

HIGH COURT OF ANDHRA PRADESH**Bench: Justices U. Durga Prasad Rao and Kiranmayee Mandava****Date of Decision: 19th June 2024**

Case No.:

SPECIAL ORIGINAL JURISDICTION

CRIMINAL APPEAL NO: 137/2015

**APPELLANT: K. Yoga Narasimha Reddy @ Bujji, Nellore Dt.
.....Appellant****VERSUS****RESPONDENT: State Of A.P. Rep. By P.P. HydRespondent****Legislation:**

Sections 302 of the Indian Penal Code (IPC)

Section 313 of the Code of Criminal Procedure (Cr.P.C.)

Subject: Criminal appeal against the conviction of K. Yoga Narasimha Reddy @ Bujji under Section 302 IPC for the brutal murder of Vinod Kumar, resulting in life imprisonment and a fine of Rs. 10,000.**Headnotes:**

Criminal Law – Murder Conviction – Appeal against conviction for murder – Appellant convicted under Section 302 IPC for brutally killing Vinod Kumar – Trial court’s judgment based on eye-witness testimonies and corroborative evidence upheld – Appeal dismissed [Paras 1-23].

Witness Testimony – Interested Witnesses – Evidence of PWs 1 to 3 scrutinized despite their relationship with the deceased – Court finds their testimonies reliable and corroborated by circumstantial evidence – The presence of eye witnesses at the crime scene confirmed by timely FIR and inquest report [Paras 13-22].

FIR and Inquest Report – Timeliness and accuracy – FIR lodged within short time after the incident – Inquest report conducted soon after FIR, listing the same eyewitnesses – Validates the presence of witnesses and the occurrence of the crime as described [Paras 20-22].

Motive – Political Disputes – Political rivalry between the families of the accused and deceased traced back to 2006 MPTC elections – Despite the lapse of time, lingering enmity considered credible motive – Court emphasizes that motive is secondary to direct evidence [Paras 13-14].

Section 313 Cr.P.C. Examination – Accused’s denial and alternative defense rejected – Court finds no merit in the appellant’s claims – Accused’s defense of false implication due to political rivalry dismissed based on strong evidence [Paras 15-19].

Decision – Appeal dismissed – Conviction and life sentence affirmed – No costs [Para 23].

Referred Cases:

- State of M.P. v. Kriparam (2003) 12 SCC 675
- Pandurang Chandrakant Mhatre and Ors. V. State of Maharashtra (2009) 10 SCC 773
- Hari Obula Reddy and others v. State of Andhra Pradesh (1981) 3 SCC 675=1981 SCC (Cri) 795
- Prabhu Dayal v. State of Rajasthan (2018) 8 SCC 127=(2018) 3 SCC (Cri) 51
- Subal Ghoral and Ors. V. State of West Bengal (2013) 4 SCC 607
- Bipin Kumar Mondal v. State of West Bengal (2010) 12 SCC 91= (2011) 2 SCC (Cri) 150
- Saddik and Ors vs. State of Gujarat (2016) 10 SCC 663

Representing Advocates:

For Appellant: Sri Posani Venkateswarlu for Sri R. Chandra Reddy

For Respondent: Sri Y. Nagi Reddy, Public Prosecutor (AP)

JUDGMENT: *(Per Hon’ble Sri Justice U. Durga Prasad Rao)*

Challenging the judgment dated 28.01.2015 in S.C.No.289/2012 passed by learned I Additional Sessions Judge, Chittoor convicting the sole accused for the offence under Section 302 IPC for brutally killing one Vinod Kumar of Velkur village, G.D.Nellore Mandal, at Chittoor and sentencing him to life imprisonment and to pay fine of Rs.10,000/- IDSI for six months, this Criminal Appeal is filed.

