

BODDELLA BABUL REDDY

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v.

PUBLIC PROSECUTOR, HIGH COURT OF A.P.
(Criminal Appeal No. 451 of 2007)

JANUARY 06, 2010

B

**[V.S. SIRPURKAR AND DR. MUKUNDAKAM
SHARMA, JJ.]**

Penal Code, 1860 – ss. 147, 148, 324, 326, 307 and 302/149 – Rivalry between two political factions – Accused armed with dangerous weapons and bombs, attacked deceased and prosecution witnesses – Allegation that appellants hurled bomb on deceased, resulting in his death on the spot and four accused hurled bombs resulting in splinter injuries to prosecution witnesses – Trial of accused persons for various offences – Acquittal by trial court – High Court upholding acquittal of all the accused except appellants – Conviction of appellants u/s. 302 – On appeal, held: High Court not justified in interfering with the judgment of trial court – It did not exercise the caution while dealing with the judgment of acquittal by trial court – Evidence of witnesses full of contradictions and omissions – Discrepancies regarding filing of FIR – Thus, judgment of High Court set aside and that of trial court restored – Explosive Substances Act, 1908 – ss. 3 and 5 – Arms Act, 1959 – ss. 25(1)(b) and 27 – Appeal against acquittal.

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According to the prosecution case, there was a fierce enmity between the accused party and the complainant party. On the fateful day, accused persons armed with dangerous weapons and bombs attacked the deceased and the prosecution witnesses. Appellants hurled bomb on deceased and he died on the spot and others also hurled bombs and prosecution witnesses suffered splinter injuries. Accused persons were tried for various

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A offences u/ss. 147, 148, 324, 326, 307 and 302/149 IPC, ss. 3, 5 of the Explosive Substances Act, 1908 and ss. 25(1)(b), 27 of the Arms Act, 1959. Trial court acquitted all the accused persons. The High Court upheld the acquittal of all the accused except the appellant and B convicted the appellant u/s. 302 IPC.

Allowing the appeal, the Court

C HELD: 1. The High Court has not exercised the caution that was expected to while dealing with the judgment of acquittal by the trial court. High Court was not justified in interfering with the well considered judgment of the trial court. The judgment of the High Court is set aside and that of the trial court is restored. [Paras 13 and 17] [170-C-D; 170-E-F]

D 2.1. The well considered judgment of the trial court has been upset by the High Court and in its judgment, the High Court relied on the complaint given by PW-1. E Barring the evidence of PW-1, PW-2, PW-3, PW-4 and PW-5, there is hardly any consideration in the High Court's judgment, more particularly of the mix up of timings as regards the complaint. In the complaint it is specifically alleged that the Telugu Desam Party was led by the appellant. Both the parties, on 13.12.1998, had fought in F connection with using the road and the witness PW-1 himself and his party people were accused in that case and were absconding. It is then suggested on 16.12.1998, in the morning at 7.30, PW-1 and the other persons went to cart the paddy hay of RR and while they were bundling the hay, the 16 accused persons came there G and the appellant, A-2, A-3, A-4 and A-5 were holding bombs in their hands, A-6 was holding a gun and other persons were holding hunting sickles and spears and the appellant raised loud cries shouting not to leave anybody there and kill all of them. It was the appellant H who hurled a bomb on deceased. The said bomb

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exploded and deceased fell down and died on the spot; then the others also started hurling the bombs. PW-1 then refers to his being hacked by other accused persons with a hunting sickle and on the right knee with the spear. He then refers to an injury caused on his little finger because of the spear. He then refers to the police firing a gun. After that he refers that all the injured came to the Government Hospital and were being treated. There is an endorsement that this statement has been given at 10.35 A.M., while it was dispatched to the Court at 1.04 P.M. Also report is given by A-14 on the same day at 7.45 A.M., wherein the hurling of the bomb is attributed to complainant party. [Para 13] [165-G-H; 166-A-G]

2.2. On seeing the evidence of PW-1 in the light of evidence of PW-14, Head Constable and PW-15, Circle Inspector, the falsity of his evidence becomes clear. Though in his Examination-in-Chief, he claimed that all of them along with the woman folk were taken in the tractor of PW-7 to the Government Hospital, that claim appears to be incorrect. The two police witnesses are contradicting each other in the matter of the timings and also the timing of the Complaint. On this backdrop, when the evidence of PW-11, the Medical Officer is seen, it is seen that at 9.30 A.M. itself, the doctor examined PW-2 on the requisition of SHO (Rural), who was accompanied by Police Constable who was PW-14. This requisition is said to have been sent by PW-14 and PW-15. PW-15 has given a graphic description and timings as to when he examined all the injured witnesses. If PW-2 was available at 9.30 A.M. itself and a requisition was already prepared even before 9.30 A.M., there is no question of PW-1 registering the FIR at 10.35 A.M. PW-14 also admitted that even by the time they reached the Hospital, M.L.A. was stated to have come to the Hospital and the legal advisors were also found in the Hospital. All this creates a big suspicion about the complaint as also evidence of PW-

