

# **The State Of Andhra Pradesh vs Pullagummi Kasi Reddy Krishna Reddy @ ... on 3 July, 2018**

**Equivalent citations: AIR 2018 SUPREME COURT 3277, AIR 2018 SC( CRI) 966, (2019) 1 MH LJ (CRI) 159, (2018) 3 CRILR(RAJ) 647, (2018) 71 OCR 669, (2018) 8 SCALE 399, (2018) 2 UC 1464, (2018) 3 CRIMES 104, (2018) 188 ALLINDCAS 88 (SC), (2018) 2 ALD(CRL) 346, 2018 CRILR(SC&MP) 647, (2018) 3 CURCRIR 82, (2018) 4 ALLCRILR 630, (2018) 104 ALLCRIC 641, 2018 CRILR(SC MAH GUJ) 647, 2018 (4) KCCR SN 415 (SC)**

**Author: L. Nageswara Rao**

**Bench: L. Nageswara Rao, S.A. Bobde**

Non-Reportable

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
Criminal Appeal Nos. 2089-2090 of 2009

THE STATE OF ANDHRA PRADESH

..... APPELLANT

VERSUS

PULLAGUMMI KASI REDDY KRISHNA REDDY  
@ RAMA KRISHNA REDDY & ORS. .... RESPONDENTS

JUDGMENT

**L. NAGESWARA RAO, J**

1. There were two factions in Chindukur village, Gadivemula Police Station, Kurnool District, Andhra Pradesh. One faction was led by V. Venkateswara Reddy and the other by Sivarami Reddy (Deceased No.1). V. Venkateswara Reddy was murdered in July, 1992. In retaliation, persons belonging to V. Venkateswara Reddy's group murdered four supporters of Sivarami Reddy. On 11th October, 1994, Crime Nos. 92 and 93 of 1994 was registered in Gadivemula Police Station under Section 5 of the Explosive Substances Act, 1908 against persons of both groups. Sivarami Reddy (Deceased No.1) was released on conditional bail. One of the conditions for bail was that he had to attend Gadivemula Police Station every Sunday between 6.00 a.m. to 10.00 a.m.

2. On 30th October, 1994, Sivarami Reddy along with his supporters and two escort police constables left his residence at 9.00 a.m. in a jeep to mark his attendance at Gadivemula Police Station. When the jeep was passing by the house of A-1 (wife of V. Venkateswara Reddy) a bullock cart was pushed across the road by A-2, A-3 and A-4 to stop the jeep. A-1 who was standing on the compound wall exhorted the other accused to hurl bombs and kill the deceased. A-5 to A-15 came out of the house of A-1 and rushed towards the jeep in which Sivarami Reddy and others were travelling. According to the prosecution, A-5 to A-7, A-9, A-11 to A-14 hurled country made bombs on the jeep. One bomb exploded on the face of Y. Ayyapu Reddy (Deceased No.2) who was driving the jeep. In an attempt to escape, Sivarami Reddy (Deceased No.1) started running while looking back and a bomb thrown by A-7 exploded on the head of Sivarami Reddy due to which he died on the spot. A-8, A-10, A-15 to A-37, A-42 to A-47 who were armed with hunting sickles and iron pipes attacked Rami Reddy (Deceased No.3) and hacked him to death. A-13, A-38 to A-41 chased Kambagiri Ramudu (Deceased No.4) armed with country made bombs. The bomb thrown by A-13 hit Kambagiri Ramudu on his back and the explosion caused his death on the spot. A. Ayyalanna (PW-1), N. Subrahmanyam, Y. Mudduleti Reddy, Sunka Raju, Balaraju (PW-6) and Janardhan Reddy (PW-7) and the escort police constable Gopal Rao received splinter injuries in the bomb blast. The prosecution version is that the escort constable Gopal Rao opened fire in the air due to which the accused fled. The Sub Inspector of Police, Gadivemula Police Station rushed to the spot on receiving information and recorded the statement of A. Ayyalanna(PW1) at 9:45 a.m. FIR No. 99/1994 was registered at 11.00 a.m. The police conducted the inquest between 12.30 p.m. and 3.30 p.m. and the FIR was sent to the Magistrate at 5:00 p.m. Thereafter, the bodies of all the four deceased were sent for Post Mortem on the same day. The explosives expert opined that the bombs used by the accused could endanger human life on explosion. A charge sheet was filed against the accused under Sections 147, 148, 302, 307, 324, 332 read with Section 149 of the Indian Penal Code, 1860 (for short 'the IPC') and Sections 3 and 4 of the Explosive Substances Act, 1908. 47 persons were shown as accused in the charge sheet. By mistake Vaddegittannagari Kothuru Subbarayudu was shown as A- 36 and A-42 due to which A-42 was deleted from the list of the accused. Vallapureddy Anasuyamma(A-1), Boya Shakunala Ramadu(A-2), Pashula Bheemanna(A-3), Boya Ayula Pullaiah(A-4) Bathula Satyanarayana Reddy(A-5), Bathula Aki Reddy(A-8), Murasinin Hanumantha Reddy(A-

