

Mangi Lal Vs. State

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Court : Rajasthan Jodhpur

Decided On : Jan-31-2014

Appellant : Mangi Lal

Respondent : State

Judgement :

D.B.Cr.

Jail Appeal No.568/2008 1 IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN AT JODHPUR

JUDGMENT

Mangi Lal versus The State of Rajasthan D.B.Criminal Jail Appeal No.568/2008 under Section 383 , Criminal Procedure Code against the judgment dated 18.7.2007 passed by Sessions Judge, Jodhpur in Sessions Case No.7/2006.

Date of Judgment : 31.1.2014 PRESENT HON'BLE Mr.GOVIND MATHUR,J.

HON'BLE Mr.ATUL KUMAR JAIN, J.

Mr.Shambhoo Singh for the appellant.

Mr.K.R.Bishnoi, Public Prosecutor for the State.

BY THE COURT(Per Hon'ble Mr.Jain,J.).This jail appeal had been filed by accused Mangi Lal who had been convicted on 18.7.2007 in Sessions Case No.7/2006 by Sessions Judge, Jodhpur under Section 302 of Indian Penal Code.

He had been sentenced by the said court under Section of 302 of Indian Penal Code by life imprisonment and a fine of Rs.5,000/-.

D.B.Cr.

Jail Appeal No.568/2008 2 It has also been ordered by the trial court that in default of payment of fine, he will have to suffer six months' additional simple imprisonment.

The case of the accused had been conducted in the trial court by Amicus Curiae appointed by the court.

In this Court, Mr.Shambhoo Singh, Advocate has assisted the Court on behalf of accused-appellant Mangi Lal.

It has been argued by the accused-appellant that the judgment of the trial court is totally against the law as well as against the facts.

It has also been argued that in spite of the material contradictions in the statements of the witnesses and the discrepancies in other evidence, the trial court has convicted the accused-appellant only on the basis of the conjectures and surmises and so, it has been prayed on behalf of the accused- appellant that he should be given the benefit of doubt and he should be acquitted.

On the other hand, the learned Public Prosecutor has strongly opposed the arguments of the learned counsel appearing on behalf of the accused-appellant and it has been argued by the D.B.Cr.

Jail Appeal No.568/2008 3 learned Public Prosecutor that there is no inconsistency in the statements of all the twenty witnesses and it has also been argued that the accused has not raised defence and he has not been able to make out a case of reasonable doubt in his favour and so his conviction and sentence should be upheld.

In the light of the arguments advanced before us, we have gone through the impugned judgment.

We would like here to summarily discuss the evidence which has been advanced by the prosecution in the trial court.

PW-1 Ramu Ram has stated that he is distant cousin of deceased Purkha Ram.

He states that accused Mangi Lal is brother of wife of deceased Purkha Ram.

He states that accused Mangi Lal had not returned the loan amount, which had been advanced to him by Purkha Ram and because of that reason, in the fiRs.instance, Chunni, who was sister of accused Mangi Lal was compelled to commit suicide last year and then Purkha Ram went to the house of accused Mangi Lal this time to recover the money which he had advanced to accused Mangi Lal.

He states that on 2.12.2005, Purkha Ram had gone to the house of Mangi Lal, he stayed at the house of Mangi Lal and on 3.12.2005, in the D.B.Cr.

Jail Appeal No.568/2008 4 night he was murdered by Mangi Lal.

He states that Rawat Ram and Jaggu Ram had informed about the murder of Purkha Ram to Khushala Ram and then along with Khushala Ram, he had gone to the house of Mangi Lal, where he found that the dead body of Purkha Ram was seen lying on a cot.

He states that on the right side of the neck of Purkha Ram, there was a wound and bed- sheet which was spread on the cot, was also soaked with blood.

He states that nearby, a bag was also found in which a register was found containing the details of money lending of Purkha Ram.

He states that police had made a panchnama(Ex.P.1) of the dead body.

In cross-examination, he states that Purkha Ram had advanced an amount of Rs.1,00,000/- but further details of the loan advance have not been given by this

witness.

In cross- examination he has not deviated from the examination-in-chief.

PW-2 Babu Ram also supports the story given by PW-1 Ramu Ram.

He states that on the basis of hearsay evidence only, he is of the view that an amount of about Rs.1,00,000/- was due towards accused Mangi Lal in favour of Purkha Ram.

He also states that a knife was recovered from the place where Purkha Ram was murdered.

D.B.Cr.

Jail Appeal No.568/2008 5 PW-3 Khushala Ram also fully corroborates the statement of PW-1 Ramu Ram .

He is brother of deceased Purkha Ram.

He states that since dead body was recovered from the house of Mangi Lal , so he thinks that Mangi Lal himself must have murdered his brother.

He admits that Purkha Ram had not advanced money to Mangi Lal in his presence, but he further states that Purkha Ram had told him that he had advanced some money to accused Mangi Lal .