A 1. Once it is proved that the FIR itself was given with the
 consultation of the legal advisors and in the guidance of
 the local Member of Legislative Assembly who was
 inimical towards the appellant on account of the party
 factions, the whole story and the part played by PW-1
 B becomes suspicious. [Para 14] [167-A-H; 168-A-C; 168-C-
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2.3. Considering evidence of PW-7 that they had
 started from the Village at about 8.10 or 8.20 A.M. and that
 they were traveling in a tractor, it cannot be said that they
 C would reach only at 10.35 A.M. The evidence of PW-2, PW-
 3, PW-4 and PW-5 is full of contradictions and omissions.
 Most of these witnesses figured of the accused in the
 counter case. Therefore, their evidence was bound to be
 appreciated little carefully. The judgment of the High
 D Court is not satisfactory and more particularly, the
 appreciation of the evidence, mainly of PW-1, PW-2, PW-
 3, PW-4 and PW-5. High Court does not seem to have
 exercised the caution that it was expected to, in view of
 the fierce enmity between the accused party and the
 E complainant party. The appreciation of the evidence by
 the trial court appears to be more satisfactory. Therefore,
 the evidence of these eye-witnesses, particularly against
 the appellant cannot be accepted. [Para 15] [168-E-F; 168-
 F-H; 169-A-B]

F 2.4. High Court did not consider that there was no
 explosive substance found at the place where allegedly
 the bombs were exploded. On the other hand, they were
 found somewhere else. That is clear from the evidence
 of PW-15, Circle Inspector. Even the High Court has
 G noted this. This shows that the role of PW-1, PW-2, PW-
 3, PW-4 and PW-5 and more particularly, their evidence
 regarding the overt act attributed to the appellant was not
 above suspicion. It is also surprising that insofar as A-2,
 A-3, A-5, A-7 and A-14 are concerned, the High Court
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chose to disbelieve the evidence of PW-1, PW-2, PW-3, PW-4 and PW-5 on the ground that there was no corroboration to the evidence of each witness about the injuries received by the respective accused person. High Court expressed the view that the prosecution witness might have received splinter injuries while running away from the scene and it was not possible for them to observe as to which accused hurled bombs against each of them. Once the benefit of such kiosk has been given to the other accused, the same advantage should have been given even to the appellant, because he was admittedly a leader and the version against him was absolutely parrot-like. The judgment of the High Court is not correct. It did not consider the important findings regarding the FIR and the other important circumstance that before the FIR was given, the lawyers/legal advisors had already reached the place alongwith their leader, who was a Member of Legislative Assembly. High Court also did not consider the contradictions between the evidence of PW-1, PW-11, PW-14 Medical Officer, Head Constable and PW-15, Circle Inspector *inter se*. [Para 16] [169-B-C; 170-C-E]

Ram Sunder Yadav and Ors. vs. State of Bihar 1998 (7) SCC 365; The State of Uttar Pradesh vs. Sahai and Ors. 1981 CrI. L.J. 1034; V. Satyamaiah and Ors. vs. State of A.P. 1978 (1) A.P.L.J. 83; Raghunath and Ram Kishan and Ors. vs. State of Haryana and Ors. 2003 CrI. L.J. 401; Mool Chand vs. Jagdish Singh Bedi and Ors. 1992 CrI. L.J. 1539, referred to.

Case Law Reference:

1998 (7) SCC 365	Referred to.	Para 11
1981 CrI. L.J. 1034	Referred to.	Para 12
1978 (1) A.P.L.J. 83	Referred to.	Para 12
2003 CrI. L.J. 401	Referred to.	Para 12

A **1992 CrI. L.J. 1539 Referred to. Para 12**

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal
No. 451 of 2007.

B From the Judgment & Order dated 8.12.2006 of the High
Court Judicature, Andhra Pradesh at Hyderabad in Criminal
Appeal No. 1769 of 2004.

V. Kanakraj, M. Vijaya Bhaskar for the Appellant.

C I. Venkat Narayan, Anuradha Rustogi, Fatima (for D.
Bharathi Reddy) for the Respondent.

The Judgment of the Court was delivered by

D **V.S. SIRPURKAR, J.** 1. This appeal is directed against
the judgment of the High Court whereby the High Court upset
the judgment of the Trial Court, acquitting all the accused
persons. The High Court, in the impugned judgment, has
maintained the verdict of acquittal in case of others while the
verdict in case of Boddella Babul Reddy (appellant herein), who
E was the original accused No. 1 (A-1) was upset and he was
convicted of the offence punishable under Section 302 of the
Indian Penal Code (hereinafter referred to as 'IPC' for short).

F 2. As many as 16 accused persons came to be tried for
the various offences by the Trial Court including offences
punishable under Sections 147, 148, 324, 326, 307 and 302,
IPC read with Section 149, IPC; Sections 3 and 5 of the
Explosive Substances Act and Section 25 (1) (b) and 27 of the
Indian Arms Act.

G 3. As per the prosecution case, all the accused persons
and the witnesses were the residents of village Sankarpuram
of Proddatur Mandal in Kadappa District. As usual, there were
two factions in the village, one belonging to the Congress Party
and the other belonging to the Telugu Desam Party. All the
H original accused persons, including the appellant herein,

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belonged to the Telugu Desam Party. These factions in the village resulted in bitter enmity in between the two groups. While Boddella Babul Reddy (appellant/A-1) was the leader of the party faction belonging to Telugu Desam Party, one Chandra Sekhar Reddy (PW-7) was the leader of the faction belonging to the Congress Party. In 1997, elections took place in the Association called Water Users Association. As a usual sequel of the elections, there were faction clashes and one of such clashes took place on 13.12.1998 between these two groups on account of passage which was used by both the groups. The cases were filed which later on ended in acquittal. On 15.12.1998, the party belonging to the Congress workers went to the field of one Ramireddy Ramasubba Reddy for shifting the heap belonging to that group. However, Boddella Babul Reddy (appellant/A-1) is said to have caused obstruction for transportation of the paddy crop. This fact was informed to one T.N. Satyanarayana Reddy (PW-9), a *Bandobast* Constable posted in the village and he promised that he would admonish the accused.

