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APHC010907772017

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3566]**
(Special Original Jurisdiction)

WEDNESDAY, THE 1st DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE K SURESH REDDY

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

CRIMINAL APPEAL NO: 1636/2017

Between:

1. BODAPATI BHAVITHAV, S/O. SUBBA RAO, KOTHAPETA, CHIRALA PRAKASAM DSITRICT.

...APELLANT

AND

1. STATE OF A P, Rep., by its P.P., High court at Hyderabad

...RESPODENT

Appeal under Section 372/374(2)/378(4) of Cr.P.C praying that the High Court may be pleased to

IA NO: 1 OF 2017(CRLAMP 3207 OF 2017

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 128 days in filing the above Crl.A.

IA NO: 2 OF 2017(CRLAMP 3208 OF 2017

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 30 days in representing the above case

IA NO: 1 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant interim bail to the accused in SC.No. 321 of 2014 on the file of the VII Additional Sessions Judge, Ongole vide CT.No. 5280 and to pass such further orders as this Honourable Court may deem fit and proper in the interest of justice.

Counsel for the Appellant:

1. I V N RAJU
2. -

Counsel for the Respondent/s:

1. PUBLIC PROSECUTOR (AP)

The Court made the following:

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

SPECIAL DIVISION BENCH

PRESENT

HONOURABLE SRI JUSTICE K SURESH REDDY

And

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

CRIMINAL APPEAL No.1636 of 2017

JUDGMENT: (***Per Sri Justice A. Hari Haranadha Sarma***)

Introductory:-

1. [i] The sole accused in Sessions Case No. 321 of 2014 on the file of Special Judge for trial of offences under S.Cs and STs (POA) Act,1989 cases-cum- VII Additional District Judge, Ongole filed the present appeal, challenging the conviction and judgment dated 19.04.2017, whereby he was found guilty and convicted for the offence punishable under Section 302 IPC and sentenced to suffer Rigorous Imprisonment for life and to pay a fine of Rs.1,000/-, for the said offence; in default of payment of fine directed to suffer simple imprisonment for a period of (3) months. He was also found guilty of the offence under Section 380 IPC and sentenced to suffer Rigorous imprisonment for a period of (2) years with a fine of Rs.500/- and in default of payment of fine sentenced to suffer simple imprisonment for a period of one month, while directing both the principal sentences to run concurrently.

Case of the prosecution:-

2. [i] Accused/appellant herein murdered his maternal grandmother and taken away gold ring, gold ear studs and gold chain, apart from cash of Rs.2,000/- to meet his vices including the debts.

[ii] One LW.1/Bodapati Dhanalakshmi and LW.3/Bodapati Subbarao are the parents of the accused, while LW.2/ Alaparthi Subbaramaiah and one Alaparti Anasuryamma *[herein after deceased]* are the maternal grandparents of the accused and parents of LW.1/Bodapati Dhanalakshmi and LW.2/ Alaparthi Subbaramaiah. The deceased were residing in the neighbourhood of LW.1/ Bodapati Dhanalakshmi and LW.3/Bodapati Subbarao. Accused was in the habit of sleeping in the house of maternal grandparents viz., house of the deceased. But three (3) days prior to 07.01.2010, discontinued the same.

[iii] On 08.01.2010 at about 05.30a.m., LW.2/Alaparthi Subbaramaiah came hurriedly to the house of LW.1/Bodapati Dhanalakshmi and informed that the deceased was in unconscious state. Then, LW.1/Bodapati Dhanalakshmi along with her husband went to the house of the deceased and found that neck of the deceased was tied with a saree and gold chain, gold ear studs of the deceased were found missing. They expected that thieves might have committed the offence killing the deceased for gold and cash. Then, LW.1/Bodapati Dhanalakshmi reported the matter vide Ex.P16, to PW.10- the Station House Officer of Chirala II town Police Station. On the

strength of the same, PW.10 registered the same as a case in Crime No.08 of 2010 vide Ex.P17 - FIR dated 08.01.2010.

[iv] Investigation was taken up, scene of offence was observed in the presence of PW.5 and PW.6. Further, broken pieces of bangles were seized from the scene of offence under the cover of observation report attested by PW.9 and LW.15/Thota Sreenivasa Rao.

