

## **Public Prosecutor, Government Of ... vs Boya Jaggapuram Venkateswarlu And Ors on 6 October, 1980**

**Equivalent citations: AIR1980SC1876, 1980CRILJ1301, 1980SUPP(1)SCC480, 1980(SUPP)SCC480, AIR 1980 SUPREME COURT 1876, 1981 SCC (CRI) 444**

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**Bench: O. Chinnappa Reddy, R.S. Sarkaria**

### **JUDGMENT**

R.S. Sarkaria, J.

1. This appeal by special leave is directed against a judgment, dated September 29, 1971 of the High Court of Andhra Pradesh. Eight persons who will hereinafter be referred to as A-1 to A-8, were put on trial for the murder of Peddiah alias Dubbanna and his two sons, Chinna Pullana and Pedda Pullanna.

2. About 2 years before these murders (Sugreevudu) one of the sons of A-1 was murdered at the toddy shop of P.W. 4, Mukkidi Naganna was prosecuted under Section 302, Indian Penal Code for that murder. Venkataramudu, the grand-son of P.W. 4. herein, was a prosecution witness in that case. Peddiah alias Dubbanna deceased in the present case was looking after the defence of Mukkidi Naganna and as a result of his influence one prosecution witness in that case turned hostile. Since the murder of Sugreevudu, A-1 had been living in village Divamdinne. On account of this the present accused were nursing a grudge against the deceased.

3. On July 22, 1970 at about 2.30 p.m., the deceased Peddiah alias Dubbanna, his sons, the other two deceased, and his wife (P.W. 1) went to their field called Cheruvu Chenu in the revenue estate of village Kanakaveedu. Peddiah started running a Guntaka pulled by bullocks, while the sons engaged themselves in putting mud on the bunds. P.W. 1 was collecting the uprooted stubs in a basket. In the afternoon, P.W. 1 with a basket full of the uprooted stubs started to go home. When she had gone a short distance, she saw A-1 to A-3, armed with Yerika Sickles, coming from the direction of Kanakaveedu village. Sensing danger she threw the basket and ran back towards the field where her sons were working, shouting that their father would be killed. At the same time, A-4 to A-8 and two other strangers also armed with sickles and battle axes approached the deceased persons. All these 10 persons converged on Peddiah and started assaulting him with their weapons. The assailants killed Peddiah alias Dubbanna at the spot in no time and then immediately rushed towards the sons, Chinna Pullanna and Pedda Pullanna, rind attacked them. P.W. 1 in an attempt to save her eldest son, approached the assailants with her hands raised, entreating them to spare her son. But A-4

struck P.W. 1 with the sickle causing an injury on her left palm and also hit her with the handle portion of the sickle on the left arm. All the accused gave an indiscriminate beating to the two sons and killed them at the spot. P.W. 2, Boya Jaggapuram Hanumanna. and Venkataramudu also witnessed the occurrence. F. W. 1 then rushed to the village while the assailants were still active on the scene. On reaching the village she informed P.W. 3 about the occurrence when the latter asked her as to how she had sustained the bleeding injury on her left hand. P.W. 3 is the wife of one Narasimhulu who was the nephew of deceased, Dubbanna. Narasimhulu was away from his house at that time. Shortly thereafter, all the assailants, including A-1 to A-8, similarly armed came to the house of Narasimhulu, brandishing their bloodstained weapons, and enquired from P.W. 3 in abusive language regarding the whereabouts of her husband. The accused proclaimed that they had done away with three persons in the field, and they had come to do away with Narasimhulu, also. P.W. 3 replied that she did not know the whereabouts of her husband. The accused then similarly armed proceeded to the house of P.W. 4, who was then sitting on the pial of his house. They enquired of him about his sons, proclaiming that they had just exterminated Dubbanna and his two sons and would finish his sons, also. P.W. 4 told them that his sons were not at his house. After abusing P.W. 4 filthily the accused went away towards the house of Eramma, P.W. 5, and enquired regarding the whereabouts of her husband. She told them that her husband had gone away to another village. The assailants then went away shouting that he had escaped death.