24), Vadde Sambasivudu (A-43), Bathula Gopal Reddy(A-

44), Golla Peda Saibaba(A-45), Valapureddy Pratap Singh(A-46) and Kasideddi Krishna Reddy (A-47) were acquitted by the trial Court. Seema Govinda Reddy(A-6), Mulinti Telugu Sreemulu(A-7), Sura Sreedhar Reddy(A-9), Vadde Gunja Venkatasubbadu(A-10) Kasireddy Bhupal Reddy(A-11), Kasireddy Vasantha Kumar Reddy(A-12), Pullagummi Kasireddy Krishna Reddy(A-13), Bathula Pranamananda Reddy(A-14), Vadde Pallapu Jambula(A-15), Kondapuram Narayana Reddy(A-16), Bathula Sankar Reddy (A-17), Vade Malesh(A-18), Yedula Rami Reddy(A-

19), Perugu Pedda Venkateswarlu(A-20), Mulla Sha Hussaini(A-21), Mulla Moula Peera(A-22), Mulla Hassan Peera (A-23), Murasani Sudersana Reddy(A-25), Vade Hanumanna(A-26), Vadde Sindesudu(A-27), Vadde Venkatesu(A-28), Vadde Gittannagari Chinna Subbarayudu(A-29), Vadde Rameshudu(A-30), Murasani Venkatswara Reddy(A-31), Golla Chinna Saibaba(A-32), Seema

Chenchi Reddy(A-33), Telugu Sankaraiah(A-34), Vadde Gittannagari Kotturu Chinna Sabbadu(A-35), Vaddegittannagari Kothuru Subbarayudu (A-36), Bathula Venkateswara Reddy(A-37), Vadde Koppugadu @ Sreeramulu(A-38), Sura Papi Reddy (A-39), Vadde Pedda Venkateswarlu (A-40), Kasireddy Venkateswar Reddy (A-

41) were convicted by the trial Court under Section 302 read with Section 149 of the IPC and sentenced to life imprisonment. A-6, A-7, A-9, A-11 to A14 and A-38 to A-41 were also convicted under Section 3 and 5 of the Explosive Substances Act. The acquittal of A-1 to A-5, A-8, A-24 and A-43 to A-47 was not challenged by the State.

3. The accused who were convicted for various offences by the trial Court filed appeals before the High Court of Andhra Pradesh. The High Court allowed the appeals and acquitted all the accused. Aggrieved, the State has preferred the above appeal.

4. The trial Court held that A-1 was entitled to the benefit of doubt. The evidence relating to A-1 climbing over a 10 feet high wall and instigating the other accused to hurl bombs was found to be artificial by the trial Court. The alibi pleaded by her that she was not in the village on the date of incident as she was in Peddapadu village visiting her ailing sister's husband was accepted by the trial Court. A-2 to A-4 were also given the benefit of doubt and acquitted by the trial Court as no overt acts were attributed to them except placing a double bullock cart on the road. The finding recorded by the trial Court is to the effect that the sketches prepared by the investigating officer marked as Exhibit 20 and 25 clearly showed that there was no hinderance for the jeep to pass through the road in spite of the bullock cart being placed on the road. Similarly, A-5 was also acquitted as the trial Court accepted the evidence of DW-1 and held that he was not present in the village at the time of commission of the offence on 30th October, 1994. A-8 volunteered to be examined as DW-3. He was a practicing advocate at Kurnool. His version was that he was coming to the village from Kurnool and mid-way he was informed about the incident. On receipt of the said information, according to A-8, he returned to Kurnool. After examining the other evidence on record, the trial Court acquitted A-8 by giving him the benefit of doubt. A-24 who was the paid Secretary in a Cooperative Society pleaded that he was at Karimaddela village on 30th October 1994. He went to collect the debts due to the cooperative society. No specific overt acts had been attributed to him. The trial Court accepted the submission on behalf of A-24 regarding the propensity of the prosecution witnesses to implicate all persons belonging to the opposite group. A-43 to A-47 were also acquitted as their names did not find mention in the FIR and no specific overt act was attributed to them. While repelling the submissions of the defence that the prosecution version bristles with contradictions and improbabilities, the trial Court examined the evidence on record to convict the other accused. The evidence of PWs- 1, 6 and 7 who were injured eye-witnesses was relied upon by the trial Court. Minor contradictions in their evidence were ignored. The testimony of PWs- 2, 3 and 5 who were chance witnesses was also relied upon by the trial Court.