1. The factual matrix of the case succinctly is thus:

(a) The deceased Vinod Kumar was working as Field Assistant under NREG Scheme in Velkur panchayat. The accused works as a private bus driver and he is also the resident of Velkur village. During MPTC elections held in 2006, Jayasudha the wife of accused contested on TDP ticket and one Anitha, who is the daughter of elder brother of LW11-Babu Reddy also

contested and lost to Jayasudha. In the said elections the deceased did not support the candidature of Jayasudha and thereby some disputes arose between accused and deceased's family members. According to prosecution, about six months prior to the incident Rambabu Reddy, the elder brother of accused quarreled with deceased and threatened that he would do away with him. At that juncture, the elders of the village intervened and pacified both of them and settled the issue and saw that no complaint was given to police by either party. Eversince, it is alleged by prosecution, the accused and his brother were quarreling with the deceased and they were threatening him.

(b) The further case of prosecution is that, PW1 is the cousin brother of the deceased i.e., the deceased is the son of senior paternal uncle of PW1. PW1 works in Bangalore as a software employee. On 06.09.2011 at about 11:30 am when both of them were going on Hero Honda motorcycle bearing No.AP03AD6233 to G.D.Nellore police station in connection with obtaining passport for PW1 and on the way when they reached Neeva river bridge, the accused came on a motorcycle in the opposite direction at high speed and tried to hit their motorcycle but they escaped from the incident. The accused went away to his village. The deceased rang to the accused through his cell phone and questioned about his high handed act. The accused threatened him to do away with his life. Thereafter the deceased handed over the cell phone to his brother Ravindra Reddy.

(c) While so, on the same day at about 02:30 pm when PW1 and deceased were proceeding on their motorcycle to Chittoor to obtain passport photos of PW1 and when they reached Udipi Hotel near the compound wall of DFO's bungalow, the accused stood there and gave a hand signal asking them to stop their motorcycle. They turned their motorcycle and went near the accused. At that time all of a sudden, the accused took out a bill hook and hacked on the left wrist of the deceased and thereby his left wrist was severed from his hand and both of them fell down along with motorcycle. Immediately, the accused hacked indiscriminately on the head and face of the deceased. Though PW1 got up and tried to intervene, the accused threatened to kill him also. PW1 yelled out for help and hearing him PWs 2 to 4 gathered there. PW5, who is a Homeguard and attending traffic duty nearby, reached the spot. On seeing them gathering at the spot, the accused fled away on his motorcycle. The deceased died on the spot due to multiple injuries. Later, PW1 presented Ex.P1-report to the SHO, Chittoor I Town PS

against the accused. PW12 registered a case in Cr.No.119/2011 for the offence under Section 302 IPC and issued FIR to all concerned. He commenced the investigation. During the course of investigation on coming to know that on 14.09.2011 the accused surrendered before IV Additional JFCM, Chittoor and he was remanded to judicial custody, the I.O. obtained police custody of the accused from 22.09.2011 to 25.09.2011 and interrogated him. The accused gave confessional statement before the mediators PW10 and LW16 and basing on his confessional statement, the I.O. seized his motorcycle and crime weapon and his blood stained shirt PW11-CAS Government Headquarters Hospital, Chittoor who conducted postmortem over the dead body issued Ex.P15-P.M.Certificate wherein he opined that the cause of death of deceased was due to hemorrhage and shock due to injury to vital organ like brain which led to cardio respiratory failure. After receiving P.M. certificate and FSL report and on completion of investigation the I.O. filed charge sheet.

(d) On appearance of the accused, the trial court framed charge under Section 302 IPC against him. The accused denied the charge and claimed for trial. During the course of trial, prosecution examined PWs1 to 12 and marked Ex.P1 to P22 and produced material objects 1 to 16.

(e) After trial, the accused was examined under Section 313 Cr.P.C. and the incriminating material in the evidence of prosecution witnesses was put to him. The accused denied the said evidence and pleaded innocence.

The accused examined DWs1 & 2 and produced Ex.D1 to D4.

(f) The trial Court heard arguments of both sides. Having believed the eye witness account of PWs1 to 3, the trial court came to conclusion that the accused had brutally hacked the deceased to death in the broad day light owing to the past political disputes between them and accordingly convicted him for the offence under Section 302 IPC and sentenced him for life as stated supra.

