

PETITIONER:
SANKARA NAGAMALLESWARA RAO & ANR.

Vs.

RESPONDENT:
STATE OF ANDHRA PRADESH

DATE OF JUDGMENT: 26/02/1998

BENCH:
G.T. NANAVALI, V.N. KHARE

ACT:

HEADNOTE:

JUDGMENT:
With Criminal Appeal No. 8/91.

J U D G M E N T

NANAVALI, J.

Both these appeal arise out of the judgment of the andhra Pradesh High Court in Criminal Appeal No. 1031/87. Criminal Appeal No. 691/90 if filed by S. Nagamalleswara (A-3) and S. Babu Rao (A-4). Criminal Appeal No. 8/91 is filed by V. Mankyala Rao (A-2).

The appellants have been convicted under Section 302 IPC for causing death of K. Sivaramakrishnaiah. Their conviction is based upon the evidence of PWs.1, 2 and 3 and the two dying declarations - Ex.P.15 and Ex.P.13. The High Court confirmed their conviction mainly relying upon the two dying declarations. It held that though PWs.1, 2 and 3 are partisan witnesses their evidence could be utilised for the purpose of corroboration.

Learned counsel for the appellants was not able to point out how PWs.2 and 3 who were not related to the deceased could be regarded as partisan witnesses. As their services were hired for the day for cultivating his land they were with the deceased while he was returning from his field and when the incident took place. Nothing was brought on record to show that they has any enmity with the deceased. The trial court had rightly placed reliance upon their evidence. As stated earlier, the High Court has also relied upon their evidence though for the purpose of corroboration. The dying declaration Ex.P.15 was recorded by the Investigation officer at about 7.15 p.m. and Ex.P.13 was recorded by the Judicial Magistrate at about 9.30 p.m. Both the dying declarations have been found as genuine and true and nothing could be urged by the learned counsel for taking a contrary view. The evidence of PWs.2 and 3 and the two dying declarations Ex.P.15 and Ex.P.13 clearly establish that the appellants were responsible for causing the death of K. Sivaramakrishnaiah.

It was contended by the learned counsel for the appellants that as no injuries were caused on the vital parts of the deceased, they should not have convicted under Section 302 IPC. This contention cannot be accepted because the medical evidence clearly shows that the deceased has

died due to the injuries caused to him and the injuries were sufficient in the ordinary course of nature to cause death. Though not on the vital parts, the injuries caused were serious. Therefore, the appellants have been rightly convicted under Section 302 read with 34 IPC.

As we find that they have been rightly convicted these appeals are dismissed.

The appellants were released on bail during the pendency of these appeal. Their bail is cancelled and they are ordered to surrender to custody to serve out the remaining part of their sentence.

JUDIS