He states that he does not know if Purkha Ram had committed suicide.

PW-4 Ridmal Ram is also younger brother of deceased Purkha Ram.

He also states that Purkha Ram had advanced an amount of about Rs.1,00,000/- to Mangi Lal and since last two years Mangi Lal was postponing repayment of loan and because of this reason only, about one year's back, Chunni wife of Purkha Ram had also gone to the house of her brother Mangi Lal.

When Mangi Lal did not pay the amount and ill-treated to Chunni, she was compelled to commit suicide because of this reason.

He says that this time Purkha Ram has been murdered by accused Mangi Lal .

He says that in the night of third December, Purkha Ram was murdered in the house of Mangi Lal and he came to know about the fact of murder on the next day.

He also D.B.Cr.

Jail Appeal No.568/2008 6 corroborates the prosecution story narrated by PW-1 Ramu Ram.

He states that on one occasion, Purkha Ram had advanced Rs.20,000/- in his presence to accused Mangi Lal.

He further states that he does not know when the remaining amount was advanced as a loan to accused Mangi Lal by Purkha Ram.

PW-5 Magha Ram also states that in connection of this loan, Chunni (wife of Purkha Ram) was compelled to commit suicide and this time, when he had gone with Purkha Ram to the house of Mangi Lal for recovery of loan amount from him, he had stayed along with Purkha Ram at the house of accused Mangi Lal and then he had come back from the house of Mangi Lal but Purkha Ram had had a night halt at the house of accused Mangi Lal and on the next day, he was informed that Purkha Ram has been murdered.

He says that he had gone on receiving information to the site with Khushala Ram and he says that the dead body of Purkha Ram was lying in the court-yard of the house of accused-appellant Mangi Lal with a wound in the neck with scattered blood on bed of Co.and other places.

In cross- examination, he says that Mangi Lal was behaving normally with him in the previous night.

D.B.Cr.

Jail Appeal No.568/2008 7 PW-6 Sajan Ram states that on 4.12.2005 at 9.00 a.m., accused-appellant Mangi Lal had come to his place and he told that his Bahnoi, Purkha Ram has died after vomiting with blood.

He stated that he told Mangi Lal to call for brothers of deceased Purkha Ram.

He further states that in the next day, at about 12.00 noon he had gone to the house of accused Mangi Lal where he found that Purkha Ram was lying dead in the court- yard with stab-wound in his neck and blood was also scattered there.

He further states that then he called for police by making a telephonic call.

He states that there was no symptoms of vomiting with blood but blood was oozing out from the wound of neck of Purkha Ram.

He states that panchnama (Ex.P.1) was prepared in his presence.

He further states that Purkha Ram had advanced an amount of about Rs.1,00,000/- to his brother-in-law accused Mangi Lal and Mangi Lal had admitted in his presence that he was not able to repay the loan of Purkha Ram, so he had killed Purkha Ram to get rid of repayment of loan.

He says that accused Mangi Lal was arrested by the police and Ex.P.7 was prepared in this regard.

He says that Mangi Lal had admitted his guilt before police reached the spot and he had admitted the guilt again at the police station in presence of police also.

D.B.Cr.

Jail Appeal No.568/2008 8 PW-7 Rawat Ram also supports the prosecution story narrated by PW-1 Ramu Ram.

In his cross-examination, he states that he does not know about the fact of advancement of money by Purkha Ram to Mangi Lal.

PW-8 Bhanwar Lal states that accused-appellant Mangi Lal is his uncle.

He states that during the days of this incident, Purkha Ram had had a night halt at the house of accused- appellant Mangi Lal and Mangi Lal had called him and told him that some thing wrong has happened to Purkha Ram.

He says that then he had gone to the house of Mangi Lal where he had seen the dead body of Purkha Ram with a wound on his neck.

PW-9 Surja Ram says that a knife(katari) had been recovered from the accused-appellant Mangi Lal through seizure memo Ex.P.9, which was prepared in his presence.

PW-10 Jaggu Ram also states that Mangi Lal had called him on the false pretext of blood vomiting by Purkha Ram and when he reached spot, he saw that Purkha Ram had died because of wound on his neck and not because of blood vomiting.

D.B.Cr.

Jail Appeal No.568/2008 9 PW-11 Oma Ram states that Purkha Ram had taken a lift on his motor cycle to go to the house of Mangi Lal.

He states that Purkha Ram had told him that he is going to the house of Mangi Lal to recover the loan amount advanced to him.

He further states that in the next morning he came to know about the death of Purkha Ram in the house of Mangi Lal.

In cross-examination, he admits that Purkha Ram and Mangi Lal were behaving normally and no signs of enmity were found there in their behaviour.

PW-12 Dr.

