

HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD

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Criminal Appeal No. 1084 OF 2015

Between:

Jampala Vajra

... Appellant

And

The State of Telangana

... Respondent

DATE OF JUDGMENT PRONOUNCED: 17.10.2024

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

And

THE HON'LE SRI JUSTICE ANIL KUMAR JUKANTI

- 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

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*K.SURENDER, J*

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ANIL KUMAR JUKANTI, J

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THE HON'BLE SRI JUSTICE K.SURENDER  
And  
THE HON'LE SRI JUSTICE ANIL KUMAR JUKANTI

**+ CRL.A. No. 1084 OF 2015**

% Dated 17.10.2024

# Jampala Vajra ... Appellant

And

\$ The State of Telangana ... Respondent

! Counsel for the Appellant: Sri Srinivas Srikanth

^ **Counsel for the Respondents:** Sri Arun Kumar Dodla,  
Additional Public Prosecutor

>**HEAD NOTE:**

**HON'BLE SRI JUSTICE K.SURENDER**  
**And**  
**HON'BLE SRI JUSTICE ANIL KUMAR JUKANTI**

**CRIMINAL APPEAL No.1084 OF 2015**

**JUDGMENT:** *(per Hon'ble Sri Justice K.Surender)*

1. The appellant was convicted for the offence under Section 302 IPC and sentenced to life imprisonment vide judgment in S.C.No.309 of 2013 dated 28.03.2014 passed by the Additional Metropolitan Sessions Judge, Cyberabad at L.B.Nagar. Questioning the said conviction, present appeal is filed.

2. Heard Sri Srinivas Srikanth, learned Legal Aid Counsel for the appellant and Sri Arun Kumar Dodla, learned Additional Public Prosecutor for the State.

3. Briefly, the case of the prosecution is that P.W.1 is the brother-in-law of the deceased namely Sunkari Krishna. The deceased was residing in Flat No.A-120 of Laxmi Complex, Erragadda. According to the prosecution, the appellant was having relation with the deceased and they were living together without marriage. P.W.1 received information that the deceased was taken to the Gandhi Hospital with burn injuries. He went there and found

that the deceased died. P.W.1 also informed P.W.2, who also went to Gandhi Hospital. Both P.Ws.1 and 2 then went to the flat where the incident has taken place and on enquiries, they came to know that the appellant was in a live-in relationship with the deceased. Further, she was responsible and caused the death of deceased by burning him. Ex.P1 complaint was filed with the police. In the said complaint, P.W.1 narrated that on information, he went to Gandhi Hospital and found the deceased dead. He went to the house and found that there was burnt chair and bed in the house and on his enquiry, he came to know that the appellant was living with the deceased for the past 11 months. Further, deceased and appellant were quarrelling with each other constantly. When he enquired with the appellant at the scene, she informed that the deceased committed suicide. However, P.W.1 did not find any kerosene tin and suspected that the appellant poured kerosene on him and burnt him as the watchman informed that the appellant poured kerosene on the deceased and set him on fire.

4. The police, having received complaint on 12.07.2011 at 9.30 a.m, went to the scene of offence and conducted scene of offence

panchanama, which is Ex.P2. Thereafter, inquest panchanama was conducted which is Ex.P3. On the basis of confession, MO6/Pestle was seized at the instance of the appellant. During post-mortem examination, the following injuries were found:

i) Antemortum Dermo Apidermo burns present all over the body.

ii) Two lacerated injuries measuring 7 x 1 cm bone deep with a distance of 0.5 cms between them present over left tempero occipital area of scalp.

iii) On opening of Scalp fissure fracture measuring 5 cm lg placed obliquely below injury side surrounding contusion present. On opening of scalp diffused sub orphaloid and subdural haemorrhage present all over brain.

5. The Doctor who conducted post-mortem examination gave opinion that the cause of death was due to head injury associated with burns and the said injuries were antemortem in nature. Further, the dead body was smelling of kerosene.

6. Investigation was concluded and charge sheet was filed on the allegation that the appellant caused injuries with pestle on the head of the deceased and then burnt the deceased resulting in his death. Since the death was homicidal, which was caused by the appellant, charge sheet was filed under Section 302 of IPC.

7. Learned Sessions Judge, having framed charge for murder, examined P.Ws.1 to 10 and Exs.P1 to P7 were marked by the prosecution. During the course of trial, MOs.1 to 6 of which M.O.6/pestle with which the alleged injury on the head of the deceased was caused were also placed on record.

8. Learned Sessions Judge found that on the basis of the circumstances adduced by the prosecution, it was the appellant who had committed the murder of the deceased initially by hitting with the pestle on his head and thereafter pouring kerosene on to him and lit him on fire.