[v] LW.19/G.Ramakoteswara Rao - the Inspector of Police, has sent the dead body for autopsy. PW7 - Dr. R. Ajay Kumar conducted autopsy over the dead body of the deceased and opined that the death was occurred due to asphyxia due to throttling.

[vi] During the course of investigation, the accused was arrested on 15.01.2010, and one gold chain and Rs.500/- note were seized from the possession of the accused. Pursuant to his confession, gold ring and gold ear studs were recovered apart from cash of Rs.1100/-, which was given by the accused to PW.6 towards house rent from the stolen property. The gold ring, chain and ear studs were recovered under mahazarnama attested by PW.8 and LW.15/Thota Sreenivasa Rao. Recovered property was identified in the presence of mediators PW.8, LW15/Thota Sreenivasa Rao by Lw.1/B.Dhanalakshmi, who is daughter of the deceased, stating that the recovered objects belong to her mother. Thus the investigation revealed that the accused perpetrated the murder of the deceased, after committing theft of gold chain, gold ring, ear studs and cash, having gained access to the house,

when the deceased woke up and tried to raise alarm, gagged her mouth, pressed her neck forcibly and tied her neck with her women's wearing, due to which the deceased died.

[vii] Thus the accused is guilty of the offences committing murder for gain.

3. Learned Additional Junior Civil Judge, Chirala, committed the matter vide PRC No.13 of 2010 to the Court of Sessions and the same is numbered vide S.C.No.321 of 2014 and the learned Special Judge for Trial of Offences under S.Cs & STs (POA) Act, 1989 cases –cum-VII Additional District and Sessions Judge, Ongole *[herein after referred as 'the Sessions Judge']* tried the accused for the charges under **Section 302 IPC** for causing death of the deceased and under **Section 380 IPC**, for committing theft of gold chain, gold ring, ear studs, cash of Rs.2000/-, on denial of the plea of said offences.

4. During the course of Trial, the prosecution has examined PW.1 to PW.11; PW.1 to PW.3 are said to be the neighbours. PW.4 is the Inspector of Police, who collected chance finger prints at the scene of offence and compared with that of the accused finger prints. PW.5 is resident of Chirala, to speak about the habits and conduct of the accused and, PW.6 is resident of Chirala, to speak about accused giving money. PW.7 is the Doctor, who conducted autopsy. PW.8, is V.R.O., to speak about the confession of the accused and the same leading to recovery of M.Os.1 to 7 and preparation of seizurenama. PW.9 is the witness for observation at the scene of offence and

recovery of broken bangle pieces and who attested scene observation report/ Ex.P15. PW.10 is the Sub-Inspector of Police, Chirala II Town Police Station, who received the report/Ex.P16 and the registered F.I.R./Ex.P17. PW.11 is the investigation officer, who conducted the investigation. PW1, PW2, PW3, PW5, PW6 did not support the prosecution case. They were declared as hostile. During their cross-examination, the statements given by PW.1 to PW.3 were marked under Ex.P1 to P3 respectively and the statements of PW.5, PW.6 were got marked under Ex.P7 and Ex.P8 respectively; the witnesses denied that they did not state as mentioned in the Exhibits P1 to P3, and Ex.P7 and Ex.P8.

5. Further, the prosecution relied on Exs.P1 to Ex.P20 and M.Os.1 to 7 marked on its behalf. M.O.1 is two rows gold chain; M.O.2 is Rs.500/- note; M.O.3 is Lakshmidevi idol gold ring; M.O.4 is one pair of gold ear studs; M.Os.5 to 6 are the currency notes.

6. When the accused was examined under Section 313 Cr.P.C., he denied the incriminating evidence appearing against him.

Findings of the learned Sessions Judge:-

7. Learned Sessions Judge, relying on the inquest report, post mortem certificate and the evidence of inquest panchaytdars as well as the Doctor, who conducted post mortem examination, believed the death of the deceased as homicidal; considering the evidence of PW.8 before whom the Test Identification Parade was conducted with regard to the gold jewelry marked

under M.Os.1,3 and 4, identified by LW.1/Bodapati Dhanalakshmi, daughter of the deceased that they belongs to her mother, and the recovery of the articles pursuant to the confession of the accused, on the strength of the evidence of independent mediators-PW.8 and LW.15/Thota Sreenivasa Rao, found that the prosecution is able to connect all the links in the chain of circumstances, and that the accused has committed murder of the deceased and committed theft of gold, jewelry and cash recovered under M.Os.1 to 7, thus found guilty of the offences under which he was tried. Accordingly, convicted the accused and imposed sentence as referred above.