4. On the day of incident i.e. 16.12.1998, at about 6.30 a.m., K. Sudhakar Reddy (PW-2), G. Raghurami Reddy (PW-3), R. Venkata Subba Reddy (PW-4) and K. Gopal Yadav (PW-5) along with one Pilli Pedda Yesanna (the deceased) and one Gopireddy Venkatarami Reddy (List Witness No. 6) went to the said field of Ramireddy Ramasubba Reddy to transport the hay along with a tractor which was brought for the purpose of transportation. At that time, Boddella Babul Reddy (appellant/A-1), Bodella Malikarjuna Reddy, original accused No.2 (A-2), Yedula Nagamuni Reddy, original accused No.3 (A-3), Mopuru Ramanjaneyula Reddy, original accused No.4 (A-4) and Yeddula Maruthi Prasad Reddy, original accused No. 5 (A-5) armed with bomb and Yeddula Ramachandra Reddy, original accused No. 6 (A-6) armed with gun and Yeddula Manohar Reddy, original accused No. 7 (A-7), Yeddula Sankar Reddy, original accused No. 8 (A-8), Mopuru Naga Subba Reddy, original accused No. 9 (A-9), Mopuru Subba Reddy, original

A accused No. 10 (A-10), Mopuru Jayarami Reddy, original
 accused No. 11 (A-11), Yeddula Rajeswara Reddy, original
 accused No. 12 (A-12), Boddella Madhusudhana Reddy @
 Madhukesava Linga Reddy, original accused No. 13 (A-13),
 Yeddula Prabhakar Reddy, original accused No. 14 (A-14),
 B Yeddula Konda Reddy, original accused No. 15 (A-15),
 Boddela Naga Ramesh Reddy, original accused No. 16 (A-16),
 all armed with dangerous weapons like Eetakodavallu and
 spears came and attacked these persons. There, A-1, the
 present appellant is said to have hurled bomb on the chest of
 C Pilli Pedda Yesanna (deceased), resulting in his instantaneous
 death.

5. According to the prosecution, Bodella Malikarjuna
 Reddy (A-2), Yedula Nagamuni Reddy (A-3), Mopuru
 Ramanjaneyula Reddy (A-4) and Yeddula Maruthi Prasad
 D Reddy (A-5) also hurled bombs, which exploded and caused
 splinter injuries to Y. Chinna Narayana Reddy (PW-1), K.
 Sudhakar Reddy (PW-2), G. Raghurami Reddy (PW-3), R.
 Venkata Subba Reddy (PW-4) and K. Gopal Yadav (PW-5) as
 also to others including Gopireddy Venkatarami Reddy (List
 E Witness No. 6). Yeddula Prabhakar Reddy (A-14) is said to
 have assaulted Y. Chinna Narayana Reddy (PW-1) with
 Eetakodavallu on his head while Yeddula Sankar Reddy (A-8)
 is said to have beaten him with spear stick on his right knee.
 All other accused caused injuries to the others. On hearing the
 F explosion, T.N. Satyanarayana Reddy (PW-9) who was a
 constable on *Bandobast* duty came to the scene of offence. It
 is also alleged that Yeddula Ramachandra Reddy (A-6) had
 opened fire at the prosecution witness referred to above.
 Seeing that, even T.N. Satyanarayana Reddy (PW-9) opened
 G fire into air so as to disperse the mob on which the accused
 ran away from the scene of the offence. The injured persons
 were taken by K. Chandra Sekhar Reddy (PW-7) to the
 General Hospital, Proddatur, where Y. Chinna Narayana Reddy
 (PW-1) is said to have given complaint and on that basis Crime
 H No. 105/98 was registered and investigation began on that

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basis. The investigating team came to the spot, i.e., the field of Ramireddy Ramasubba Reddy and usual investigation began. The body of the deceased Pilli Pedda Yesanna was sent for post mortem examination and after the investigation, a charge-sheet was filed against the 16 accused persons, including the present appellant. Since the case was triable exclusively by the Sessions Court, the matter was committed to the Sessions Court, District Kadappa and was registered as Sessions Case No. 268/99. At the trial, various charges were framed against the accused persons. The accused abjured the guilt. As many as 15 witnesses being PW-1 to PW-15 came to be examined before the Trial Court. During their examination, the accused persons denied the accusations. The present appellant-accused pleaded that he had no enmity with the Pilli Pedda Yesanna (deceased) who was a mere coolie and also did not belong to the Congress Party and that he was framed in this case as the person who hurled the bomb at the deceased with the active support of Varadarajulu Reddy, a Member of Legislative Assembly (MLA) belonging to the Congress Party and a false case was foisted against him. The Trial Court disbelieved the evidence of the prosecution. In the opinion of the Trial Court, there was deliberate delay in giving the First Information Report (FIR) and the said was given after due deliberations with the political leaders, so as to implicate falsely, the persons belonging to the Telugu Desam Party. The Trial Court also held that the offence was not established as also the medical evidence was not consistent with the oral evidence on record. The Trial Court also pointed out that the prosecution had failed to explain the injuries on the persons of the accused and as such the oral evidence, more particularly of PW-1 to PW-5, who were the Congress Party workers and who were inimical against the accused, could not be believed. A Criminal Appeal was filed before the Andhra Pradesh High Court against this judgment vide Criminal Appeal No. 1769/2004. However, the High Court while confirmed the judgment in the case of other accused persons, appellant herein (A-1) was, however, held guilty of hurling the bomb on Pilli Pedda

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A Yesanna (deceased) and was held guilty of offence punishable under Section 302, IPC. It is this judgment which has fallen for our consideration in the present appeal.

