Supreme Court of India
Ababala Parusamdu Alias Pada Kapu vs The State Of Andhra Pradesh on 8 April, 1975
Equivalent citations: AIR 1975 SC 1100, 1975 CriLJ 933, (1975) 4 SCC 116
Author: N Untwalia
Bench: N Untwalia, S M Ali
JUDGMENT N.L. Untwalia, J.

1. The appellant in this appeal under Section 2 of the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act of 1970 was acquitted by the Sessions Judge of the charges of having committed the murder of his mistress Veeramma and of having attempted to commit suicide. On appeal by the Public Prosecutor the High Court of Andhra Pradesh has convicted the appellant under Section 302, Indian Penal Code and sentenced him to undergo imprisonment for life. He has also been convicted under Section 309 of the Code and awarded a concurrent sentence of one year's simple imprisonment.

2. The case is a simple one and in our opinion there was no scope for entertaining any doubt in regard to the prosecution version of the occurrence. The judgment of acquittal passed by the trial Judge was not only wrong but perverse. The High Court has rightly convicted the appellant.

3. The deceased was aged about 22 years at the time of the occurrence which took place on the 29th May, 1969, at about 7 O'clock in the morning. The appellant was then 23 years of age. Though the deceased was a married woman, she had left her husband and was living as the mistress of the appellant in a hut provided to her by him. The appellant seems to be a man of sexually loose morals. Though he got married, still he continued his illicit connections with the deceased girl. He later developed an intimacy with a Nala woman which was resented by the deceased. About a week before the occurrence the deceased left the residence of the appellant and went back to her parents. In the evening of the day prior to the occurrence the appellant went to the house of P.W. 1 Palivala Maremma - mother of the deceased and told her (deceased) that she should not remain in the village when she had left residing with him and threatened her that if she continued to remain in the village, he would stab her. On the following morning at about 7 A. M. the deceased and her mother went to fetch fresh water from a tank near a temple close-by. P.W. 2 Mamidala Annapurna who also lived close-by was at the tank for cleaning her vessels. The appellant pounced upon the deceased after lumping over the compound wall of the temple, pulled a dagger from the sheath tied t6 his waist and gave a blow on the chest of the deceased. Veeramma fell down and died instantaneously. Thereafter the appellant stabbed himself twice in the chest with the same dagger and rushed towards the road with the dagger in his hand. After going for some distance, he fell down near the house of one Gopalarao.

4. First Information Report was lodged at the Police Station by P.W. 1 at 7.30 A. M. within half an hour of the occurrence which was witnessed by P.W. 2 also. All the material particulars of the prosecution story were given in the F.I.R. The appellant for treatment of his injuries was eventually sent to the hospital at Eluru where P.W. 13 the Medical Officer examined his two injuries. Not being sure whether the appellant would survive, a memo was sent to the local Magistrate to record the dying declaration of the appellant. It was recorded by the Additional Munsif of Eluru at 12.40 noon.

The statement is Ext. P-9. The defence of the appellant throughout starting from his statement in P-9 has been that it was the deceased girl who stabbed him first and thereafter it was not known to him how she got the stab injury. The suggestion seems to be that she committed suicide by giving a dagger blow on the left side of her chest.

5. Learned Sessions Judge who tried the appellant did not believe the evidence of the two eye-witnesses P.Ws. 1 and 2. The corroborative pieces of evidence coming, from the testimony of P.Ws.. 3, 7 and 8 also lost their importance in the trial Court. The High Court has rightly pointed out that the evidence of the prosecution witnesses was discarded by the trial Court on flimsy grounds.

6. We were taken through the Judgment of the trial Judge as also of the High Court. The evidence of P.Ws. 1 and 2 was read before us in full. We also perused the evidence of P.W. 5 the Medical Officer of the Government hospital. Bhimavaram who performed the autopsy on the dead body of the deceased as also the evidence of P.W. 13 who examined the injuries on the person of the appellant. We are definitely of the view that for the reasons given by the High Court the evidence of P.Ws.. 1 and 2 corroborated as it was by the evidence of P.Ws. 3, 7 and 8 was fully trustworthy. Taking into consideration the nature of the external and internal injuries found on the deceased girl one could safely conclude that it was a case of homicidal death and not suicidal. There is absolutely no suggestion on behalf of the appellant that she was killed by any other person. The stand which was stuck to the end on his behalf was a suggestion of commission of suicide by the deceased. In our opinion it was not so. The High Court has rightly pointed out that although P.W. 1 was not keeping good health, her evidence that she went to the tank in the company of her daughter was believable and her previous statements in the Committing Court did hot show that on the date of occurrence she was not in a position to move. Similarly, it has rightly been observed by the High Court on the basis of the evidence of P.W. 18 the Investigating Officer that P.W. 2, if she stood up, could have very well seen the occurrence although she was on the last step of the tank and the occurrence took place on the platform. Her positive testimony was that she had stood up and seen the occurrence. There was motive for the appellant to stab the deceased. There was no reason to disbelieve the testimony of P.W. 1 on the point of the appellant giving a threat to the girl a day prior to the occurrence. No witness of that incident was available but the evidence of P.W. 1 above was reliable in that regard. Others had come on the scene but after the occurrence. Nobody else was available to be examined who had witnessed the occurrence. In our opinion the prosecution case was proved to the hilt against the appellant. No two views were reasonably possible in the matter. The view taken by the trial Judge was perverse and unsustainable. The High Court was well within the limit of its power as enunciated in paragraph 9 at page 610 in the case of Ram Jag v. State of U.P. . It did not transgress the self imposed limitations of the power of the High Court in interfering with an order of acquittal or the scope of an appeal from the judgment of acquittal. The blow given by the appellant on the deceased was, on objective test, found to be sufficient in the ordinary course of nature to cause her death. There is no escape from the position that the appellant was guilty under Section 302 of the Indian Penal Code for committing the murder of the girl and under Section 309 for attempting to commit suicide.

7. In the result the appeal fails and is dismissed.