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THATHAMSETTY SURESH
v.
STATE OF A.P.
(SLP (Crl.) No. 5440 of 2010)

B

NOVEMBER 22, 2010

[MARKANDEY KATJU AND GYAN SUDHA MISRA, JJ.]

PENAL CODE, 1860:

C

s. 302 – Accused convicted of murdering his wife and sentenced to life imprisonment – SLP filed by accused before Supreme Court – HELD: The facts of the case prima facie reveal that the deceased was killed in a barbaric and brutal manner – Accused said to have been alone with the victim at that time – In such cases, ordinarily, there is only circumstantial evidence but that does not mean that a person cannot be convicted on the basis of circumstantial evidence – Notice to issue to accused-petitioner why his sentence be not enhanced to death sentence – Sentence/ sentencing – Enhancement of sentence.

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Satya Narayan Tiwari @ Jolly & Anr. vs. State of U.P.
[2010] 12 SCR 1137 – relied on.

Case Law Reference:

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[2010] 12 SCR 1137 relied on para 8

[2010] 12 SCR relied on para 9

CRIMINAL APPELLATE JURISDICTION : SLP (CRL.)
Appeal No. 5440 of 2010.

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From the Judgment & Order dated 04.12.2007 of the High Court of Judicature Andhra Pradesh at Hyderabad at Hyderabad in Crl. A. No. 1515 of 2005.

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Anjani Aiyagari for the Petitioner. A

D. Mahesh Babu, Ramesh Allanki for the Respondent.

The following Order of the Court was delivered

ORDER B

1. Heard learned counsel for the parties.

2. In his case the petitioner has been accused of murdering his wife. The injuries shown by the Doctor are as follows:- C

“1. A diffused contusion over the left temporal area of the head size about 5x4 cms. A diffused elevated injury. Cut section shows all the types of inflammatory changes or vital reactions. Cause may be blunt. It is only ante-mortem. D

2. A diffused contusion over the posterior occipital area of the head. The size about 6 x 6 cms crushing of the scalp with oozing of blood. Injury may be due to blunt. Cut section shows diffused haematoma underneath the scalp at posterior occipital of scalp with crush in nature. Bleed with clot showing with crush in nature. Bleed with clot showing all types inflammatory signs. It is only ante-mortem. E

3. A diffused contusion over the posterior frontal and mid sagittal plain of the parietal area of the head. Size about 4 x 3 cms surface elevated and diffused. The cause may be blunt. Cut section shows underneath the scalp a diffused haematoma at mid sagittal plain of the mid parietal area of the skull. This is only ante-mortem.” F G

PW-8, the doctor, who conducted post mortem, in unequivocal terms said that the ante mortem injuries that were noted on the body of the deceased constitute the cause of the death. Therefore, it emerges that the H

A deceased died on account of injuries mentioned in Ex.P. 5 and pouring of kerosene or settling her on fire, was only a subsequent event. Once the record disclose that PW 4 found that deceased in groaning condition, obviously on account of series injuries received by her and the appellant alone was present by her side, the inescapable conclusion is that the death was caused by the appellant and by none else.

C 3. The above injuries show that the head of the deceased was battered repeatedly by a blunt weapon (probably a lathi) and then kerosene was poured on her and she was put on fire.

4. PW-1 who conducted investigation in this case has stated as below:-

D "PW1- who conducted investigation in this case has stated about the recovery of MO-2 under a cover of mediator report EX.P-8. He also stated that he seized MP-1 plastic tin of litres capacity, MO-2 iron pipe, MO-3 glass pieces and Mos. 4 to 13 burnt cloth pieces at the scene. The aforesaid material objects clinches the issue in proof of the offence and recovery."

F 5. The above facts prima facie reveal that the deceased was killed in a barbaric and brutal manner. The appellants said to have been alone with her at that time.

6. It was contended by learned counsel for the appellant there is only circumstantial evidence against the appellant accused.

G 7. In such cases ordinarily there is only circumstantial evidence but that does not mean that a person cannot be convicted on the basis of circumstantial evidence.

H 8. We have recently held in the case of *satya Narayan Tiwari @ Jolly & another Vs. State of U.P., Criminal Appeal*

No. 1168 of 2005 decided on 28th October, 2010 that this Court is going to take a serious view in the matters of crimes against women and give harsh punishment. A

9. This view was reiterated by us in another special leave petition in the case of *Sukhdev Singh & another Vs. State of Punjab* and we issued notice to the petitioner as to why his life sentence be not enhanced to death sentence. B

10. In this petition we also notice to the petitioner why his sentence should not be enhanced from life sentence to death sentence. C

R.P.

SLP adjourned.