B 6. Assailing the judgment, Shri V. Kanakraj, Learned Senior Counsel, appearing on behalf of the appellant pointed out that there was no effort on part of the High Court while considering the judgment of acquittal by the Trial Court to meet the findings of facts given by the Trial Court. The Learned Senior Counsel further pointed out that the whole effort on the part of the prosecution witness was on implicating the appellant C (A-1), as he was the leader of Telugu Desam Party and it is out of fierce political rivalry that an FIR was given as late as after about 3 hours of the incident, though the same had occurred at 7 A.M. and there was hardly any distance between the place of the incident and the Police Station. The Learned D Senior Counsel further urged that the parrot-like evidence of Y. Chinna Narayana Reddy (PW-1), K. Sudhakar Reddy (PW-2), G. Raghurami Reddy (PW-3), R. Venkata Subba Reddy (PW-4) and K. Gopal Yadav (PW-5), which was discarded by the E Trial Court, giving various reasons, was wrongly accepted by the High Court, though all the witnesses were fierce political opponents of the appellant herein. It was also pointed out that T.N. Satyanarayana Reddy (PW-9), who was the Constable for *Bandobast* duties, remained a mute spectator and did not even F bother to inform the Police, which was his bounden duty. It was pointed out that though the claim of the prosecution was that Chandra Sekhar Reddy (PW-7) took the injured of the Congress Party in his tractor to the Government Hospital at Proddatur immediately, as per version of Y. Chinna Narayana Reddy (PW-1), they reached only at 10 A.M. and it is after their G reaching the Hospital that S. Ramakrishna Reddy (PW-15), Taluk Circle Inspector and E.V. Rami Reddy (PW-14), Head Constable came there and sent them to the Doctor for treatment and thereafter, his statement was recorded by E.V. Rami Reddy (PW-14), Head Constable, in presence of Circle Inspector of H Police (PW-15). The Learned Senior Counsel further invited our

attention to the fact that there was no justification in delay in lodging the FIR, particularly when the injured witnesses had reached Proddatur from Sankarpuram by a tractor and the distance being hardly 9 or 10 K.Ms. between the two places. The Learned Senior Counsel, therefore, pointed out that the registration of the FIR at 11.30 A.M. was itself a very suspicious circumstance. The Learned Senior Counsel further stated that at the time of filing of the FIR, or as the case may be, recording the statement of the witnesses, admittedly, the leaders of the Congress Party, more particularly, the local member of the Legislative Assembly Varadarajulu Reddy was present and, therefore, it was obvious that the appellant herein was framed deliberately, he being the local leader and that was the reason why Y. Chinna Narayana Reddy (PW-1), K. Sudhakar Reddy (PW-2), G. Raghurami Reddy (PW-3), R. Venkata Subba Reddy (PW-4) and K. Gopal Yadav (PW-5) were giving a parrot-like version that it was he who threw the bomb at Pilli Pedda Yesanna (deceased). Our attention was also invited to the other intrinsic material on record that very strangely, where the bomb was alleged to have exploded, there was absolutely no evidence of any explosive material or the ingredients of the bomb, whereas, such ingredients were found in an entirely different field, which would go to show that the prosecution had also changed the spot deliberately. The Learned Senior Counsel also pointed out the various discrepancies as regards the filing of the FIR by comparing the evidence of the eye-witnesses with the evidence of the Police witnesses. It was pointed out that the High Court had not considered any of these materials while upsetting the verdict of acquittal and, therefore, the judgment of the High court was liable to be set aside.

7. As against this, Shri I. Venkat Narayan, Learned Senior Counsel, appearing on behalf of the State, supported the impugned judgment of the High Court and pointed out that the eye-witnesses, particularly those who were the injured witnesses, were, in one tone, speaking about the active role played by the appellant herein, who was undoubtedly a leader

A and, therefore, the High Court was right in relying on the eye-witnesses' account and upsetting the finding of the Trial Court. Shri Venkat Narayan also urged that the eye-witnesses, more particularly, Y. Chinna Narayana Reddy (PW-1), K. Sudhakar Reddy (PW-2), G. Raghurami Reddy (PW-3), R. Venkata Subba Reddy (PW-4) and K. Gopal Yadav (PW-5) were
B disbelieved by the Trial Court for the fanciful reasons, which was the perverse appreciation of the evidence by the Trial Court. The Learned Senior Counsel further urged that even the time was mixed up because in the Post Mortem report, the
C undigested food was found and there was a very vital omission on the part of P. Jayamma, the wife of Pilli Pedda Yesanna (deceased), who was examined as PW-6 about the deceased having taken food in the morning before he left for the coolie work to the land of Ramireddy Ramasubba Reddy. We will have to, therefore, examine the judgment of the Trial Court in light of
D the evidence led by the prosecution.

