

**HIGH COURT FOR THE STATE OF TELANGANA**  
**CRIMINAL APPEAL NOS.1188, 1194 and 1359 of 2017 and 174**

**of 2018**

**CRIMINAL APPEAL NO.1188 OF 2017**

**Between:**

1) Gandala Laxman, S/o Sailoo,  
Aged 27 years, C/Gandala,  
Occ: Auto Driver, R/o Nallavelly Village,  
Dharpally Mandal, Vemulavada.

2) Nymathabad Madanlal @ Katike Madanlal,  
S/o Sharfu, Aged 33 years,  
Caste:Katike, Occ:Profession,  
R/o Nallavelly Village,  
Dharpally Mandal, Vemulavada.

.. Appellants/accused Nos.8 and 9

Vs.

The State of Telangana rep. By  
its Public Prosecutor (T.S.), High Court  
at Hyderabad.

.. Respondent/complainant

**CRIMINAL APPEAL NO.1194 OF 2017**

**Between:**

1) Rayapani Yellaiah, S/o Yellanna,  
Occ:Coolie, Caste:Oddera,  
R/o Nallavelly Village,  
Dharpally Mandal, Vemulavada.

2) Pitla Ramesh, S/o Nadipi Ramulu,  
Occ:Tractor Driver-cum-owner,  
Caste:Oddera, R/o Gadkole Village,  
Sirikonda Mandal, Nizamabad District.

3) Gollem Raju, S/o Ramaswamy,  
Occ:Tractor Driver-cum-owner,  
R/o Nampally Village,  
Vemulawada Mandal, Karimnagar District.

.. Appellants/accused Nos.16, 35 and 36

Vs.

The State of Telangana rep. By  
its Public Prosecutor (T.S.), High Court  
at Hyderabad.

.. Respondent/complainant

**CRIMINAL APPEAL NO.1359 OF 2017**

**Between:**

Mandula Pedda Sailu @ Vonteddu Sailu,  
S/o Pedda Sailu, Occ:Mechanic,  
Caste:Mandula, R/o Nallavelly Village,  
Dharpally Mandal, Vemulavada.

.. Appellant /accused No.4

Vs.

The State of Telangana rep. By  
P.S.Moinabad, Cyberabad, R.R.District,  
Through Public Prosecutor (T.S.), High Court  
of Judicature at Hyderabad.

.. Respondent/complainant

**CRIMINAL APPEAL NO.174 OF 2018**

**Between:**

1) Vodde Bhaskar @ Shivarathri Bhaskar,  
S/o Vodde Pedda Gangaram, 46 years,  
Occ:Coolie, Caste:Vaddera,  
R/o Nallavelly Village,  
Dharpally Mandal.

2) Vodde Ramulu @ Shivarathri Ramulu,  
S/o Vodde Pedda Gangaram, 40 years,  
Occ:Coolie, Caste:Vaddera,  
R/o Nallavelly Village,  
Dharpally Mandal.

3) Sigajogi Gopal @ Mandula Gopal,  
S/o Lingaiah, 35 years,  
Occ:Coolie, Caste:Mandula,  
R/o Nallavelly Village,

Dharpally Mandal.

4) Golla Muthaiah @ Radarapu Muthaiah,  
S/o Buchi Mallaiah, 61 years,  
C/Golla, Occ: Coolie,  
R/o Nallavelly Village,  
Dharpally Mandal.

5) Makkala Chinna Venkati @ Odde Chinna Venkati,  
S/o Makkala Venkanna, 50 years,  
C/Voddera, Occ: Coolie,  
R/o Nallavelly Village,  
Dharpally Mandal.

6) Bandi Yadagiri @ Tenugu Yadagiri,  
S/o Manikyam, 42 years,  
C/Mudiraj, Occ: Coolie,  
R/o Nallavelly Village,  
Dharpally Mandal.

7) Makkala Laxmi @ Vadde Laxmi,  
W/o Makkala Chinna Venkati, 48 years,  
C/Voddera, Occ: Coolie,  
R/o Nallavelly Village,  
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.. Appellants/accused Nos.1, 2, 5, 7, 15 and 20

Vs.

