Andhra Pradesh High Court - Amravati
Pengaluru Seenaiah Srinivasulu, ... vs State Of A.P., Rep. By P.P., Hyd on 4 May, 2020
Bench: C.Praveen Kumar, B Krishna Mohan

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR
AND
THE HON'BLE SRI JUSTICE B. KRISHNA MOHAN

Criminal Appeal No. 202 of 2015

JUDGMENT: (Per Hon'ble Sri Justice C.Praveen Kumar)

1) The sole accused in Sessions Case No. 234 of 2007 on the file of the IV Additional District & Sessions Judge, Nellore is the appellant herein. He was tried for the offences punishable under Sections 394 and 302 IPC. By its Judgment, dated 02.12.2014, the learned Sessions Judge convicted the accused under both the counts and sentenced the appellant to undergo imprisonment for life for the offence punishable under Section 302 IPC and also for a period of ten years for the offence punishable under Section 394 of IPC. Both the sentences were directed to run concurrently. M.Os. 1 to 4 were directed to be returned to PW1 and PW2 after the appeal time is over. Challenging the same, the present appeal came to be filed.

2) The gravamen of the charges against the accused is that, on or about 26.11.2005 at 9.30 a.m., at the irrigation canal near the brick kiln of Annam Srinivasulu, near the burial ground of Pemmareddipalem of Kodavalur mandal, the accused caused the death of Pagadala Mangamma, wife of Munuswami ['deceased']

by gagging her mouth and throttling her neck and thereafter committed theft of her gold ornaments.

3) The facts, as culled out, from the evidence of prosecution witnesses are as under:

i) PW1 is the son of the deceased. They are two brothers. His other brother, by name, Subrahmanyam is no more. PW2 and one Muni Mohan are the sons of one Subrahmanyam who is the brother of PW1. PW1 was residing at Vangallu on the date of incident, while Muni Kumar who is son of his brother, was residing at Rajupalem for the purpose of studies as on the date of death of the deceased. It is said that, the mother of PW1 gave Ac. 1.00 cents of land to him and Ac. 2.00 cents to his brother's son. The deceased used to live with PW2 and now and then she used to come to the house of PW1 and take food. It is said that, the deceased also used to go the houses of other villagers and take food, out of acquaintance with them. According to PW1, she was wearing bharath gold chain, two gold rings and ear studs.

ii) PW2 in his evidence deposed that, the deceased stayed for a day in his house at Rajupalem prior to her death. Before leaving the house, the deceased was wearing the above gold ornaments. According to him, she started from his house at 8.00 a.m. on the previous day. However, on the next day, PW1 informed him that the deceased died and

the dead body was lying in the irrigation channel of Pemmareddypalem. Immediately, PW2 and his wife went to Pemmareddypalem, identified the body and later PW1

lodged a report before PW12 - Sub-Inspector of Police. Basing on which, a case in Cr. No. 124 of 2005 came to be registered under Section 174 Cr.P.C. Ex. P9 is the First Information Report. Thereafter, PW12 visited the scene of offence, which is situated near Pemmareddy burial ground along with police constable and in the presence of PW5 and others conducted inquest over the dead body. Ex.P2 is the inquest report. At the scene of offence, PW12 prepared a panchanama of the scene under Ex.P3 and also a rough sketch under Ex.P11 and thereafter the dead body was sent for post-mortem examination.

iii) PW10- the Medical Officer, Government Hospital, Allur, conducted post-mortem examination over the dead body of the deceased on 28.11.2005 at 12.00 noon and issued Ex.P8 post-mortem certificate. According to doctor, the cause of death was due to throttling, about 12 to 48 hours prior to the examination. According to him, the above injuries are possible if a person squeezes the neck with hands and fracture of hyoid bone is sufficient to cause death of a person in the ordinary course of nature.

iv) PW13 - Inspector of Police who continued with the

investigation, examined PW1 to PW6 and recorded their statements on 02.12.2005. He visited the scene of offence along with PW12 and verified the investigation done. According to him, on 05.12.2005 at about 4.00 p.m., while

he was in Kodavalur Police Station, V.R.O., of Kothavangallu [PW14] produced the accused before him along with Ex.P12- extra judicial confessional statement of accused made in the presence of PW7 and another. It is said that, the accused produced M.O.1 -gold chain, which was recovered under Ex.P4. The accused, then lead them to Said Theja Pawn Broker Shop belonging to PW8 from where M.O.2 and M.O.4 were recovered under Ex.P5. The accused further lead them to Revati Jewellery Shop, where he examined PW9 and seized M.O.3 -gold ring from his shop under Ex.P6. On the same day, PW13 remanded the accused to judicial custody.