8. Considering the evidence of Y. Chinna Narayana Reddy (PW-1), who was injured, it must be noted that this is not a bomb injury. His version is that he was assaulted by Yeddula
E Prabhakar Reddy (A-14) with Eetakodavallu on his head and by Yeddula Sankar Reddy (A-8) with spear stick on his right leg below the knee on his right little toe. There are two injuries on this witness as per the evidence of Dr. K. Venkata Narayana (PW-11), the Medical Officer, as also on the basis of Exhibit
F P-5, which was a Wound Certificate of Y. Chinna Narayana Reddy (PW-1). However, it is obvious from Exhibit P-1, as also the evidence that Y. Chinna Narayana Reddy (PW-1) had received the injury on account of an axe. There was no mention of the spear stick in the medical certificate. The witness had
G stated before the Police that he was beaten by Eetakodavallu, therefore, there is a contradiction in his evidence about the weapon, with which he was beaten. Eetakodavallu is a hunting sickle, which is entirely different from the axe. Dr. K. Venkata Narayana (PW-11), in his evidence, admitted that the injury on
H his knee could be caused by a fall and that there was no injury

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on the right toe of the injured. Therefore, there was no consistency in between the evidence of this witness and that of Dr. K. Venkata Narayana (PW-11), the medical witness. A

9. So far as evidence of K. Sudhakar Reddy (PW-2) is concerned, he deposed that the appellant hurled a bomb on the dorsum of his right hand and that Yeddula Manohar Reddy (A-7) beat him with a spear stick and Mopuru Ramanjaneyula Reddy (A-4) hurled a bomb at him and he received a splinter injury on his left ankle. These injuries were found by Dr. K. Venkata Narayana (PW-11), who certified them vide Exhibit P-4. However, this witness never stated as to who had caused him injury on his head. B C

10. As regards G. Raghurami Reddy (PW-3), he claimed that he suffered a splinter injury on account of the bomb hurled by Yeddula Maruthi Prasad Reddy (A-5). R. Venkata Subba Reddy (PW-4) also suggested that he received a splinter injury on his back with a bomb hurled by Yedula Nagamuni Reddy (A-3). Dr. K. Venkata Narayana (PW-11) also found a lacerated injury on the right side of his chest. K. Gopal Yadav (PW-5) also had suffered a splinter injury from a bomb hurled by Bodella Malikarjuna Reddy (A-2). The Trial Court, therefore, rightly came to the conclusion that excepting the splinter injury received by injured witnesses on account of the bomb being hurled, other injuries were never corroborated by the medical evidence on record. D E F

11. It has also come on record that Yeddula Sankar Reddy (A-8), Yeddula Prabhakar Reddy (A-14) and one Yeddula Venkateswara Reddy also received injuries in the same incident, whose wound certificates are marked as D-6 to D-8 respectively. This was corroborated by the evidence of T.N. Satyanarayana Reddy (PW-9), the *Bandobast* Constable also who claimed that he was informed by the Congress Party workers that three Telugu Desam Party workers had received injuries in the incident. The medical certificates, as well as the evidence of Dr. K. Venkata Narayana (PW-11) shows that these G H

A were the grievous injuries and were not superficial or minor injuries. As compared to the injuries of G. Raghurami Reddy (PW-3), R. Venkata Subba Reddy (PW-4) and K. Gopal Yadav (PW-5), the injuries suffered by K. Sudhakar Reddy (PW-2) were more serious. It was an admitted position that these

B injuries were never explained by the prosecution. As held in *Ram Sunder Yadav & Ors. Vs. State of Bihar* [1998 (7) SCC 365], this Court has held that though in all the cases, the prosecution was not obliged to explain the injuries, the prosecution has to, however, explain the injuries on the

C accused, where the evidence consists of interested and inimical witnesses and where defence alleges a version which competes in probability with that of the prosecution. Therefore, the Trial Court came to the conclusion that the injuries on

D Yeddula Sankar Reddy (A-8) and Yeddula Prabhakar Reddy (A-14) were not explained by the prosecution. It is on this basis that the Trial Court entertained a doubt about the version of the prosecution. This suspicion about the credibility of the prosecution witnesses became all the more serious on the basis of the evidence of Y. Chinna Narayana Reddy (PW-1) that they came to the Hospital by 9.30 or 10 A.M. and after some

E time, S. Ramakrishna Reddy (PW-15), Circle Inspector and E.V. Rami Reddy (PW-14), Head Constable came there and took them to the Doctor for treatment and then the statement of Y. Chinna Narayana Reddy (PW-1) was recorded by the Head Constable, while Exhibit P-1 (Complaint given by PW-1)

F suggests that it was recorded at 10.35 A.M. This was also fortified by the endorsements of Dr. K. Venkata Narayana (PW-11). The evidence of E.V. Rami Reddy (PW-14), Head Constable is that he along with S. Ramakrishna Reddy (PW-15), Circle Inspector came to the Government Hospital at 10

G A.M. and found six injured persons in the Hospital and then the injured were interrogated and the requisition was given to the Medical Officer for treatment. It is admitted by E.V. Rami Reddy (PW-14) that when he and S. Ramakrishna Reddy (PW-15), Circle Inspector reached the Government Hospital, M.L.A.

