



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

[3396]

**FRIDAY, THE TWENTY EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

HONOURABLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 8982/2024

Between:

1. SEELAM NAGAMUNI NAIDU, S/O. MALLAIAH, AGED ABOUT 48 YEARS, R/O. GORLAVANDLAPALLI VILLAGE, GARUGUPALLI PANCHAYAT, GALIVEEDU MANDAL, ANNAMAYYA DISTRICT
2. SEELAM RAMAMOHAN NAIDU, S/O. MALLAIAH, AGED ABOUT 38 YEARS, R/O. GORLAVANDLAPALLI VILLAGE, GARUGUPALLI PANCHAYAT, GALIVEEDU MANDAL, ANNAMAYYA DISTRICT
3. SEELAM SIVA SANKAR NAIDU, S/O. MALLAIAH, AGED ABOUT 53 YEARS, R/O. GORLAVANDLAPALLI VILLAGE, GARUGUPALLI PANCHAYAT, GALIVEEDU MANDAL, ANNAMAYYA DISTRICT
4. SEELAM MALLAPPA NAIDU, S/O. MAUAIAH, AGED ABOUT 35 YEARS, R/O. GORLAVANDLAPALLI VILLAGE, GARUGUPALLI PANCHAYAT, GALIVEEDU MANDAL, ANNAMAYYA DISTRICT

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH THROUGH INSPECTOR OF POLICE, GALIVEEDU POLICE STATION, ANNAMAYYA DIST .
2. SEELAM VENKATACHALAPATHI FORMAL PARTY, S/O. MALLAPPA, AGED ABOUT 46 YEARS, R/O. GORLAVANDLAPALLI VILLAGE, GARUGUPALLI PANCHAYAT, GALIVEEDU MANDAL, ANNAMAYYA DISTRICT

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused(S):

1. SHAIK MOHAMMED ISMAIL

Counsel for the Respondent/complainant(S):

1. PAPUDIPPU SASHIDAR REDDY
2. PUBLIC PROSECUTOR

The Court made the following:

ORDER:

The instant petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed by the Petitioners / Accused Nos.1 to 4, seeking quashment of the Order dated 26.11.2024 in S.C.No.187 of 2019 on the file of the Court of V Additional District and Sessions Judge, Rayachoty.

2. The facts, in brief, are that on 15.11.2019 at about 6.30 p.m., while Seelam Srinivasulu Naidu (hereinafter referred to as “the deceased”) was guarding his fields from cattle and fencing the same, Accused Nos.1 to 4, who were having prior disputes with P.W.1, the brother of the deceased, came to the spot, picked up a quarrel, whereupon Accused Nos.3 and 4 caught hold of the deceased tightly and Accused No.1 attacked him with a stick on the left side of his head, resulting in severe bleeding injury and causing him to fall unconscious. Accused No.2 also attacked the deceased with another stick on the left side of his ribs causing injuries. The deceased was initially shifted to the Government Hospital, Rayachoty, thereafter to SVIMS, Tirupati, and subsequently to Vellore Medical College Hospital for better treatment. While undergoing treatment, the deceased succumbed to the injuries at Vellore Medical College Hospital, Vellore.

3. Heard Sri Shaik Mohammed Ismail, learned counsel for the Petitioners / Accused Nos.1 to 4 and Ms.K.Priyanka Lakshmi, learned Assistant Public Prosecutor for Respondent No.1 / State.