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DATE OF THE ORDER PRONOUNCED: **06.02.2025**

1. Whether Reporters of Local newspapers may be allowed to see the judgment?	Yes/No
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2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No

3. Whether his Lordship wishes to see the fair copy of the judgment? Yes/No

**\* THE HONOURABLE SRI JUSTICE K.SURENDER**

**AND**

**THE HONOURABLE SRI JUSTICE E.V.VENUGOPAL**  
**+ CRIMINAL APPEAL NOS.1188, 1194 and 1359 of 2017 and**

**174 of 2018**

**% DATED 6<sup>th</sup> February, 2025**

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<Gist:

>Head Note:

! Counsel for the Appellants : Sri R.Prasanth

^Counsel for Respondents : Smt.Shalini Saxena,  
Assistant Public Prosecutor

? CASES REFERRED :

**THE HONOURABLE SRI JUSTICE K.SURENDER  
AND  
THE HON'BLE SRI JUSTICE E.V.VENUGOPAL**

**CRIMINAL APPEAL Nos.1188, 1194 and 1359 of 2017  
and 174 of 2018**

**COMMON JUDGMENT:** (Per Hon'ble Sri Justice K.Surender)

The Criminal Appeal No.1188 of 2017 is filed by the appellants/accused Nos.8 and 9, Criminal Appeal No.1194 of 2017 is filed by the appellants/accused Nos.16, 35 and 36, Criminal Appeal No.1359 of 2017 is filed by the appellants/accused No.4, and the Criminal Appeal No.174 of 2018 is filed by the appellants/accused Nos.1, 2, 5, 7, 15, 20 and 22, aggrieved by the judgment dated 25.09.2017 in S.C.No.45 of 2014 on the file of the Special Sessions Judge for Trial of cases under the SCs and STs (PoA) Act-cum-VIII Additional Sessions Judge, Nizamabad.

2. Since all the appeals are filed questioning the judgment passed by the learned Sessions Judge in S.C.No.45 of 2014, all the appeals are being disposed off by way of this common judgment.



3. PW.1 is *de facto* complainant, who was working as Forest Beat Officer, Gouraram Village, Indulwai Range. He went to the police station at 4.30 A.M., and lodged a Telugu written complaint. In the complaint, PW.1 narrated that the villagers of Gouraram Village protested before the Forest Range Office, threatening the officials of forest department. The villagers were agitating for allotment of surplus lands to them for the purpose of cultivation. On 14.09.2013, at around 10.00 P.M., while he along with the Forest Range Officer/Gangaiah (hereinafter referred to as 'the deceased'), and other officials who are PW.2, PW.3, PW.6, PW.7 and PW.8, along with other forest office personnel proceeded to the Forest Range Officers' Jeep to Gouraram Reserve Forest area, around 11.45 P.M. When they reached the Reserve Forest area, they noticed that 27 villagers who are named in the FIR and others encroached the Forest Area Land and were cultivating with tractors. On seeing the forest officials, the named accused and other persons have signaled among themselves and all of them attacked the forest officials. The accused were holding sticks. The deceased/Gangaiah, was also present and women folk sprinkled chili powder in

deceased's eyes and the male persons attacked the deceased with an axe and dragged him out of the jeep. As a result of the attack on his head with an axe, the deceased/Gangaiah died on the spot. Other office personnel were also injured. They were also treated by Doctor for injuries.

4. On receiving the complaint, PW.24, the Circle Inspector of Police, Dichpally, went to the scene of offence, drew rough sketch and conducted scene of offence panchanama. Material objects, which are one pair of chappal, sticks, etc., were seized. Inquest proceedings were concluded at the scene and the dead body of the deceased was sent for post-mortem examination. The post-mortem was conducted by PW.16, who issued post-mortem report opining that the death of the deceased was on account of grievous injuries. Death was due to polytrauma with head injury due to intracranial hemorrhage. PW.16 further opined that injuries were possible with sharp weapon.