5. The appeals filed by the Respondents/Accused were allowed. The High Court acquitted all the Accused by reversing the judgment of the Trial Court. The entire incident was disbelieved by the High Court as the prosecution version was found to be improbable. The High Court found many contradictions and discrepancies in the evidence of the eye witnesses. After referring to the law laid

down by this Court on appreciation of evidence, the High Court held that the evidence of PWs-1, 6 and 7 cannot be relied upon as they belong to the faction of deceased No.1 and were closely related to the deceased. The High Court further held that the evidence of all the eye-witnesses cannot be accepted as they made an attempt to rope in number of persons belong to the opposite faction. PWs-1, 6 and 7 were found to be unreliable witnesses as the allegations made by them against A-1 to A-5, A-8, A-24 and A-43 to A-47 were found to be false even by the trial Court. PWs- 2, 3 and 5 were dubbed as interested witnesses by the High Court and their presence at the spot was also doubted. According to the High Court, PWs-2, 3 and 5 were planted witnesses. The High Court further observed that a number of persons belonging to the faction of the accused were implicated after consultations. As the credibility of the above witnesses was doubted by the High Court, all the Respondents/Accused were acquitted by the High Court.

6. It is necessary to mention that the Respondents/Accused (30 in number) presently before us are, A-6, A-9 to A-19, A-21 to A-23, A-25 to A-31, A-33 to A- 38 and A-40 to A-41. It is also relevant to note that we are not concerned with A-1 to A-5 A-8, A-24 and A-43 to A-47 who were acquitted by the trial Court and whose acquittal has become final. A-7, A-20, A-32 and A-39 died during the pendency of this Appeal. I.A. No. 33287/2018 was filed before us bringing on record that Murasani Sudersana Reddy (A-25) was a minor at the time of the incident and the said fact was not noticed before the Courts below. The counsel for the Appellant- State took time to seek instructions and it was submitted that the details submitted by the Senior Counsel for the Respondents were correct.

7. The admitted facts of this case are that Chindukur is a faction ridden village. There were two factions, one headed by the husband of A-1 and other by deceased No.1 Sivarami Reddy. The husband of A-1 was murdered in July, 1992. On the same day, 4 supporters of deceased No.1 were killed. Apart from others, cases under the Explosive Substances Act were registered a few days prior to the date of the incident against both sides. Apprehending violence, two policemen were posted in the village. The deceased No.1 had to report at Gadivemula Police Station on every Sunday between 6.00 a.m. to 10.00 a.m. The deceased No.1 had to necessarily cross the house of A-1 which is situated besides the only road which leads to the police station. The incident occurred right opposite the house of A-1. Four people died in the incident. The medical evidence on record shows that three of them died due to explosion of bombs on their bodies. The fourth (Deceased No.3) died due to injuries caused by sickles and iron pipes. It would be relevant to refer to the injuries received by the four deceased.

#### Injuries on the dead body of D-1:

1. Head:- Total disintegration of the upper half of the head with complete loss of upper skull vault upto upper lips. Eye balls are absent. Brain is entirely lost. Charring of tissues with black discoloration of the remaining face.
2. Chest: Multiple, about a hundred or more small, about 1/4 cm tattooed abrasions extending over entire right side of chest and upper abdomen right side. Right upper arm splinter abrasions of the entire right upper arm.