4. Shortly after the departure of the assailants, Narasimhulu returned home. P.W. 1 and P.W. 3 informed him about the occurrence. P.W. 1 accompanied by Narasimhulu, went to the house of the village Munsif, P. W. 6, at about 2.30 p.m. The Munsif recorded her statement (Ext. P-1) and deputed some elderly persons to keep a watch over the dead-bodies at the place of occurrence. P.W. 6 then, in the presence of those persons, visited the scene of murders and noted the various injuries on the dead-bodies on the reverse side of the complaint (Ext. P-1) and (Ext. P-2). At about 7.30 p.m. , P.W. 6 despatched the report, (Ext. P-1), and his note (P-2) to the Police Station and to the Magistrate respectively, through the Talari, (P.W. 11). The report (Ext. P-1) was received at the Police Station, Yemmiganur at 1 a.m. , when on its basis, the case was registered. The Police Sub-Inspector (P.W. 13) reached the spot at about 6 'a.m. and prepared the inquest reports (Exts. P-3 to P-5) regarding the deceased, from 7 a.m. to 1 p.m. in the presence of P, W. 6 and another. He also examined P. Ws. 1, 3, 4 and 5 during the inquests. He seized blood-stained sari and blouse of P.W. 1 under Memo (Ext. P-6). The dead-bodies were despatched under the care of constables (P.W. 7 to P.W. 9) to the medical officer with a requisition for postmortem examination. P.W. 1 was also sent for medical examination. The Medical Officer (P.W. 10) examined P.W. 1 on July 23, 1970 at 5.10 a.m. and found one cut wound on her left palm and an abrasion on the upper left arm. On July 24, 1970 at 8.45 a.m., P.W. 10 conducted autopsy of Chinna Pullanna and found as many as 15 injuries on his body. He then performed post-mortem examination of Peddiah alias Dubbanna and found 17 injuries on his body. He also performed the autopsy of Pedda Pullanna and found 10 injuries on his body. Most of the injuries found on the deceased persons were cut-wounds and a few were linear abrasions. The deaths of the deceased had, in the opinion of the Doctor, occurred about 24 hours to 48 hours prior to the post-mortem examination. The injuries found on P.W. 1 were according to the Doctor, of about 24 to 36 hours duration. In the opinion of P.W. 10, the cut-wounds found on the dead-bodies could be caused with any sharp-edged weapon, like a sickle with long blade, and similarly, the cut wound (No. 1) found on P.W. 1 could be caused with a Sharp-edged

weapon.

5. The trial Judge found that the evidence of P.W. 1 was fully reliable, and that her testimony, corroborated by the F.I.R. (Ext. P-1) which had been lodged without undue delay, could safely be acted upon to convict all the eight accused. The trial Judge further held that the evidence of P.W. 3, also, was acceptable, and furnished further corroboration of the testimony of P.W. 1. He however, did not think it safe to rely on the evidence of P.W. 2. Venkataramudu, an other alleged eye-witness, was not examined by the prosecution. In the result, the learned Sessions Judge convicted A-1 to A-8 under Section 302 read with Section 149, Indian Penal Code on three counts of murder and sentenced each of them to death. He also convicted all the 8 accused under Section 148, and A-4 under 324, Indian Penal Code for causing hurt to P.W. 1.

6. The High Court accepted the appeal of the accused and acquitted all of them. Hence this appeal by the State,

7. During the pendency of this appeal, respondent 1 (A-1) and respondent 4 (A4), who had been enlarged on bail, were murdered. The State-appeal against respondents 1 and 4 therefore, has abated. By our order, the appeal against respondents 2 and 6, who are reported to be absconding, was separated, and the appeal against respondents 3, 5, 7 and 8, only is now being heard.