5. The investigation was handed over to PW.25 by PW.24. During investigation, on 21.09.2013, seizure of the material objects was effected at the instance of accused Nos.1 to 4,

15, 19, 25 to 28, and the confessional statements of the accused were recorded. On 23.09.2013, accused Nos.5, 7, 14, 16, 20, 22 to 25, and 37 were arrested. Witnesses examined for prosecution are as under:

<b>PWs</b>	<b>Name of the witness</b>	<b>Brief statement of witness</b>
Pw-1	Mohammed Maqbool	He is Forest Beat Officer of Indulwai Range who gave a report to the police on 15.09.2017 stating that Forest Range Officer Rodda Gangaram was killed. He has named 27 accused in the FIR. He does not say he has any previous acquaintance or familiarity with the Accused prior to the incident and PW-1 also has not given descriptive particulars of the Accused. He admitted in his cross examination that FIR was lodged the next morning at 6AM. There is an unexplained delay of 6 Hrs in lodging the FIR.
Pw-2	Syed Moinuddin	He is the Jeep Driver. He stated that he cannot say the nature and shape of MO's Axe (MO2) and Sickle (MO3).
Pw-3	Chatapuram Mohan	He accompanied PW1, PW2 and deceased. He admitted that he cannot give dimensions of MO's.
Pw-4	Rodda Hemalatha	She is the wife of the deceased.
Pw-5	Rodda Gangaram	He is the brother of the deceased.
Pw-6	Kamashetty Yadagiri	He accompanied other PWs and deceased. He admitted in his cross examination he did not know A1 and A2 on the day Dharna conducted previously.
Pw-7	Syed Shabir Ahmed	He accompanied other PWs and deceased.
Pw-8	V. Bhoomaiah	He accompanied other PWs and deceased. He admitted in his cross examination that Chilli Powder fell in his eyes and eyes of other PWs.
Pw-9	Shaiba Vaikuntam	He is a Private Photographer.
Pw-10	Thalari Sailu	He is working as VRO of Kesharam Village

		and panch witness for Scene of Offence Panchanama and Inquest Panchanama. He categorically deposed in his chief examination that Chilli Powder was sprinkled on the Jeep and the wind screen of Jeep was cracked.
Pw-11	P. Balaram	He is working as VRO of Bhumpally Village and panch witness for confession and seizure panchanama of A1, A2, A4, A15, A20, A22 and A35. He categorically admitted in his Cross Examination that descriptions of Material Objects MO's 2, 17, 18 & 19 are not given in the recovery panchanama.
Pw-12	Bangu Balaiah	He worked as VRO of Doosgoan Village and panchwitness for confession and seizure of A5.
Pw-13	Bathula Praven Kumar	He worked as VRO of Indulwai Village and panchwitness for confession and seizure of A7 and A8.
Pw-14	Machkuri Sayanna	He worked as VRO of Mittapally Village and panch witness for confession and seizure of A9 and A12.
Pw-15	Komma Ashok	He worked as VRA of Ramadugu Village and panch witness for confession and seizure of A16.
Pw-16	Dr. Balraj	He is the Doctor working in Government Hospital who conducted Postmortem Examination over the dead body of the deceased on 15.09.2013. He issued PME Report stating that the exact cause of death is Poly Trauma with head injury due to Intra Cranial Hemorrhage. It is elicited from him that the injuries sustained by the deceased are possible in Road Accident.
Pw-17	K. Veena	She worked as Tahsildar of Dharpally Mandal and issued caste certificates of accused.
Pw-18	Y. Sudershan	He worked as Tahsildar of Kamareddy Mandal and issued caste certificate of PW1.
Pw-19	S. Rajeshwar	She worked as Dy.Tahsildar of Bodhan Mandal and issued caste certificate of deceased.
Pw-20	Dr. P. Shirish Kumar	He is the doctor who issued injury certificate of PWs 1, 2, 3 and 8. He deposed that the injuries are simple in nature.
Pw-21	A. Damodaram	He worked as S.I of Police P.S Dharpally and panch witness for confession and seizure of

		A16.
Pw-22	J. Naresh	He worked as S.I of Police P.S Dichpally and panch witness for confession and seizure of A22.
Pw-23	D. Ravi	He worked as S.I of Police P.S Jakranpally and panch witness for confession and seizure of A9.
Pw-24	P. Srisailam	He is the C.I of Police P.S. Dichpally who investigated the case initially.
Pw-25	S. Anil Kumar	He is the DSP who investigated most of the case. He is the Inspector of Police who verified investigation done by PW-24 and filed charge sheet. He has said that when there is cross focus of headlights of two vehicles a person may not be able to see the inmates of the vehicles clearly. It is elicited from him that PWs 1 to 3 did not state before him regarding specific overt acts of A1 and A2. He further stated that no Test Identification Parade was conducted in this case. He admitted that no proof was filed before the court to show that the said land being cultivated belongs to Forest Department.