Lacerations about 1 cm diameter over middle of the right upper arm in front, burn of the entire dorsal and medial aspect of right forearm and yellowish discolouration. Burn of the thumb, index and middle fingers over the dorsal aspect with yellowing.

3. Laceration of left hand 3 cm x 2 cm x 1 cm over the dorsum. Burn of the left forearm dorsal aspect 8 cm x 3 cm. Abrasions four in number small ½ cm square area front of right thigh with tattooing. Abrasions of lower left thigh in front four in number small ½ cm square area with tattooing.

Internal examination:

Subcutaneous fat is yellow muscles are pale. Heart:

Pericardium empty. Heart is pale and empty. Lungs: Both lungs are collapsed, left lung is pale, right lung upper lobe is congested. About 50 ml of blood in right plural cavity, left plural cavity is empty. Liver is pale cut Section pale. Spleen is pale. Both kidneys are pale, No blood is in the abdominal cavity. Structures are not injured, no fractures of long bones noted.

The deceased would appear to have died of multiple injuries mainly the head leading to hemorrhage and shock and death. Time of death 6 to 8 hours prior to post mortem." Injuries on the dead body of D-2:

"External injuries:

Head:

1. contusion 3 cm x 2 cm x 1 cm over the left side of scalp with laceration 1 cm long over the swelling.
2. Laceration of right cheek 2 cm x ½ cm x ½ cm with tattooing. Entire face is charred and disfigured.
3. Laceration left side of forehead 1 cm circular with tattooing
4. Laceration over bridge of the nose 1 cm x ½ cm.
5. Charred burn of entire back of neck.

Chest and abdomen: Anterior(front) aspect of chest is burnt with blackish discoloration. Laceration front of chest 5 cm x 4 cm square in the upper middle aspect with tattooing.

Laceration 2 cm x 1 cm x ½ cm over right infra claviular area.

Abrasion with black discoloration 15 cm x 15 cm over the right scapular and supra scapular area.

Burn with charring of right infrascapular area 15 cm x 10 cm Peripheral limbs:

Laceration 1 cm diameter with charring of margins over right upper arm. Burn 3 cm circular over back of right upper arm. Laceration 3 cm x 1 cm lower left upper arm. Laceration 2 cm x 2 cm with irregular margins front of left upper arm. Laceration 2 cm x 1/2 cm with irregular margins with burn marks over lateral aspect of left upper arm. Laceration 2 cm x 1 cm left upper forearm with tattooing. Laceration 1 cm x 1 cm lower forearm left with black staining. Blackish soot staining of entire front and side of both lower limbs. Burn with loss of skin of right calf 4 cm x 2 cm. Burn of upper right thigh in front 4 cm x 3 cm. Burn of left calf lateral aspect 3 cm x 1 cm.

Internal:

1. Fracture of skull about 7 cm long extending from centre to the left side over parietal bone crack fracture.
2. Contusion of subcutaneous tissues over the fracture site.
3. Brain contusion of the entire cortex of the brain on both sides over parietal and occipital areas.
4. Pericardium empty, Heart empty.
5. Right lung congested.
6. About 100 ml of blood in right plural cavity.
7. Stomach about 400 ml of digested food.
8. Liver pale
9. Kidney are pale, and bladder is empty.

Opinion as to cause of death:

The deceased would appear to have died of Head injury and multiple burns of the body leading to death about 6-8 hours prior to the Post Mortem. Injuries on the dead body of D-4:

“External injuries:

1. A burst out laceration injury on the back of the body of size 17 1/2” x 14 1/2” horizontal involving entire left side and extending on to the right side upto 7” away

from right posterior axillary line. Upper border extending to just above the left supra scapular border. Lower border extending upto 3" above the waistline. Left side of injury extending on to the left anterior axillary line. Skin at the edge is torn into irregular flaps with yellow staining of under surface of skin flaps here and there. Left para vertebral muscle missing in the wound except 3" size muscle flap at the lower end of the wound. The upper end of this muscle flap is irregular torn and the muscle surface is charred. Left half of the vertebral column is seen with ribs corresponding to the wound missing. Right sided paravertabral muscle present in its entire length but blackened. Left scapula with its lower 2/3 rd missing is exposed at the upper side of the wound. Floor of the wound is irregularly lacerated with blackened. Lacerated organs like left lung, heart spleen, stomach, left kidney are lying exposed in the floor of the wound. Intestinal coils are also seen in the floor of the wound. Darkened liquid blood is preset in the floor of the wound seven 3/4" size nails are found in the floor of the wound. The shirt corresponding to the wound is torn on the back.

