

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

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**Criminal Appeal No. 586 OF 2015**

Between:

Peddagundelli @Peddagundela Pochaiiah

... Appellant

And

The State of Telangana

... Respondent

DATE OF JUDGMENT PRONOUNCED: 25.07.2024

Submitted for approval.

**THE HON'BLE SRI JUSTICE K.SURENDER  
And  
The HON'LE SRI JUSTICE J.SREENIVAS RAO**

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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 |

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**K.SURENDER, J**

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**J.SREENIVAS RAO, J**

**\* THE HON'BLE SRI JUSTICE K.SURENDER  
And  
The HON'LE SRI JUSTICE J.SREENIVAS RAO**

**+ CRL.A. No. 586 OF 2015**

% Dated 25.07.2024

# Peddagundelli @Peddagundela Pochaiiah

... Appellant

And

\$ The State of Telangana

... Respondent

**! Counsel for the Appellant:** Sri J.Somasundaram

**^ Counsel for the Respondents:** Sri Jitender Rao Veeramallu,  
Additional Public Prosecutor

**>HEAD NOTE:**

<sup>1</sup>(1984) 4 SCC 116

**THE HON'BLE SRI JUSTICE K.SURENDER**  
**And**  
**The HON'LE SRI JUSTICE J.SREENIVAS RAO**

**CRIMINAL APPEAL No.586 of 2015**

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

1. The appellant was found guilty for the offence under Section 302 of IPC for murdering his mother and also causing disappearance of evidence under Section 201 IPC vide judgment in S.C.No.230 of 2013 dated 12.01.2015 passed by the VI Additional District and Sessions Judge at Siddipet. Aggrieved by the same, present Criminal Appeal is filed.

2. Briefly, the case of the prosecution is that the appellant strangled his mother with a towel and thereafter, he took the body and hanged it to a custard apple tree with a cloth to cause disappearance of the evidence of committing murder and to project it as a suicide.

3. P.W.1 lodged a complaint on 01.02.2013 stating that he was informed about the death of the deceased, aged around 80 years and her death was on account of she being hanged to the tree at the back of her house. He went there and caused enquiries and came to know that the deceased was aged around 80 years and

suffering from old age ailments and also unable to work. There was suspicion that the son, who is the appellant herein had strangled her with towel and hanged her to the tree.

4. The case was taken up for investigation and during the course of investigation, police examined the scene of offence and also held inquest over the dead body. The cause of death, according to the Doctor/P.W.8 was due to asphyxia due to pressure over neck structures causing hyoid bone fracture, asphyxia cardio respiratory arrest and consequent death.

5. On 04.02.2013, the son/appellant herein was arrested and according to the police, he confessed that he had strangled the deceased with a towel, vexed with her ill-health and he has to take care of her. Thereafter, he hanged the body to a tree. Having concluded the investigation, the police filed charge sheet for the offence under Sections 302 and 201 of IPC.

6. Learned Sessions Judge examined witnesses P.Ws.1 to 10. P.W.1 is the complainant, P.Ws.2 to 7 are the other villagers. P.W.8 is the Doctor and P.Ws.9 and 10 are the Investigating Officers.

7. The complainant/P.W.1, P.Ws.2,3 and 4, who are the alleged witnesses to speak about involvement of accused in the death of the woman, have turned hostile to the prosecution case and did not speak anything against the appellant. P.W.1 stated that he did not lodge any complaint. P.Ws.5 and 6, who are witnesses to the inquest report and scene of panchanama have also turned hostile to the prosecution case. P.W.9, who is the alleged witness to the confession of appellant also turned hostile. The only evidence that formed basis for conviction by the Court below is the evidence of Doctor/P.W.8 and the Investigating Officer.

8. In fact, P.W.8/ Doctor stated that he cannot say whether the death of the deceased was homicidal or suicidal. The said witness was not declared hostile by the prosecution nor any evidence is led to contradict the version of the postmortem Doctor that the death would have been homicidal or suicidal. The said version of the Doctor goes to the root of the case, if the death was on account of suicide, the question of conviction under Section 302 IPC for committing murder, does not arise. The prosecution has to be definite regarding cause of death being homicidal. When the doctor's evidence is not definite regarding death being

homicidal or suicidal, evidence of eye witness can be relied on, however, there are no eye witnesses to the incident.

9. Learned Sessions Judge specifically relied on Section 161 Cr.P.C statements and also confession made by the appellant and recorded conviction. Section 161 Cr.P.C statements recorded by police can only be used for the purpose of contradicting a witness during trial. Confession to police is hit by Section 25 of the Indian Evidence Act. Any seizure pursuant to confession would only be admissible under Section 27 of the Evidence Act, for the purpose of corroboration.

10. The Courts are not expected to form its own opinion on the basis of assumptions and imagination, when there is no legal and admissible evidence. In a case of murder, the consequence of finding guilty is sending a person to jail for life. The evidence by prosecution should be proved beyond reasonable doubt pointing towards guilt of the accused alone.

11. The case is one of circumstantial evidence. The five golden principles constituting panchsheel to prove a case based on circumstantial evidence were summed up in **Sharad**

**Birdhichand Sarda v. State of Maharashtra**<sup>1</sup>, which reads as follows:

*“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:*

*(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. It may be noted here that this Court indicated that the circumstances concerned “must or should” and not “may be” established. There is not only a grammatical but a legal distinction between “may be proved” and “must be or should be proved” as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra [(1973) 2 SCC 793 : 1973 SCC (Cri)1033 : 1973 CrL LJ 1783] where the observations were made: [SCC para 19, p. 807: SCC (Cri) p. 1047]*

*“Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between ‘may be’ and ‘must be’ is long and divides vague conjectures from sure conclusions.”*

*(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,*

*(3) the circumstances should be of a conclusive nature and tendency,*

*(4) they should exclude every possible hypothesis except the one to be proved, and*

*(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”*

12. As already discussed, the two circumstances proved by the prosecution are firstly the death of the deceased. However, the death could not be proved to be homicidal. Since the Doctor/P.W.8 specifically stated that it might be homicidal or suicidal. Secondly, seizure of a towel,MO2, P.W.8/Doctor did not

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<sup>1</sup>(1984) 4 SCC 116

say that the death could be caused by MO2. Further, the witness to seizure of MO1 and MO2 turned hostile to the prosecution. There are no other circumstances, which have been proved by the prosecution. Since all the witnesses have turned hostile to the prosecution case, this Court has no other option but to set aside the conviction of the appellant.

13. In the result, the judgment of trial Court in S.C.No.230 of 2013 dated 12.01.2015 is set aside and the appellant is acquitted. Appellant shall be released forthwith, if he is not required in any other case.

14. Criminal Appeal is allowed.

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**K.SURENDER, J**

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**J.SREENIVAS RAO, J**

Date : 25.07.2024

Note: LR copy to be marked.

B/o.kvs