v) On 09.12.2005, PW13 secured the mediators and handed over M.O. 1 to M.O. 4 gold ornaments and other gold ornaments for holding test identification parade of property. The test identification parade of property was conducted through PW6. It is said that, PW6 identified the properties of the deceased under Ex.P7 mahazar. After completing the investigation and collecting all the documents, a charge-sheet came to be filed, which was taken on file as P.R.C. No. 09 of 2006 on the file of the

Additional Judicial Magistrate of First Class, Kovur.

vi) On appearance, copies of documents as required under Section 207 Cr.P.C., came to be furnished. Since the case is triable by Court of Sessions, the matter was committed

to the Special Court under Section 209 Cr.P.C. Basing on the material available on record, charges as referred to above came to be framed, read over and explained to the accused, to which, he pleaded not guilty and claimed to be tried.

vii) In support of its case, the prosecution examined PW1 to PW16 witnesses and got marked Ex.P1 to Ex.P14, beside marking MOs. 1 to 6. After completion of prosecution evidence, the accused was examined under Section 313 Cr.P.C. with reference to the incriminating circumstances appearing against him in the evidence of prosecution witnesses, to which he denied but however no oral evidence was adduced on behalf of the accused except getting marked Ex.D1 to Ex.D5.

viii) Relying upon the evidence of the prosecution witnesses, more particularly, the extra judicial confession made before the V.R.O., and recovery of the gold ornaments from the shops of PW7 and PW8 at the instance of the accused, the learned Sessions Judge convicted the accused.

Challenging the same, the present appeal came to be filed.

4) The point that arises for consideration is, whether the prosecution is able to bring home the guilty of the accused beyond doubt for the offences punishable under Section 394 and 302 IPC?

6

5) Smt. A. Gayatri Reddy, learned counsel for the appellant would contend that, there is absolutely no legal evidence on record to connect the accused with the crime. According to her, in the absence of any direct witness, the circumstance relied upon by the prosecution should form a chain of events to connect the accused. In the absence of the same, she would contend that, the accused is entitled for the benefit of doubt. She further pleads that, the extra judicial confession made before PW14 cannot be relied upon, since the accused did not get an opportunity to cross-examine the investigation officer with regard to the evidence of PW14, as PW14 came to be examined after the evidence of the investigation officer. According to her, the theory of last seen itself is doubtful and even if it is to be accepted the same cannot be made the basis to convict the accused, since the prosecution failed to establish motive and the time of death. It is further pleaded that the arrest and seizure of weapon used in the commission of offence is also doubtful.

6) The same is opposed by the learned Public Prosecutor

contending that, if really any prejudice is caused to the accused by denying him an opportunity to test the evidence of PW14 through the investigation officer, nothing prevented the accused from recalling the investigation officer for the purpose of cross-examination. That being the position, the accused cannot now take the plea that he was prejudiced. Apart from that, he could contend that, the circumstances relied upon by the prosecution

amply establish the involvement of the accused in the crime, more particularly, the recovery of gold ornaments belonging to the deceased within 10 days from the date of offence and the evidence of PW8 & PW9 showing pledging of gold ornaments by the accused with them. Apart from that, he would contend that, the gold ornaments were identified by PW6 as belonging to the deceased.

7) In order to appreciate the rival contentions, it would be useful to refer to the evidence of the prosecution witnesses. But, before doing so, it is to be noticed that, there are no eye witnesses to the incident and the cases rests on the circumstantial evidence. In a case arising out of circumstantial evidence, each of the circumstance relied upon by prosecution should be proved and the circumstance so proved should form a chain of events connecting the accused with the crime and the irresistible conclusion should be the guilt of the accused.

8) It is now to be seen, whether the circumstances relied

upon by the prosecution are proved and if found to be proved, form a chain of events connecting the accused with the incident in question?

9) As seen from the record, the deceased was aged about 80 years on the date of the incident. PW2 in his evidence deposed that, a day prior to the incident, the deceased left his house wearing a gold chain, two gold rings and ear kammalu. According to PW2, the deceased left the house wearing the above

gold ornaments, which according to him would be on 25.11.2005 at 8.00 a.m.

