

Ramavatar @ Ramu Vs. State

Ramavatar @ Ramu Vs. State

SooperKanoon Citation : sooperkanoon.com/1138188

Court : Rajasthan Jodhpur

Decided On : Apr-22-2014

Appellant : Ramavatar @ Ramu

Respondent : State

Advocate for Pet/Ap. : Smt. Dali. The

Judgement :

-1- IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

JUDGMENT

Ramavtar @ Ramu versus State of Rajasthan D.B.Criminal Appeal No.959/2006 against the judgment dated 19.10.2006 passed by Additional Sessions Judge (Fast Track) No.1, Jodhpur in Sessions Case No.56/2006.

Date of Judgment :: 22nd April, 2014 P R E S E N T HON'BLE MR.JUSTICE GOVIND MATHUR HON'BLE MR.JUSTICE ATUL KUMAR JAIN Mr.Kalu Ram Bhati, for the appellant.

Mr.Vishnu Kachhawaha, Public Prosecutor, for the State...BY THE COURT : (PER HON'BLE MATHUR,J.) This appeal is directed against the judgment dated 19.10.2006 passed by learned Additional Sessions Judge (Fast Track) No.1, Jodhpur recording conviction of the accused appellant for the offences punishable

under Sections 302 and 201 Indian Penal Code and awarding sentence as under:-
u/S.302 IPC - Life term imprisonment with fine of Rs.5000/- and in default of payment of fine further to undergo two years imprisonment.

u/S.201 IPC - Three years rigorous imprisonment with a fine of Rs.500/- and in default of payment of fine further to undergo three months imprisonment.

-2- In brief, facts of the case are that on 29.4.2006 a written report (Ex.P/1) was submitted by Shri Suresh (PW-1) at police station Mathania with assertion that one Ramu @ Ramavtar was living in a rented premises at the house of Dalaram in village Tinwari.

A woman and a child of ten months were also residing with him.

In morning of 29.4.2006 dead body of the woman, who was residing with Ramu @ Ramavtar was found along the wall of a water stream near Khatriyon Ki Bagechi.

An apprehension was also disclosed about killing of the woman by Ramu @ Ramavtar in the rented room and then throwing the dead body at the distance of about 150 meters. The drops of blood were also seen from the room to the place where the dead body was found.

On basis of this information a case was lodged and after completing the investigation a police report was filed before the court competent.

The case being sessions triable was committed to the court of Sessions, that framed a charge for commission of offences punishable under Sections 302 and 201 Indian Penal Code against the accused appellant.

On denial of the charge by the accused trial commenced as desired.

The prosecution supported its case with the aid of 18 witnesses and by getting 26 documents (Ex.P/1 to Ex.P/26) exhibited.

The accused while availing opportunity as per Section 313 Code of Criminal Procedure to explain adverse and incriminating circumstances against him in prosecution evidence stated that he was staying in the -3- house for a period of

three days with his wife and daughter who were subsequently sent to Jodhpur.

The accused pleaded that he was falsely implicated in the criminal case.

No evidence in defence was adduced by the accused.

Learned trial court after examining the entire evidence available on record held the accused appellant guilty for the offences charged, accordingly, recorded a conviction and awarded sentence.

In appeal, the argument advanced by learned counsel for the accused appellant is that the conviction of the accused is based on circumstantial evidence that is not making complete chain of links indicating only one conclusion about definite involvement of the accused in the crime in question.

It is asserted that a reasonable doubt exists in believing the prosecution story, thus, the accused is entitled to have benefit of doubt.

As per learned counsel the trial court failed to appreciate that the accused was residing in the house of Dalaram with wife and daughter to whom he left at Jodhpur after three days.

He was nothing to do with the lady whose dead body was found near Khatriyon Ki Bagechi on 29.4.2006.

Much emphasis is given by learned counsel to the fact that admittedly not a single person who came in witness box ever saw face of the wife of the accused and also of the lady whose dead body was found on the day concerned, and also that instant one is a case of no motive, hence, the conviction recorded is bad.

-4- While meeting with the arguments advanced by learned counsel for the accused appellant, it is submitted by learned Public Prosecutor that the chain of circumstances established on basis of adequate evidence clearly indicates involvement of the accused in committing the crime in question.

It is pointed out that at the fiRs.instance accused brought deceased lady viz.

Smt.

Dali from Jodhpur and stayed with her in the rented premises.

He then committed murder of Smt.

Dali and threw her body along the wall of a water stream near Khatriyon Ki Bagechi.

On the day woman was killed, her abandoned ten months child was found at the railway station and when he was brought closed to the dead body the child of ten months touched her.

The blood group of the blood stains found on the trouser of the accused were matching with the blood group of deceased and no explanation has been given by the accused with regard to availability of blood stains.

Beside that, several articles were recovered from the room of the accused having blood stains matching with the blood group of deceased Smt.

Dali.

All these circumstances have adequately established by the evidence adduced by the prosecution and that is sufficient to arrive at the conclusion about involvement of the accused in the crime in question.

Heard learned counsel for the appellant, learned Public Prosecutor and examined the record.

As per the medical evidence available on record the cause of death of the woman who was identified as Smt.

-5- Dali was asphyxia due to strangulation.

She was also having certain injuries on her body which are as under:- 1.

Antemortem bruise - 5 cm x 1.5 cm slight tapering toward middle of trachea on left side of neck and 5 cm below and medial to angle of jaw blackish blue in colour.

On dissection haematoma found.

2.

Antemortem bruise - 1 cm x 1 cm just below and parallel to bruise No.1, blackish blue in colour and left side of neck.

On dissection haematoma found.

3.

Antemortem bruise - 7.5 cm x 1 cm on right side of neck extending from 2.5 cm away from middle of neck running laterally.