4. Learned counsel for the Petitioners submitted that in S.C.No.187 of 2019, registered for the offences under Section 302 read with 34 IPC, the trial

stood concluded, arguments on both sides were completed, written submissions on behalf of the Accused were filed, and the matter was reserved for judgment on 14.11.2024. While so, the learned trial Judge, by the impugned order dated 26.11.2024, *suo motu* reopened the case by invoking Section 311 Cr.P.C., directing the Prosecution to mark the hospital intimation and out-post intimation through concerned witnesses and to summon the Medical Officer for production of the case sheet of the deceased and to give evidence. It was contended that reopening the matter after it was reserved for judgment violates the principles of fair trial and that the Prosecution cannot be permitted to fill up lacunae at such a belated stage. It was further contended that the impugned order lacks application of judicial mind and is unsustainable in law. Hence, prayed for quashment of the impugned order. In support of their contentions, learned counsel has placed reliance on the judgments of the Hon'ble Supreme Court in **State (NCT of Delhi) vs. Shiv Kumar Yadav and another¹** and **Criminal Trials Guidelines Regarding Inadequacies and Deficiencies vs. State of A.P and others²**, the judgments of Composite High Court of A.P in **C.S.Ravi vs. S.Mallamma and another³**, **Kota Peda Nagesh vs. State of A.P.⁴**, **V.Vani vs. VBSMK Prasad⁵**, the High Court of Telangana in **Y.Ramesh vs. State of Telangana⁶** and the judgment of High Court of

¹ (2016) 2 SCC 402

² (2021) 10 SCC 598

³ 2016 SCC OnLine Hyd 734

⁴ 1999 SCC OnLine AP 38

⁵ MANU/AP/0596/2012

⁶ MANU/TL/0531/2020

Bombay in **State of Maharashtra vs. Ajay Dayaram Gopnarayan and another⁷**.

5. *Per contra*, learned Assistant Public Prosecutor submitted that in a case involving an offence under Section 302 IPC, examination of the Medical Officer and marking of hospital records are essential to establish vital aspects relating to treatment and cause of death. It was submitted that Section 311 Cr.P.C. empowers the Court to summon or examine any person at any stage if such evidence is essential for a just decision. It was contended that the impugned order does not suffer from any illegality or infirmity and the petition deserves dismissal.

6. The record reveals that Crime No.274 of 2018 was initially registered against Accused Nos.1 to 4 for the offence under Section 307 read with 34 IPC and, upon the death of the injured, the section of law was altered to Section 302 read with 34 IPC. After filing of charge sheet, the case was numbered as S.C.No.187 of 2019. Charges were framed, trial was completed, arguments were heard, and the matter was reserved for judgment on 14.11.2024. Thereafter, by Order dated 26.11.2024, the learned trial Judge invoked Section 311 Cr.P.C., and *suo motu* reopened the matter directing the Prosecution to mark certain documents and summon the Medical Officer to adduce evidence.

7. As seen from the contents of the charge sheet, it is clear that, immediately after the incident, the deceased was initially shifted to

⁷ 2014 SCC OnLine Bom 14

Government Hospital, Rayachoty and from there to SVIMS, Tirupati and from there to Vellore Medical College Hospital, for better treatment, wherein, while undergoing treatment, he succumbed to injuries. As rightly admitted by the Petitioners in their written submissions filed before this Court, P.W.1, who is the brother of the deceased, in his evidence deposed that the deceased was initially shifted to Rayachoty Government Hospital, then to SVIMS Hospital, Tirupati and from there to Vellore CMC Hospital. He clearly referred CMC Hospital, Vellore but not Government Hospital, Vellore. P.W.1 also admitted that he knows CMC Hospital and it belongs to Christian Community and the inquest and postmortem of the deceased were conducted in that hospital. P.Ws.2 and 5 also referred CMC Hospital, Vellore in their evidence.

8. P.W.11, who is the inquest panchayatdar also stated in his chief examination that the deceased died in CMC Hospital, Vellore. However, the postmortem of the deceased, was alleged to have conducted in Vellore Medical College, but not in CMC Hospital. Whereas, P.W.9, who is the nephew of the deceased deposed that, on coming to know about the incident, on 16.11.2018, he came to Vellore Medical College hospital and was present in the said hospital to look after the treatment of his maternal uncle i.e., deceased. He further deposed that on 19.11.2018 at about 12.45 noon the deceased succumbed to injuries. P.W.12, who is the-then Assistant Professor, Department of Forensic Medicine, Vellore Medical

College, deposed that on 20.11.2018 at 3.15 p.m., he conducted postmortem over the dead body of the deceased.