Hence, the Criminal Appeal.

2. **ARGUMENTS:**

Heard arguments of learned senior counsel Sri Posani Venkateswarlu for Sri R. Chandra Reddy, learned counsel for appellant and Sri Y.Nagi Reddy, learned Public Prosecutor.

3. While severely remonstrating the judgment, learned senior counsel argued that the trial court committed serious error of facts and law in convicting the accused without there being plausible evidence on record. In expatiation, he would firstly argue that the trial court committed grave mistake in accepting the evidence of PWs1 to 3 alleged eye witnesses to the incident, without considering the crucial aspect that they are related to the deceased and are interested witnesses and inimically disposed of towards the accused. He would argue that PW1 is the own paternal cousin brother of the deceased. According to him, at the time of incident he went to Chittoor along with deceased on MO4-motorcycle as pillion rider and when they reached scene of offence, the accused hacked the deceased with MO3-bill hook and his left wrist was cut off from his body and thereby they lost balance and both of them fell down and then accused hacked the deceased to death. Learned counsel would submit that it is also the case of the PW1 that in the process his clothes i.e., MO1-shirt and MO2-lungi were blood stained and after giving Ex.P1-report to the SHO, I Town PS, the police have seized his clothes.
4. Referring to the aforesaid version of PW1, learned senior counsel argued that if really PW1 was along with deceased as pillion rider, on falling down from the motorcycle, he would have sustained serious injuries on his body. However, surprisingly, he did not get any injuries which is unnatural and falsifies his claim as an eye witness. Further, as per Ex.P22-FSL report, the origin of the blood stains on MOs1 & 2-clothes of PW1 could not be determined. It would indicate, he emphasized, the blood allegedly found on the clothes of PW1 was not of human origin and thereby he was not present at the scene. He relied upon **State of M.P. v. Kriparam** to contend that when no opinion was given by serologist as to the origin of the blood found on the relevant articles such as crime weapon and clothes of accused, recovery of the said articles would be of no assistance to the prosecution. Learned senior counsel further argued that, as admitted by PW3, though PWs 1 to 3 are known to each other, they did not talk with one another after the incident at the scene which is unnatural. It also signifies that none of them was present at the scene of offence. Learned senior counsel argued that PW1 to 3 were not at all present at the spot and they did not witness the incident as to who killed the deceased and on the other hand, after knowing about the murder

of deceased committed by some unknown persons, PWs1 to 3 came to the spot and at the instance of LW11-K.Babu Reddy, they were set up as eye witnesses to the incident by the police because LW11 had some disputes with the deceased, as one Anitha, the daughter of LW11's elder brother lost to Smt. Jayasudha, the wife of accused in the elections for MPTC held during 2006.

5. Then regarding PW2, learned senior counsel argued that he is also an interested witness, as one of his relations was given in marriage to Anitha who lost to Jayasudha in the elections. Thus PW2 is also close to LW11 Babu Reddy and he falsely claimed as an eye witness to the incident.
6. Then PW3 is concerned, learned senior counsel would argue that he was also a set up witness as his name was not mentioned in Ex.P1-report. On the other hand one Raghunatha Reddy and Sampath whose names were mentioned were not examined but the prosecution selectively examined PW3 because he is the junior paternal uncle of PW1 by courtesy and thereby he is also related to the deceased. Learned senior counsel would further submit that PW5-Homeguard who is also said to be an eye witness did not support prosecution case. Thus, at the outset, prosecution only examined interested witnesses whose presence at the scene was either highly doubtful or their veracity is tainted by bias. He placed reliance on **Pandurang Chandrakant Mhatre and Ors. v. State of Maharashtra** to argue that the evidence of partisan and interested witnesses has to be carefully evaluated and if found no corroboration from other reliable evidence, their evidence should be discarded.
7. Secondly, he argued that there is a crucial and unexplained delay in lodging FIR which cuts across the reliability of prosecution case. Learned senior counsel would submit that though the scene of offence was very near to the police station, FIR was belatedly lodged one and half hours after the incident.
8. Thirdly, learned senior counsel argued that in this case the prosecution could not project any strong motive for accused to kill the deceased and whatever motive set up by it is decrepit. According to prosecution, keeping in view the election disputes the accused killed the deceased. However, the MPTC election was held long back in the year 2006 and as such it is highly preposterous to plead that, nurturing the political grudges, the accused had done away with the deceased. Learned counsel would thus conclude that

lack of proper motive should also be taken as a ground to discard prosecution case.

