

Ajit Dubey Vs. the State of M.P.

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Court : Madhya Pradesh

Decided On : Sep-12-2013

Appellant : Ajit Dubey

Respondent : The State of M.P.

Judgement :

HIGH COURT OF MADHYA PRADESH AT JABALPUR Criminal Appeal No.1550/2002 Ajit Dubey S/o Brijlal Dubey.Appellant Vs. The State of M.P.....Respondent For the appellant : Ms. Neena Khera, Advocate For the respondents: Shri Sudeep Deb, Government Advocate ***** Present: HONOURABLE SHRI JUSTICE AJIT SINGH HONOURABLE SHRI JUSTICE B. D. RATHI *****

JUDGMENT

(12/9/2013) The following judgment of the Court was delivered by : B. D. Rath, J.This appeal has been preferred under Section 374(2) of the Code of Criminal Procedure (for short the Code.) being aggrieved with the judgment dated 24/9/2002 passed by Additional Sessions Judge designated as Special Judge (under the Narcotics Drugs and Psychotropic Substances Act) in Sessions Trial No.380/2001, whereby the appellant has been convicted under Sections 302 and 307 (on two counts) of the Indian Penal Code (for short the IPC.) and sentenced to imprisonment for life with fine stipulation and R.I. for 10 years with fine stipulation on each count, respectively.

2. Admittedly, marriage of appellant was solemnized with complainant Neelam in the year 1987. In the wedlock, they were blessed with two daughters namely Anjali and Palak (since deceased).

3. Prosecution case, in brief, is that, in the year 2000, rifts arose between the appellant and the complainant as appellant had started suspecting her chastity, due to which, in October, 2000 complainant 2 Cr.A. No.1550/2002 along with both her daughter went to her parental home and then started residing with her sister in Kanpur. On 6/9/2001, appellant went to Kanpur and somehow placated the complainant to reside with him. On 8/9/2001, complainant along with her daughters, came to Bhopal with the appellant and lodged in Room No.301 of Pathik Hotel. On 9/9/2001, when complainant and her daughters were asleep, at about 2.30 p.m., complainant felt as if she was being strangled and upon opening eyes, saw that appellant was strangulating her with one hand and her daughter Anjali with the other. Her another daughter Palak was lying besides Anjali and a Dupatta was tied around her neck. Complainant tried to resist and rushed outside the room, on which, appellant caught her by her hair, and again tried to strangle her. He dragged her inside the room and told that Palak had already been done away with and she and Anjali would also be killed. Manager of the Hotel Rakesh Pratap took the complainant and her daughters to Apex Hospital. Prior to this, appellant had been locked in the room of the Hotel from where he was arrested. Dehati Nalishi was lodged by the complainant at Apex Hospital upon which Crime No.242/01 was registered and after investigation, charge-sheet was filed.

4. Appellant was charged with the offences punishable under Section 302 and 307 (on two counts) of the IPC. He denied the charges and pleaded false implication.

5. At the outset, learned counsel for the appellant submitted that she was not inclined to challenge the convictions of the appellant and sentence of life imprisonment. However, for both the counts under Section 307 of the IPC, she prayed for lesser sentences.

6. Learned Government Advocate, opposed the prayer and submitted that the sentences awarded by the trial Court, in the peculiar facts and circumstances of

the case, did not deserve interference.

7. Having regard to the arguments advanced by learned counsel for the parties, impugned judgment and record of the trial Court were perused. 3 Cr.A. No.1550/2002 8. After taking into consideration the evidence of Dr. Smt. Bhavana Sharma (PW1), Dr. Mitul Chomdiya (PW2), Dr. Rajesh (PW3), Dr. C.S.Jain (PW4), Dr. M.L.Banjare (PW5), Rakesh Pratap Singh (PW6), Neelam Dubey (PW7), Anjali (PW8), Fazal Ali (PW9), Jagannath Singh (PW10), Charan Das (PW11), Manot Shukla (PW12), Neeraj Bharti (PW13), Investigating Officer H.S.Sandhu (14), Dr. Maravi (PW15) and other material available on record, we are of the considered view that the trial Court had rightly found the appellant guilty of the offences charged with.

9. Adverting to the question of sentences awarded on the two counts of Section 307 of the IPC, it may be seen that the crime was committed in the year 2001 and the appellant is already undergoing the sentence of imprisonment of life since last 12 years for an offence under Section 302 of the IPC. The appellant had suspected the character of his wife Neelam and believed that their daughters Anjali and Palak were not of his. The appellant, therefore, lost his mental balance and strangulated one of his daughters Palak and attempted to commit the murders of Nelam and their another daughter Anjali. Having regard to the fact situation of the case, we are of the view that the interest of the justice would be met if the sentences of imprisonment imposed under Section 307 of the IPC (on both the counts) for ten years rigorous imprisonment are reduced to three years R.I.

10. Resultantly, the appeal is allowed in part. Impugned convictions, and sentence awarded under Section 302 of the IPC are affirmed. However, for each count under Section 307 of the IPC, sentences of 10 years R.I., as imposed by the trial Court, are reduced to 3 Years R.I., though, corresponding fine sentences are maintained. Order for disposal of property is also hereby affirmed. Needless to say, that the custodial sentences shall run concurrently.

11. Copy of the judgment be sent to the trial Court for information and compliance.
(AJIT SINGH) (B. D. RATHI) JUDGE JUDGE 12 9/13 12/9/13 (and)