H Varadarajula Reddy had already come to the Hospital and the

legal advisors on behalf of the Congress Party were also found there. It was then that S. Ramakrishna Reddy (PW-15), Circle Inspector inquired the names of the accused, place of the incident, the injuries and the nature of the weapons from them and issued a requisition to the Medical Officer. In his evidence, S. Ramakrishna Reddy (PW-15), Circle Inspector admitted that he had come to know that M.L.A. Varadarajula Reddy had visited the Hospital, but could not say the purpose for which he had come there. The Trial Court then noted the admission on the part of this witness that he noted the names of the assailants, the weapons used by them and the place of the injuries in the requisition (Exhibit P-10). However, when we see Copy of requisition (Exhibit P-10), the same was received by the duty Doctor at 9.30 A.M. on 15.12.1998. Even Dr. K. Venkata Narayana (PW-11) admitted in the evidence that he received that requisition at 9.30 A.M. on that day and the names of the injured were noted on the right side. The Trial Court has, therefore, rightly held that the information had already reached the Police Inspector even before 9.30 A.M., as it is only after the information was received by him about the injured etc. that he (the Inspector) sent the requisition (Exhibit P-10) to the Police and, therefore, the Complaint (Exhibit P-1), which was supposed to be an FIR was hit by Section 162 of the Code of Criminal Procedure (Cr.P.C.), as the information was already collected by S. Ramakrishna Reddy (PW-15), Circle Inspector much prior to 9.30 A.M. and, therefore, it is the requisition (Exhibit P-10), which should become an FIR and not the Complaint (Exhibit P-1). The Trial Court, therefore, expressed its suspicion about the Complaint (Exhibit P-1), on which heavy reliance is being placed by the prosecution.

12. The Trial Court then also relied on the decisions in *The State of Uttar Pradesh Vs. Sahai & Ors.* [1981 CrI. L.J. 1034], *V. Satyamaiah & Ors. Vs. State of A.P.* [1978(1) A.P.L.J. 83], *Raghunath and Ram Kishan & Ors. Vs. State of Haryana & Ors.* [2003 CrI. L.J. 401] and *Mool Chand Vs. Jagdish Singh Bedi & Ors.* [1992 CrI. L.J. 1539], wherein it was held that it

A was unusual for a factionist to take advantage of every situation and occurrence and there is incurable tendency in the factionists to rope in the innocent members of the opposite faction alongwith the guilty and twist and manipulate the facts with regard to the mode and manner of the occurrence so as to

B make their case appear true with the innocent members of the opposite faction also as participants in the occurrence. The Trial Court, therefore, went on to scrutinize the evidence of the eye-witnesses Y. Chinna Narayana Reddy (PW-1), K. Sudhakar Reddy (PW-2), G. Raghurami Reddy (PW-3), R. Venkata

C Subba Reddy (PW-4) and K. Gopal Yadav (PW-5) with greater care. It was observed that S. Ramakrishna Reddy (PW-15), Circle Inspector admitted in his Cross-Examination that he received a telephone information about the commission of offence at 9 A.M. from Sankarpuram Village that a person had

D died. He stated that he had not made any entry in the General Diary and that he went to the party people of the appelliant. On this basis of the evidence, the Trial Court found that even the evidence of the Investigation Officer (PW-15) was an improved version. On examination of the evidence of Y. Chinna Narayana

E Reddy (PW-1), K. Sudhakar Reddy (PW-2), G. Raghurami Reddy (PW-3), R. Venkata Subba Reddy (PW-4) and K. Gopal Yadav (PW-5), the Trial Court found that Pilli Pedda Yesanna (deceased) was not a leader, he was a mere coolie. The deceased was also found wearing a sweater, which was not possible unless he was a watchman to the field throughout the

F night. The Trial Court, therefore, expressed a doubt and in our opinion, rightly that Chandra Sekhar Reddy (PW-7) and Y. Chinna Narayana Reddy (PW-1), who had contested election against the appelliant herein being present on the scene, the appelliant would chose to throw bomb at an insignificant coolie

G like Pilli Pedda Yesanna (deceased), leaving Chandra Sekhar Reddy (PW-7) and Y. Chinna Narayana Reddy (PW-1), who had not claimed that it was the appelliant who threw the bomb at them. The Trial Court also expressed its doubts on the basis of sketch of scene of offence (Exhibit P-21), which shows no

H traces of explosion of any explosive substance at the scene of

offence. The Trial Court also expressed doubts about the evidence of S. Ramakrishna Reddy (PW-15) on account of his not having shown in the sketch, the places, where the explosion took place, which were four in number, according to the witness. While appreciating the evidence of the so-called eye-witnesses, it is deduced by the Trial Court that in all probability, there were 10 bombs in the hands of the appellant (A-1), Bodella Malikarjuna Reddy (A-2), Yedula Nagamuni Reddy (A-3), Mopuru Ramanjaneyula Reddy (A-4) and Yeddula Maruthi Prasad Reddy (A-5) and out of these, 6 exploded and 4 of them caused splinter injury to each one of the injured. It was found that this evidence of the witness was not corroborated by T.N. Satyanarayana Reddy (PW-9), the Police Constable, who visited the scene of offence immediately at that time. Though he was declared hostile, the Trial Court has relied on his evidence to the effect that immediately after receiving the sounds of explosion, he came there running. The Trial Court, therefore, deduced that the bombs were thrown by both the groups, more particularly because the injuries on Yeddula Sankar Reddy (A-8) and Yeddula Prabhakar Reddy (A-14), which had remained unexplained, were far from serious and were caused because of the explosion of the bombs. On this, the Trial Court deduced the theory of free fight between both the groups, both armed with explosive bombs. The Trial Court, therefore, held that the evidence of T.N. Satyanarayana Reddy (PW-9), the Constable did not corroborate the evidence of Y. Chinna Narayana Reddy (PW-1), K. Sudhakar Reddy (PW-2), G. Raghurami Reddy (PW-3), R. Venkata Subba Reddy (PW-4) and K. Gopal Yadav (PW-5).