9. Per contra, learned Public Prosecutor while supporting the judgment of the trial court argued that the brutal attack made by the accused on deceased was witnessed by PWs 1 to 3 & 5 of which PW1 was along with the deceased at the time of offence. All the witnesses made a coherent presentation of the occurrence relating to the brutal act of the accused. The trial court having conducted a stern test regarding their presence at the scene and witnessing the ghastly act of the accused and their impartial narration of the events, ultimately accepted their evidence knowing fully well that they testified to truth despite being interested witnesses. Learned P.P. argued that PW1 was no doubt the cousin brother of the deceased. However, there was no reason to doubt his presence and witnessing the occurrence. In fact, the deceased happened to go to Chittoor on the fateful day only to attend the work of PW1 as both of them went to Chittoor from their village for taking passport photographs of PW1. Therefore, learned P.P. would emphasize, PW1 was a natural witness to follow the deceased to Chittoor to finish his work. Similarly, PW2 & 3, though are the co-villagers of deceased and remotely related to him, still they too went to Chittoor on the date of incident in relation to their respective works and happened to witness the incident. Learned Public Prosecutor argued that Chittoor is the District Headquarters and it is only nine kilometers away from their village Velkur. Therefore, it is not uncommon for the people of the surrounding villages to go to Chittoor every day in respect of their works. So also, PW2 & 3 went to Chittoor to attend their works and witnessed the incident. Referring to the FIR and also inquest report, learned P.P. argued that the FIR was lodged within short time after incident wherein the name of PW2 was referred as an eye witness. So also, in Ex.P9-inquest report, which was prepared immediately after the incident, the names of PW1 to 3 were referred as eye witnesses to the incident. In FIR instead of the name of PW3, the name of his father Raghunatha Reddy was mentioned which is purely a mistake. Learned P.P. thus argued that PWs 1 to 3 were very much present and witnessed the incident and the trial court rightly accepted their evidence and convicted the accused. He thus argued that the appellants cannot contend that PWs 1 to 3 are interested witnesses. He placed reliance on **Hari Obula Reddy and others v. State of Andhra Pradesh** to argue that a witness cannot be discarded on the mere ground of being an interested witness and on the other hand after careful sifting, if

found reliable, evidence of such witness can be accepted. He further argued that merely because the origin of the blood on certain articles is undetected, that does not prove fatal in this case in view of the strong and reliable evidence of eye witnesses. He placed reliance on **Prabhu Dayal v. State of Rajasthan**

10. Nextly, learned P.P. argued that motive has been rightly projected by the prosecution in this case inasmuch as, though MPTC election was held in 2006, the disputes were somehow continued between the families of accused and deceased as even six months prior to the incident, they quarreled with each other and elders pacified them. It would show, the ill feelings were simmering.

11. **POINTS FOR CONSIDERATION:**

- (i) Whether the evidence on record, particularly the eye witness account, proves the guilt of the accused to the hilt to convict the accused?
- (ii) Whether conviction and sentenced passed by the trial court are factually and legally sustainable?
- (iii) To what relief?

ANALYSIS:

12. We have punctiliously perused the record and gave thoughtful consideration to the above arguments of either side. The admitted facts in this case are that the deceased and accused are residents of Velkur village in G.D.Nellore mandal of Chittoor District and their families are known to each other. The deceased worked as Field Assistant under NREG Scheme in Velkur panchayat whereas the accused is a private bus driver. During MPTC elections held in 2006, Jayasudha the wife of accused contested as a TDP candidate and one Anitha who is the niece of LW11-Babu Reddy also contested against Jayasudha and lost to her.