9. P.W.13, who is the Sub-Inspector of Police, Galiveedu Police Station, deposed that, on 19.11.2018 at about 4.00 p.m., while he was present in the Police Station, P.W.1 came to the Police Station and submitted a complaint stating that the deceased succumbed to injuries at Vellore Government Medical College Hospital, which is contrary to the evidence of P.W.1 that the deceased died in CMC Hospital, Vellore.

10. As seen from the above evidence, there is a discrepancy in respect of the hospital, in which, the deceased succumbed to injuries. Admittedly, the alleged incident had happened on 15.11.2018 and the deceased, while undergoing treatment, died on 19.11.2018. As seen from the impugned order, the learned trial Judge, while perusing the material available on record for preparation of judgment in S.C.No.187 of 2019, observed that, the intimations issued by the hospital and outpost police with regard to the admission of injured / deceased in the hospital available in the bundle were not marked by the Prosecution. It was further observed by the learned trial Judge that, the evidence i.e., case sheet with regard to the treatment given to the injured / deceased from the date of his admission on 16.11.2018 to 19.11.2018 (till his death) and the concerned Medical Officer of the said hospital, where the injured / deceased took treatment was not adduced by the Prosecution. As such, the learned trial Judge, by invoking Section 311 Cr.P.C., *suo motu* reopened the matter directing the Prosecution to take steps

to mark the hospital intimation and outpost intimation through the concerned witness and issue summons to the Medical Officer to cause production of the case sheet pertaining to the treatment given to the injured / deceased for the above mentioned period and to give evidence.

11. Section 311 Cr.P.C. empowers the Court to summon, examine, recall or re-examine any witness at any stage of the trial if such evidence appears to be essential to the just decision of the case. In ***Swapan Kumar Chatterjee v. CBI***⁸, the Hon'ble Supreme Court had categorically observed that the provision under consideration comprises two distinct parts. The first part, being permissive in nature, confers a discretionary authority upon the criminal court to, at any stage of inquiry, trial or other proceedings under the Code: (i) summon any person as a witness; or (ii) examine any person present in court, though not summoned as a witness; or (iii) recall and re-examine any person already examined. The second part, which is mandatory, enjoins the court to either (i) summon and examine, or (ii) recall and re-examine any such person, where the evidence of such person appears to the court to be essential for a just decision of the case.

12. In ***Manju Devi v. State of Rajasthan***⁹, the Hon'ble Supreme Court emphasised that the discretionary powers vested in the court under Section 311 CrPC are intended to ensure that the record remains complete, any ambiguity in evidence is clarified, and that no prejudice is caused to either party.

⁸ (2019) 14 SCC 328 : (2019) 4 SCC (Cri) 839

⁹ (2019) 6 SCC 203 : (2019) 2 SCC (Cri) 765 : 2019 SCC OnLine SC 552

13. In the instant case, neither the Prosecution nor the defence counsel clarified the discrepancy in the evidence of the witnesses with regard to the hospital, where the deceased died. Further, the Prosecution also failed to place the evidence, which was sought by the learned trial in the impugned order. It is also the duty of the defence counsel to confront the witnesses with their police statements so as to prove the contradictions in the form of material omissions and bring them on record. When the witnesses were deposing something contrary to what they had stated before the police in their statements recorded under Section 161 of the CrPC, it is the duty of the Public Prosecutor to bring to the notice of the witnesses and confront them with the same even without declaring them as hostile. It is also the duty of the presiding officer to put relevant questions to those witnesses in exercise of his powers under Section 165 of the Evidence Act. Section 162 of the CrPC does not prevent a Judge from looking into the record of the police investigation. Being a case of murder and as the evidence was not free from doubt, the Trial Judge ought to have acquainted himself, in the interest of justice, with the important material and also with what the only important witnesses of the prosecution had said during the police investigation. Nothing in Section 162 CrPC to prevent a Trial Judge, as distinct from the prosecution or the defence, from putting to prosecution witnesses the questions otherwise permissible, if the justice obviously demands such a course.

