

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Appeal No.899 OF 2009

Between:

Muppuraju Mohan Rao.

...Appellant.

And

State of A.P.,
Rep.by its Public Prosecutor,
High Court, Hyderabad.

... Respondent.

DATE OF JUDGMENT PRONOUNCED: 04.08.2022

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

* THE HON'BLE SRI JUSTICE K.SURENDER

+ CRL.A. No.899 of 2009

% Dated 04.08.2022

Muppuraju Mohan Rao

... Appellant

And

\$ State of A.P.,
Rep.by its Public Prosecutor,
High Court, Hyderabad

..Respondent.

! **Counsel for the Appellant:** D.Sangeetha Reddy,

^ **Counsel for the Respondent:** Public Prosecutor

> HEAD NOTE:

? Cases referred

HON'BLE SRI JUSTICE K.SURENDER
CRIMINAL APPEAL No.899 OF 2009

JUDGMENT:

1. The appellant is convicted for the offence under Section 304-Part I of IPC and sentenced to undergo rigorous imprisonment for a period of seven years and to pay fine of Rs.2,000/-, in default, to suffer simple imprisonment for four months vide judgment in S.C.No.491 of 2008, dated 13.08.2009 passed by the III Additional Sessions Judge, (FTC), at Asifabad. Aggrieved by the same, present appeal is filed.

2. The case of the prosecution is that on 22.09.2007, P.W.1 filed a complaint stating that he came to know that the wife of the appellant was axed to death. He went to the house and found the deceased on cot with injuries on neck. He further came to know that there were disputes between the husband and wife and because of the said disputes, the appellant might have axed her and escaped. Immediately, the same was informed to the family members. Crime under Section 302 of IPC was registered by the police on the same day on the complaint of PW1. Body was sent to postmortem and after

post mortem examination, the police having conducted investigation and examining family members and others, filed charge sheet for the offence under Section 302 of IPC.

3. The witness, PW.1 *defacto* complainant stated before Court that he does not know how the deceased died and the complaint Ex.P19 was drafted at the instance of the police and he only signed on the complaint. The signature on complaint Ex.P19 was marked as Ex.P1 since PW1 denied the contents of complaint.

4. PW.2 is the son, P.W.3 is the daughter of the deceased, P.Ws.4 and 5 are neighbours. All the said witnesses turned hostile to the prosecution case and stated that they have not seen the appellant on the day of incident or the previous day. They further stated that there were no disputes in between the appellant and the deceased.

5. The witnesses to the scene of offence panchanama, confession and recovery, have turned hostile to the prosecution case.

6. P.W.10 is the mother of the deceased, who also stated that the appellant and the deceased were living cordially and she was declared as hostile to the prosecution case. P.Ws.11 and 12 are the witnesses to the seizure of MOs.1 to 4, who turned hostile to the prosecution case.

7. Another prosecution witness PW.14 was living in the same locality. On the date of incident, she went to the house of the appellant and found that body was lying in the house and she tried to give first aid to the deceased. However, there was no response. She stated that she does not know who was responsible for the death of the deceased.

8. P.W.15 is the Investigating Officer, who stated that the appellant was apprehended on 03.10.2007 and pursuant to his confession the axe was recovered.

9. Learned Sessions Judge convicted the appellant on the following grounds (i) that appellant was present in the house (ii) he has won over the witnesses who turned hostile to the prosecution case and (iii) basing on the relation of deceased

and appellant it can be presumed that the appellant was responsible for causing her death.

10. Learned Sessions Judge erred in finding the appellant guilty when none of the witnesses supported the prosecution case. None of the witnesses stated anything about any differences amongst the appellant and the deceased. No one has seen the appellant in the house where the body was found either on the day of the incident or the previous day. The confession seizure panchas turned hostile. In the absence of any evidence, on the basis of assumptions, the Court cannot conclude the guilt of an accused. Imagination cannot be made basis to convict the accused when there is no legally admissible evidence.

11. Learned Sessions Judge has failed to narrate any incriminating circumstances proved beyond doubt to draw an inference of guilt except stating that the appellant 'might have won over witnesses' and 'might have murdered the deceased'. The prosecution utterly failed to prove its case. In the said

circumstances, the impugned judgment of the trial Court is liable to be set aside.

12. In the result, the impugned judgment in S.C.No.491 of 2008 dated 13.08.2009 is set aside and the appellant is acquitted. Since, the appellant is on bail, his bail bonds shall stand cancelled.

10. Criminal Appeal is allowed.

K.SURENDER, J

Date: 04.08.2022

Note: LR copy to be marked.

kvs

HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No.899 OF 2009

Date: 04.08.2022.

kvs