2. Yellow staining and blackened of kin of size 8" x 3" present on the lower end of arm, elbow and upper end of forearm of left side on the exposed black aspect. In this area hair is lost. At the periphery of this area is singed.

3/4th size nail is found on the lower end of arm piercing the skin.

3. Contusion of size 1/2" x 1/4" are present along the front border of nose. Blue in colour.

4. Left upper central incisor broken near gingival margin with blood staining of the gingival margin. The distal fragment missing.

#### Internal examination :

Thorax: Bony cage: All ribs on left side except upper two are missing. Right side lower 3 ribs are fractured anteriorly 1st away from the sternum. Posteriorly all right side ribs are intact. Lower 2/3rd of left scapula missing. Lungs: Left lung lacerated posteriorly in its entire length. Heart: Entire posterior wall of the heart lacerated exposing the chambers of the heart.

Abdomen: Stomach: A tear of size 2 1/2" x 1/2" over posterior wall of the stomach, stomach empty. Intestines lying exposed in the floor of the wound.

Spleen: Lacerated on its entire posterior surface and lying detached in the wound.

Liver: Posterior surface of the left lobe of liver lacerated. Kidneys: Left kidney lacerated posteriorly. Right kidney normal.

Opinion as to cause of death:

The deceased would appear to have died of injuries to vital organs due to bomb blast.” Cause of death of D-3:

15 incised injuries including amputation of the right forearm on the lower 3rd with both bones cut and the hand separated.

Opinion as to cause of death:

“The deceased would appear to have died on multiple injuries and due to fracture of skull and due to shock and hemorrhage 6- 8 hours prior to post mortem.”

8. Ms. Prerna Singh, learned counsel for the Appellant-

State criticized the judgment of the High Court on the following grounds:

a. The incident happened in the faction ridden Chindukur village, right outside the house of Accused No. 1 who is the wife of a slain leader of a warring group.

b. There was prior animosity between the two factions and motive of the crime was to do away with Sivarami Reddy (Deceased No. 1) who was the leader of the opposite faction. c. There was no delay in lodging the FIR. The oral evidence of all the prosecution witnesses is consistent in material particulars except for some minor contradictions and inconsistencies. The High Court erred in highlighting the minor contradictions and ignoring the consistent testimony of the injured eyewitnesses. d. The ocular evidence of the eye witnesses is corroborated by the medical and forensic evidence on record.

e. In faction ridden villages, even if some independent or impartial witnesses were present at or near the scene of the incident they are not likely to volunteer to give evidence and it is only the relatives who would be willing to tender evidence.

f. The High Court was wrong in discarding the evidence of the eyewitnesses on the ground that they were interested and partisan. g. Even if the evidence of the eyewitnesses was disbelieved qua some accused, it can still be relied upon to convict the other accused. h. The High Court ought not to have interfered with the well-reasoned judgment of the Trial Court.

i. The entire approach of the High Court appears to be focused on minor contradictions oblivious to the fact that four people were killed in broad daylight on 30.10.1994.

j. The judgment of the High Court is perverse and deserves to be set aside.

9. Shri Basant, learned Senior Counsel for the Respondent-



Accused submits that the judgment of the High Court warrants no interference for the following reasons:

a. Every accused is presumed to be innocent unless proven guilty. This presumption is further strengthened by a finding of acquittal arrived by a Court.

b. Though the Privy Council in *Sheo Swarup v. King Emperor*<sup>1</sup> held that there was no real distinction between appeal against acquittal and an appeal against a conviction, it was submitted that the approach of this Court has been qualitatively different in cases of appeals against acquittal. c. It is submitted that this Court should be slow in interfering with the judgment of acquittal of the High Court, if the view of the High Court is a possible one. The judgment of the High Court ought not be set aside unless it is perverse. d. On merits, it was submitted that the entire genesis of the case is extremely doubtful. As per the FIR, A-1 was the mastermind of the attack 1 AIR 1934 PC 227 and on her instigation the other accused attacked the deceased. This version was disbelieved by the Trial Court and A-1's plea of alibi was accepted. A-2 to A-5, A-8, A-24, A-43 to A-47 were also acquitted by the trial Court. This finding has attained finality as the Appellant-

