



Non-Reportable

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal No.4849 of 2025

Jupudi Suresh

...Appellant

Versus

The State of Andhra Pradesh

...Respondent

J U D G M E N T

K.Vinod Chandran, J.

Two children were orphaned, when the mother died of acute burn injuries and the father was accused of having murdered the mother. The prosecution went to trial with the circumstances of the constant quarrels between the couple, which even led to the couple residing adjacent to the house of the parents of the wife. The alleged homicidal death as coming out from the postmortem report, two dying declarations and the absence of an explanation under Section 106 of the husband, for the death by burns occurred in the marital house where the couple were residing, were the circumstances relied on by the prosecution. The Trial Court convicted the accused and

sentenced him to life imprisonment, which was affirmed by the High Court.

2. Sri. Satinder Singh Gulati learned Counsel appearing for the appellant/accused pointed out that there is discrepancy insofar as the motive, which led to the appellant allegedly murdering the deceased; as disclosed in the two dying declarations, which is a material inconsistency inuring to the benefit of the accused. It is also pointed out that the first dying declaration was not proved, since the Head Constable who is said to have recorded it, expired. The time shown in both the dying declarations makes it very suspicious. The immediate relatives of the deceased PW1 to PW3; her sister, her cousin and her mother does not inculcate the accused in their testimony; all of them having become hostile in Court but not declared so. The Doctor, who conducted the post-mortem clearly stated as revealed from the postmortem certificate that the victim suffered 96% burns. It was his testimony in cross-examination that a person who has suffered from 80 to 90% burns would be conscious and fit to give a statement; which has to benefit the accused. The appellant, hence, has to be acquitted is the compelling submission.

3. Ms. Prerna Singh, learned Government Advocate on the other hand argued in favour of the conviction and sentence awarded by two Courts, concurrently. It is argued that discrepancies were with respect to the prior incident and not with respect to the crime proper. It has been categorically stated by the victim that, after the accused poured kerosene on her, she was set ablaze. Though the Head Constable who recorded the first dying declaration was not available, the Sub-Inspector of the Police Station in which the Head Constable was working had confirmed the statement. The Trial Court has discarded the depositions of PW1 to PW3 on the ground that they had been won over. The circumstances relied on by the prosecution, even without any supporting testimony from the relatives of the deceased, clearly brings home the guilt of the accused, is the argument.

4. We have given anxious consideration to the arguments raised and also perused the records of the case. It was on 06.05.2013 that a quarrel erupted in the house where the deceased and accused were staying, which culminated in the death of the deceased. It was the prosecution case that when the deceased had gone out for work, the accused, who was

habituated to alcohol, took away the money kept by the deceased in the house. Finding that the money kept by her was missing, the deceased questioned the accused and the accused, enraged, poured kerosene and set ablaze his wife and left the scene.

5. To find the homicidal death, both the Courts relied on the post-mortem certificate, as proved by the Doctor PW11 and the inquest report, Ex. P6 proved by PW6 (VRO). PW4 and PW5, the witnesses to the inquest report turned hostile, which is immaterial since PW6 affirmed it. The post-mortem certificate clearly indicated that the deceased had sustained burns of 96% of the surface area of the body. The burn injuries were present over the scalp, face, neck, front and back of the chest, front and back of both upper limbs, front and back of the abdomen, front and back of both lower limbs and genitalia. Unburnt patches were present only over the front of the abdomen. Looking at the post-mortem certificate, we had a doubt as to the theory of the accused having poured kerosene over the deceased to set her ablaze, since the burns were present even over the scalp of the head. The indication is more of the deceased having doused herself with kerosene, which could have resulted in the burn

injuries on the scalp of the head. However, we see that the Doctor was not cross-examined on this aspect and there was no question put as to whether the death was by suicide; which is the defense coming out from the depositions of the various witnesses. All the same, it has to be noticed that, in cross-examination it was elicited from PW11, the Doctor who conducted the post-mortem that only a victim sustaining burns between 80 to 90% could speak well; which raises a suspicion insofar as the dying declaration said to have been made by the victim who as per the post-mortem report suffered 96% injuries.

6. The cause of death as declared by PW10 was due to burns, which according to us does not clearly point to a homicidal death. Be that as it may, for the present we will take it that the death was homicidal, despite the prosecution also having not brought out the cause of death from PW11; as to whether it is a suicide or a murder.

7. Now we come to the deposition of the witnesses, the close relatives of the deceased; PW1 was her sister, PW2 - her cousin and PW3 - her mother. All of them consistently spoke of having reached the scene of occurrence on hearing the cries of the

deceased. They saw her ablaze and attempted to put out the fire. As per the testimony of PW2 the appellant was present, who also tried to save the victim. There is no inculpatory circumstance brought out in chief-examination except a quarrel between the couple at 10pm; not sufficient to find a motive for murder or even of a motivation to commit suicide, making the accused an accomplice as an abettor. From the evidence of PW1 to PW3, we have to find that there is nothing coming out on the motive or on the incident itself or even on the absence of the appellant from the scene of occurrence at the time of incident that occurred.