8. We have heard Shri O. P. Rana, learned Counsel for the appellant State, and Shri S. R. Srivastava who has appeared as amicus curiae for respondents 3, 5, 7 and 8. We have very carefully examined the judgments of the courts below and the evidence on the record. It appears to us that for reasons that follow, this appeal must be allowed.

9. The sheet-anchor of the prosecution case was the evidence of P.W. 1, the widow of Peddiah alias Dubbanna deceased and the mother of the other two deceased. The trial Court, after a careful appraisal of her testimony found it consistent, probable and credible. The High Court has found it otherwise. It has advanced these arguments for rejecting her testimony:

(i) The Village Munsif (P.W. 6), who, after recording complaint (Ex. P-1), visited the scene of occurrence did not find any Guntika and bullocks in the field which according to P.W. 1 was being ploughed by her husband.

(ii) The Village Munsif did not find either the basket or the collected stubs (alleged to have been left by P.W. 1) at the place where her husband and sons were murdered.

(iii) "When she left the scene of occurrence, it is her case, her two sons lay dead about 15 yards away from the body of her husband, but when the Village Munsif came to the scene of occurrence, the dead bodies of her two deceased sons were lying at a distance of one furlong from of their father."

(iv) P.W. 1 did not mention in the F.I.R. (Ext. P-1), about the presence of Venkatramudu (not examined) and P.W. 2 in the adjoining field near the place of

occurrence.

(v) (a) "After the attack on her husband and two sons, she went to P.W. 3's house, waited there for one hour and after the arrival of her relation, Nara-simhulu, she went to report to the village Munsif. This shows that the report was given within a couple of hours after the occurrence". (b) "While Ext. P-1 would show that she accompanied by Narasimhulu went to make a report, her evidence is to the effect that Narasimhulu did not accompany her and that he came to the Village Munsif's house after she started narrating the occurrence to Village Munsif. The fact that she is not prepared to conform to Ext P-1 in so far as her statement that she was accompanied by Narasimhulu, goes to show that realising the attack of the defence that her statement was tutored by Narasimhulu, she came with a modified version over that Narasimhulu did not accompany her but joined her later while the Village Munsif was recording the statement. The version is obviously changed so that it may not be commented upon that it. was not Narasimhulu that was behind the report."

(vi) P.W. 11 (Talari) who carried the complaint to the Police Station and then to the Court of the Magistrate, though examined, has not chosen to explain as to why he could not reach the Police Station earlier than 1 a.m. or hand-over the report to the Maigstrate earlier than 7.30 am.

(vii) No importance could be attached to the injuries found on her by the Medical Officer. If really an Erikala Sickle was used on her by A-4; injury No. 1 would not have been the result of it. An injury caused with an Erikala sickle would have been grievous and not a simple nicely cut wound like her injury No. 1 over her left palm and that too between the thumb and the index finger.

(viii) "Further, if A-1 to A-8 had come determined to wipe out an entire family consisting of father and two sons, it is unlikely they would have spared P.W. 1 and allowed her to escape with injuries Nos. 1 and 2 in order to create evidence against themselves.

10. If we may say so with due deference, none of these arguments is sound. For some of them there is no factual foundation in evidence. For instance, argument (1) does not rest on factually firm premises. We have perused the evidence of the Village Munsif, (P.W. 6). The witness was not pointedly asked as to whether he had seen any Guntika or bullocks standing in or near about the field of occurrence. It appears that the question put to him in cross-examination was whether there was any mention about the presence of Guntika and bullocks or indications of ploughing in the Panchanamas, including inquest reports prepared by the Investigator in his presence. The witness replied that no such mention was there, and added that there were indications of ploughing by Guntika in the field, when he visited. He explained that he did not state so in his statement recorded under Section 161, Cr.P.C., because "I was not asked about it". Thus, the first argument of the High Court proceeds on premises which were, in fact, not wholly correct, if not wholly convoluted.