(a) While so, the prosecution case is that the deceased and his family members did not support the candidature of Jayasudha in the aforesaid elections and therefore, the accused and his brother bore grudge against him and they used to pick up quarrels with him. About six months prior to the incident, a quarrel had taken place between the accused and deceased, however, the elders like PW7, & 8 and some others pacified them and saw that no police complaint was given by either party. It is also the case of the

prosecution that bearing grudge in mind, on 06.09.2011 in the morning at about 11:30 am when PW1 who is the cousin of the deceased was going along with deceased on a motorcycle to G.D.Nellore police station to attend an enquiry for obtaining passport and on the way when they reached river Neeva bridge, the accused came in the opposite direction on a motorcycle and tried to hit their motorcycle but they escaped. After returning home the deceased made a cell phone call to accused and questioned his audacious behavior, but the accused recklessly replied that he would see the end of the deceased. Then it is the case of the prosecution that on that afternoon at about 02:30 pm when again the deceased and PW1 were proceeding on a motorcycle driven by deceased to Chittoor to secure the passport photographs of PW1 and when they reached Udipi Hotel near the compound wall of DFO's bungalow, Chittoor, the accused who was present there gave a hand signal to them to stop and they returned the vehicle and came near to him and at that time suddenly the accused took out his bill hook and hacked on the left wrist of deceased forcibly and thereby his left wrist was cut off from the hand and both of them lost balance and fell down with the vehicle. Immediately, the accused had indiscriminately hacked on the face and head of the deceased and caused his instantaneous death. PW1 tried to rescue him but accused threatened him to kill. PW1 raised shouts and PWs 2, 3 & 5 and some others gathered there and accused skulked away on his motorcycle. As per prosecution, the accused committed the said diabolical and grotesque act owing to the political disputes between them. The accused denied having any political grudge with the deceased and his family members. His defence is that the MPTC election was held long back in 2006 and his wife anyway won in the election and therefore, there was no need for him to nurture grudge against the deceased and his family members. The accused was not responsible for the death of the deceased and on the other hand, the deceased had illicit connections with some women in their village and some of the relatives of such women might have done away with the deceased owing to his amorous acts. This is precisely the defence of accused.

13. Be that as it may, it is a case based on direct evidence of PWs 1 to 3 & 5 but not on circumstantial evidence. It is trite law that when a case is based on the evidence of direct eye witnesses, motive relegates to second seat and this aspect is no more *res integra*. In **Subal Ghoral and Ors. V. State of West Bengal** the Apex Court held thus:

“20. xxxxx It was argued that the prosecution has not been able to establish motive. The incident appears to have taken place because juvenile delinquent-Gopal was detained by deceased-Hemanta. Assuming, however, that this is a case of weak motive or that the prosecution has not established motive, that will not have adverse impact on its case because when there is credible evidence of eyewitnesses on record, the motive pales into insignificance.”

In **Bipin Kumar Mondal v. State of West Bengal** it was held thus:

“19. It is settled legal proposition that even if the absence of motive as alleged is accepted that is of no consequence and pales into insignificance when direct evidence establishes the crime. Therefore, in case there is direct trustworthy evidence of witnesses as to commission of an offence, the motive part loses its significance. Therefore, if the genesis of the motive of the occurrence is not proved, the ocular testimony of the witnesses as to the occurrence could not be discarded only by the reason of the absence of motive, if otherwise the evidence is worthy of reliance. Vide Hari Shankar v. State of U.P. MANU/SC/1547/1996 : (1996) 9 SCC 40; Bikau Pandey and Ors. v. State of Bihar MANU/SC/0971/2003 : (2003) 12 SCC 616; and Abu Thakir and Ors. v. State of Tamil Nadu MANU/SC/0265/2010 : (2010) 5 SCC 91.”