State has not chosen to file an appeal against the acquittal of A-1 and thus the whole incident as deposed by the eyewitnesses is riddled with uncertainty and is highly doubtful. In such a situation, the benefit of the doubt should accrue to the accused. It is not safe to convict any of the Respondents/Accused.

e. All the eyewitness put forth by the prosecution are members of the opposite faction. The credibility of the witnesses is also suspect as they are accused in several cases filed by the Respondents. There is a clear motive to falsely rope in the Respondent/Accused. The evidence of partisan witnesses merits acceptance only after a careful scrutiny of the same.

f. Finally, it was urged that this Court should take a compassionate view of the fact that the incident took place a long time ago and the Respondent/Accused have suffered the agony of trial for almost 25 years.

10. After hearing both the parties, we undertook the exercise of examining the evidence on record. On a thorough scrutiny of the evidence of PWs-1 to 7, we are of the opinion that the High Court has committed an error in eschewing their testimonies in toto. The evidence of PWs- 1, 6 and 7 was found to be unreliable and unbelievable by the High Court on the ground that they implicated several persons belonging to the opposite faction. Reliance was placed by the High Court on the observations of the Trial Court while acquitting A-1 to A5, A-8, A-24, A-43 to A-

47. The High Court held that the evidence of eye witnesses cannot be relied upon for convicting the other accused.

11. The principle of 'Falsus in uno falsus in omnibus' has not been accepted in our country.<sup>2</sup> Even if some accused are acquitted on the ground that the evidence of a witness is unreliable, the other accused can still be convicted by relying on the evidence of the same witness. <sup>3</sup> Minor contradictions and omissions in the evidence of a witness are to be ignored if there is a ring of truth in the testimony of a witness.<sup>4</sup> The High Court was oblivious to this settled position of law. The High Court highlighted the minor inconsistencies and omissions in the evidence of PWs- 1 to 3 and PW-5 to 7 to disbelieve them. The High Court wrongly refused to believe the eye witnesses on the ground that they attempted to implicate as many persons as possible by making omnibus allegations. The High Court further erred in holding that PW-1, 6 and 7, who were the eye witnesses travelling in the jeep with the deceased, were not speaking the truth as they were close relatives and supporters of Deceased No. 1. The rejection of the evidence of PW-2, 3 and 5 by the High Court on the ground that they did not attribute specific overt acts to each accused is also erroneous.

12. Undoubtedly, a horrendous crime was committed in a village in which four persons lost their lives. There is no <sup>3</sup> See Gangadhar Behera v. State of Orissa, (2002) 8 SCC 381, ¶ 15 <sup>4</sup> See State of U.P. v. Dan Singh, (1997) 3 SCC 747 ¶32 dispute that the deceased and the accused belonged to opposite factions. There is also no doubt about the situs of the crime. A-1 to A-5, A-8, A-24 and A-43 to A-47 were acquitted by the Trial Court. There is no appeal against their acquittal. The question that remains for our consideration is whether there is evidence on record to convict the other accused.

13. All the eyewitnesses including PW-4 who turned hostile have consistently spoken about the attack on Sivarami Reddy (Deceased No.1) and his supporters on 30.10.1994. PW-1, Ayyalanna gave a vivid description of the incident. He deposed that A-5 to A-15 came from the side of the house of A-1 armed with hunting sickles and bombs. They surrounded the jeep and hurled bombs on the jeep. One bomb hit the driver Ayyappa Reddy (Deceased No.2) who fell down and he was dragged to the back of the jeep by A-10 and A-15. A-7 hurled a bomb on Sivarami Reddy when he was running. The bomb exploded on the face of Sivarami Reddy who fell down and died on the spot. According to him, A-16 to A-37 surrounded Rami Reddy, Deceased No.3 while he was running away and hacked him to death by hunting sickles and iron pipes. Kambagiri Ramudu, Deceased No.4 was chased by A-13, A-20, A-38, A-39 and A-41. A-13 threw a bomb which hit on the back of Kambagiri Ramudu and exploded. He also died on the spot. We are not dealing with the version of PW-1 regarding the involvement of A-1 to A-5, A-8, A-24, A-43 to A-47 as they have been acquitted by the Trial Court which has become final. PW-2, K.Venkata Reddy corroborated the evidence of PW-1 in respect of the occurrence. He voluntarily deposed that A-18 to A-20 were carrying sickles, A-16, A-21, A-22 and A-26 were carrying iron pipes, A-24 was carrying a stick and A-17, A-23, A-25, A-27, A-29 to A-37 were armed with bombs. As per his deposition, Rami Reddy was attacked by all the above accused i.e. A- 16 to A-37 and he was hacked indiscriminately. He categorically stated that Rami Reddy was hacked with iron pipes, hunting sickles and sticks. He stated that no bomb was hurled on Rami Reddy. PW-3, PW-5, PW-6 and PW-7 deposed on the same lines as PW-1 in respect of the involvement of A-6, A-9 to A-19, A-21 to A-23, A-25 to A-31, A-33 to A-38 and A-40 to A-41.