8. We see that the High Court has brushed aside the testimony of PW1 to PW3 on the ground that they had been won over. Further the High court finds the story projected by PW1 to PW3, of the deceased having suffered from fits and stomachache, as a reason for suicide, to be far-fetched. The High Court finds that the illness projected is not sufficient to motivate a person to commit suicide. The High Court also finds that PW1 to PW3, won over by the accused, resiled from the early version and also from their testimony given in the examination-in-chief. On a reading of their testimonies, we do

not find anything incriminating in their chief examination, as against the accused. PWs 1 & 3 spoke of a quarrel at 10 pm, while PW2 attested to the presence of the accused when the fire was put out. In cross-examination, they all spoke of the deceased having committed suicide for reason of the ailments. They also spoke of the dying declarations having been made because of the influence exerted by some local political leaders. They spoke in one voice that there was no quarrel between the couple.

9. The chief examination incriminates the accused only with a quarrel, not to the extent of a long-lasting marital discord. Even if the Court found the cross-examination to be not credible, it was not proper for the Court to assume that the version of PW1 to PW3 was an afterthought. Insofar as the earlier version referred to in the impugned judgement, obviously it is the Section 161 statements, which cannot be relied on for convicting an accused. Their testimony before Court is what has to be relied on for conviction or acquittal and earlier versions have to be put to the witnesses and the contradictions elicited as having occurred, by confirming such Section 161 statements from the Investigating Officer (IO). PW1

to PW3 were never declared hostile nor were they re-examined after they exculpated the accused in the cross-examination and propounded the theory of suicide. The High Court egregiously erred in finding the testimony to be contrary to their earlier version, when neither was the earlier version put to the witnesses nor the statements allegedly made, confronted to the IO. PW1 to PW3 do not at all support the prosecution case.

10. Now we come to the dying declaration and in examining the same, we first refuse to rely on the testimony of PW1 to PW3, that local political leaders exerted influence; a bland statement without any substantiation. The defense also did not attempt to substantiate such statements by revealing the identity of the local leaders and indicating their enmity towards the accused. The dying declarations are produced along with the convenience compilation. The dying declaration recorded by the Head Constable was produced by PW8, a Sub-Inspector of Police. He only states that he received the statement recorded by the Head Constable, based on which he registered a case under Section 498A and 307 of the IPC, which later, on intimation of death was altered to Section 302 of the IPC. PW8 does not affirm the signature of the Head Constable in his

deposition nor was he confronted with the statement recorded, as the one he received, leading to the registration of the FIR.

11. The FIR produced at Annexure P3 though indicates the name of the deceased as the complainant does not enclose the first information statement. We have to immediately notice that evidence of PW8 was that at 1.00 am on 08.05.2013, he received a statement recorded by LW16, (the Head Constable) which date and time is recorded in the FIR. The dying declaration recorded by the Head Constable is produced as Annexure P1. It speaks of having been recorded at 2.30 am on 07.05.2013. The learned Counsel for the appellant submits that the time recorded is a mistake and it is 8.30 am. The recording of the declaration went up to 9.15 am; quite possible since the deceased had 96% burns. However, the issue as to why the dying declaration recorded at 9.15 am on 07.05.2013 was registered as an FIR at 1.00 am on 08.05.2013, more than 15 hours later, is very crucial.

12. Yet again, a dying declaration is said to have been recorded as Annexure P2 by the Executive Magistrate wherein the Doctor also certified that the patient was conscious and fit to give a statement. The Doctor who attended to the victim

testified as PW7 and spoke of injuries sustained by the victim to be between 95% to 100%. Here we have to immediately observe that the Surgeon who conducted post-mortem, spoke of a credible statement possible only if the burns are between 80-90%. We cannot also ignore the fact that the Executive Magistrate notices the time at which the dying declaration was recorded as 8.55 am, at which time the Head Constable is said to have been recording the dying declaration.

13. We notice the reasons stated as a motive for the accused, differs in both the dying declarations, which we need not dwell upon, since even otherwise the dying declarations are suspicious. As we already noticed the motive of constant quarrels between the couple has not been established. The dying declarations speak of death, both on different issues, but they have already been found to be not credible. The homicidal death has also not been established equivocally, and doubt lingers as to whether it was a suicide; which was also the version of the relatives of the deceased themselves. Insofar as no explanation having been offered by the accused, we find no such circumstance arising since the relatives of the witnesses'

spoke of the accused being present and having attempted to douse the fire.

14. We find absolutely no reason to sustain the conviction as entered into by the Trial Court and the High Court. There is no single circumstance proved by the prosecution in trial and the doubt regarding the death having been caused by suicide bring us to disbelieve the prosecution version, as a reasonable doubt lingers in our minds. The prosecution failed to prove a single circumstance and the accused hence stands acquitted. If not already released on bail, the accused shall be set free if he is not needed in any other case and if already released, his bail bonds shall stand cancelled.

15. The appeal stands disposed of.

16. Pending application(s), if any, shall also stand disposed of.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
AUGUST 11, 2026.**