In **Saddik and Ors vs. State of Gujarat** also the Apex Court reiterated the same legal principle. Therefore, the argument of the learned senior counsel for appellant that there was no grudge for accused against the deceased as the MPTC election was held long back in 2006 wherein his wife was elected and hence the question of his committing brutal murder of deceased due to political vendetta does not arise and prosecution failed to prove motive, carry no much significance because the prosecution case mainly pivots on the eye witness account of PWs 1 to 3 & 5. Hence, we have to scrutinize the veracity of the evidence of these witnesses.

15. Admittedly PW1 is the cousin of deceased; PW2's relation married Anitha who contested against the wife of accused; and PW3 is the junior paternal uncle of PW1 by courtesy. Therefore, they can be termed as interested witnesses. In **Pandurang Chandrakant Mhatre's** case (supra 2) cited by the appellant, the Apex Court having made a survey of its own decisions, exhorted that before relying upon the testimony of interested witnesses, adequate assurance from other circumstances or materials is required to be seen. The evidence of such witnesses has to be examined with great care and caution to obviate possibility of false implications or over implication. The Apex Court further observed that in cases involving rival political factions or group enimitis, it is not unusual to rope in persons other

than those who were actually involved. In such a case, court should guard against the danger of convicting innocent persons and scrutinize evidence carefully and, if doubt arises, benefit should be given to the accused.

In **Hari Obula Reddy's case** (supra 3) cited by the learned Public Prosecutor, the Apex Court held thus:

“13. xxxx But it is well settled that interested evidence is not necessarily unreliable evidence. Even partisanship by itself is not a valid ground for discrediting or rejecting sworn testimony. Nor can it be laid down as an invariable rule that interested evidence can never form the basis of conviction unless corroborated to a material extent in material particulars by independent evidence. All that is necessary is that the evidence of interested witnesses should be subjected to careful scrutiny and accepted with caution. If on such scrutiny, the interested testimony is found to be intrinsically reliable or inherently probable, it may, by itself, be sufficient, in the circumstances of the particular case, to base a conviction thereon. Although in the matter of appreciation of evidence, no hard and fast rule can be laid down, yet, in most cases, in evaluating the evidence of an interested or even a partisan witness, it is useful as a first step to focus attention on the question, whether the presence of the witness at the scene of the crime at the material time was probable. If so, whether the substratum of the story narrated by the witness, being consistent with the other evidence on record, the natural course of human events, the surrounding circumstances and inherent probabilities of the case, is such which will carry conviction with a prudent person. If the answer to these questions be in the affirmative, and the evidence of the witness appears to the court to be almost flawless, and free from suspicion, it may accept it, without seeking corroboration from any other source. Since perfection in this imperfect world is seldom to be found, and the evidence of a witness, more so of an interested witness, is generally fringed with embellishment and exaggerations, however true in the main, the court may look for some assurance, the nature and extent of which will vary according to the circumstances of the particular case, from independent evidence, circumstantial or direct, before finding the accused guilty on the basis of his interested testimony. We may again emphasise that these are only broad guidelines which may often be useful in assessing interested testimony, and are not iron-cased rules uniformly applicable in all situations.”

In the light of the aforesaid jurisprudence, the evidence of eye witnesses has to be evaluated.

16. PW1 is concerned, as already noted supra, before incident he went along with deceased on motorcycle to Chittoor to fetch his passport size photographs. He deposed that at about 02:30 pm when they reached Udipi Hotel, near the compound wall of DFO bungalow, on seeing them the accused who was standing near the said bungalow stopped their bike and when they were about to stop the motorbike in front of him, the accused attacked the deceased with a bill hook and hacked on his left hand whereby

his entire wrist portion was cut off and he lost balance and both of them fell down. Then the accused hacked the deceased indiscriminately with his bill hook and caused injuries on his head and face. When this witness tried to rescue the deceased, the accused threatened him to kill. Then he raised cries for help and on hearing the same PWs 2, 3, LW4-Sampath and PW5Homeguard came there. On seeing them the accused went away from the spot on his motorbike along with the bill hook and the deceased died on the spot. This is the narration of PW1 about the incident proper.