14. Admittedly, there are two factions in the village and the deceased belong to rival groups. There is no dispute about the history of murder of persons belonging to either side before the incident on 30.10.1994. The oral evidence in cases of faction fights has to be scrutinized carefully in view of the tendency of implication of innocent persons belonging to the opposite group. After the acquittal of some of the accused and the death of some accused during the pendency of case before the Courts, we have before us A-6, A-9 to A-19, A-21 to A-23, A-25 to A-31, A-33 to A-38 and A-40 to A-41. We proceed to deal with the point regarding the involvement of the Accused/Respondents before us to decide whether they are guilty of the offence punishable under Section 302 I.P.C. A-38, A-40 and A-41 were named by PW-6 and no specific overt act has been attributed to them. They are entitled to the benefit of doubt which was given by the High Court and we uphold the same. A-6, A-9, A-11, A-12 and A-14 were armed with country made bombs. There is nothing further stated by any of the witnesses regarding their involvement in the offence. No specific over act has been attributed to them. We concur with the judgment of the High Court that they are also entitled for the benefit of doubt and entitled to be acquitted. PW-1, PW-3, PW-5 to PW-7 have in one voice deposed that A-13 hurled bomb on Kambagiri Ramudu due to which he died on the spot. The medical evidence is in conformity with the ocular testimonies of all the eyewitnesses. On a detailed consideration of the evidence on record, we hold A-13 guilty of an offence punishable under Section 302 I.P.C. for causing the death of Kambagiri Ramudu (Deceased No.4). A-10 was armed with a sickle and A-15 was armed with a country-made bomb. There is no evidence about their using the weapons They had dragged Ayyappu Reddy (Deceased No.2) to the back of the jeep. None of the eyewitnesses spoke about any attack made by A-10 and A- 15 on Ayyappu Reddy after he was dragged to the back of the jeep. As no specific role has been attributed to A-10 and A-15 regarding any attack on any of the deceased, we do not see any reason to interfere with their acquittal. A- 16 to A-37, according to the evidence of the eyewitnesses, were armed with hunting sickles, iron pipes and bombs. They attacked Rami Reddy (Deceased No.3) and hacked him indiscriminately. PW-1, PW-3, PW-5 to PW-7 deposed that all of them were having sickles and iron pipes. PW-2 volunteered to state in his evidence that A-17, A-23, A-25, A-27, A-29 to A-37 were armed with bombs. A-16, A-18, A- 24 and A-26 were armed with iron pipes and sticks. He categorically stated in his evidence that Rami Reddy did not receive any injury by the bomb and that he was hacked with iron pipes, hunting sickles and sticks. A perusal of the injury certificate of Rami Reddy would disclose that the following injuries were found on his body:-

“On the body of a male aged about 60 yeas moderately built and moderately nourished and the following injuries are found:

1. There is amputation of right forearm on the lower 3 rd with both bones are cut and the hand is separated.
2. An incised injury of about 1” x ¼” fracture of frontal bone on the right side.
3. An incised injury of about 4” x 2” x bone deep on the right side of face.
4. An incised injury of about 2” x 1” x fracture mandible in the middle.