10) According to PW4, a day prior to the incident, while he was going to Rajupalem, saw the accused and deceased together coming from Rajupalem at about 9.00 a.m. He saw them at the canal bund situated near burial ground of Pemmareddypalem. According to him, by then, the deceased was wearing gold ornaments and thereafter in the afternoon of that day, he came to know about the death of the deceased. The evidence of PW1 and PW2 is also to the effect that, on the date of incident, PW1 received information about the death of the deceased at about 10.00 a.m. and PW2 received information at about 11.00 a.m. All of them went to Pemmareddypalem and noticed the dead body of the deceased in the irrigation channel near a burial garden. It is stated that, the dead body of the deceased was eaten away by fish and the gold ornaments were not available on her body. The evidence of PW1 and PW2 show that to commit theft of gold ornaments, the deceased was killed.

11) PW3 who was working as a Village Servant, in his evidence deposed that, on the date of incident at about 12.00 noon, he came to know about the dead body of a female lying in a irrigation channel in Pemmareddypalem. Immediately, he along with Village Servant Parvatamma went to the irrigation channel and found the dead body of the deceased. The skin of the dead body was peeled and eaten away by fish.

12) PW1 was subjected to cross-examination. He admits that, his mother [deceased] was having Ac.6.00 to Ac.7.00 cents of land and cash of Rs.20,000/-, which was used for her funeral. The Ex-Sarpanch of the village informed him about the incident. He admits that, in Ex.P1, he got mentioned that due to family disputes, he did not look after the welfare of his mother and she used

to go to the houses of others and take food. He further admits that, he saw his mother two days prior to the incident, while she was going to the houses of another villager. He furnished the details of gold ornaments of his mother in Ex.P1. He further stated that, he did not state before the police as in Ex.D1, that he was under the impression that the gold ornaments were with his wife or wife of Muni Kumar. He further admits that, he did not enquire about his mother after he saw her last time. He admits that neither he nor his family were aware as to whether his mother was wearing gold ornaments at the time of her death. However, to a suggestion that the gold ornaments of his mother were available with the wife of Muni Kumar was denied by him.

13) Similarly, PW2 who is the nephew son of PW1 was also cross-examined at length, wherein, he admits that he does not remember the colour of the saree worn by his grandmother before leaving the house. He further admits that as in Ex.D2 his grandmother stayed at his house at Rajupalem for about five days prior to her death. He admits that, he stated before the police that he was under the impression that the gold ornaments of his grandmother were kept by his wife before leaving his house.

14) Though, PW3 was also cross-examined at length, but nothing useful has been elicited to discredit the evidence of PW3.

15) PW4 in his chief-examination deposed that a day prior to the incident, while he was going on his motorcycle to Rajupalem, he saw the accused and the deceased at about 9.00 a.m. at canal bund. However, in cross-examination, he admits that, everyday he used to go to Rajuaplem on the canal bund from his village. He further admits that, he did not enquire with the deceased when he saw her on canal bund, as he was under the impression that she was with her relative. He admits that he cannot say the colour of the saree worn by the deceased. He did not observe her clothes. He also failed to observe wearing of spectacles and chappals by the deceased. However, to a suggestion that the deceased cannot walk was denied by him. He further admits that the deceased was wearing saree on her left side shoulder and it is false to suggest that without observing the clothes, one cannot observe the gold ornaments worn by her. To a suggestion that he is speaking false was denied by him.

16) From the evidence of PW1 to PW3, it is clear that none of them have seen the accused and the deceased together. On the other hand, the evidence of PW1 shows that, since six months prior to the death of deceased, there were disputes with regard to division of properties. His own admission is that, his mother was having food in the houses of other villagers and also admits that, he has not seen his mother since two days prior to the date of incident. Apart from that, it is also to be noted that PW1 in his cross-examination denies as to what has been stated in Ex.D1, to the effect that he was under the impression that the gold ornaments were preserved by his wife or wife of Muni Kumar. Similar such suggestion was put to PW2, who denies the statement as in Ex.D2 but admits that he stated before police that he was under the impression that the gold ornaments of his grandmother were kept by his wife before leaving his house. From these two admissions, it is evident that, even PW2 did not see the deceased leaving the house wearing gold ornaments. If really, he has seen his grandmother leaving the house wearing gold ornaments, he would not have said that he was under the impression that gold ornaments were with his wife as in Ex.D2.