17. PW2 and 3 also deposed more or less in similar manner. The reason for PW2's presence at the scene according to him is that he is having a house in the Redcross street, Chittoor and since one week prior and one week after the incident, he was attending the repair works of the said house. On that day he went to Chittoor at 09:30 am and completed his work by 02:30 pm and was passing through the road near the DFO bungalow and that was how he happened to witness the incident. He stated that he was also a witness for the inquest held on the dead body on that evening.

18. So far as, PW3 is concerned, he is running a mobile shop in G.D.Nellore and on 06.09.2011 at about 11:00 am he went to Chittoor for repairs of his mobiles He got down at RTC Bus stand at 11:00 am and after completing his work, he went to Udipi hotel for taking lunch and after finishing the lunch he stood in front of the said hotel and waiting for a bus to go to G.D.Nellore. Then at about 02:30 pm he happened to witness the incident that was occurred nearby. It should be noted, as per Ex.P18-rough sketch of scene of offence, the Udipi hotel is located in the opposite row of DFO's building and the scene of offence is visible from the Udipi hotel. The lane leading to the bus stop is situated abutting the Udipi hotel. Therefore, it can be said that if a person stands outside the Udipi hotel, he can witness the incident occurring on the road abutting the compound wall of the DFO's bungalow. On a careful scrutiny, it should be stated that the evidence of PWs 1 to 3 is coherent and consistent. As rightly submitted by learned Public Prosecutor, admittedly, Chittoor is the District Headquarter and people from nearby villages will rush to Chittoor on their works. Therefore, the presence and witnessing of incident by PWs 1 to 3 is probable and believable.

19. PW1 is concerned, as already discussed supra, on his work only the deceased and PW1 went to Chittoor to fetch the passport size photographs.

Therefore, PW1's following the deceased as pillion rider is a natural consequence and cannot be doubted. It is not even suggested by the defence that, photo studios are very much available in Velkur village and PW1 had no necessity to go all the way to Chittoor to secure photographs. Therefore, PW1's following the deceased can be accepted. It is contended that if PW1 was really a pillion rider of the deceased, on falling down from the motorcycle, he should have sustained severe injuries, but he had no injuries and therefore, his version cannot be believed. This argument cannot be accepted. It is true that when a person goes on a motorcycle at high speed and suddenly stopped, he will fall down on losing balance and sustain injuries. However, in the instant case, the narration of PW1 is that on seeing the deceased, the accused stopped their motorcycle and when they were about to stop their motorcycle in front of the accused, he hacked the deceased and his left wrist was chopped off and they lost balance and both of them fell down. This narration indicates that when the accused stopped their vehicle, they almost stopped by reducing the speed of the vehicle and at that stage, it would appear, the accused hacked on the left wrist of the deceased and thereby both of them fell down from the vehicle. Since the vehicle was not going at high speed at that time, they might not have sustained any injuries on hitting the ground. It should be noted that not only PW1 but the deceased also did not suffer any abrasions on other parts of his body except the hacking injuries on his face and brain apart from severance of his left wrist which is evident from Ex.P15-P.M. report. Therefore, this argument cannot be accepted to distrust PW1.

20. So far as PW2 is concerned, there was no suggestion that he has no house in Redcross street at Chittoor and there was no need for him to go to Chittoor for its repairs. Similarly, there was no defence suggestion to PW3 that he had no mobile shop in G.D.Nellore and there was no requirement for him to go to Chittoor for getting repairs of his mobiles. These three witnesses were suggested that they were not present at the scene and after knowing the incident they came to Chittoor and they were planted as eye witnesses at the instance of LW11-Babu Reddy and the said suggestion was denied by these witnesses.