Regarding No. (ii). It is true that the Village Munsif (P.W. 6) did state in cross-examination that he did not see any basket (other than two date baskets mentioned in Ext. P-7) or the stubs thrown out of it at the scene of offence. Similarly, the investigating officer (P.W. 13) stated in cross-examination that "We did not find any other basket or heap of stubs at any place in the field Cheruvu Chenu...." But, according to the testimony of P.W. 1, she had come away to a distance of 15 to 20 yards from their field known as Cheruvu Chenu, where she threw the basket on seeing A-1 to A-3 going armed towards her husband. P.W. 13 stated that he found the dead body of Dubbanna lying on the southern side of the field, while the dead bodies of Pedda Pullana and Chinna Pullanna were in the middle of the same field called Cheruvu Chenu. Evidently, Cheruvu Chenu comprises a big area. This means that the basket and stubs were thrown by her on the way to the village at a place which was quite distant from the scene of the murders of her sons. Although the investigating officer claims to have inspected the Cheruvu Chenu and the surrounding fields, "to secure any material or circumstance that would support the prosecution or help the investigation", yet, it seems, that such claim is exaggerated. It was but natural for him to concentrate his attention during such inspection on the areas in the immediate vicinity of the places where the dead bodies lay. Although P.W. 13 does not admit and it is a common human failing not to admit fallibility or imperfection the truth seems to be that he did not carefully scan, the area beyond the precise scenes of the murders, much less did he inspect the area outside the field Cheruvu Chenu with the specific purpose of finding the basket and the heap of stubs thrown by P.W. 1 at a distance of 15 or 20 yards from Cheruvu Chenu. No pointed question was put to P.W. 13 as to whether he had inspected that place outside Choruvu Chenu with the particular purpose of finding the basket and stubs.

11. In the circumstances, therefore, the failure of the investigating officer and the Village Munsif to look for and find the basket and heap of stubs at a sufficient distance from the scene of murders, somewhere outside the field called Cheruvu Chenu, did not in any way detract from the credibility of P.W. 1 being an eye-witness of the murders in question.

12. Argument (iii) was manifestly flimsy. Firstly, P.W. 1 was a village rustic. It is doubtful whether she correctly knew the distance comprised in a furlong in terms of yards. Secondly, her statement read as a whole, clearly gives the impression that when, after seeing the assailants killing her sons and receiving the injury at the hands of A-4, she ran away to the village, the accused were still active at the scene of the murders. It was highly possible, if not probable, that at the time of the departure of P.W. 1, life in the injured sons who had fallen down, was not extinct and they got up and made a last desperate effort to move away and escape, before dropping dead. Or, the accused might have moved their bodies further and left them at the places where they were found by the Village Munsif and the investigating officer. Thirdly, the learned Judges of the High Court were labouring under a mistake of fact, if in this argument they intended to convey that it was she who had stated that when she returned to the scene of occurrence with the Village Munsif, the dead bodies of her sons were lying at a distance of one furlong from that of her husband. We have scrutinised her evidence. She did not say any thing about this distance being one furlong. It is only in the note appended by the Village Munsif to Ex. P-1, that the distance between the dead bodies of the father and his son, Pedda Pullanna, is noted as "about one furlong." P.W. 1 could not be and in fact was not confronted and contradicted with that note of P.W. 6, as that note was not a record of her previous statement.