5. An incised injury of about 2" x 1/2" x middle deep 1" lateral to the right eye.
6. An incised injury of about 3" x 2" x fracture of right humeral head.
7. An incised injury of about 1" 1/2" x muscle deep on the upper and of right scapula.
8. An incised injury of about 8" x 1/4" x fracture scapula vertically placed on the right side.
9. An incised injury of about 1" x 1/4" x skin deep 1/2" below the right eye.
10. An incised injury of about 1/2" x 1/4" x skin deep on the front side of upper part of right shoulder.
11. There is tattooing present over the abdomen and lower limbs with splinters.
12. An incised injury of about 1/2" x 1/4" x skin deep on the left side of nose.
13. An abrasion of 2" x 2" in size on the left knee.
14. An abrasion of about 3" x 2" in size on the right knee.
15. An incised injury of about 6" x 1/2" x bone deep on the occipital region with fracture.

All the injuries are ante mortem in nature. Opinion as to cause of death:

The deceased would appear to have died on multiple injuries and due to fracture of skull and due to shock and hemorrhage 6-8 hours prior to post mortem."

15. As stated above PW-1, PW-3, PW-5 to PW-7 have deposed that all the Accused i.e. A-16 to A-37 attacked Rami Reddy and hacked him with iron pipes and hunting sickles. In view of the deposition of PW-2 who came forward to state that A-17, A-23, A-25, A-27, A-29 to A-37 were armed with bombs and that Rami Reddy's death was not caused by any bomb would disclose that the said accused who were carrying bombs are not responsible for the death of Rami Reddy. The injury certificate issued by PW-18 is in tune also impugned with the evidence of PW-2.

There are 11 incisions on the body of Rami Reddy which were caused by hunting sickles and iron pipes. Except some splinter injury over the abdomen and his leg, there is no serious injury caused to Rami Reddy by a bomb. Several bombs were thrown during the attack which could have caused the splinter injuries. On consideration of the oral evidence of PW-2 and the medical opinion of PW-18, we are of the considered view that A-17, A-23, A-25, A-27, A-29 to A-37 are also entitled for the benefit of doubt. We uphold their acquittal as recorded by the High Court. A-16, A-18 to A-22, A-26

and A-28 who were armed with hunting sickles and iron pipes are liable to be convicted for causing the death of Rami Reddy in view of the testimony of PW-1 to PW-3, PW-5 to PW-7 and the medical opinion given by PW-18 which corroborates the oral evidence.

16. In view of the above, the acquittal of Seema Govinda Reddy(A-6), Sura Sreedhar Reddy(A-9), Vadde Gunja Venkatasubbadu(A-10), Kasireddy Bhupal Reddy(A-

11), Kasireddy Vasantha Kumar Reddy(A-12), Bathula Pranamananda Reddy(A-14), Vadde Pallapu Jambula(A-15), Bathula Sankar Reddy (A-17), Mulla Hassan Peera (A-23), Murasani Sudersana Reddy(A-25), Vadde Sindesudu(A-27), Vadde Gittannagari Chinna Subbarayudu(A-29), Vadde Rameshudu(A-30), Murasani Venkatswara Reddy(A-31), Golla Chinna Saibaba(A-32), Seema Chenchu Reddy(A-33), Telugu Sankaraiah(A-34), Vadde Gittannagari Kotturu Chinna Sabbadu(A-35), Vaddegittannagari Kothuru Subbarayudu (A-36), Bathula Venkateswara Reddy(A-37), Vadde Koppugadu @ Sreeramulu (A-38), Vadde Pedda Venkateswarlu (A-40), Kasireddy Venkateswar Reddy (A-

41), as recorded by the High Court is upheld for the reasons mentioned above. In view of the affirmation of the acquittal of Murasani Sudersana Reddy(A-25), it is not necessary for us to deal with the point pertaining to his being a minor.

17. Pullagummi Kasireddy Krishna Reddy(A-13), Kondapuram Narayana Reddy(A-16), Vade Malesh(A-18), Yedula Rami Reddy(A-19), Perugu Pedda Venkateswarlu(A-

20), Mulla Sha Hussaini(A-21), Mulla Moula Peera(A-22), Vade Hanumanna (A-26), Vadde Venkatesu(A-28) are convicted of the offence punishable under Section 302 I.P.C. and sentenced to undergo life imprisonment. The above Accused are directed to surrender within a period of four weeks from today. The appeals are disposed of accordingly.

.....J. [S.A. BOBDE] .....J. [L. NAGESWARA RAO] New  
Delhi, July 3, 2018