Supreme Court of India
G. Satyanarayana Reddy vs State Of A.P. (Hansria,J.) on 9 May, 1994
Equivalent citations: 1994 SCC, Supl. (2) 287 JT 1994 (4) 216
Author: H B.L.
Bench: Hansaria B.L. (J)

PETITIONER:
G. SATYANARAYANA REDDY

Vs.

RESPONDENT:
STATE OF A.P. (Hansria,J.)

DATE OF JUDGMENT09/05/1994

BENCH:
HANSARIA B.L. (J)
BENCH:
HANSARIA B.L. (J)
SAHAI, R.M. (J)

CITATION:
1994 SCC Supl. (2) 287 JT 1994 (4) 216
1994 SCALE (2)857

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by HANSARIA, J.- January 30, which is an inauspicious day for the people of India, turned an ominous day for the family of Krishnareddy also as it was on that day of the year 1980 at about noon that he met his end in Annapurna Hotel belonging to PW 4. Krishnareddy was not expected to be at the hotel at that time, but per chance he happened to be there, so also the accused persons, who belong to a different faction. Prosecution case is that Krishnareddy was belaboured by as many as 21 persons causing large number of injuries resulting in his spot death. The FIR, however, came to be lodged after two and a half hours after the matter had been discussed in detail by PW 1 with one Loyashayya, which set the police in action resulting in booking of 21 persons for trial under various sections of law including Sections 302/149. During the course of the trial, A-11 died and 15 accused were acquitted. The remaining 5 came to be convicted, of whom, A-5 and A- 14 under Section 302 and A-1, A-10 and A-12 under Section 326. For the offence under Section 302 IPC the punishment of imprisonment of life was awarded and for the other offence, RI for 3 years.

2. The State preferred an appeal against the acquittal; so too the convicted persons. The High Court heard both the appeals together and dismissed both. There is no appeal against acquittal of 15 accused persons. In this appeal, we are concerned with the legality of conviction of the aforesaid five accused persons.

3. We may take up the cases of accused 1, 10 and 12 first. Having heard Shri Subba Rao for them, we do not find any infirmity in the conviction of these appellants. Keeping, however, in view the fact that the occurrence is of 1980 + From the Judgment and Order dated 23-4-1982 of the Andhra Pradesh High Court in Crl. A. Nos. 1086-88 of 1980 and these appellants have been on bail since 1983 pursuant to the order of this Court and each of them has already undergone imprisonment for a year or so, we reduce the sentence of imprisonment to the period already undergone.

4. Insofar as A-14 is concerned, his conviction has come to be sustained by the High Court by relying on what was deposed by PWs 1, 2, 3 and 5. Shri Sen, the learned Senior Counsel appearing for him, has submitted that in view of the fact that A-14 was the leader of the rival faction, the evidence of these persons has to be scrutinised very carefully, and if this would be done then on the basis of what has been deposed by these 4 PWs, it cannot be held for definite that A-14 had caused the injury at the back of the deceased with peishcup as has been deposed by them. As to PW 1 it is urged that even courts below did not find him reliable. The same submission is advanced regarding PW 2. Perusal of the judgment of the trial court as well as of the High Court would bear this submission of Shri Sen. Smt Amareswari, the learned Senior Counsel appearing for the State, would not like us, in any case, to discard the evidence of PWs 3 and 5 and as they did not belong to either of the factions, and so, have to be taken as disinterested witnesses. They cannot, however, be so taken because it has been observed even by the High Court that PW 3, though not associated with the faction, was involved in some nuisance cases and also in the sessions cases prior to the instant. It is because of this that an observation has been made that though the presence of this witness at the time of occurrence cannot be doubted his evidence should be strictly scrutinised. The High Court had made the same observation regarding PW 5, which was, of course, for the reason that he was associated with the deceased in party politics. This observation assumes significance because earlier the High Court had characterised PWs 4, 6 and 9 as disinterested, independent and truthful. There is no dispute that none of these latter witnesses has specifically deposed that the stab-injury at the back, injury 6 (or 11) as numbered by the autopsy surgeon, had been caused by A-14. The importance of this is that both the courts below have not accepted the prosecution case of the death being caused in pursuit of the common object or in furtherance of common intention.

5. No doubt, PWs 3 and 5 have deposed that A-14 had caused the stabinjury at the back with peishcup, we have not felt inclined to accept this because in their evidence both these witnesses had also stated that A-14 was armed with a ponnukarra, and not with a peishcup. Smt Amareswari submits that a peishcup being a dagger-like instrument could have been kept concealed and because of this it might have missed the notice of these witnesses. We have not felt inclined to accept this submission because some of the PWs had stated about some other accused being armed with peishcup, and if A-14 would have been similarly armed, the witnesses would have noticed the same as well.

6. The mere fact that a stab-injury was found at the back of the deceased and PWs 3 and 5 deposed about A-14 having given a stab-injury at the back, is not enough to sustain the conviction of A-14 under Section 302 which would see him behind the bars for life, because that injury could not have been caused by a ponnukarra with which he was said to have been armed. We, therefore, set aside his conviction under Section 302.

7. Insofar as A-5 is concerned, PW 6 has specifically attributed the authorship of the injury in question to him. PW 9 had identified A-5 in the court as the person who had caused the head injury to the deceased with a ponnukarra. As these two witnesses have been accepted as disinterested and independent and nothing has been brought to our notice to disbelieve them, we uphold the conviction of A-5 under Section 302. The sentence being imprisonment for life has to be sustained; the same being minimum provided by law.

8. In the result, the appeal is dismissed qua A-5, allowed as regards A-14 and as to the three others, while maintaining their conviction under Section 326, their sentence is reduced to the period of imprisonment already undergone.