8. Heard Sri I.V.N. Raju, learned counsel appearing on behalf of the appellant/accused and Sri Marri Venkata Ramana, learned Additional Public Prosecutor appearing on behalf of the respondent-State.

Arguments in the appeal :

For the accused:-

9. (i) The case is based on circumstantial evidence and the informant - LW.1/Bodapati Dhanalakshmi, is not examined.

(ii) Material witnesses i.e., LW.1/Bodapati Dhana Lakshmi, LW.2/Alaparthi Subbaramaiah and LW.3/Bodapati Subbarao, who are the parents and grandfather of the accused, who allegedly stated about the involvement of the accused, are not examined.

(iii) The other witnesses, relied on by the prosecution, did not support the prosecution case.

(iv) The alleged recovery of the material objects from a public place is highly doubtful and lacks evidentiary value. The circumstances relied upon by the prosecution constitute a weak link in the chain of evidence and are insufficient to sustain the conviction. In the absence of cogent and reliable evidence, the accused is entitled to the benefit of doubt.

(v) There is no legally admissible and reliable evidence connecting the accused with the alleged commission of the offence. The conviction recorded by the Trial Court is based on conjectures and surmises, and the prosecution has failed to establish the guilt of the accused beyond reasonable doubt, and several material discrepancies and doubts arise from the prosecution case. Therefore, the accused is entitled to the benefit of doubt, and, consequently, to an acquittal.

For the prosecution-State:-

10. (i) It is not the quantity of the evidence but the quality of the evidence that matters.

(ii) The prosecution has successfully established all the vital links in the chain of circumstantial evidence, pointing exclusively to the guilt of the accused and are inconsistent with any hypothesis of innocence. There is no plausible explanation or possibility other than that the accused caused the death of the deceased for gain, with the intention of meeting his vices and discharging his debts. The evidence, when considered cumulatively, leads to

the irresistible conclusion that the accused alone is responsible for the commission of the offence.

(iii) The gold jewelry belonging to the deceased is recovered at the instance of the accused and the same is sufficient in the context of the death of the deceased being homicidal and that the accused alone is responsible for the death, particularly in the absence of satisfactory explanation as to how the accused get access to the gold jewelry of the deceased.

11. Perused the record. Thoughtful consideration and anxious consideration is given to the arguments advanced by both the parties.

12. The points that arise for determination in this appeal are -

1) Whether prosecution is able to bring home the guilt of the appellant/accused for the offences punishable under Sections 302, 380 IPC, beyond all reasonable doubt? and Whether the conviction and sentence imposed under the impugned judgment dated 19.04.2017 in S.C.No.321 of 2014 passed by learned Special Judge for Trial of Offences under S.Cs & STs (POA) Act, 1989 cases –cum-VII Additional District and Sessions Judge, Ongole is sustainable in law or on facts? Or require any interference? If so, in what grounds and to which extent?

2) What is the result of the appeal?

Point No.1:-

Setting Criminal law into motion:-

13. The First Objection of the learned counsel for the appellant/accused is that the LW.1/B.Dhana Lakshmi, who is shown as informant in Ex.P17-F.I.R., and is stated to have lodged the report marked as Ex.P16, is not examined. It is relevant to note that, LW.1/B.Dhana lakshmi died before the trial. Hence, she could not be examined and the factum of giving report and setting the criminal law into motion is spoken by PW.10, who registered the F.I.R.. Hence, the same is proper. Therefore, to the extent of setting the criminal law into motion, at the instance of LW.1/B.Dhana Lakshmi, and sufficiency of evidence of PW.1, need not be doubted. The proof of contents of Ex.P16 is different from speaking about the setting criminal law into motion at the instance of LW.1/B.Dhana Lakshmi. To the extent of LW.1/B.Dhana Lakshmi, submitting Ex.P16/report, and registration of F.I.R./Ex.P17 on the strength of Ex.P16, can be accepted with the evidence of PW.10, and non-examination of LW.1/B.Dhana Lakshmi, cannot be considered as fatal to that extent. For this preposition, reliance can be placed on the observations of the Hon'ble Apex Court in ***Lalitha Vs. Vishwanath and Others***[1]***.*** *R*elevant observations contained in paragraphs 32 to 34 reads as follows:-

