, submits that this is a typical case where, the daughter and son-in-law of the deceased have noticed every facet of the crime and have given a graphical presentation thereof. She contends that P.Ws.1 to 4 are not only eye-witnesses, but also have received injuries in the process of their making attempt to rescue the deceased.

15. Before the trial Court, P.Ws.1 to 10 were examined and Exs.P1 to P14 were marked. On behalf of the defence, D.W.1 was examined and various documents relied upon by them were marked as D1 to D11. M.Os. 1 to 11 were also taken on record.

16. The record discloses that quite a large number of persons from both the parties were present in the entire episode. That the death of the deceased is homicidal in nature, is beyond any pale of doubt. The accused, the deceased and his relations hail from a weaker-section of the society. The dispute between them is said to be in respect of a trivial issue. Except that the passions have risen high, the motive or the subject matter of the dispute does not justify such a serious action or reaction.

17. The deceased was basically working in Kuwait for his livelihood. Obviously because he was an elderly man, his son-in-law, P.W.1, and the agnates, who are mostly the accused, were depending upon his advice. The dispute arose in relation to a small piece of Government land abutting the house of P.W.1. A1 to A5 wanted that very piece of land and recognising the elderly position of the deceased, they are said to have approached him. Not being in a position to require his son-in-law to vacate the land, the deceased is said to have shown an alternative piece of land. Even if all this is true, nobody can develop such a grouse, to the extent of committing murder of the other.

18. P.Ws.1 and 2, in one voice stated that when the deceased was passing in front of the house of A1, A3 emerged from it and pulled the deceased inside. The rushing of P.Ws.1 and 2 into the house cannot be said to be unnatural. They went inside the house, and there, they are said to have noticed various acts attributed to different accused. Though there is delay in recording the statement of P.W.1,

which gave rise to registration of the First Information Report, we are of the view that there was no attempt on the part of P.W.1 to rope in persons inimical towards him, taking advantage of the death of the deceased.

19. The trial Court has also analysed the evidence of each and every witness and found that the death of the deceased occurred on account of the blows given by A1 with an axe and A2 with a grinding stone, even while A3 was holding the hands of the deceased.

20. We, however, find that in case A1 to A3 wanted to commit murder of the deceased, they would have chosen a different place, lest their acts are noticed by others, including those from their own group. In all probability, the group of the accused wanted to accost the deceased on certain aspects and on account of the rise of passions, both the groups indulged in a free battle.

21. While the deceased succumbed to injuries, other persons including P.Ws.1 to 4 from the group of the deceased and A3 from the group of the accused are said to have received injuries. The record also discloses that A3 submitted a complaint alleging offences under Sections 147, 148, 324 and 506 read with Section 149 I.P.C. against some of the prosecution witnesses and others and the same was registered as Crime No. 33 of 2005. Though it is closed as a referred case, it would certainly connote the existence of some group clash. In these circumstances, we are of the view that the allegation made against A1 to A3 would fit into the one, u/s 304 Part-II I.P.C.

22. Hence, the Criminal Appeal is partly allowed, modifying the conviction of the appellants-A1 to A3 to be the one u/s 304 Part-II I.P.C. and imposing the punishment of five years rigorous imprisonment with fine of Rs. 1,000/- (Rupees one thousand only) each, but upholding the conviction as well as sentence imposed for the offence punishable u/s 323 I.P.C. by the Court of V Additional Sessions Judge, Rayachoty in S.C. No. 238 of 2006. It is also directed that both the sentences shall run concurrently. We direct that in case the appellants-A1 to A3 have served the sentence of Rigorous Imprisonment for five years and paid fine of Rs. 1000/- each, they shall be set at liberty forthwith, unless their detention is needed in any other case.

23. The miscellaneous petition filed in this appeal shall also stand disposed of.