
(1996) 04 AP CK 0051

In the Andhra Pradesh High Court

Case No : Criminal Appeal No. 399 of 1993

Nallapareddy Janardhana Reddy

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 15-04-1996

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 302, 304A, 379

Citation : (1996) 3 ALD 90 : (1996) 2 ALD(Cri) 124 : (1996) CriLJ 3034

Hon'ble Judges : K.B. Siddappa, J

Bench : Single Bench

Advocate : C. Padmanabha Reddy, for the Appellant; Public Prosecutor, for the Respondent

Judgement

1. This appeal is filed against the Judgment and sentence passed in Sessions Case No. 28 of 1992 on the file of the Sessions Judge, Chittoor. On a private complaint filed by the one Dandu Raja Reddy u/s 302 IPC, the II Addl. Judicial First Class Magistrate, Madanapalle, took the case on file and subsequently Sessions Case No. 28 of 1992 was registered. The Inspector of Police, Madanapalle, filed charge sheet in Crime No. 59 of 1983 of B. Kothakota Police Station u/s 304A and 379 IPC and Section 39 of Electricity Act in C.C. No. 92 of 1984. These two cases arise on the same incident. The Calender Case is transferred to be tried along with Sessions Case No. 28/92, and after its transfer, it was registered as C.C. No. 1/92.

2. The case of the prosecution in C.C. No. 1 of 1992 is as follows : The accused is a resident of Gollapalle. Late Govinda Reddy is also resident of same village. On 4-12-1983 at about 9.30 a.m. Govenda Reddy went to Government Channel to take water. He came into contact with a live electric wire which was drawn around the sugar cane garden of the accused and he died. Thus, the accused acted rashly and negligently in drawing a live electric wire around their sugar cane garden and caused the death of Govinda Reddy. The accused also committed the theft of Electricity energy.

3. The facts in the private complaint are as follows : A-2 and A-3 are undivided sons of A-1 and A-4. A-5 is jointly cultivating the lands of the accused 1 to 4. A-1 is working as Deputy Tahsildar. There are Civil Disputes pending between the complainant Dandu Raja Reddy and the accused in O.S. No. 81/61 and 71/81, on the file of Sub Court, Madanapalle. Therefore, there is enmity between them. On 3-12-1982, the brother of the complainant Govinda Reddy went to his land which is under the ayacut of Lanjakunta tank. A-1 to A-4 are also having lands under the same tank. At that time, there were heated exchanges and A-2 and A-3 threatened Govinda Reddy by saying :

On the night of 3-12-1983 A-1 to A-5 with common intention to kill Govinda Reddy and his family members at the instigation of A-1 and A-4. A-2 and A-3 drew electric wire and inserted the same in the bed of the channel. On 4-12-1993, at about 9.00 a.m., Govinda Reddy went to the land and put his leg on the electric wire placed in the channel. He received electric shock and died. On filing the private complaint a case was registered u/s 304A IPC instead of u/s 302 IPC. The police have not examined the witnesses and the complainant brought this fact to the notice of the higher officials by way of telegrams. Hence the case.

4. In this case first charge was framed u/s 379 IPC and second charge was framed u/s 304A IPC. The charges were denied by the accused.

5. To bring home the guilt of the accused. the prosecution examined PWs-1 to 9 and marked Exs. P-1 to P-8 and also marked MOs-1 to 5. The defence did not lead any oral evidence but marked Ex. D-1.

6. Considering both the oral and documentary evidence, the learned Sessions Judge, Madanapalle, found Nallapareddy Janardhana Reddy, who is accused in C.C. No. 1/92 guilty for the offence punishable u/s 304A IPC and sentenced him to undergo Rigorous Imprisonment for two years and directed him to pay a fine of Rs. 10,000/- in default to undergo simple imprisonment for three months. Out of the fine amount, Rs. 3,000/- was directed to be paid to Dandu Raje Reddy who is the brother of deceased Govinda Reddy and who is the defacto-complainant in S.C. No. 28/92. The learned Sessions Judge, acquitted A-2 and A-3 in S.C. No. 28/92 for the offence punishable u/s 302 IPC. He also found A-4 and A-5 not guilty for the offence punishable u/s 302 IPC r/w. 149 IPC. A-2 to A-5 in S.C. No. 28/92 are found not guilty for the offence punishable u/s 147 IPC. Accused on C.C. No. 1/92 is also found not guilty for the charge u/s 379 IPC.

7. Aggrieved by the said Judgment and sentence, the present appeal is filed by Nellapareddy Janardhana Reddy who is accused in C.C. No. 1 of 1992.

8. Mr. Padmanabha Reddy, learned counsel appearing for the appellant submitted that there is no evidence against the appellant. It is true that Govinda Reddy died when he came into contact with a live electric wire which was drawn around the sugar garden of the accused. The prosecution projected PW-3 as an eye witness to the fact that A-2 and A-3 put the wire around the sugar cane garden.

However, the learned Sessions Judge, disbelieved the evidence of PW-3. Therefore, virtually there is no evidence to implicate the appellant in the above crime. Even though, he is a co-owner of the land in question, being the member of joint family in a case of 304-A IPC vicarious liability does not arise. In support of his contention the learned counsel for the appellant relied on a Judgment of Supreme Court reported in Kurban Hussein Mohammedali Rangwalla Vs. State of Maharashtra, wherein it was held that :

"Death must be direct result of the rash and negligent act of accused and the act must be efficient cause without intervention of another's negligence - It must be the causa causans; it is not enough that it may be have been the causa sine quo non etc."

9. I am inclined to accept the contention of the learned counsel for the appellant. The appellant is a Government employee. He has nothing to do with the spreading of live wire around the land in question. PW-3 stated that one day prior to the death of Govinda Reddy at about 4.30 or 5.00 p.m. he was going from the fields to purchase Mullery leaves and found A-2 and A-3 taking a wire from their meter which is near the well in their field adjacent to the tank. He further stated that they took the wire to the sugar cane garden on the south of channel and drawn it around it. On the next day he came to know that Govinda Reddy died due to electrical shock. This evidence was disbelieved by the learned Sessions Judge. Therefore, virtually there is no evidence against A-2 in this case that he is the person who spread the electric wire around the sugar cane. However, it is true that Govinda Reddy died due to shock of electric power, when he came into contact with live wire spreading around the field of the accused. This is clear from the evidence of PWs-1 and 2 (who is the direct witness to the incident). PW-4 is also a direct witness who stated that on hearing the sound he rushed to the canal and found Govinda Reddy struggling for life in the canal due to electrocution. In this case, the prosecution failed to establish the direct connection of the appellant herein with the crime. In such case, no liability can be fastened against the appellant in view of the ratio of the above Judgment. Therefore, he is entitled for acquittal.

10. This is a hard case where an innocent person died due to the negligence of one of the unspecified accused in this case. The act done by that person is quite negligent due to which Govinda Reddy died. The family of the Govinda Reddy should be adequately compensated. The appellant herein is admittedly a joint family member to which the land belongs. It is proved beyond doubt that Govinda Reddy died due to the negligent act of spreading live wire around the sugar cane in the joint family land of the appellant herein. Therefore, in the ends of Justice. I direct the appellant to pay Rs. 20,000/- as compensation to the legal representative of Govinda Reddy within two month from today. It is brought to my notice that Rs. 10,000/- is already deposited towards fine. This entire amount is directed to be paid to the legal representative of Govinda Reddy, and in addition to this the appellant shall pay Rs. 10,000/- to the legal representative of

deceased Govinda Reddy, within the time granted above.

11. With the above direction, the Criminal Appeal is disposed of.

12. Order accordingly.