> " 32. If the informant dies, the First Information Report can be, unquestionably, used as a substantive evidence. A prerequisite condition

[1] 2025 SCC OnLine SC 370

must be fulfilled before the F.I.R. is taken as a substantive piece of evidence i.e. the death of the informant must have nexus with the F.I.R. filed or somehow having some link with any evidence regarding the F.I.R. This is what has been explained by this Court in the case of *Damodar Prasad v. State of U.P. [(1975) 3 SCC 851 : AIR 1975 SC 757].*

33. There are plethora of decisions taking the view that an F.I.R. can be a dying declaration if the informant dies of his injuries after lodging the same. [See Munna Raja v. State of M.P. ((1976) 3 SCC 104 : AIR 1976 SC 2199)].

34. Another important thing is that for an F.I.R. lodged by a deceased person to be treated as substantial, its contents must be proved. It has to be corroborated and proved for there to be any value of the same in the case. The F.I.R. can be used by the defence to impeach the credit of the person who lodged the F.I.R. under Section 154(3) of the Evidence Act. In case the death of the informant has no nexus with the complaint lodged i.e. he died a natural death and did not succumb to the injuries inflicted on him in relation to a matter, the contents of the F.I.R. would not be admissible in evidence. In such circumstances, the contents cannot be proved through the Investigating Officer. The Investigating Officer, in the course of his deposition, should not be permitted to depose the exact contents of the F.I.R. so as to make them admissible in evidence. All that is permissible in law is that the Investigating Officer can, in his deposition, identify the signature of the first informant and that of his own on the First Information Report and he can depose about the factum of the F.I.R. being registered by him on a particular date on a particular police station."

14. In view of the above discussion, the first objection of the learned counsel for the appellant /accused is answered concluding that to the extent of setting the criminal law into motion by LW.1/ B.Dhana Lakshmi, the evidence of PW.10 can be believed.

Circumstantial evidence:-

15**.** The prosecution has relied on the circumstantial evidence to establish the guilt of the appellant/accused. The appreciation of circumstantial evidence is governed by the five golden principles enunciated by the Hon'ble Supreme Court in ***Sharad Birdhichand Sarda v. State of Maharashtra***[2], are as follows:

> *"(1) The circumstances from which the conclusion of guilt is to be drawn should be fully established.*
> *(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty.*
> *(3) The circumstances should be of a conclusive nature and tendency.*
> *(4) They should exclude every possible hypothesis except the one to be followed, AND*
> *(5) There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."*

16**.** Therefore, in the present case, the evidence adduced by the prosecution require examination in the light of the aforesaid principles to determine whether the chain of circumstances relied on by the prosecution are proved and whether they could establish the guilt of the appellant/accused, they are :-

(i) Homicidal death of the deceased.

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[2] (1981) 4 SCC 116

(ii) Recovery of M.Os.3 and 4 belonging to the deceased, from the accused, pursuant to his confession.

(iii) The presence of the fingerprints of the accused at the scene of offence and matching with the chance fingerprints collected by the Investigating Officer and access of the accused to the deceased.

(iv) Motive.

(i) <u>Homicidal death of the deceased:-</u>

17. a) As per Postmortem Certificate/Ex.P9, the age of the deceased is '70' years. As per the inquest report/Ex.P10 and opinion of the Panchayatdars, saree was tied around the neck and pulled due to the reason of tying around the neck, pulling or for any other reason by the thieves, the deceased might have died and her gold jewellery was taken away by the culprits.

b) As per the Postmortem Certificate, the deceased is died due to Asphyxia due to Throttling and the medical expert opined that the hyoid bone is having ante-mortem outward fracture of right and left greater horn of the hyoid bone.

c) With the medical evidence covered by Ex.P9, corroborated with the evidence of PW.8 and the contents in Ex.P10/inquest report, the nature of the death of the deceased can be accepted as homicidal death.

