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Bhupender Singh Vs. State

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Court : Delhi

Decided On : Nov-07-2014

Judge : Pradeep Nandrajog

Appellant : Bhupender Singh

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision : November 07, 2014 + CRL.A.1088/2014 BHUPENDER SINGH Represented by: .....Appellant Mr.Ravinder Kumar Katna, Advocate versus STATE Represented by: ..... Respondent Mr.Varun Goswami, APP CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE MUKTA GUPTA PRADEEP NANDRAJOG, J.

(Oral) 1. Having heard learned counsel for the appellant and the State and having perused the evidence led at the trial, we commence our decision in the appeal which challenges the appellant being convicted for the offence of having murdered his son, rather unconventionally for an appeal at a murder trial, by noting the answers given by the appellant when he was examined under Section 313 Cr.P.C. The reason being it would save us the trouble to note the testimony of the various witnesses who have proved the appellant being present in the house with his son and his wife and daughter not being in the house and he being seen with a hammer in his hand and when the crime was detected he having admitted to have

clubbed his son with a hammer on his head resulting in the death of his son. We shall only be constrained to note the evidence led at the trial concerning motive for the crime because incriminating circumstances concerning the motive were denied by the appellant. To questions No.7, 8, 10, 11, 12, 14 , 15, 16, 19 and 21 the appellant answered; and we note each question and the answer thereto :

Q.7 It is further in evidence against you that about 10-15 days, prior to 10.10.2010, you quarrelled with your wife while you were drunk and due to his, your wife alongwith your two children went to her parental house at Dabri. What have you to say?. A. It is correct that my wife alongwith two children went to her parental house at Dabri some 10 or 15 days before the incident because of the quarrel. My wife had quarrelled and I was not drunk. Q.8 It is further in evidence against your that on 08.10.2010 your wife alongwith your two children came back to her matrimonial home at Humayunpur. What have you to say?. A. It is correct. Q.10 It is further in evidence against you that on 10.10.2010 at about 12:30 PM, you were present in your house at Humayunpur, Safdarjung Enclave, Delhi. What have you to say?. A. It is correct. Q.11 It is further in evidence against you that at that time, your daughter Tanya and your wife were also present at the house with you. What have you to say?. A. It is correct. Arpit was also in the house. Q.12 It is further in evidence against you that at that time, your son Arpit was playing game on laptop. What have you to say?. A. At the time, I was sitting at the stair outside of the room and these three persons namely my wife Sudesh Rani, Arpit and Tanya were inside the house. I cannot say whether my son Arpit was playing with the game on laptop. Q.14 It is further in evidence against you that your wife and daughter left the house for collecting rent. What have you to say?. A. It is correct that my wife and daughter had left the house for collecting the rent. My wife of her own went out of the house stating to me that she was going to collect the rent. Q.15 It is further in evidence against you that after sometime, your wife and daughter came back and when she opened the door of the room, she saw you holding a hammer in your hand. What have you to say?. A. It is correct. At the time I was holding the hammer in my hand. Q.16 It is further in evidence against your that at that time, your wife saw Arpit lying in the pool of blood on the bed. What have you to say?. A. It is correct. My wife had seen Arpit lying in the pool of blood on the bed. Q.19 It is further in evidence against you that your wife on seeing this and she rushed to

pick up Arpit and you pushed her and ran away alongwith hammer. What have you to say?. A. It is incorrect. Infact, I had come at the chowk after giving injury to my son and called my cousin brother and stated that my wife had got all these thing (meri lugai ne satyanash karwa diya). Q.21 It is further in evidence against you that your wife brought Arpit downstairs and called up her Jeth Manoj Kumar and asked him to take Arpit to hospital. What have you to say?. A. It is incorrect. Manoj and Sanjay had been called by me and I had stated to them that my son had sustained injury which was caused by me and I was not mentally fit because the dose were given to me by my wife.

2. The appellant has admitted that 10-15 days prior to October 10, 2010 he had quarrelled with his wife and because of that she had gone to the house of her parents with her two children and that his wife returned with the two children to the matrimonial home on October 08, 2010. The appellant admits that on October 10, 2010 he was in his house at 12.30 P.M., at which time his wife, their daughter Tania and their son Arpit were in the house and that his wife left the house to collect rent and took along the daughter. The appellant admits that when his wife and daughter came back, he was holding a hammer in his hand and his wife saw Arpit lying in a pool of blood on the bed. The appellant admits that he came out from the house on to the crossing and called his cousin admitting that he had injured his son, but claimed that he did so at the instigation of his wife. Appellant claims that he was not mentally fit because a dose was given by his wife to him.

3. Now, what was that dose?. The appellant has not explained anything.

4. Appellants wife named Sudesh has appeared as PW-6 and we find that during cross-examination no suggestion whatsoever has been put to her that she had administered any medicine to her husband. We note that a suggestion was put to her that her brother had brought some medicine for the appellant concerning appellants mental sickness, which she denied. That takes away the fulcrum of the imaginary explanation given by the appellant concerning the circumstance under which he inflicted hammer blows on the head of his son.

5. Sudeshs testimony brings out that the accused was a worthless person living on rental income and he used to quarrel with his wife daily after drinking. He

suspected the fidelity of his wife and nurtured a belief that Arpit was not his biological son compelling her to even seek a DNA analysis of their son Arpit. She has proved the application Ex.PW-6/B under which she had requested a DNA analysis to be conducted.

6. We are satisfied that the prosecution has established that the motive for the crime was that the appellant disliked Arpit and believed that Arpit was not his biological child.

7. The post mortem report Ex.PW-1/A proved by Dr.Mohit Gupta who was a part of a team of three doctors, the other being Dr.A.F.Khaka and Dr.N.K.Wahi, tells us that a hard blunt object was used to hit Arpit on his head. The opinion Ex.PW-13/K was thereafter given by the doctors to the effect that the hammer Ex.P-1 could have caused the injuries on the head of Arpit. The force with which the hammer blow was inflicted is proved by the fact that the frontoparietal bone and the cranial bone were not only fractured but were shattered, exposing the brain matter within. Subdural hemorrhage resulted over both, the frontoparietal region and the frontoparietaloccipital region. Pieces of cranium got embodied on the pulpified brain.

8. The appellant has rightly being convicted by the learned Trial Judge for the offence of having murdered his son. The motive being the appellant suspecting that Arpit was not born to his wife through his loins. Appellants wife proving that when she and her daughter left the house appellant alone was present in the house with Arpit and when she came back she saw appellant armed with a hammer Ex.P-1 and her son lying dead on the bed with his skull smashed. Appellants explanation for what he did being a figment of imagination.

9. The appeal is dismissed. Impugned decision dated August 14, 2012 convicting appellant for having murdered Arpit is affirmed and so is the sentence dated August 23, 2012 requiring appellant to undergo imprisonment for life and pay fine of `5000/- (Rupees Five Thousand only) in default to undergo simple imprisonment for one year is upheld.

10. TCR be returned.

11. Two copies of the decision be sent to the Superintendent Central Jail Tihar, one for his record and the other to be supplied to the appellant. (PRADEEP NANDRAJOG) JUDGE (MUKTA GUPTA) JUDGE NOVEMBER07 2014 skb

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