

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE SMT. JUSTICE TIRUMALA DEVI EADA

CRIMINAL APPEAL NO.1154 OF 2011

Date: 01.04.2026

Between:

Reshma W/o.Foroz Khan ... Appellant

and

The State of A.P., rep by its
Public Prosecutor, High Court of A.P.,
Hyderabad through S.H.O.,
Mancherial, P.S. Adilabad District. ... Respondent

: JUDGMENT :

This criminal appeal is filed by the appellant – Accused No.1 aggrieved by the judgment dated 08.09.2011 passed in Sessions Case No.15 of 2011 by the learned III Additional Sessions Judge (FTC) at Asifabad (for short ‘the trial Court’).

2. Vide the aforesaid judgment, the trial Court found the appellant guilty of the charge under Section 304-II of the Indian Penal Code (for short ‘IPC’) and accordingly, she was convicted and sentenced to undergo rigorous imprisonment for

four years and to pay a fine of Rs.500/-, in default to undergo simple imprisonment for a period of one month.

3. The case of the prosecution is that, Accused No. 1, who is the wife of the deceased, stabbed the deceased in daylight and caused the death of the deceased. Hence, the charge sheet was laid for the offence under Section 302 read with Section 34 of the IPC.

4. After following due procedure, the case was committed to the Sessions Court, and the III Additional Sessions Judge (FTC) at Asifabad, framed charges, heard the accused, the accused pleaded not guilty and claimed to be tried, thus conducted the trial.

5. During the course of trial, the prosecution examined PWs 1 to 12, and Exs.P1 to P24 and MOs 1 to 6 were marked. On behalf of the defence, no evidence was adduced and no documents were marked.

6. Based on the evidence on record, the trial Court found the appellant–Accused No.1 guilty of the charge under Section 304-II of the IPC and accordingly convicted and sentenced her

to undergo rigorous imprisonment for four years and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for one month. Aggrieved by the said judgment of conviction and sentence, the present appeal is preferred.

7. Heard the submissions of Sri G. Gnana Raghav, learned Amicus Curiae, for the appellant and Sri D. Arun Kumar, learned Additional Public Prosecutor for the respondent-State.

8. The learned Amicus Curiae for the appellant has submitted that no eye witnesses to the incident were examined by the prosecution, and that it is alleged by the prosecution that, two years prior to the present incident, another incident of pouring kerosene on the deceased was reported, but no case was registered with regard to that complaint. He further submitted that, if examined in detail, the alleged act of the accused would bring about the fact that it occurred in the spur of the moment, when the deceased appeared in a naked condition and was threatening the family members of the accused, abusing them in filthy language, and behaving abnormally, it was only then the accused is alleged to have attacked the deceased with a knife. Thus, the action

committed in the spur of the moment falls under general exceptions, and that the accused may be given the benefit of doubt and be acquitted in this case. She, being the wife of the deceased, might not have entertained any intention or might not have committed the act with the knowledge that she would cause the death of the deceased. He therefore prayed to acquit the accused.

9. The learned Additional Public Prosecutor has submitted that, based on the evidence on record, the prosecution has proved the offence against the appellant and that the chain of events is so closely connected through circumstantial witnesses that the accusation is proved beyond reasonable doubt against the appellant. The trial Court has rightly evaluated the evidence on record and has convicted the appellant and, therefore, prayed to confirm the same.

10. Considering the above submissions, the points that fall for consideration in this appeal are:

- 1) Whether the charge under Section 304-II of IPC was proved by the prosecution beyond reasonable doubt?

- 2) Whether the conviction and sentence of imprisonment recorded by the trial Court against the appellant herein are sustainable, both on facts and in law?
- 3) To what relief?

11. **POINT NO.1:**

- a) The accused No.1 is alleged to have killed the deceased with a knife. According to prosecution PW2 is the first person who gained knowledge about the alleged incident.
- b) PW2 deposed that at around 02:00 PM, he heard a noise from the house of the accused and informed PW1 about the said galata, but she replied that she could not come immediately as she had gone for cooli. At about 03:00 PM, he heard the sound of the deceased yelling in pain by saying 'Amma'. Then he went out, saw the dead body of the deceased, and informed PW1 on phone. It is elicited in his evidence that he observed only a t-shirt on the deceased and that the rest of his body was naked.
- c) PW1, Moheddin Bee, is the mother of the deceased. It is elicited in her evidence that she received a phone call from PW2 that the deceased was killed and he heard the sound

“*Amma*” from the deceased, and when he went to the scene of offence, he saw that the deceased was lying naked with an injury on the neck. On hearing the news, PW1 went to the scene of offence and saw the dead body of her son. She found the injury on the neck and she learnt that A1 to A3 killed him. She lodged a complaint with the police under Ex.P1. In her cross-examination, she admitted that a theft case was pending against the deceased in a Court at Mancherial and that prior to his marriage, there was a rape case pending against her son. She also admitted that, since one month prior to his death, her son/deceased was staying with her and that Accused No.1 was residing with her father, A2.