(ii) Recovery of M.Os.3 and 4 belonging to the deceased, from the accused, pursuant to his confession:-

18. Evidence of PW.8, the then V.R.O., Kothapeta, is very clear that basing on the confession of the accused, (2) rows of gold chain was recovered from the possession of the accused; in furtherance of his confession statement under Ex.P11, the accused has lead PW.8 and other Police party to a rice mill, Kothapeta village and picked up one gold ring and ear studs from a pit on removing the earth and there upon, the gold ring and the ear studs /M.Os.3 and 4, were recovered.

19. Learned counsel for the accused would submit that during the cross-examination, PW.8 stated that M.Os.3 and 4 were recovered from the accused. However, this appears to be a stray statement made independently, which shall be read along with Ex.P11 and his entire evidence would indicate that the accused after leading to the spot where M.Os.3 and 4 were concealed, and the said articles were recovered pursuant to the disclosure made by him and it cannot be construed to mean that PW.8 intended to state that M.Os.3 and 4 were physically handed over by the accused along with M.O.1 and therefore, there is no contradiction.

20. The alleged contradiction is sought to be projected is, at best, a minor and inconsequential discrepancy. Even assuming that it constitutes a contradiction, the same is not of such a nature to affect the crux of the prosecution case. A harmonious reading of the entire evidence would make it

clear that the answer elicited during the cross-examination was with reference to handing over the M.Os.3 and 4, on recovery from the place where they were kept, pursuant to the disclosure made by the accused. The statement cannot be construed in isolation so as to suggest that the witness intended to convey that M.Os.3 and 4 were physically handed over by the accused. When the evidence is appreciated as a whole, no material contradiction emerges so as to discredit the recovery proceedings, if the same is read in continuation of the questions relating to the functioning of rice mill etc., elicited during the cross-examination.

21. In fact, in the cross-examination, PW.8 was more clear as to how the accused has lead the police party to the mill and a particular place including a compound wall of eastern side of the rice mill and recovery of the material objects from the place where they were concealed. Inability to give answers by PW.8 to certain particulars such as door numbers of the houses of certain people, etc., is not sufficient to discard his evidence.

22. Further, with regard to identification of the material objects-M.Os.1, 3 and 4, by LW.1/B.Dhana Lakshmi, under the Mediatornama marked as Ex.P14, it has not even disputed during the cross-examination conducted on behalf of the accused. The absence of any challenge to such identification lends further credence to the prosecution case regarding the identity and ownership of the said material objects.

23. Ex.P14 would clearly proves the prosecution version that the two rows of gold chain, gold ring with Lakshmidevi idol, two gold ear studs handed over to PW.8 and in the presence of mediators, those items were mixed with the other similar items and then, LW.1/B.Dhana Lakshmi was asked to identify the ornaments and she has identified and stated that they belongs to her mother/deceased. Ex.P14 is not disputed during the cross-examination as observed above.

24. The objection of defence is that, identification parade of material objects by LW.1/B.Dhana Lakshmi, is not proved as there is no evidence of LW.1/B.Dhana Lakshmi. This objection is answered stating that in the presence of PW.8, LW.1/B.Dhana Lakshmi, identified M.Os.1, 3 and 4 as that of her mother and the same is sufficient. To the extent of identification of material objects i.e., M.Os.1, 3 and 4, by LW.1/B.Dhana Lakshmi, PW.8 is an eye witness. Therefore, his evidence can be relied on. There is no denial that those material objects does not belongs to the deceased. Hence, the objection can be brushed aside.