17) In view of the above, it is now to be tested whether the accused committed offences punishable under Sections 302 and 394 IPC. At this stage, the learned Public Prosecutor mainly relied upon the evidence of PW4 to say that the accused was seen last in the company of the deceased and as such the inescapable conclusion would be that it was the accused who is responsible for the death of the deceased, more so, having regard to extra judicial confession, coupled with the recovery. I. Last Seen Theory:-

18) In Ramreddy Rajesh Khanna Reddy and another v. State of A.P.,1 the Apex Court held as under:-

> "The last-seen theory, furthermore, comes into play where the time gap between the point of time when the accused and the deceased were last seen alive and the deceased is found dead is so small that possibility of any person other than the accused being the author of the crime becomes impossible. Even in such a case courts should look for some corroboration."

19) As regard last seen theory is concerned, the evidence of PW4 is that, a day prior to the incident, at 9.00 a.m. he saw the accused and deceased on the canal bund. Though, PW4 in his evidence deposed that he saw the deceased wearing gold ornaments but did not give any descriptive particulars of the gold ornaments wore by the deceased. Whether it was only a gold chain or ear rings or ear studs. A general statement is made that she was wearing gold ring, gold chain and gold kammalu. Definitely PW4 was going on a motorcycle and he could not have noticed all these gold ornaments worn by the deceased, in a fraction of a second or minute. It is not his case that he stopped the motorcycle and accosted the deceased, enabling him to notice the gold ornaments worn by the deceased. Therefore, a doubt arises as to he witnessing the accused and the deceased together and the ornaments worn by her.

II. Extra Judicial Confession:-

20) In Baldev Singh Vs. State of Punjab2, the Apex Court held as under:-

> (2006) 10 SCC 172 "Extra-judicial confession is a weak type of evidence and that by itself is not sufficient to record the judgment of conviction against accused, unless the same is corroborated and in the absence of any disclosure before a particular person, a conviction cannot be recorded."

21) In K.Brahmachari @ Kammari Brahamachari Vs. State of A.P.3, a Division Bench of this Court held as under:

> "The main witness to speak of the appellantA.1 to connect with the offence is PW.8. According to the prosecution, the appellant-A.1 went to the house of Seethanarayana and made extra judicial confession before PW.8-Venkatesh. There seems to be no relationship between PW.8 and the appellant-A.1. There are no special circumstances for the appellant-A.1 to choose PW.8 to make extra-judicial confession before him. According to PW.8, the appellant-A.1 confessed before him at the house of

Seethanarayana 15 days after the date of incident. It is distressing to note that the prosecution did not examine the said Seethanarayana for the reasons best known to it and no explanation has been offered by the prosecution for not examining the said Seethanarayana. It is the evidence of investigating officer ie. PW.15 that he came to know about the appellant making extra-judicial confession before PW.8 on 16.05.1995 and therefore, he went to Anantharam and recorded the statement of PW.8. When the evidence of PW.8 and PW.15 read together, the alleged date of extra-judicial confession does not tally. Therefore, it is highly improbable for the appellant to choose PW.8 to make extra judicial confession before him."

22) It is well established principles of law that extra judicial confession is a weak type of evidence and the same cannot be acted upon without sufficient corroboration. It is also to be noted here that whenever extra judicial confession is made, the same should be reduced into writing in the same words and thereafter the person who recorded the statement should take the accused to the police station.

23) As regard extra judicial confession made before PW14 is concerned, his evidence is that, on 05.12.2005 during afternoon the Village Servant Ramaiah and Sarpanch Ganta Tirupalu brought one person by name Seenaiah and stated to him that 2009(3) S.C.C. (Crl.) 66 2004(1) ALT (Crl.) Page 1 (A.P.) the said Seenaiah was responsible for the death of a female, whose dead body was found in the channel. But, strangely, neither Ramaiah nor Ganta Tirupalu were examined to prove the said circumstance. It is to be noticed that the evidence of PW14 discloses that, he enquired with the said Seenaiah as to how the incident happened, who narrated the manner in which he killed the deceased and then committed theft of gold ornaments. But the said statement was not recorded. According to him, after making the said statement, the accused left the said place. Basing on the statement said to have been made by the accused, he prepared a report and gave it to the police in Ex.P12. He further states that, he handed over the said person to the SI of Police along with the report for taking necessary action. A perusal of Ex.P12 shows that the statement was not signed by the accused who made the statement. The statement was prepared by PW14 and counter signed by the SI of Police. No explanation is forthcoming as to why the signature of the accused was not taken on the said statement.

