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Sidhraj Sukumar Vs. The State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Nov-25-2017

Appellant : Sidhraj Sukumar

Respondent : The State of Jharkhand and Ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI Cr. Appeal (DB) No. 483 of 2017 Sidhraj Sukumar Tete ... Appellant Versus 1. The State of Jharkhand.

2. Senior Superintendent of Police, Ranchi.

3. Roshan Lal Bhatia.

4. Anil Kapoor.

5. Dr. Tapas Mukherjee @ Sri Tapas Kumar Mukherjee. .. Respondents CORAM : HONBLE MR. JUSTICE H. C. MISHRA HONBLE MR. JUSTICE ANIL KUMAR CHOUDHARY .. For the Appellant : Mr. Rajeev Kumar Advocate For the Respondents : Mr. Rakesh Kumar, Addl. PP .. I.A. No. 5080 of 2017 06 /25.11.2017 This interlocutory application has been filed for condonation of delay of three days in filing this appeal. In view of the statements made in the interlocutory application, the delay in filing this appeal is hereby condoned. The aforesaid interlocutory application, thus, stands allowed. Cr. Appeal (DB) No. 483 of 2017 With I.A. No. 5167 of 2017 Heard learned counsel for the appellant, who is the son of the deceased, and learned counsel for the State.

2. The appellant is aggrieved by the Judgment of acquittal dated 04.01.2017, passed by the learned Additional Judicial Commissioner-V, Ranchi, in Sessions Trial No. 236 of 1996, whereby, the accused opposite party Nos. 3, 4 and 5, who had faced the trial for the offences under Sections 364, 302, 328, 201 / 34 and 120-B of the Indian Penal Code, have been acquitted after trial. The appellant has filed Interlocutory Application No. 5167 of 2017, seeking leave to appeal against the impugned Judgment of acquittal. -2- 3. This case relates to alleged murder of Late Martin Tete, who was the Chief President of G.E.L. Church, Ranchi, who breathed his last under suspicious circumstances at Chitranjan Hospital, Calcutta, on 13.06.1990. In his death certificate, which was issued by the said hospital, it was stated that he died due to heart attack. The deceased had gone to Calcutta by air on 10.06.1990, informing his wife that he had to make some inquiry regarding publication of Sakshi Vaani. He was to return back on 11.06.1990 or 12.06.1990, but he did not return. The impugned Judgment shows that on 13.06.1990, he checked out from Hotel Oberoy, where he was staying, at 7:30 a.m., and he was going to airport for returning back to Ranchi, by an Ambassador car bearing registration No.WBJ6444 which was being driven by one Mohammad Iqaram. While the car was going towards airport, in the way the condition of Martin Tete deteriorated and he was taken to hospital, where he died. After the death, he was brought to Ranchi by a Contesa Car bearing registration No.WNW3030and the opposite party Nos. 3 and 4, namely, Roshan Lal Bhatia and Anil Kapoor accompanied the dead body, as these persons had also gone to Calcutta along with the deceased. On 14.06.1990, the dead body of the deceased was buried after performing the last rites according to the Christian religion, in Siromtoli graveyard of G.E.L. Church, Ranchi. It finds mentioned in the impugned Judgment that at the time of burying the dead body, no stiffness was found in the dead body even after 12 hours, and some bleeding from nose and mouth and some forth was also found oozing out from the mouth, by the persons giving the last bath, giving rise to suspicion, but still the Church people buried the dead body.

4. The impugned Judgment shows that on 7.7.1990, Priest Y. Soren and one P.N.S. Surin informed the police about the suspicious death of late Martin Tete, and demanded exhumation of the dead body for post-mortem. -3- The widow of the deceased informed that her husband had gone to Calcutta along with the

opposite party Nos. 3 and 4, Roshan Lal Bhatia and Anil Kapoor, and when her husband did not return in time, upon enquiry, she was informed by the Superintendent of the G.E.L. Church, that her husband had gone to attend a meeting of an institution, namely, CASA.

5. The informant in the present case, is the City Police Inspector, Eastern Circle, Ranchi, who had made the investigation about the suspicious death of the deceased, both at Ranchi and at Calcutta and the prosecution case was instituted on the basis of his written report submitted to the Chief Judicial Magistrate, Ranchi, on 12.07.1990. In his written report, the informant has stated that in the investigation made by him, the death of the deceased was found to be suspicious. The deceased late Martin Tete was shown to have died at Chitranjan Hospital on 13.06.1990 at 7:30 a.m., which was stated due to heart attack. During investigation, the dead body was exhumed with the permission of the Dy. Commissioner on 9.7.1990, in presence of an Executive Magistrate, and the post-mortem examination was conducted by a team of three Doctors at Ranchi, on 10.7.1990, but the cause of death could not be ascertained. The Doctors, conducting the post-mortem examination, however, had stated in the post-mortem report, that the naked eye examination of heart showed no mayocardial infarction.

6. The police team under the leadership of City S.P. Ranchi, had visited Calcutta and it appears that they located the car by which late Martin Tete was going to airport from the hotel where he had stayed, and even the driver of the car was located, but it appears that only information that could be gathered by the police team was that while going to airport, the condition of late Martin Tete had deteriorated and he was taken to hospital where he died. There is, however, -4- nothing in the impugned Judgment to show that the late Martin Tete had suspected any foul play in the sudden deterioration in his condition.