21. Apart from the inherent truth in the evidence of PWs 1 to 3, their presence is fortified by other circumstances also. Admittedly, the incident of murder was occurred at 02:30 pm on 06.09.2011. PW5 who is a Homeguard and attending traffic duty near Udipi hotel deposed that at about 02:20 pm

heavy mob had gathered near Forest Officer's bungalow opposite to Udipi hotel and on seeing the gathering of mob, he went to the spot and found a dead body lying with bleeding injuries on his face. Immediately he telephoned to I Town police station and informed the said fact. Ofcourse, this witness was declared as hostile by the Public Prosecutor on the ground that he did not depose in terms of Ex.P2-161 Cr.P.C. statement to the effect that he actually witnessed the accused attacking the deceased with a bill hook and killing him. Be that as it may, in spite of PW5 not supporting the prosecution case on the said aspect, still the timing of the offence as spoken by him and his intimating about the incident by phone to the SHO I Town PS Chittoor can be accepted for the purpose of our case.

22. So, PW5's evidence makes it clear that the incident was occurred at about 02:20 or 02:30 pm near Udipi hotel abutting the compound wall of DFO's bungalow where the deceased was hacked to death. Then Ex.P1 report given by PW1 shows that the said report was presented at 04:00 pm by PW1. It implies that the FIR was lodged within short time after the incident. Unless PW1 was at the spot, it will be difficult for him to lodge the report within such a short period. Further, Ex.P16-FIR contains an endorsement of the learned Magistrate to the effect that the FIR and report were received through PC 2465 of I town PS at 05:30 pm on 06.09.2011. It implies that the original report and FIR were promptly dispatched by the SHO of I Town PS to the Magistrate within three hours after the incident. The report was given at 04:00 pm by none other than PW1 and in the said report he mentioned the names of PW2 and LW4-S.Sampath. However, instead of the name of PW3, by mistake the name of his father Raghunatha Reddy was mentioned. This mistake can be understood as PW1 was in a disturbed mood at that time. So what is to be noted is the presence of PWs1, 2 & 3 or atleast the presence of PW1 & 2 at the scene of offence which is writ large from the FIR. Moreover, Ex.P9-inquest report would show that the inquest was conducted at 04:30 pm on 06.09.2011 at the spot. In the Exp9, PWs1 2 & 3 and LW4 were referred as eye witnesses. If really PWs 1 to 3 were not there at the scene, it is difficult to find their names in Ex.P1 & P9 which were prepared within short time after the incident. Further expatiating on this aspect, if PWs 1 to 3 were not present at Chittoor and they were elsewhere, the SI of police, who only got the information about the murder of some person at Udipi hotel junction through PW5, would have no occasion to know about the particulars of the deceased so as to send word to his relations. In

such an event, it will be impossible to lodge FIR by 04:00 pm by PW1 and it will also be impossible for conducting inquest at 04:30 pm by mentioning the names of PWs 1 to 3 as eye witnesses. Therefore, unless they were present at the scene at the relevant time and witnessed the incident, lodging of FIR and holding of inquest at the given time could not have taken place. Therefore, the attending facts and circumstances clearly support the version of PWs 1 to 3 that they were the eye witnesses to the incident. In Ex.P15-P.M. report the P.M. Doctor has mentioned that left hand of deceased was amputated upto wrist joint and chop wounds were there on the head and face. He has clearly stated that the cause of death of deceased was due to hemorrhage and shock due to injury to vital organ like brain which led to cardio respiratory failure. The injuries spoken by the medical witness corresponds with the narration of ocular witnesses. Therefore, PWs 1 to 3 can be safely held as eye witnesses and it can be held that the accused was the author of the ghastly murder of the deceased. When it is accepted that PWs 1 to 3 are eye witnesses, there is no need for them to falsely name the accused as the culprit, leaving the real culprit. Thus the trial court rightly found the accused guilty of the offence under Section 302 IPC and sentenced him for life. The said verdict is factually and legally sustainable. We find no merits in the arguments advanced on behalf of the appellant.

23. Accordingly this Criminal Appeal is dismissed by confirming the conviction and sentence passed by the trial court. No costs.

As a sequel, interlocutory applications pending if any in this writ petition shall stand closed.

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