24) Apart from that, it is also to be noticed that the evidence of PW14 came to be recorded before the court after the evidence of the Investigation Officer. No explanation is forthcoming from the prosecution as to why he was not examined before the investigation officer. Had PW14 been examined prior to the evidence of the investigation officer, definitely, the accused would have got an opportunity to cross-examine the investigation officer with regard to earlier statement of PW14, more so, the statement recorded under Ex.P12 being silent as to why the signature of the accused was not taken on the said statement. In the absence of the same, we feel that the accused lost a valuable right to question the investigation officer with regard to the statement recorded by PW14, more particularly, with regard to the genunity, having regard to the fact that two persons who brought the accused to PW14 were not examined. Hence, we feel that a cloud of suspicion casts on the extra judicial confession alleged to have been made by the accused before PW14.

25) The other circumstance relied upon by the prosecution is recovery of gold ornaments at the instance of the accused. PW8 and PW9 are the two witnesses who were examined to speak about the same. PW7 acted as a mediator for the same. According to PW7, on 05.12.2005 at about 4.30 p.m. Kodavalur Police called him to police station. They also called one Nageswara Rao to the police station. By then, the accused was present in the police station. Police recorded the statement of the accused and thereafter the Circle Inspector of Police is said to have seized the gold chain from the possession of the accused under Ex.P4 the mahazarnama.

26) Insofar as recovery of MO.1 is concerned, it is to be noted that, by the time PW7 went to police station, the accused was already present in the police station and after the arrival of PW7, the Circle Inspector of Police seized the same under mahazar. It is not a case where the said MO.1 i.e. gold chain was seized basing on the statement made by the accused. It appears that the accused was in possession of MO.1. It is strange to note that if really the accused has committed the offence about 10 days back, there is no justification for him to keep the gold chain in his pocket at the time of his arrest. For the aforesaid reasons, the recovery of MO1 from the accused appears to be doubtful, vis-à-vis, Ex.D1 and Ex.D2.

27) Coming to the recovery of gold jewellery from the shop at Rajupalem, it is to be noted that, pursuant to the confession made, the accused lead them to the jewellery shop at Rajupalem, where, one pair of ear kammallu, one gold ring with red stone were recovered under Ex.P5. MO2 and MO4 were said to be the jewellery recovered at Rajupalem from the shop of PW8 shop. PW8 is the pawn broker who deposed about the same. According to him, the accused pledged gold ear kammalu in the month of November 2005 and he paid Rs.800/- to the accused. On the next day, the accused pledged a gold ring and he paid Rs.800/- to the accused. According to him, on 5th or 6th December at about 5.30 p.m. PW7 and another person along with accused and inspector of police, inquired about the pledging of gold articles by the accused. On verifying the book, PW8 stated that the accused pledged gold kammalu and gold rings, and he handed over the same to police. MO. 2 and MO. 4 are the gold ornaments that were handed over to the police. The evidence in chief of PW8 shows that, the gold ornaments were pledged in the month of November 2005. The date on which the gold ornaments were pledged is not clearly mentioned by PW8 while deposing in court. However, he claims that he mentioned the same in the books maintained but the said book was not seized by the police. Had the said books been seized and if the same disclose the date on which the gold ornaments were pledged, definitely, things would have been different. Apart from that, in the cross-examination, PW8 admits that, he passed a receipt in favour of the accused when the gold ornaments were pledged. If that is so, the prosecution should have seized the copy of the receipt from the pawn broker, which was not done.

28) Insofar as the evidence of PW9 is concerned, he deposed that he was doing pawnbroker business in the name and style of Revati Jewelleries. According to him, the accused pledged a gold ring in the month of November 2005 and he paid Rs.600/- to the accused. On 5th December at 6.30 p.m., the inspector of police, PW7 and Nageswara Rao came to his shop along with accused. The inspector of police enquired as to the pledging of gold ring. On verifying the book, PW9 handed over the gold ring to the police. The evidence of PW9 is in tandem with the evidence of PW8 in all respects. He also speaks about accused pleading the gold ornaments and only after verifying the books, he stated

that the accused pleaded gold ornaments in the month of November 2005. But, no date is given as to when these gold ornaments were pledged. After verifying the book, he states that, it was the accused who pledged the gold ornaments, but the said book was no seized by the police and no reasons are forthcoming as to why the police failed to seize the book. In cross-examination, he admits that, the accused pledged gold ornaments on earlier occasions, but, could not give particulars of the same.