13. This well considered judgment of the Trial Court has been upset by the High Court and in its judgment, the High Court relied on the Exhibit P-1 [Complaint given by Y. Chinna Narayana Reddy (PW-1)]. Very significantly, barring the evidence of Y. Chinna Narayana Reddy (PW-1), K. Sudhakar Reddy (PW-2), G. Raghurami Reddy (PW-3), R. Venkata Subba Reddy (PW-4) and K. Gopal Yadav (PW-5), there is

A hardly any consideration in the High Court's judgment, more particularly of the mix up of timings as regards the Complaint (Exhibit P-1), on which heavy reliance was placed by the High Court. We have seen the Complaint (Exhibit P-1) very carefully, where it is specifically alleged that the Telugu Desam Party was

B led by the appellant herein. It is reported that both the parties, on 13.12.1998, had fought in connection with using the road and the witness (PW-1) himself and his party people were accused in that case and were absconding. It is then suggested on 16.12.1998, in the morning at 7.30, he (PW-1) and the other

C persons went to cart the paddy hay of Ramireddy Ramasubba Reddy and while they were bundling the hay, the 16 accused persons came there and the appellant (A-1), Bodella Malikarjuna Reddy (A-2), Yedula Nagamuni Reddy (A-3), Mopuru Ramanjaneyula Reddy (A-4) and Yeddula Maruthi

D Prasad Reddy (A-5) were holding bombs in their two hands, Yeddula Ramachandra Reddy (A-6) was holding a gun and other persons were holding hunting sickles and spears and the appellant raised loud cries shouting not to leave anybody there and kill all of them. It is also reported that it was the appellant

E (A-1), who hurled a bomb on Pilli Pedda Yesanna (deceased). The said bomb exploded and Pilli Pedda Yesanna (deceased) fell down and died on the spot; then the others also started hurling the bombs. Y. Chinna Narayana Reddy (PW-1) then refers to his being hacked by other accused persons with a hunting sickle and on the right knee with the spear. He then

F refers to an injury caused on his little finger because of the spear. He then refers to the police firing a gun. After that he refers that they all (injured) came to the Government Hospital and were being treated. There is an endorsement that this statement has been given at 10.35 A.M., while it was

G dispatched to the Court at 1.04 P.M. Significantly enough, there is also a report given by Yeddula Prabhakar Reddy (A-14) on the same day at 7.45 A.M., wherein the hurling of the bomb is attributed to the complainant party.

H 14. Once we see the evidence of Y. Chinna Narayana

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Reddy (PW-1) in the light of evidence of E.V. Rami Reddy (PW-14), Head Constable and of S. Ramakrishna Reddy (PW-15), Taluk Circle Inspector, the falsity of the evidence of this witness becomes clear. Though in his Examination-in-Chief, he claimed that all of them along with the woman folk were taken in the tractor of Chandra Sekhar Reddy (PW-7) to the Government Hospital, that claim appears to be incorrect. In his Examination-in-Chief, E.V. Rami Reddy (PW-14), Head Constable, who claimed to have gone to the Hospital, admits that S. Ramakrishna Reddy (PW-15), Taluk Circle Inspector asked him to accompany him at 9 A.M. to Sankarpuram and the Sub-Inspector also accompanied him. According to him, the requisition (Exhibit P-10) was prepared at 9 A.M. and was sent to the Doctor, who received it at 9.30 A.M. He, in fact, denied that he went to the Hospital at 10 A.M. As compare to this, the evidence of Ramakrishna Reddy (PW-15), Circle Inspector suggests that he alongwith other staff and E.V. Rami Reddy (PW-14) proceeded to Sankarpuram since he received an anonymous call at 9 A.M. about the incident. He then suggests that on the way, near one Village Pedda Settypalli, at about 9.15 A.M., he received the information that the injured were taken to the Hospital and, therefore, he sent his Sub-Inspector and the staff to go to the scene of offence and he alongwith V. Rami Reddy (PW-14), Head Constable, returned to Government Hospital at about 10 A.M. and it was then that V. Rami Reddy (PW-14) recorded the statement of Y. Chinna Narayana Reddy (PW-1) in the Government Hospital. It is, therefore, obvious that these two police witnesses are contradicting each other in the matter of the timings and also the timing of the Complaint (Exhibit P-1). On this backdrop, when we see the evidence of Dr. K. Venkata Narayana (PW-11), the Medical Officer, it is seen that at 9.30 A.M. itself, the Doctor examined K. Sudhakar Reddy (PW-2) on the requisition of SHO (Rural), who was accompanied by Police Constable 674, who was none else, but V. Rami Reddy (PW-14). This requisition is said to have been sent by PW-14 and PW-15. S. Ramakrishna Reddy (PW-15) has given a graphic