13. Regarding argument (iv) : It is true that in the F.I. R., P.W. 1 did not mention about the presence of P.W. 2 and Venkataramudu in the field adjoining the field of occurrence. It is also correct that Venkataramudu was not examined by the prosecution and we do not find anything from the record now before us, which would furnish the reason of his non-production. But this is clear that both P.W. 2 and Venkataramudu constituted one set of witnesses. The latter was an employee of P.W. 2. The evidence of P.W. 2 has been consistently rejected as doubtful by the courts below. The evidence of Venkataramudu was not expected to stand on a better footing. The names of P.W. 2 and his companion Venkataramudu were not disclosed even during the inquests. From the mere non-production of Venkataramudu, therefore, no adverse inference could be drawn, that the witness, if examined, would have demolished the prosecution case. Nor could it lead to the sweeping generalisation that the substratum of the testimony of P.W. 1, who had first mentioned about the presence of P.W. 2 and his ploughman, Venkataramudu, in her statement under Section 161, Cr.P.C., was untrue. The trial court did not categorically hold that P.W. 2 was a false witness or that he and his ploughman could not be present in his own field which adjoins the field of occurrence, at the material time. The pith and substance of the trial court's finding was that the examination of P.W. 2 "at a belated stage could not have been inferred as affecting P.W. 2's veracity", but the circumstance of, non-disclosure of his name "even at the stage of inquest goes a long way in throwing doubt" on his presence near the scene of occurrence and "it does not appear safe to rely upon his evidence". Thus, P.W. 2's evidence was not rejected on the ground that he was necessarily a false witness but only as a matter of judicial caution. This argument was equally applicable to the case of P.W. 2's companion. This being the position, the trial court rightly held that the belated disclosure of the name of P.W. 2 (and for that matter of his companion Venkataramudu) was not such an 'infirmity' or 'improvement' if at all, it could be called an 'improvement' as would justify the characterisation of her evidence "either as wholly untrue or even as partly untrue". After a full and meticulous scrutiny of her evidence, the trial court concluded "that there is a ring of truth about her evidence and her testimony is trustworthy and reliable".

14. Argument (v): This is another argument which does not rest on factually correct premises. The High Court seems to think that Ex. P-1 shows that she accompanied by Narasimhulu went to make a report, while in her testimony at the trial she stated something to the contrary. We have perused her statement comprising the F.I.R. and her testimony in court. In the F.I.R. (Ex. P-1), there is no mention of Narasimhulu at all. It is in her evidence at the trial, that for an hour or so after the accused went away, Narasimhulu came to his house, and there, she (P.W. 1) and (P.W. 3) told Narasimhulu all that had happened; that she (P.W. 1) accompanied by Narasimhulu, went to the house of the village Munsif, where she reported to the village Munsif all about the occurrence, and the village Munsif recorded her statement (Ex. P1), and obtained her thumb-impression thereon. This was her version in examination-in-chief itself. Of course, in cross-examination, she stated that Narasimhulu came to the village Munsif after she reached there, when she was stating to the Munsif. But this version should not be read in isolation but should be in the context of the immediately succeeding sentence: "He followed me just behind". Thus read, there appears to be no significant inconsistency between her version on this point in examination-in-chief and in cross-examination.

15. As here, before the courts below also, it was contended that Ex. P-1 had been made after a delay of one or two hours after deliberations with Narasimhulu. This argument which found favour with

the High Court was repelled by the trial court and we think rightly on the ground that it had not been brought out even in the evidence of P.W. 3, that her husband Narasimhulu had any axe to grind against the accused. In this connection it may be reiterated that the name of Narasimhulu or the fact of all the accused coming after the murders, with their blood-stained clothes and weapons to the house of P.W. 3 and enquiring about the whereabouts of Narasimhulu is also not mentioned. If the F.I.R. (Ex. P1) had been lodged after deliberation with Narasimhulu, this post-occurrence incident at the house of Narasimhulu could not have gone un-mentioned in the F.I.R. The informant naturally was most concerned with the occurrence involving the murders of her husband and sons. That may explain why she did not mention all the details including this post-occurrence incident at the house of Narasimhulu. P.W. 1, has satisfactorily explained why after the occurrence, she did not straightway go to the village Munsif to report about the incident, but remained for an hour or so at the house of Narasimhulu with P.W. 3. Her husband and two sons had been brutally murdered before her eyes. She was naturally terror-stricken and overwhelmed by grief. The murderers, fully armed, were active and roaming about in the village. Narasimhulu was a nephew of her husband. Naturally in that situation, she thought that Narasimhulu's house would be the safest place to go to take shelter, till further danger from the accused had passed. The delay of one or two hours, while she was in the house of Narasimhulu, in making the report to the village Munsif therefore, did not undermine the value of the F.I.R. (Ex. P1) as corroborative evidence.