7. The other point of suspicion was due to the fact that in the death certificate issued by the concerned hospital, the signature of the concerned Doctor was in capital letters. The Doctor who had signed the death certificate, has also been made accused in this case, who is opposite party No. 3, and when he was confronted by the police team, with the said death certificate, he specifically stated

that it was his usual way of signature. There is nothing in the impugned Judgment to show that his signatures on the other documents were compared and it was found that it was not his usual way of signature. The police team, however, found some records in the hospital missing, and in the carbon copy of the death certificate issued on 13.06.1990, some blanks were found, and in the emergency admission register some interpolations were found.

8. On enquiry from Hotel Oberoy, it was found that the deceased had checked out at 7.30 a.m., but the time of admission in the hospital was shown as 7.00 a.m., and time of death was shown as 7.30 a.m., which also raised the suspicion. Yet another point of suspicion was that as informed, the deceased had gone to attend the meeting of CASA Institute, but upon investigation, it was found that no meeting of CASA Institute was fixed. Regarding the publication of Sakshi Vaani, no information could be gathered.

9. Raising only suspicion against the accused persons, the prosecution case was instituted on the basis of the written report filed by the City Police Inspector, Eastern Circle, Ranchi, before the Chief Judicial Magistrate, Ranchi. The impugned Judgment shows that there was no definite investigation about the alleged murder of late Martin Tete, rather even after this detailed investigation, the prosecution case was instituted only on the basis of suspicion. -5- 10. The impugned Judgment shows that though some witnesses were examined in course of the trial in the Court below, but the informant Police Officer was not produced by prosecution in spite of all efforts taken by Court below. Admittedly, there is no eye-witness to the occurrence and there is only suspicion against the accused persons.

11. The discussion about the medical evidence in the impugned Judgment shows that P.W.-5 Dr. Renu Bala, one of the members of the team of Doctors conducting the post-mortem examination, had deposed that here was no evidence of any mechanical injury either on the external or the internal part of the body. There was no evidence of pressure over neck and chest. The naked eye examination of heart showed no evidence of myocardial infarction. A piece of tissue from the heart was sent to the department of pathology for histopathological examination. The report

of histopathology of the heart tissues was to be sent later on, if required by the Investigating Officer. The Doctors conducting the post-mortem examination have specifically opined that case of death was uncertain. The post-mortem report has been marked as Exhibit 3. In her cross-examination, the Doctor admitted that at the time of postmortem, no blood or forth was coming out of nostril. She has also stated that she had seen the report of pathological examination of the tissue of heart, and as per the report, the heart was found autolysed. She also stated that in a case of myocardial infarction if there is sudden death, the feature of myocardial infarction with naked eye examination of heart will not be present. She also stated that the nail and hair were also sent for forensic examination to find out the presence of poison. P.W.-7 Dr. Nil Madhav Chatopadhay, Dy. Director Bhabha Atomic Research Centre, Bombay, who had examined the samples of hair and nail, had deposed that the amount of Arsenic and Mercury were below the detectable -6- level of 0.01 micro gram. He has proved the report as Ext.

7. Learned Trial Court has held on the basis of these evidences that the cause of death could not be ascertained by the Board conducting the post-mortem examination and this was not a case of poisoning.

12. Other important witnesses which were examined in the Court below, were P.Ws.-8 & 9, the Investigating Officers of this case. From their testimony, it was quite clear that the death of Late Martin Tete took place in Calcutta, but the Investigating Officers never visited Calcutta and never examined any witness regarding the happenings in Calcutta. The Trial Court therefore, found that the entire investigation and supervision by the higher official was only perfunctory. The investigating agency never tried to find out the truth by examining the material witnesses in Calcutta and the investigating officer in his cross-examination had stated that he could not say as to how the deceased had died in Calcutta. Discussing the evidence on record, the Trial Court below has acquitted the accused opposite party Nos.3, 4 and 5, finding no evidence against them.

13. Learned counsel for the appellant also, during his arguments could not point out any concrete evidence in the impugned Judgment against any of the accused. Learned counsel only harped upon the point of non-examination of the informant

Police Officer, and submitted that this is a fit case for further investigation, or in any case the re-trial of the accused persons.

14. It is well settled principle of law, that suspicion, how so ever strong, cannot be a ground for holding the accused guilty. In the present case, it is not only that the implication of the accused persons is suspicious, rather the very fact whether the deceased had died a homicidal death, is also suspicious. As such, no useful purpose is going to be served by any further investigation in the case, -7- which in our considered opinion, shall not only be a futile exercise, rather the same shall be sheer abuse of the process of law.

15. We are also of the considered view that even if the informant Police Officer had been examined in the case, that would not have turned the fate of the prosecution case, as the informant Police Officer had only raised suspicion in his written report, without giving any definite finding.

16. For the foregoing reasons, we do not find any illegality in the impugned Judgment of acquittal dated 04.01.2017, passed by learned Additional Judicial Commissioner-V, Ranchi, in Sessions Trial No. 236 of 1996, acquitting the accused opposite party Nos. 3, 4 and 5, of the charges.

17. Since, we do not find any illegality in the impugned Judgment of acquittal, there is no question of granting any leave to appeal against the said Judgment of acquittal. Accordingly, the interlocutory application bearing No.5167 of 2017, seeking leave to appeal against impugned Judgment of acquittal, stands dismissed.

18. Consequently, this acquittal appeal also stands dismissed, being bereft of any merit. (H.C. Mishra, J.) (Anil Kumar Choudhary, J.) Smita/Animesh

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