9. Learned Legal Aid counsel appearing for the appellant would submit that the conviction was based on assumptions. In fact, there is no direct evidence either to the alleged assault or burning of the deceased or to show that the appellant was staying along with the

deceased. The only evidence relied on by the prosecution is the circumstantial evidence of P.Ws.1 and 2 and also the testimony of P.Ws.3 and 9, who are the watchmen at the premises. The evidence does not disclose in any manner that the appellant was responsible for causing the death.

10. On the other hand, learned Additional Public Prosecutor appearing for the State would submit that P.Ws.3 and 9 stated that when they went to the flat, they found the deceased was burning. However, the appellant, who was standing did not extinguish the flames. The deceased informed P.Ws.3 and 9 that the appellant had cheated him. Thereafter, deceased was taken to the Gandhi Hospital and while undergoing treatment, he died. Since the appellant was staying along with the deceased, the only logical conclusion is that she has caused his death and that the learned Sessions Judge has rightly recorded conviction.

11. Having gone through the record, the post-mortem Doctor/P.W.8 stated as follows:

“The cause of death may be Homicidal, Suicidal or accident. I have not mentioned in my PME report when the burn injuries are caused by Homicidal, Suicidal or accidental. The injury No.2 cannot be

possible in other case except blood vomit when fall on hard surface.”

12. As seen from the evidence of the Doctor, the prosecution has failed to prove conclusively that the death was homicidal. The post-mortem Doctor stated that the death could be either homicidal, suicidal or accidental. If at all the death was on account of any accident or suicide, the question of convicting the appellant for murder does not arise.

13. The evidence of P.Ws.3 and 9 is crucial. Firstly, their names are not mentioned in the FIR which was filed by P.W.1 with the police. Though P.W.1 says that he enquired with watchman but does not mention the names of the persons with whom he enquired. P.Ws.3 and 9 did not say anything about P.Ws.1 and 2 enquiring with them or about the arrival of police at the scene. Admittedly, P.Ws.1 and 2 are strangers to the appellant. The deceased was taken to the hospital and after his death, P.Ws.1 and 2 went to scene around 7.30 a.m. Finding the deceased at the scene is highly improbable. There is no reason why the appellant would stay at the scene and inform P.Ws.1 and 2 that she had committed the murder



of the deceased. Admittedly, both P.Ws.1 and 2 are strangers to the appellant.

14. P.W.3 and P.W.9 stated that they found the deceased shouting for help when they went to the flat/scene. The appellant was also in the flat. However, she did not try to extinguish the fire and stood there. P.W.3 when asked the deceased about the reason, then deceased informed that he was cheated and asked for help. Similar is the evidence of P.W.9, who also stated that when he went to the flat, the deceased shouted and informed that he was cheated by the appellant, who was standing there.

15. Admittedly, the deceased did not inform either P.W.3 or P.W.9 that the appellant had either injured him or burnt him. According to P.W.3, deceased informed that he was cheated and P.W.3 did not state that the deceased informed that he was cheated by the appellant. However, P.W.9 stated that the deceased informed that he was cheated by the appellant. When the evidence of Doctor is considered that the death could be suicidal also, it cannot be ruled out that on account of cheating, if any, by the appellant, the deceased would have attempted suicide.

16. At the very first instance, when the deceased was found with burn injuries, he did not say anything against the appellant. However, according to P.W.9, he stated that the deceased was cheated by the appellant. Both P.Ws.3 and 9's names were not mentioned in Ex.P1 complaint, however, considering their evidence and accepting that what they are saying is the truth, even then no inference can be drawn that the appellant had injured and burnt the deceased.

17. It is for the prosecution to prove their case beyond reasonable doubt. When the prosecution case as admitted by the Doctor is that the death could be either homicidal, suicidal or accidental, the Court cannot pick and choose one mode of death and state that it was homicidal and convict the appellant. No clarification was sought either by the Public Prosecutor or the Court regarding the opinion of the doctor.

18. In the said circumstances, the conviction for murder cannot sustain. The judgment of trial Court in S.C.No.309 of 2013 dated 28.03.2014 is hereby set aside and the appellant is acquitted. Since the appellant is in jail from the date of the judgment, the authorities

are directed to release the appellant forthwith, if she is not required in any other case.

18. Accordingly, appeal filed by the appellant stands allowed.

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**K.SURENDER, J**

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**ANIL KUMAR JUKANTI, J**

Date : 17.10.2024

Note: Registry is directed to  
dispatch the order forthwith.

B/o.kvs