14. The Hon'ble Supreme Court of India in *Munna Pandey vs. State of Bihar*¹⁰, in similar circumstances, held as follows:

“70. This Court has condemned the passive role played by the Judges and emphasized the importance and legal duty of a Judge to take an active role in the proceedings in order to find the truth to administer justice and to prevent the truth from becoming a casualty. A Judge is also duty bound to act with impartiality and before he gives an opinion or sits to decide the issues between the parties, he should be sure that there is no bias against or for either of the parties to the lis. For a judge to properly discharge this duty the concept of independence of judiciary is in existence and it includes ability and duty of a Judge to decide each case according to an objective evaluation and application of the law, without the influence of outside factors.

71. If the Courts are to impart justice in a free, fair and effective manner, then the presiding judge cannot afford to remain a mute spectator totally oblivious to the various happenings taking place around him, more particularly, concerning a particular case being tried by him. The fair trial is possible only when the court takes active interest and elicit all relevant information and material necessary so as to find out the truth for achieving the ultimate goal of dispensing justice with all fairness and impartiality to both the parties.

72. In Ram Chander (supra), while speaking about the presiding judge in a criminal trial, Chinnappa Reddy, J. observed that if a criminal court is to be an effective instrument in dispensing justice, the presiding judge must cease to be a spectator and a mere recording machine. He must become a participant in the trial by evincing intelligent active interest by putting questions to witnesses in order to ascertain the truth. The learned Judge reproduced a passage from Sessions Judge, Nellore v. Intha Ramana Reddy, 1972 Cri LJ 1485, which reads as follows:—

“Every criminal trial is a voyage of discovery in which truth is the quest. It is the duty of a presiding Judge to explore every avenue open to him in order to discover the truth and to advance the cause of justice. For that purpose he is expressly invested by Section 165 of the Evidence Act with the right to put questions to witnesses. Indeed the right given to a Judge is so wide that he may, ask any question he pleases, in any form, at any time, of any witness, or of the parties about any fact, relevant or irrelevant. Section 172(2) of the Code of Criminal Procedure enables the court to send for the police-diaries in a case and use them to aid it in the trial. The record of the proceedings of the Committing Magistrate may also be perused by the Sessions Judge to further aid him in the trial.”

¹⁰ 2023 SCC OnLine SC 1103

15. It is well settled that every criminal trial is a voyage of discovery of truth. The Court is not a mere spectator and is duty-bound to ensure that all material evidence necessary for a just decision is brought on record. The Court must not be deprived of the benefit of any valuable evidence. It is absolutely necessary that the Court must be apprised of the best evidence available. In a case where neither party is interested in examining a person as a witness yet the Court feels that the evidence of such a person is necessary for a just decision, the Court though cannot compel either the prosecution or the defence to call a witness, but it can invoke its power under Section 311 CrPC, read with Section 165 of the Evidence Act. Thus, the powers under Section 311 Cr.P.C. read with Section 165 of the Evidence Act are wide and can be exercised even after closure of evidence, including at the stage when the matter is reserved for judgment.

16. In cases of this nature i.e., initially registered for the offence under Section 307 IPC and subsequently converted to the offence under Section 302 IPC, the Investigating Officers are duty-bound to establish a direct and proximate link between the injuries allegedly caused by the Accused and the death of the victim. The investigation cannot rest merely on the presence of injuries or the occurrence of death in close proximity to an assault. What is required is a scientific, medical, and factual correlation demonstrating that the injuries were sufficient to cause death, or that they contributed to the death. Failure to establish such linkage vitiates the prosecution case. A meticulous, medically corroborated investigation linking injuries to death is a statutory

obligation on the Investigating Officer. An omission by the Investigating Officer to properly correlate medical evidence with ocular and circumstantial evidence results in serious prejudice to a fair trial.