On dissection haematoma found.

4.

Antemortem incised wound - skin deep size 5 cm x 4.5 cm x 2 cm above the hyad process.

Wound is transverse.

On basis of the medical evidence there is no doubt about homicidal death of Smt.

Dali.

The fiRs.submission of learned counsel for the appellant is that the instant one is a case where prosecution failed to establish any motive on part of the accused for killing Smt.

Dali.

True it is, motive is an important aspect in commission of crime, but it is not an essential ingredient for each and every crime.

A court can very well settle -6- conviction and determine guilty of an accused even in absence of motive if the other evidence is adequate to do so.

The absence of motive as such cannot be a sole criteria for bringing out an accused from his criminal liability i.e. otherwise established with the aid of necessary evidence.

The fiRs.circumstance against the accused is that he was residing in neighbourhood of Shri Chainaram (PW-13) where Smt.

Dali came from Nasirabad to stay with Chainaram.

In absence of Shri Chainaram she stayed with accused and then proceeded with him for Tinwari.

As per the prosecution witness Chainaram (PW-13) accused Ramavtar was known to him.

He was also knowing Dali daughter of Tulsiram Bagaria, resident of Nasirabad.

Smt.

Dali came to his house at Soorsagar, Jodhpur as she was desirous to visit Ramdevra.

At that time he was not at home, therefore, she met to Ramavtar, his neighbour.

Smt.

Dali stayed with Ramavtar for 3-4 days.

When this witness returned, Dali conveyed him about her stay with Ramavtar at his residence in Jodhpur city.

Ramavtar also met him with Dali and stated that he will sent Dali to Ramdevra from Tinwari, where he was working with a contractor.

Smt.

Dali then went to Tinwari with accused Ramavtar.

The evidence adduced by Shri Chainaram (PW-13) is sufficient to establish that accused Ramavtar came to Tinwari from Jodhpur alongwith deceased Smt.

Dali.

The second important circumstance is staying of accused Ramavtar with deceased Smt.

Dali and her ten months -7- old child.

The prosecution witness Kripa (PW-6) son of Dalaram stated that the accused stayed in a rented room at his house for a period of three days.

A woman with a child of ten months was also with him.

In these three days he did not see face of the woman as she was keeping veil.

On the day the dead body of a woman was recovered a child who was staying with accused was brought at the spot, who touched body of the deceased.

PW-5 Dalaram, though was declared hostile, stated that accused Ramavtar was residing in a room that was rented for Rs.400/- per month.

He stayed in the house for three days and an unknown lady was also residing with him.

A boy of about ten months was also there with lady.

In cross examination by Public Prosecutor this witness accepted that Ramavtar was residing in his house with a woman and a child and on the day dead body of woman found, he was not available in room.

The statements given by Kripa (PW-6) and Dalaram (PW-5) clearly indicate that the accused was residing in the house of Dalaram on rent with a woman who was having a child of about ten months.

True it is, neither Dalaram nor Kripa saw face of the lady but the fact that a child of ten months when brought before the dead body, touched that, indicates about

some important relationship of the child with deceased lady.

In normal course, a child of ten months would have not moved towards an unknown lady and would have not touched her.

An important aspect of the matter is that as per the accused himself he is having a girl child of about -8- three years and he was residing in the room with his wife and girl child, was not find correct in view of the fact that the child residing with him was a male child of about ten months.

This fact clearly indicates that the woman staying with accused Ramavtar in the room was not his wife but someone else.

In totality, the evidence adduced by Kripa (PW-6) and Dalaram (PW-5) is sufficient to arrive at the conclusion that the accused was residing in the room rented by Shri Dalaram with deceased Smt.

Dali and her male child.

This circumstance is further strengthened by the evidence adduced by Shambhu (PW-14) and Pukhraj (PW-16). Shambhu (PW-14) though was declared hostile, stated that an abandoned child was found at railway station Tinwari whose interim custody was given to him by police personnels.

In morning somebody told him that the child with him is son of the woman whose dead body was found near Khatriyon Ki Bagechi.

The child was taken at the place where dead body was lying where maternals of deceased identified the child as her son.

The witness Pukhraj (PW-16).a police constable, stated that a child of about ten months was found at railway station Tinwari.

The custody of the child was given to Shambhu Harijan and then he was taken at the place where dead body was lying.

The child was ultimately handed over to the parents of deceased Smt.

Dali who came from Nasirabad.

-9- So far as involvement of the present accused in the crime is concerned, the prosecution relied upon the evidence relating to the recoveries made from his room, availability of blood stains from his room to the place where the dead body was found, availability of blood stains on the trouser of the accused, availability of blood on different articles like 'Dari'; Bucket; Stone etc. in his room and further that he absconded from the village after commission of the crime.

The recovery of blood stained trouser of the accused, blood stained 'Dari', blood stained Stone and blood stained Bucket from the room of the accused has been adequately established and even learned counsel for the appellant has not disputed that.

As per the report of the Forensic Science Laboratory (Ex.P/19), all the articles recovered from the room of the accused were having blood stains of human origin.

The stains available on blouse of deceased, trouser of the accused, Dari found in the room of accused and petticoat of the deceased were having blood of A.

group.

This fact also indicates involvement of the accused in the crime in question.

No explanation is also given by the accused about availability of the blood stains on his trouser and on certain other articles at his room.

The drops of blood were also found from his room to the place where dead body was recovered.

The cumulative effect of all these circumstances is nothing but definite involvement of the accused in the crime.

As such, the finding arrived by the trial court does not suffer from any error.

-10- The appeal, thus, is having no merit, hence dismissed.

(ATUL KUMAR JAIN), J.

(GOVIND MATHUR),J.

Mathuria KK/ps.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com