

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

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**Criminal Appeal No.42 OF 2022**

Between:

Gundampalli Ramulu

... Appellant/Accused

And

The State of Telangana,  
Rep. by its Public Prosecutor ,  
High Court for the State of Telangana,  
Hyderabad.

...Respondent

DATE OF JUDGMENT PRONOUNCED : 31.10.2023

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 their fair copy of the Judgment? | Yes/No |

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***K.SURENDER, J***

**\* THE HON'BLE SRI JUSTICE K. SURENDER**

**+ CRL.A. No. 42 of 2022**

% Dated 31.10.2023

# Gundampalli Ramulu

... Appellant/Accused

And

\$ The State of Telangana,  
Rep. by its Public Prosecutor ,  
High Court for the State of Telangana,  
Hyderabad.

...Respondent

**! Counsel for the Appellant:** Sri S.Ram Reddy

**^ Counsel for the Respondents:** Sri Sudershan,  
Assistant Public Prosecutor

**>HEAD NOTE:**

**? Cases referred**

**THE HONOURABLE SRI JUSTICE K.SURENDER****CRIMINAL APPEAL No.42 of 2022****JUDGMENT:**

This appeal is filed by the appellant/Accused, questioning the conviction recorded by the VII Additional District & Sessions Judge (FTC), Nirmal, in SC.No.179 of 2017, dated 24.01.2022, convicting the appellant to undergo Rigorous Imprisonment for a period of ten years and also a fine a of Rs.10,000/- for the offence under Section 304 part II of the Indian Penal Code.

2. Heard.

3. The appellant was charged for the offence under Section 302 of the Indian Penal Code for beating the deceased in the stomach and on the head, resulting in his death. However, learned Sessions Judge having examined the witnesses found that there was no motive or any intent on the part of the appellant to cause death of the deceased for which reason conviction was recorded under Section 304-II of the Indian Penal Code.

4. Briefly, the case of the prosecution is that while the appellant was in the 'Toddy Batti', an altercation ensued in between the deceased and the appellant for which reason the appellant gave a blow on the stomach and also on his head. PW3,

PW4 and PW5 who were present in the 'Toddy Batti' stated that they have witnessed the appellant beating the deceased on his stomach.

5. Learned Counsel appearing for the appellant would submit that the learned Sessions Judge having concluded that there was no intention on the part of the appellant, erred in convicting the appellant. Learned Counsel submits that utmost the offence may fall within the category of Section 304-A of the Indian Penal Code for causing death by a rash and negligent act.

6. On the other hand learned Assistant Public Prosecutor submits that the evidence of the doctor-PW14 and Ex.P11-Postmortem Examination Report would show that the deceased died on account of the acts of the appellant. Learned Sessions Judge had rightly convicted the appellant for the offence under Section 304-II of the Indian Penal code. The conviction does not deserve any interference as the evidence is sufficient to record conviction under section 304-II of the Indian Penal Code.

7. The death of the deceased according to PW14-doctor having conducted the post mortem examination and seeking FSL opinion is that the deceased died due to Subarachnoid Hemorrhage.

Subarachnoid Hemorrhage means that there would be a bleeding in the space that surrounds the brain, resulting in death.

8. The evidence of the witnesses is that after the appellant hit the deceased, he fell on the ground. The result of falling on the ground according to the prosecution are the injuries 1 to 5 in the Postmortem Report. The said injuries are;

- 1) Abrasion of size 6 x 1 CM over right foot second finger.
- 2) Abrasion of size 3 x 1 CM over right foot third finger.
- 3) Abrasion of size 4 x 2 CM over right foot plantar region lateral border.
- 4) Abrasion of size 1 CM x 3 MM over right elbow region.
- 5) Two very small abrasion of size 1 x ½ cm, 1 x ½ cm approximately on forehead.

9. The learned Public Prosecutor in the trial Court has not made any attempt to ascertain from the expert doctor that the blow on the stomach or on the head or falling down would result in Subarachnoid Hemorrhage. In the absence of an expert's opinion that the cause of death is relatable to the injury caused by the appellant or the consequent fall, the question of finding that the blow on the stomach has resulted in death would be an

assumption without there being any acceptable evidence on record.

10. Learned Sessions Judge has not discussed any reasons regarding the death being the result of the alleged injury caused by the appellant. According to the Postmortem Report and the evidence of PW14-doctor, he did not find any injury on the abdomen. Further, PW14 stated in the cross examination that the five injuries were possible if a person falls on a hard surface. PW14 did not state that the deceased falling on the ground resulted in 'Subarachnoid Hemorrhage'.

11. In the entire evidence that was adduced during trial by the prosecution, nowhere it was suggested that the cause of death can only be the result of the blow in the stomach by the appellant or the deceased falling on the ground. In the absence of any evidence linking the acts of the appellant with the cause of death which is Subarachnoid Hemorrhage, the appellant cannot be convicted for the offence under Section 304-II or 304 A of the Indian Penal Code. It is for the prosecution to prove beyond reasonable doubt that the death was a direct or consequential result of the acts of the appellant.

12. In view of the foregoing discussion, the prosecution has failed to prove that the acts attributed to the appellant had any direct nexus with the cause of death of the appellant. The evidence of PW3 and PW4 is consistent regarding the appellant beating once in the stomach and also on the forehead. However, none of the injuries were related to the acts of the appellant even according to the evidence of the doctors-PW14 and PW15.

13. Accordingly, the Criminal Appeal is allowed and the conviction recorded by the VII Additional District & Sessions Judge (FTC), Nirmal, in SC.No.179 of 2017, dated 24.01.2022, is hereby set aside. Bail bonds shall stand cancelled. The fine amount shall be returned to the appellant.

Miscellaneous applications pending, if any, shall stand closed.

Date: 31.10.2023  
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**K.SURENDER, J**

**THE HON'BLE SRI JUSTICE K.SURENDER**

**CRIMINAL APPEAL No.42 of 2022**

**Dt. 31.10.2023**

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