29) From the evidence of the aforesaid witnesses, it is clear that, no documentary proof has been placed with regard to the seizure and pledging of gold ornaments. Apart from that, it is to be noted that even test identification parade of the gold ornaments were not conducted in the manner envisaged under Rule 35 of Criminal Rules of Practice and Circular Orders, 1990. Though, the witnesses were not cross-examined on this aspect, but, this being a legal issue, definitely, the same can be adjudged in appeal.

30) In Kailash Gour and others vs. State of Assam4 the Apex Court held as under:

> "It is one of the fundamental principles of criminal jurisprudence that an accused is presumed to be innocent till he is proved to be guilty. It is equally well settled that suspicion howsoever strong can never take the place of proof. There is indeed a long distance between accused `may have committed the offence' and `must have committed the offence' which must be traversed by the prosecution by adducing reliable and cogent evidence. Presumption of innocence has been recognised as a human right which cannot be wished away."

31) Rule 35 of the Criminal Rules of Practice prescribed a procedure as to how test identification parade of the property has to be done. Time and again, it has been held by this Court as well as by the Apex Court that when the property is lodged before the court, identification of the same should be done in the AIR 2012 SC 786 court after calling for special identification marks of the property. The issue is no more res-integra in view of the judgment of a Division Bench of the High Court of Judicature for the State of Telangana and for the state of Andhra Pradesh reported in Middela Parvaiah v. State of A.P., rep. by its Public Prosecutor, High Court of A.P., Hyderabad5, wherein it is held that when once the Test Identification Parade of property was not conducted in accordance with the procedure prescribed in Criminal Rules of Practice, much credence cannot be given to the alleged identification of the said property by the witnesses.

32) This Court in Jarapala Deepala @ Babu Rao and others v. State of A.P.6 while dealing with the test identification parade of the property, which was found to be not in accordance with procedure, held as under:

> "As seen from Rule 35 of the Criminal Rules of Practice the identification of properties shall be held in the Court of Magistrate where the properties are lodged and each item of property shall be put up separately for the parade and it shall be mixed up with four or five similar objects and before calling upon the witnesses to identify the property, he shall be asked to state the identification marks of his property and the witnesses shall be called in one after the other and on leaving shall

not be allowed to communicate with the witnesses not yet called in. The said procedure of conducting identification parade in respect of the property has not been followed in this case, as admittedly the identification parade was not conducted in the Court of the Magistrate. Thus, it is clear that the test identification in respect of the properties are not conducted in accordance with the procedure prescribed in Criminal Rules of Practice. Therefore, much credence cannot be given to the alleged test identification of the properties."

2016(3) ALT (Crl.) 373 (DB)(AP) (2005) 2 ALD (Crl.) 818 (A.P.)

33) In view of the above judgments and Rule 35 of Criminal Rules of Practice, it is evident that if test identification of properties is not conducted before the Court and if the properties mixed are not identical to the properties seized, the same does not attain any importance. Therefore, in the absence of any descriptive particulars given by P.W.1 in the F.I.R. and also in the court, except mentioning the type of articles and since identification of properties came to be conducted contrary to Criminal Rules of Practice, which were held to be mandatory by the Apex Court, the identification of the properties by family members cannot be accepted. In view of the above, recovery of the gold articles does not establish them to be that of the deceased technically. Hence, this circumstance in the chain of events cannot be said to be proved. Even the presumption under Section 114 of the Indian Evidence Act cannot be invoked when once the very identification itself is to be rejected.

34) In the result, the Criminal Appeal is allowed. The conviction and sentence recorded against the appellant/accused in the Judgment, dated 02.12.2014 in Sessions Case No. 234 of 2007 on the file of the IV Additional District & Sessions Judge at Nellore, for an offence punishable under Sections 302 and 394 I.P.C., are set- aside and he is acquitted for the said offences. Consequently, the appellant/accused shall be set at liberty forthwith, if he is not required in any other case or crime.

35) Consequently, miscellaneous petitions, if any, pending shall stand closed.

_____ JUSTICE C. PRAVEEN KUMAR

_____ JUSTICE B. KRISHNA MOHAN Date: 04.05.2020 SM.

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR AND THE HON'BLE SRI JUSTICE B. KRISHNA MOHAN Criminal Appeal No. 202 of 2015 (Per Hon'ble Sri Justice C.Praveen Kumar) Date: 04.05.2020 SM.