25. Further, this Court finds it proper to find the observations of the Hon'ble Apex Court made in **Upendra Khare vs The State Of Madhya Pradesh**[3] on 25th May, 2026, relating to the issue whether the recovery can be proved through the Investigation Officer, the observations made in para 18 and 19 are as follows:-

[3] 2026 SCC OnLine SC 935

"18. Scene of the offence panchnama show that the syringes were found near the toilet seats. Though an attempt is made by the learned counsel for the appellant to submit before this Court that the recovery at the instance of the present appellant is not proved because the panch witnesses to the recovery panchnama turned hostile. We are unable to accept this submission of the learned counsel for the simple reason that this Court had consistently taken a view that merely on account of the panch witnesses turning hostile cannot be a ground to discard this important piece of evidence, if the recovery is proved through the investigating officer. On the backdrop of this fact, perusal of the record shows that the recovery at the instance of the present appellant is proved through the testimony of the investigating officer Arun Singh/PW 24. We may refer to the judgment of this Court in Rameshbhai Mohanbhai Koli v. State of Gujarat4, wherein this Court has reiterated the settled principle that recovery is not vitiated merely because the panch witnesses have turned hostile. The judgment read as follows:

> "33. In Modan Singh v. State of Rajasthan [(1978) 4 SCC 435 : 1979 SCC (Cri) 56] it was observed (at SCC p. 438, para 9) that where the evidence of the investigating officer who recovered the material objects is convincing, the evidence as to recovery need not be rejected on the ground that seizure witnesses did not support the prosecution version. Similar view was expressed in Mohd. Aslam v. 4 (2011) 11 SCC 111 State of Maharashtra [(2001) 9 SCC 362 : 2002 SCC (Cri) 1024] .
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> 34. In Anter Singh v. State of Rajasthan [(2004) 10 SCC 657 : 2005 SCC (Cri) 597] , it was further held that: (SCC p. 661, para 10) "10. … even if panch witnesses turn hostile, which happens very often in criminal cases, the evidence of the person who effected the recovery would not stand vitiated."
>
> 35. This Court has held in a large number of cases that merely because the panch witnesses have turned hostile is no ground to reject the evidence if the same is based on the testimony of the investigating officer alone. In the instant case, it is not the case of defence that the testimony of the investigating officer suffers from any infirmity or doubt. (Vide Modan Singh case [(1978) 4 SCC 435 : 1979 SCC (Cri) 56] , Krishna Gopal case [(1988) 4 SCC 302 : 1988 SCC (Cri) 928] and Anter Singh case [(2004) 10 SCC 657 : 2005 SCC (Cri) 597] .
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> 36. In view of the above principles and in the light of the discussion about the recovery as stated and concluded earlier, those materials produced by the prosecution are relevant, acceptable and rightly connected these circumstances with the appellants."

19. This position was further reiterated by this Court in *Mallikarjun v. State of Karnataka [2019 (2) SCC 752]*, observing as under:

> "23.....On behalf of the accused, the learned Senior Counsel contended that the evidence of PW 17 PSI as to the recovery of MO 1 dagger at the behest of Accused 1 is 5 (2019) 8 SCC 359 doubtful and when PWs 8 and 9 have turned hostile, no weight could be attached to the alleged recovery of MO 1 dagger. There is no merit in the contention that merely because the panch witnesses turned hostile, the recovery of the weapon would stand vitiated. It is fairly well settled that the evidence of the investigating officer can be relied upon to prove the recovery even when the panch witnesses turned hostile….."

26. In view of the above mentioned evidence and the preposition of law clarified by the Hon'ble Apex Court in the above authority, the recovery of gold chain and ear studs covered under M.Os.1, 3 and 4 of the deceased at the instance of the accused is acceptable.

(iii) <u>Fingerprints of the accused - matching with the chance fingerprints collected by the Investigating Officer:</u>-

27. The argument of the learned counsel for the appellant/accused is that the accused is none other than the grandson of the deceased. Therefore, there is nothing strange in his finger prints being matching of finger prints, cannot be strong material.

28. It is relevant to note that the cross-examination done on behalf of the accused on PW.11, which is as follows:-

> "It is true that Alaparthy Subbaramalah (LW2) was the husband of deceased/ Alaparthy Anasuyamma. It is true that Alaparthy Subbaramaiah (LW2) stated to me that the accused was residing with him and his wife Alaparthy Anasuyamma at their house, as he himself and his

wife Anasuyamma attained old age. The witness adds that said Alaparthy Subbaramaiah (LW2) further stated to him that the accused was not visiting their house since last three (3) days prior to the murder of his wife Alaparthy Anasuyamma."