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A description and timings as to when he examined all the injured witnesses. Now, if K. Sudhakar Reddy (PW-2) was available at 9.30 A.M. itself and a requisition was already prepared even before 9.30 A.M., there is no question of Y. Chinna Narayana Reddy (PW-1) registering the FIR at 10.35 A.M. V. Rami Reddy (PW-14) has also admitted that even by the time they reached the Hospital, M.L.A. Varadarajula Reddy was stated to have come to the Hospital and the legal advisors were also found in the Hospital. All this creates a big suspicion about the Complaint (Exhibit P-1), as also evidence of Y. Chinna Narayana Reddy (PW-1). Shri Kanakraj, Learned Senior Counsel appearing on behalf of the appellants pointed out that this very vital aspect has not at all been considered by the High Court. Once it is proved that the FIR itself was given with the consultation of the legal advisors and in the guidance of the local Member of Legislative Assembly who was inimical towards the appellant herein on account of the party factions, the whole story and more particularly, the part played by Y. Chinna Narayana Reddy (PW-1) becomes suspicious.

15. Considering evidence of Chandra Sekhar Reddy (PW-7) that they had started from the Village at about 8.10 or 8.20 A.M. and that they were traveling in a tractor, it cannot be said that they would reach only at 10.35 A.M. We have seen the evidence of K. Sudhakar Reddy (PW-2) as also the other witnesses like G. Raghurami Reddy (PW-3), R. Venkata Subba Reddy (PW-4) and K. Gopal Yadav (PW-5). The evidence of all these witnesses is full of contradictions and omissions. Most of these witnesses figured of the accused in the counter case. Therefore, their evidence was bound to be appreciated little carefully. We are not satisfied with the judgment of the High Court and more particularly, the appreciation of the evidence, mainly of Y. Chinna Narayana Reddy (PW-1), K. Sudhakar Reddy (PW-2), G. Raghurami Reddy (PW-3), R. Venkata Subba Reddy (PW-4) and K. Gopal Yadav (PW-5). The High Court does not seem to have exercised the caution that it was expected to, more particularly, in view of the fierce enmity

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between the accused party and the complainant party. On the other hand, the appreciation of the evidence by the Trial Court appears to be more satisfactory to us. We are, therefore, not in a position to accept the evidence of these eye-witnesses, particularly against the appellant herein.

16. The High Court also has nowhere considered the other circumstance that there was no explosive substance found at the place where allegedly the bombs were exploded. On the other hand, they were found somewhere else. That is clear from the evidence of Ramakrishna Reddy (PW-15), Circle Inspector. Even the High Court has noted this in the following words:-

"In the absence of any traces of bomb blast on the ground, there is a doubt whether they received injuries on account of throwing of one bomb against the deceased or due to explosion of any other bomb. Though the presence of PW-1 to PW-5 is helpful regarding the overtacts attributed to A-1 in attacking the deceased, there is a doubt regarding the culprit who hurled bombs against the witnesses at the time of incident."

This shows that the role of Y. Chinna Narayana Reddy (PW-1), K. Sudhakar Reddy (PW-2), G. Raghurami Reddy (PW-3), R. Venkata Subba Reddy (PW-4) and K. Gopal Yadav (PW-5) and more particularly, their evidence regarding the overtact attributed to the appellant herein was not above suspicion. We are also surprised that insofar as Bodella Malikarjuna Reddy (A-2), Yedula Nagamuni Reddy (A-3), Yedula Maruthi Prasad Reddy (A-5), Yedula Manohar Reddy (A-7) and Yedula Prabhakar Reddy (A-14) are concerned, the High Court chose to disbelieve the evidence of Y. Chinna Narayana Reddy (PW-1), K. Sudhakar Reddy (PW-2), G. Raghurami Reddy (PW-3), R. Venkata Subba Reddy (PW-4) and K. Gopal Yadav (PW-5) on the ground that there was no corroboration to the evidence of each witness about the injuries received by the respective accused person. The High Court expressed the view that the prosecution witness might have

A received splinter injuries while running away from the scene and it was not possible for them to observe as to which accused hurled bombs against each of them. Once the benefit of such kiosk has been given to the other accused against whom the appeal was filed by the State, in our opinion, the same
 B advantage should have been given even to the appellant herein, more particularly because he was admittedly a leader and the version against him was absolutely parrot-like. We are, therefore, not convinced about the correctness of the judgment of the High Court. The High Court has not exercised the caution
 C that was expected to while dealing with the judgment of acquittal by the Trial Court. It has also left out of consideration the important findings regarding the FIR and the other important circumstance that before the FIR was given, the lawyers/legal advisors had already reached the place alongwith their leader,
 D who was a Member of Legislative Assembly. The High Court has also not further considered the contradictions between the evidence of Y. Chinna Narayana Reddy (PW-1), Dr. K. Venkata Narayana (PW-11), the Medical Officer, E.V. Rami Reddy (PW-14), Head Constable and S. Ramakrishna Reddy (PW-15),
 E Circle Inspector *inter se*.

17. For all the above reasons, we feel that the High Court was not justified in interfering with the well considered judgment of the Trial Court. We, therefore, allowing the appeal, set aside the judgment of the High Court and restore that of the Trial
 F Court. The appellant is reported to be undergoing the punishment; he shall be forthwith released unless required in any other matter.

N.J.

Appeal allowed.