d) Thus, the evidence of PWs 1 and 2 runs in corroboration to each other.

e) PW3 is a neighbor who is the circumstantial witness, his evidence also corroborates the evidence of PW1. He has also deposed with regard to the injury on the neck.

f) PW4 is the witness for the scene of offence panchanama. In his evidence, MO1/a small stick with blood stain, MO2/blood

stained earth, MO3/controlled earth, MO4/T-shirt, MO5/blue check shirt, were marked.

g) PW5 is the photographer who happens to have taken the photographs of the dead body, but no photographs were marked in this case.

h) Nothing was elicited during the cross-examination of PWs 2 to 5 to discredit their evidence on record.

i) PW6 is the witness for the confession and recovery panchanama. In his evidence, it is elicited that Accused No.1 confessed the offence and, pursuant to her confession, she showed the knife at her house, stating that it was used in stabbing her husband. It is marked as MO6. The relevant portion of the confession-cum-seizure panchanama was marked as Ex.P4, and the inquest panchanama, conducted in the presence of PW6, is marked as Ex.P5.

j) The learned Amicus Curiae has contended that the recovery of MO6/knife is not proved. He emphasized the cross-examination of PW6, wherein it is elicited that by the time PW6 went to the scene of offence, the panchanama was

already prepared and that he did not know the contents of the panchanama. Thus, he contends that recovery of knife is not proved. However, it is pertinent to take note of the fact that PW6 admitted that the house of A1 was not having doors when they went to the house of A1, and that A1 entered the house and showed the knife hidden behind the photo. Thus, the said contention of the defence counsel cannot be sustained. The relevant portion of confession-cum-recovery panchanama/ Ex.P4 and the recovery of MO6 stand proved.

k) PW7 is another witness for the confession-cum-recovery, supporting the evidence of PW6.

l) PW8 is the witness for the confession of Accused No.2. It is elicited in his evidence that Accused No.2 confessed, stating that he himself and his younger daughter were catching hold of A3 and that A1 stabbed the deceased with a knife. However, such a confession is not at all relevant as nothing was recovered pursuant to it. It is only that portion of confession which leads to some recovery of material objects or a certain fact only then the said portion of the confession becomes relevant. The trial Court has marked the panchanama as

Exs.P6 and P7, but this Court is not inclined to consider the same.

m) PW9 is the doctor who conducted the postmortem examination. In his evidence, the wounds noticed by him on the dead body of the deceased are elicited. He found the following injuries on the dead body.

“An external incised, penetrating wound measuring (2½ × 1 × 1 inches), bone deep wound present in front of the neck at the lower border of neck.

An internal wound is obliquely present, penetrating into muscles and vessels, and through the right clavicle (medial border) into right side of the chest.

Internal fracture of the right clavicle and right first rib.

Apex of lung and upper lobe of the lung were injured and ruptured. Large hematomas in the right thoracic region in the lungs.

Hematomas under the sternum; the pleural cavity and bronchial tract are injured.

An external deep abrasion measuring 8 × 8 inches on the back.

Postmortem peeling of skin over both hands present. (The left hand had old burns)

Above injuries are ante mortem in nature caused by sharp object.”

n) Ex.P8 is the PME report furnished by him. A perusal of Ex.P8 reveals that the cause of death was due to a stab injury into the internal organs. There is nothing on record to dislodge the evidence of PW9. Thus, it is elicited that the deceased died due to a stab injury.

o) PW10 is the Investigating Officer who has spoken with regard to the method of investigation carried on by him, and in his evidence, no material points were elicited during the cross-examination with regard to the discrepancies or lapses in the investigation. The only admission made by him is with regard to the fact that a similar knife will be available in the market. It is the common knowledge of everyone, but that cannot throw away the case of prosecution with regard to the recovery of the knife pursuant to the confession of A1.

p) PW11 is also the C.I. of Police who has received the FSL report under Ex.P9. A perusal of Ex.P9 reveals that “human blood is detected on item Nos.1, 2, 4, 5 & 6, and the blood group of the blood stains on item Nos. 4 & 5 is of ‘B’. Blood group of bloodstains on item Nos.1, 2 and 6 could not be determined. Blood is not detected on item No. 3, which is received as control for item No. 2”.

q) Here, the death of the deceased is not in dispute, and it is also not disputed that the accused has stabbed the deceased with a knife. The only defence raised by the defence counsel is that the said act is committed in a spur of the moment.