Parmeshwar Bangoswami was a Member of the Medical Board of three doctors. He states that the injuries caused on neck of Purkha Ram was sufficient in the ordinary course of nature to cause his death because it was an incised wound of 2.5 cms.x 1.5 cms.X1cm.

On the neck(right side) of the deceased.

Post-mortem Report Ex.P.11 was exhibited by this witness.

He states that the cause of death was shock due to excessive haemorrhage.

Thus, the statement of the doctor also proves it to be a case of homicide.

In cross-examination, Dr.

Parmeshwar Bangoswami has stated that such type of injury on the neck of a person cannot be D.B.Cr.

Jail Appeal No.568/2008 10 caused by fall on discs attached with a tractor, which are used for ploughing of land .

It is pertinent to mention here that in his statement recorded under Section 313 of Code of Criminal Procedure, the accused-appellant has not taken defence that Purkha Ram had received such injury on his neck by fall on discs attached with a tractor and he has also not explained that if such injury had been caused by fall on the discs of tractor, then how did Purkha Ram had come from the site of incident to the house of Mangi Lal.

PW-13 Bhawani Singh, LC, PW-14 Mana Ram,LC, PW-15 Opa Ram, LC and PW-18 Jaimal Ram, H.C.are carrier witnesses of the samples.

They have proved that sample articles had been kept 'seal intact position'.

PW-16 Vikas is is a photographer, who had taken photos of the dead body which are Ex.P.15 to Ex.P.17.

PW-17 Bhanwar Singh, FC is carrier of written report which had been submitted by Khushal Ram before the SHO Deravar Singh.

He says that on the basis of the written report Ex.P.8, FIR No.195/2005 was registered under Section 302 of Indian Penal Code at Police Station, Mathania.

PW-19 Hamir Singh also states D.B.Cr.

Jail Appeal No.568/2008 11 that on the basis of written report,FIR No.195/2005(Ex.P.20) had been registered under Section 302 of Indian Penal Code.

PW-20 Deravar Singh, the then SHO of Police Station, Mathania, states that on receipt of information about murder of Purkha Ram in the house of Mangi Lal, he had gone to the house of accused Mangi Lal, where he found the dead body stained with blood and he also found a deep wound on the neck of Purkha Ram.

He says that the dead body was soaked in blood.

He stated that Khushala Ram, who is brother of Purkha Ram, had also reached there and he had submitted report Ex.P.8 before him, on the basis of which he had registered FIR No.195/2005 under Section 302 of Indian Penal Code.

He says that he had seized the necessary articles from the place of incident.

He further states that he had arrested accused Mangi Lal, who had given an information for a recovery of Katari used in commission of murder.

He says that information was recorded as Ex.P.2 by him and as per information, he had seized katari from the possession of accused Mangi Lal through seizure memo Ex.P.9.

He says that all the seized articles had been kept in Malkhana in 'seal intact position' and then the seized articles were sent to the FSL in 'seal intact position'.

FSL reports Ex.P.18 and Ex.P.19 D.B.Cr.

Jail Appeal No.568/2008 12 have been exhibited in this matter.

Both the reports are positive to prove the commission of offence by the accused-appellant Mangi Lal in this matter.

Blood stains on all the exhibits were found to be of human origin and some of the seized articles were found to contain blood Group-'A'.

Thus, by perusal of the evidence adduced during trial by the prosecution, it can be said that the prosecution has well proved its case of charge under Section 302 of the Indian Penal Code and burden was for the accused as per Section 106 of the Indian Evidence Act, 1872 to explain the circumstances that how the dead body of

Mangi Lal had reached in his house and he has not been able to give the reason that why he had manipulated the story of death of Purkha Ram because of vomiting with blood.

He has not been able to substantiate the defence story that Purkha Ram had had a fall on sharp-discs of a tractor used in the ploughing and he has not been able to make out a story that in what manner, when and why, Purkha Ram after fall on the discs of a tractor, had come to his house.

Circumstances give only one inference and that is about guilt of the accused-appellant on a charge of murder of his Bahnoi.

D.B.Cr.

Jail Appeal No.568/2008 13 In these circumstances, we perfectly agree with the appreciation of evidence which has been done by the trial court in this matter.

There appears no infirmity or factual or legal error in the impugned judgment of the trial court.

There are no grounds before us to accept the appeal of accused-appellant Mangi Lal.

His appeal is devoid of any force, which is hereby dismissed and the impugned judgment dated 18.7.2007 passed by the Sessions Judge, Jodhpur in Sessions Case No.7/2006 titled as State of Rajasthan v.

Mangi Lal is hereby upheld.

The accused- appellant is said to be in jail.

Record of the lower court be sent back at an early date with a copy of this judgment.

A copy of this judgment should be sent to the concerned jail also where accused-appellant is said to be suffering imprisonment.

(ATUL KUMAR JAIN),J.

(GOVIND MATHUR),J.

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