16. No. VI.: It is not correct, as the learned Judges of the High Court appear to think, that no explanation is coming forth why the Talari (P.W. 11) could not hand over the complaint (Ex. P1) in the Police Station earlier than 1 a. m. or hand over a copy of that F.I.R. to the Magistrate before 7.30 a. m. The Police Station is 15-16 kms. from this village. P.W. 6 testified that no buses ply between Kanakaveedu and Yemmi-ganur and one has to cover the distance on foot. The Talari (P.W. 11) testified that the sealed cover (Ex. P1 and P. 2) was handed over to him after dusk by the Village Munsif. The witness proceeded to Yemmiganur on foot, reaching there by about midnight. He delivered that sealed cover at the Police Station. He then slept at the Police Station and early in the morning went by bus via Hyderabad to Adoni. On reaching Adoni by sunrise, he delivered the sealed cover meant for the Magistrate to the Magistrate. Not a single question was put by the defence to P.W. 11 in cross-examination to challenge his testimony. It had thus been proved that there was no undue delay in making the report or in registering the F.I.R. in the Police Station.

17. Regarding Argument (vii): The learned Judges of the High Court have said that injury No. 1 found by the Medical Officer (P. W, 10) on the left palm of P.W. 1 was a "nicely" cut wound and could not have been caused with an, Erikala Sickel. P.W. 10 testified that the cut wounds found on the deceased persons. and injury No. (1) on P.W. 1 could be caused with a sharp-edged weapon. Although P.W. 10 said he had not seen an Erikala Sickel, he testified that the cleancut wounds found on the body of Pedda Pullma deceased would have been caused by a sharp-edged weapon like a sickle with a long blade. No question or suggestion was put to P.W. 10 in cross-examination that the cut-wound found on P.W. 1 could not have been caused with the sharp edged blade of a sickle or that it was self-suffered. A suggestion that the injuries on her were fabricated with the help of Narasimhulu, was put to P.W. 1 in cross-examination but was sharply denied' and emphatically rebuffed. P.W. 1 has testified that both the injuries were inflicted on her by A-4 while she had interceded with raised hands to implore the assailants to spare her elder son; that injury No. (1) was

caused with (sic) blade of the Erikala Sickle and injury No. (2) with the handle or blunt side of the sickle. Taking into consideration that both the injuries were located close to each other, one on the palm and the other on the upper left forearm, there is every possibility of both these injuries being the result of the same blow. It is possible that the impetus of the blow with the sharp edge did not fall on the hand but grazed past the palm and then the blunt edge of the weapon grazed further down the forearm; the sharp-edge having got reversed in the process due to the instinctive movement of her arm to save herself. The very fact that injury No. (2) had not been caused with the sharp-side of a weapon but was an abrasion is an indication of the genuineness of the injuries. There was no point in fabricating this abrasion or blunt-weapon injury No. (2), when the prosecution case was that the victims were assaulted with Yerikala sickles. The age of this injury as opined by P.W. 10, was 24 to 36 hours at the time of her examination on July 23, 1970 at 5.10 p. m. The Doctor had further testified that in his opinion the deaths of the deceased persons had taken place 24 to 48 hours prior to the post mortem examinations which were performed between 8.45 a.m. to 12 noon on July 24, 1970. Thus, the medical evidence also lent assurance to the testimony of P.W. 1 that she had received these injuries at about the time when the murders in question were committed by the accused persons in the manner alleged by her,

18. In our opinion, therefore, there was no warrant for the conclusion, or ground for the suspicion, that the injuries found on P.W. 1 were not received by her at the hands of A-4 as a result of blow or blows given with an Erikala sickle.