6. Though 27 persons were identified as accused at the time of registering FIR, charge-sheet was laid against 37 persons. The accused Nos.28 to 37 were also arrested during the course of investigation.

7. The learned Sessions Judge convicted the appellants mainly on the ground that the eye-witnesses have identified accused Nos.1 and 2, as the persons, who assaulted the deceased with an axe and a stick. In so far as the other accused/appellants are concerned, learned Sessions Judge

observed that the recoveries were made from them by the Investigating Officer during the course of investigation.

8. Learned counsel appearing for the appellants would submit that, admittedly there was a mob attack but it is highly impossible that the witnesses have identified the villagers, who were named in the FIR. Though the names of the accused were mentioned in the FIR, but it is not clear as to how the names of the accused was known to PW.1, when the incident took place at midnight and there is no evidence of light.

9. Learned counsel further argued that there was no test identification parade conducted by the Investigating Officer to identify any of the accused. The evidence of the witnesses was recorded before the trial Court nearly after two and half years from the date of incident and it is highly impossible for the witnesses to identify the accused. Learned counsel further submits that since the alleged incident happened in the midnight and the scene of offence is a Reserve Forest area, there is no scope for any light, at the time of incident.

Therefore, the identification of the accused by the witnesses before the trial Court cannot be believed.

10. On the other hand, the learned Assistant Public Prosecutor would submit that there are specific overt-acts which were attributed to accused Nos.1 and 2. The villagers also attacked the officers other than the deceased. They also received injuries. PW.16-Doctor, who conducted post-mortem, found that the injuries on the head of the deceased were fatal and the said injuries could be caused by sharp weapon. The villagers were acquainted with the forest officials since they were conducting dharna over a period of time, before the incident of murder. For the said reason, the Investigating Officer did not deem it necessary to conduct test identification parade. The complaint was filed by PW.1. At the earliest point of time, in the complaint, PW.1 narrated that the women folk have sprinkled chilli powder and men assaulted them.

11. In the complaint, it was not specifically stated as to who attacked the deceased and the villagers, and who attacked PW.1 and other officials. However, while deposing

before the Court below, PWs.1, 2, 3, 6, 7 and 8 have stated that accused No.1 beat the deceased with an axe on his head. Further, accused No.2 beat the deceased with a stick on his right thigh. The villagers and other accused beat the Forest Office personnel and also damaged their vehicles.

12. The learned counsel for the appellants argued that since no specific overt-acts of the appellants herein were attributed in the complaint, the said overt-acts attributed for the first time before the Court below, ought to have been rejected.

13. Though the argument appears to be attractive, however, the *de facto* complainant, PW.1 and several other officers were attacked and injured by the villagers. The complaint was filed giving the names of the villagers, who attacked them. It was mentioned in the complaint that the men have attacked the deceased. Admittedly, PW.1 and others were in the state of shock on account of the incident, when several villagers attacked them with axes. It is the specific case of PW.1 and others that all the villagers were



visiting Forest Range Office and were conducting dharna, demanding for allocation of surplus land in the forest.

14. Not a single suggestion is put to the witnesses during cross-examination nor any answer was adduced for this Court to consider that the named accused were strangers to the witnesses. In the present scenario, when the villagers went to the Forest Office and conducted dharna, it cannot be said that the forest officials could not identify the villagers. The specific overt-acts attributed to accused Nos.1 and 2 before the Court below cannot be disregarded only on the ground that such overt-acts were not attributed in the complaint.

15. As already discussed, PW.1 and others were in the state of shock apparently on account of the said incident. The incident happened on 15.09.2013 at 12.45 A.M., and within 3 hours, written complaint was filed. In the present circumstances, the specific overt-acts attributed to accused Nos.1 and 2, during the course of trial, cannot be brushed aside.