r) PW12 is another IO who has registered the FIR under Ex.P10, and in his evidence, the photographs were marked as Exs.P11 to P23 along with the CD under Ex.P24.

s) An overall perusal of the evidence on record shows that the deceased was having criminal antecedents, as admitted by PW1, that earlier he was an accused in a rape case and in a theft case. However, the same is not taken into consideration while evaluating the evidence in this case. The evidence of PW1 is well corroborated by PWs 2 to 4. PW2 is the neighbouring witness who has heard the noise of a quarrel from the house of A1 and immediately, he reported the same to PW1 on phone, but she could not come immediately as she went for coolie. The said fact is elicited in the evidence of PWs 1 and 2. It is PW2 who has heard the noise of yelling with pain from the deceased by saying 'amma', and thus, he went outside and saw that the accused was absconding, and he found a stab injury in the neck of the deceased. Thus, on hearing the news from PW2, PW1 came down to the scene of offence and saw the dead body of her son, thereafter, she has given the complaint, and the evidence of PWs 3 and 4 also

elicits the same facts, while PW4 is the witness for the scene of offence panchanama and PW6 is the witness for confession-cum-recovery. The evidence of these witnesses proves that the material objects lying at the scene were seized, inquest was conducted, and pursuant to the confession, the material object, i.e., knife which is used in the commission of offence was recovered.

t) Thus, as discussed in the earlier paragraphs, the act committed by the accused is not in dispute, but the only defence raised is with regard to the contention that she must have committed the act in a spur of the moment. It is pertinent to take note of the fact that the accused is none other than the wife of the deceased, and the circumstances further speak that the accused went to the house of A1, who was staying with her parents, and that for the past one month, he was staying with his mother.

u) On the day of the alleged incident, he has gone to the house of the parents of A1, where A1 was staying, with a packet of dates to give the same to his children. But he went there and started abusing the family members of A1,

whereupon some galata has taken place between the deceased and the family members of A1. He left the place, and immediately, he went back into the house of A1 in naked position and started abusing them in filthy language, thereby, it is alleged that A1 has stabbed the deceased with a knife.

v) There is no plausible explanation from A1 to hold it otherwise that it was some other person who committed the said act. The recovery of material object/knife pursuant to her confession proves that the accused has committed the act of stabbing the deceased with a knife causing internal injuries which resulted in his death.

w) However, the said circumstances of quarrel among the family members and the way the deceased approached accused No.1 and her family members would point out that during the said quarrel the accused must have acted in a spur of anger and thus, has stabbed the deceased, by holding so, the trial court has convicted the accused for the offence under Section 304-II of the IPC and not for Section 302 of the IPC.

x) The case on hand squarely falls under exception 'y' of Section 300 of the IPC which reads as:

“Exception 4.—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.”

y) Section 302 of IPC and Section 304-II of IPC are extracted hereunder for the sake of reference:

“302. Punishment for murder.—Whoever commits murder shall be punished with death or imprisonment for life, and shall also be liable to fine.

304. Punishment for culpable homicide not amounting to murder.—Whoever commits culpable homicide not amounting to murder, shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death;

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.”

z) To hold the conviction under Section 304-II of IPC, knowledge that the said act is likely to cause the death of the deceased is sufficient. In the present case it is proved that the accused No.1 stabbed the deceased with a knife, knowing fully well that the said act could result in an injury to the deceased, but at the said point of time when she acted, she must not have

realized that it would go to the extent of causing the death of the deceased, as she acted in a spur of the moment. Thus, the offence under Section 304-II of IPC is proved beyond reasonable doubt by the prosecution. Point No.1 is answered accordingly.

12. **POINT NO.2:**

a) In view of the findings arrived at point No.1, it is held that there is nothing wrong in the trial Court decision in holding the conviction under Section 304-II of IPC as against the accused No.1.

b) However, with regard to the sentence, the trial court has sentenced the accused No.1 to four years of imprisonment and to pay a fine of Rs.500/-, and also a default sentence is imposed. It is borne out from the record that the accused No.1 has already paid the fine. Under 304-II of IPC, the sentence can be of imprisonment or fine or both. In these facts and circumstances of the case, taking into consideration the circumstances in which the act has been committed by the accused No. 1, this Court takes a lenient view and converts the

sentence to that of only fine. Point No.2 is answered accordingly.

13. **POINT NO.3:**

In the result, the Criminal Appeal is partly allowed. The conviction passed by the trial Court under Section 304 Part II of the IPC is upheld. However, the sentence of rigorous imprisonment for four years is set aside and modified to a fine of Rs.500/- only, in default of payment of fine, the accused shall undergo simple imprisonment for a period of one month.

As a sequel, miscellaneous petitions, if any filed in this appeal, shall stand closed.

JUSTICE TIRUMALA DEVI EADA

Date: 01.04.2026
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