19. These injuries on P.W. 1, therefore, lent assurance to her presence at the time and place of the murders in question. She was no doubt the wife of Dubbanna deceased and the mother of the other two deceased, and as such, was an interested witness. But there is no evidence to show that she had any previous ill-will or hostility against the accused persons or a motive to falsely implicate the accused persons. Medical evidence supports her testimony in regard to the nature of the weapons with which the fatal injuries were inflicted on the deceased persons. The very circumstance that three persons had been surrounded and hacked to death in broad day light, further indicates that the number of the assailants could be more than eight. The large number of injuries inflicted on the victims also point to the same conclusion.

20. Argument (viii) is manifestly devoid of force. The assailants might have thought it unchivalrous to murder the old unarmed woman. Their design, it appears, was to kill the head of the family and his sons only. There is no foundation in evidence for the argument that the avowed object of the assailants was to wipe off the entire family. They did not proclaim or utter any words indicating such an intention.

21. P.W. 3 corroborates P.W. 1 not only with regard to what the latter told her about the murders in the field and her sustaining the injury, but also with regard to the post-occurrence visit of the accused persons, with blood-stained clothes and with blood-stained weapons and enquiring of her in abusive language regarding the whereabouts of her husband.

22. The High Court has not discussed the evidence of P.W. 3 at length. It has simply discarded it as artificial" We are unable to agree with that sweeping re mark. The trial court, which had the



advantage of observing the demeanour of P.W. 3, has assessed the evidence of P.W. 3 as under:

The evidence of P.W. 3 appears to stand on a slightly different footing. Her husband was certainly related to the deceased Dubbanna. By the time the accused came up to her house, P.W. 1 had already informed her about this occurrence. The version of P.W. 1 & 3 is that the accused questioned P.W. 8 about the whereabouts of her husband. This they did addressing PW in foul and abusive language. It is also the version of P.W. 3 that A-1 to A-8 and two others came to her house; and they were all armed with weapons when they came to her house. Even assuming that the portion of her evidence relating to the declaration made by the accused that they killed Dubbanna and his sons at the field is to be rejected, the fact remains that the accused were seen by P.W. 3. It also does not appear unnatural that having done to death the father and the two sons the accused also thought of doing away with Narasimhulu, husband of P.W. 3 regardless of motive or no motive. It can also be noted here that P.W. 3 was examined at the inquest....The omission of these facts in Ex. P-1 cannot be inferred as discrediting the factum of P.W. going to the house of P.W. 1 when she rushed to the village to inform her own kith and kin...in the light of Section 164, Cr.P.C. statement of P.W. 3 her evidence with regard to the alleged declaration by the accused may not be reliable but (the fact in her evidence) that the accused A-1 to A-8 and two others went to her house and questioned about her husband can be held acceptable". This guarded view of the evidence of P.W. 3, taken by the trial court cannot be said to be unreasonable. Thus, the evidence of P.W. 3 cannot be wholly brushed aside as 'artificial'. It had been rightly accepted and used by the trial court to seek further corroboration or assurance of the testimony of P.W. 1.

23. For all the reasons aforesaid, we are of opinion that the arguments employed and reasons given by the High Court for rejecting the evidence of P.W. 1 and P.W. 3, in particular and the prosecution case in general, were not sound, and did not justify the reversal of the view of the evidence taken by the trial court and consequent acquittal of the accused persons. We, therefore, allow this State appeal, set aside the acquittal of the accused respondents 3 (Chakali Narasimhulu), 5 (Boya Narayana), 7 (Boya Chima Ramvdu) and 8 (Chakali Bazari) and convict them under Section 302 read with Section 149 I.P.C. on three counts for the murders of Dubbanna, Pedda Pullanna and Chinna Pul deceased persons and sentence each of them on each of the counts to imprisonment for life, with a direction that the sentences shall run concurrently. If these accused respondents are on bail, they shall surrender to their bail bonds to serve the sentences inflicted on them.