

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL No. 404 OF 2008

KURATIKAR SUDHAKAR

.... APPELLANT

VERSUS

STATE OF ANDHRA PRADESH

.... RESPONDENT

JUDGMENT

S. A. BOBDE, J.

1. The appellant was acquitted by the Trial Court in respect of a charge under Section 302 of the Indian Penal Code (hereinafter referred to as 'the IPC') for the murder of two persons, one Kuratkar Laxman and one Kuratkar Thukaram.

In appeal filed by the State, the High Court of Andhra Pradesh found the appellant guilty of the offence under Section 302 IPC and accordingly convicted and sentenced him to undergo life imprisonment.

2. According to prosecution Kuratkar Laxman (hereinafter referred to as '1 st deceased') and Kuratkar Thukaram (hereinafter referred to as '2 nd deceased') were father and son. The appellant and the deceased are residents of Govindapur, Adilabad and were related to each other. The 1 st deceased used to give medicine to the cattle for snakebite. The 2 nd deceased gave country-made medicine to the cattle for any disease.

About 15 days prior to the date of incident, the father of the accused apparently became deranged and started
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Ramana Venkata Ganti

wandering in the village. Five months before the incident, the paternal aunt of
Date: 2014.08.12
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Reason:

the accused died of some disease; three years prior to the date of incident, the
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grandfather of the accused and another relative died due to sickness. The accused suspected that the above events happened because the 1 st deceased practiced witchcraft and therefore the accused decided to do away with the lives of deceased 1 and 2.

3. On the night intervening 13/14-06-2000, the accused found the

deceased sleeping along with their family members in front of their house and went there with an axe. He first hacked the 1st deceased with an axe on his throat and then struck the 2nd deceased twice on his throat and caused severe bleeding injuries. On hearing the sounds of attack, the complainant woke up and witnessed the incident as well as saw the accused holding an axe in the electric light. The accused then ran away on hearing the hue and cries raised by the complainant. The complaint was lodged by the elder son of the 1st deceased on 14.06.2000 at about 8.00 a.m.

The Sub Inspector of Police, Asifabad, registered a crime for the offence under Section 302, IPC. Inquest was conducted and bodies were sent for post mortem. The doctor opined that both the deceased died due to hemorrhage and shock.

4. A charge sheet was accordingly filed. The Trial Court acquitted the accused mainly on the grounds that there was a delay of 17 hours in lodging the F.I.R.; the Asifabad Police took 9 hours in sending the F.I.R. to the Asifabad Court. Also that P.Ws. 1 and 2 told D.W. 1 that some unidentified persons killed both the deceased, as narrated by D.W.-1. According to the Trial Court, the motive had not been established and further the evidence of P.W.-2, who was wife of the 2nd deceased, shows that she was in sound sleep, and therefore, it was not possible for that witness and another to get up and see

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the accused running away in the light of a solitary lamp in the street and both P.Ws. 1 and 2 could not have seen the accused, and that too from the back. Thus, the evidence is suspicious and the prosecution had failed to prove guilt of the accused beyond reasonable doubt and accused was entitled for acquittal.

5. The High Court in Criminal Appeal, referred to the direct evidence of P.Ws. 1 and 2, i.e. the son of the 1st deceased and the wife of the 2nd deceased. The High Court accepted that these were witnesses of truth, who had been sleeping near the accused on their cots and woke up because of the sound of hacking made by the axe of the accused. P.W. 1 had stated that he woke up because of the sound and found the accused holding an axe and standing between two cots of both deceased. P.W. 2 had categorically stated that on hearing the sound of hacking made by the axe of the accused, she woke up and saw the accused standing between the cots of her husband and her father-in-law with an axe in his hand. The High Court rejected the contention that because the motive cannot be discovered, the accused is entitled for

acquittal since it was not always possible to ascertain the real motive. The High Court observed that the actor may plan to do the act; though there may be no evidence of the preparation. The High Court, however, observed that the failure to discover the motive did not signify its non-existence.

6. The High Court observed that the father of the accused had started wandering in the village due to madness and that in the cross examination of P.W. 2 [wife of 2nd deceased] it was put to her that father-in-law (1 st deceased) was practicing sorcery, which she denied. This strengthens the case of the

prosecution that the accused suspected that the 1 st deceased is responsible for the ill health and madness of his father and therefore he bore a grudge against the deceased.

7. We have heard the learned counsel for the parties and perused the evidence on record. The learned counsel for the appellant heavily relied on the statement of D.W. 1, that he was told by P.Ws. 1 and 2 that an unidentified assailant had attacked the deceased. We fail to see how hearsay of a defence witness could weaken the prosecution case or cast any doubt on the depositions of the son and wife of the two deceased, who naturally woke up to the sounds of hacking by the axe and saw the accused standing between the two cots of the deceased and then saw him running away. These two are most natural witnesses whose presence at the scene cannot be doubted, being members of the family.

8. We have examined the depositions of these two witnesses and have found nothing to discredit the said witnesses. P.W. 1 has clearly stated that he got up on hearing the sounds of hacking by the accused with an axe and saw the accused standing between the two cots of the deceased with an axe in his hand. Further, when he tried to apprehend the accused he ran away along with the axe, which he then threw on the roadside. The deposition of P.W. 2 is similar and identical in material particulars. Depositions of P.Ws 1 and 2 remained unshaken in the prosecution examination. The medical evidence, from the deposition of P.W. 7 [Dr. Anitha Rani], clearly establishes that the injuries on the two deceased might have been caused by the same weapon.

9. The learned counsel for the appellant also argued on the question of delay in lodging the F.I.R. The High Court considered this question and found

that though the offence was committed in the night intervening
13/14-06-2000, the matter was reported to the police on 14 th June, 2000 at
about 8.00 a.m. The village was about 4 kilometers from the police station
and there was no evidence whether there was any road on which anybody
could have travelled at night and therefore lodging the report in the morning
cannot amount to delay. In any case, delay in registering F.I.R. is not fatal.
We agree with the above findings of the High Court. We find the contention of
the learned counsel for the respondent acceptable in this regard. Learne
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counsel for the respondent has referred to all the material evidence on record
to bring home the guilt of the accused.

10. On the evidence thus, we find that there is clear and unimpeachable
evidence on the basis of which the appellant/accused must be held guilty for
the murder of Kuratkar Laxman and Kuratkar Thukaram on the night
intervening 13/14-06-2000 under Section 302 IPC.

11. In the circumstances, we find there is no merit in the appeal and the
same is hereby dismissed.

.....J.

[DIPAK MISRA]

...J.

[S.A. BOBDE]

NEW DELHI,
AUGUST 12, 2014

ITEM NO.1A

COURT NO.2

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 404/2008

KURATIKAR SUDHAKAR

Appellant(s)

VERSUS

STATE OF A.P.

Respondent(s)

Date : 12/08/2014 This appeal was called on for pronouncement of
Judgment today.

For Appellant(s) Ms.Niranjana Singh, Adv.
 Mr.Ram Bhaj, Adv.
 Ms. Madhu Moolchandani ,Adv.

For Respondent(s) Mr.S.Udaya Kumar Sagar, Adv.
 Mr. D. Mahesh Babu ,Adv.

Hon'ble Mr.Justice S.A.Bobde pronounced the judgment of
the Bench comprising Hon'ble Mr.Justice Dipak Misra and His
Lordship.

The Criminal Appeal is dismissed.

(G.V.Ramana)
Court Master

(Vinod Kulvi)
Asstt.Registrar

(Reportable signed judgment is placed on the file)