17. In the present case, despite the alteration of the offence from Section 307 IPC to Section 302 IPC, the Investigating Officer has failed to place on record any material establishing a direct and proximate nexus between the injuries allegedly inflicted and the death of the victim. No clear medical opinion, scientific analysis, or factual material has been produced to demonstrate that the injuries were sufficient in the ordinary course of nature to cause death, or that they materially contributed to the death. Non production of such material in this type of cases may lead to serious prejudice to either the Prosecution or the Accused.

18. Further, at the stage of taking cognizance and registering a PRC in cases involving Section 302 IPC, the Magistrate is not expected to conduct a mini-trial. However, the Magistrate is under a statutory duty to ensure that the foundational ingredients of the offence are *prima facie* disclosed from the charge-sheet and accompanying material. The Magistrate has to verify the existence of *prima facie* material establishing a nexus between the injuries allegedly inflicted and the death of the victim. Mere mention of injuries or a bald assertion that death has occurred is insufficient to mechanically register a PRC under Section 302 IPC, particularly where death is delayed, intervening treatment is extensive, or the medical opinion is equivocal.

19. The present crime has been initially registered for the offence under Section 307 read with 34 IPC and after the death of the injured, the Section of Law was altered to Section 302 read with 34 IPC. In such circumstances, as was opined by the learned trial Judge, the evidence sought in the impugned order, is essential to meet the ends of justice. Further, reopening of the matter for adducing such evidence, definitely, will not cause any prejudice to either side, since both parties will have a right and opportunity to examine and re-examine any witness on these aspects.

20. In view of the above discussion and the judgments referred to *supra*, this Court is of the view that the learned trial Judge has exercised the jurisdiction under Section 311 Cr.P.C judiciously and there are no irregularities and infirmities in the order passed by the learned trial Judge. No interference of this Court in the said order, is warranted. The petition lacks merit and the same is liable to be dismissed.

21. In the result, the Criminal Petition is dismissed. However, in the interest of administration of criminal justice, this Court deems it appropriate to issue the following direction:

The Director General of Police is directed to issue suitable instructions to all Investigating Officers dealing with cases involving offences punishable under Section 302 IPC (103 of BNS) to ensure that all material facts and circumstances leading to the incident and the events preceding the death of the deceased are thoroughly collected, verified, and placed on record.

The Investigating Officers shall ensure timely collection and proper marking of hospital intimations and out-post police intimations, complete medical records, including case sheets etc., statements of treating doctors, and clear documentation establishing the chain of events from the time of injury till death.

The Registrar (Judicial) is directed to forward a copy of this order to the A.P.State Judicial Academy for information and for training purposes as may be deemed appropriate.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

Dr.JUSTICE VENKATA JYOTHIRMAI PRATAPA

Date:28.11.2025

Note: L.R.Copy to be marked

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HON'BLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

Crl.P.No.8982 of 2024

Dt.28.11.2025

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CRIMINAL PETITION No.8982 of 2024

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...PETITIONER/ACCUSED(S)

AND

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...RESPONDENT/COMPLAINANT(S):

DATE OF JUDGMENT PRONOUNCED: **28.11.2025**

SUBMITTED FOR APPROVAL:

THE HON'BLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

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|----|---|--------|
| 1. | Whether Reporters of Local Newspapers may be allowed to see the judgment? | Yes/No |
| 2. | Whether the copies of judgment may be marked to Law Reporters / Journals? | Yes/No |
| 3. | Whether Her Lordship wish to see the fair copy of the Judgment? | Yes/No |

DR.JUSTICE VENKATA JYOTHIRMAI PRATAPA

*** THE HON'BLE DR.JUSTICE VENKATA JYOTHIRMAI PRATAPA**

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...RESPONDENT/COMPLAINANT(S):

! Counsel for Petitioner : Sri Shaik Mohammed Ismail
 ^ Counsel for Respondents : Ms.K.Priyanka Lakshmi,
 Assistant Public Prosecutor

< Gist:

> Head Note:

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