16. Most of the witnesses i.e., PWs.1, 2, 3, 6 to 8 specifically stated that accused Nos.1 and 2 attacked the deceased. The attack by accused No.1 was with an axe on the head of the deceased and accused No.2 with a stick. According to Doctor/PW.16, the death of the deceased was on account of the injuries on the head with a sharp weapon. Admittedly, the fatal injury was on account of the axe and not by the injuries received with stick. Doctor/PW.16 did not state specifically as to which of the injuries were on account of the sharp weapon and which injuries were due to beating with a stick. However, the fact remains that accused No.2 attacked the deceased with a stick and the fatal injuries on the head of the deceased was with an axe.

17. Learned Sessions Judge convicted the appellants on the basis of specific overt-acts attributed to accused Nos.1 and 2 and also on the basis of the recoveries effected from the other accused. The recoveries made from the other accused were sent to the FSL. Though FSL report indicates that blood was found, it does not specify as to whom the blood group belongs to.

18. The argument of the learned counsel for the appellants that the test identification proceedings were not conducted, as such, the identification of the accused is doubtful, cannot be accepted in the present facts of the case.

19. Under Section 149 of I.P.C., though no specific overt-acts are attributed to some of the accused, however, Section 149 of I.P.C would come in aid to convict other accused to whom the specific overt-acts were not attributed. However, the criteria or the condition to invoke Section 149 of I.P.C., is that the prosecution should be in a position to prove the common object in between the accused.

20. According to PW.1 and other eye-witnesses, the Forest Office personnel went to the scene of offence and on seeing the office personnel, the villagers, who were in the fields protested and allegedly attacked the office personnel. However, specific overt-acts are attributed only to accused Nos.1 and 2.

21. The Hon'ble Supreme Court in the case of **Vijay Pandurang Thakre v. State of Maharashtra**<sup>1</sup>, held that in the absence of any evidence of conspiracy or any object being established, the accused would be liable for their individual acts. Moreover, there must be an unlawful assembly. Such offence must have been committed in pursuance of the common object of the assembly, or must be such as the members of the assembly knew to be likely to be committed.

22. As stated by the witnesses, the accused and other villagers had gone to the place and attacked the Forest office personnel. It cannot be said, in the present facts of the case, that all the accused entertained common intention to kill the deceased. In fact, it was only accused No.1, who inflicted injuries on the head of the deceased with an axe. It is also stated by the witnesses that accused No.2 has beaten the deceased with a stick. There was no prior concert or pre-plan to commit the murder of the deceased. Even according to the witnesses, PW.1, deceased and other officers have gathered at the forest area on the basis of the information. None of the

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<sup>1</sup> (2017) 4 SCC 377

accused had any clue regarding the arrival of the officers. What all happened at the scene of offence is on the spur of moment and the officials were attacked by the villagers, who were agitated for the reason of not providing or allocating the surplus land to them for cultivation.

23. It cannot be said that all the accused gathered with the common object of killing the deceased. Several villagers, other than the appellants have attacked the vehicles and other officers. In the said situation, when it was accused No.1, who had attacked the deceased with an axe, the common object of all the appellants cannot be inferred. The appellants, other than accused Nos.1 and 2, were convicted on the basis of recoveries effected at their instance. None of the witnesses attributed any specific overt-acts to other appellants apart from accused Nos.1 and 2

24. Resultantly, the conviction, in so far as accused No.1 is concerned, under Section 302 of IPC, is confirmed and he shall suffer Rigorous Imprisonment for Life. In so far as, accused No.2 is concerned, he is convicted for the offence under Section 326 of IPC and sentenced to undergo Rigorous

Imprisonment for a period of five (05) years. With regard to the other accused i.e., accused Nos.4, 5, 7, 8, 9, 15, 16, 20, 22, 35, and 36 they are convicted under Section 324 of IPC and sentenced to undergo Rigorous Imprisonment for three (03) years.

25. Accordingly, these Criminal Appeals are partly allowed.

Miscellaneous Petitions, pending if any, shall stand closed.

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**K.SURENDER, J**

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**E.V.VENUGOPAL, J**

Date: 06.02.2025  
PNS

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