29. This is elicited during the cross-examination of PW.11 but the same is not denied by the accused and it was not deposed by PW.11 during the chief-examination, whereas in the cross-examination the same is elicited.

30. If a witness states something during cross-examination, which was not stated during the chief examination, the accused cannot validly contend that such evidence should be disregarded merely because it was not mentioned in the chief examination. Cross-examination always carries the risk of the witness making statements that may be adverse to the accused. Therefore, the argument that the statements made by the witness during cross-examination cannot be considered holds no substance.

31. PW.4 -Inspector of Police, Finger Print Bureau, CID, Ongole stated that he has visited the scene of offence, on requisition of Inspector of Police, Chirala taken the chance prints at the scene of offence, which were available on Television; marked the chance prints as 'A' and 'B' for his convenience. 'A' was not fit for comparison as it was not having the sufficient number of clear ridge characteristics. The 'B' marked chance print was fit for comparison. PW.4 compared the chance print which is marked as 'B' along with the finger prints of the accused those were sent under Ex.P4 and the chance print which

is marked as 'B' tallied with that of the finger prints of the accused, which were sent in two sheets along with the requisition under Ex.P4. Ex.P5 is the comparison chart and opinion. The middle finger of the accused tallied with the chance print under Ex.P5. Ex.P6 is the report. Except the suggestion that the Inspector did not seek to take chance prints on any other article, nothing elicited from the cross-examination of PW.4. The undisputed presence of fingerprints on the Television at the house of the deceased is also a strong connecting link.

(iv) *MOTIVE:-*

32. The motive of the accused is for gain, as he committed the offence in order to snatch away the gold jewellery of the deceased, who is none other than his maternal grand-mother.

33. The prosecution is relying on the access of the accused to the deceased, being close relative and the recovery of gold jewellery from him after a considerable time and he absconding after the incident and recovery of gold jewellery of the deceased from the accused pursuant to his confession, if recovery is proved, motive becomes acceptable.

34. Recovery of gold jewellery of the deceased covered by M.Os.1, 3 and 4 from the accused, after her death, pursuant to the confession of the accused, access of accused to the deceased and absence of explanation as to how and why the gold articles of the deceased were with the accused, if viewed

together with the motive, namely the intention to take away the gold jewellery of the deceased, these circumstances relied by the prosecution sufficiently establishes the role of the accused and connects him with the commission of the offences. Therefore, the links in the chain of circumstances, viz., homicidal death of the deceased, missing of gold jewellery of the deceased and the recovery of the same from the accused, identification of the same as that of the deceased, are the strong circumstances having all connected links in the chain of evidence not leaving any reasonable ground to believe the innocence of the accused and that the same would show that in all human probability the offence must have been committed by the appellant/accused only.

35. In view of the above discussion, this Court satisfied that the prosecution is able to bring home the guilt of the accused for the offences punishable under Sections 302, 380 IPC beyond all reasonable doubt, and the conviction and sentence imposed under the impugned judgment dated 19.04.2017 do not warrant any interference. Consequently, the appeal fails. Point No.1 is answered accordingly, against the appellant.

Point No.2:-

36. In the result, **appeal is dismissed** confirming the conviction and sentence recorded by the learned Special Judge for trial of offences under S.Cs and STs (POA) Act,1989 cases-cum-VII Additional District Judge,

Ongole, in Sessions Case No. 321 of 2014 under the impugned judgment dated 19.04.2017. Needless to state that the period already undergone by the appellant/accused shall be given set off under Section 428 Cr.P.C.

Miscellaneous petitions, if any, pending in the Criminal Appeal, shall stand closed.

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JUSTICE K.SURESH REDDY

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JUSTICE A.HARI HARANADHA SARMA

Date: 01 .07.2026
Pnr

Whether the order is:

Speaking	√	Non-speaking	-
Reportable	-	Non-reportable	√

HONOURABLE SRI JUSTICE K SURESH REDDY

And

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

CRIMINAL APPEAL No.1636 of 2017

Date: 01.07.2026

Pnr