

Ram Avtar Vs. State

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Court : Delhi

Decided On : Sep-02-2014

Judge : Pradeep Nandrajog

Appellant : Ram Avtar

Respondent : State

Judgement :

\$~19 * IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision: September 02, 2014 + CRL.A. 319/2000 RAM AVTAR Represented by: Appellant Ms.Inderjeet Sidhu, Advocate Versus STATE Represented by: Respondent Mr.Lovkesh Sawhney, APP CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE MUKTA GUPTA PRADEEP NANDRAJOG, J.

(ORAL) 1. Ram Avtar was charged for having poured kerosene oil on his wife Guddi at 3.00 P.M. on March 14, 1995 at their matrimonial house :

16. 399E (Second Floor) Street No.V, Padam Singh Road, Bhapa Nagar and thereafter set her on fire. He was also charged for having physically and mentally torture his wife to extract dowry.

2. Vide impugned judgment dated November 26, 1999, Ram Avtar has been convicted for having murdered his wife, but has been acquitted of the charge of mentally and physically harassing her wife concerning a dowry demand.

3. The learned Trial Court has believed the testimony of Suman PW-20, living in a room adjacent to where Guddi was burnt that the deceased made a dying declaration to her of her husband having set her on fire. Her testimony that as she tried to catch hold of Ram Avtar he kicked her and ran away has been believed. The learned Trial Judge has found corroboration to the testimony of Suman through the testimony of Smt.Shimla PW-19. The learned Trial Court has also believed the testimony of Vijay Kumar PW-24, working as a Sub-Divisional Magistrate that he recorded Guddis dying declaration Ex.PW-24/A.

4. When the incriminating circumstances were put to Ram Avtaar, he denied everything and claimed that he was not present in the house. He denied knowledge as to how his wife sustained burn injuries. He admitted that Suman and Shimla lived in the same building opposite to the room where he resided. He said that they were inimical to him because he used to object to their children entering his room and playing with his articles.

5. We note that residue of kerosene oil could not be detected on the partly burnt clothes of the deceased as per the FSL report, which has not been exhibited at the trial.

6. Information was given to PS Prasad Nagar at 3.20 P.M. on March 14, 1995 that a lady had been burnt at house No.16/399 Padam Singh Road, which was recorded at serial No.16-A of the Daily Diary by ASI Ved Pal PW-14 who was the duty officer at that time. The same has been proved by him as Ex.PW-14/A.

7. SI Ram Singh PW-25 was entrusted with the investigation and copy of DD No.16-A was handed over to him. Accompanied by Ct.Anirudh, he reached house No.16/399-E, Padam Singh Road and learnt that a women named Guddi had been removed in the PCR van to RML hospital. SI Harphool Singh, Ct.Karnail Singh and Ct.Jagdish also reached the spot. He and Ct.Anirudh reached RML hospital. Dr.Rajesh was the one who attended to Guddi at the casualty of RML hospital. He drew up the MLC Ex.PW23/A and noted therein that Guddi was brought to the hospital at 4.00 P.M. by HC Babu Lal of PCR : 0-12.

8. SI Ram Singh informed the Sub-Divisional Magistrate Patel Nagar, Vijay Kumar that a lady was admitted in the casualty of RML hospital in a burnt condition. Vijay Kumar the SDM reached the hospital. Dr.Rajesh was present in the casualty. On the MLC Ex.PW-23/A, he certified at 7.20 P.M. that the patient was fit for statement.

9. As deposed to by Vijay Kumar he had reached the hospital by 7.15 P.M. and the doctor had certified Guddi fit for statement at 7.30 P.M. He thereafter recorded Guddis statement Ex.PW-24/A.

10. FIR for an offence punishable under Section 307 IPC was registered as directed by Vijay Kumar on the basis of Guddis statement Ex.PW-24/A. Guddi died on March 19, 1995 and therefore offence punishable under Section 302 IPC was added in the FIR.

11. We have perused the testimony of Vijay Kumar and his cross examination and find that nothing has been brought out to discredit Vijay Kumar. He has no motive to incorrectly record Guddis statement Ex.PW24/A. From the endorsement at 7.20 P.M. on the MLC Ex.PW-23/A made by the doctor it is apparent that Guddi was fit for statement at 7.20 P.M.

12. In her statement Guddi has spoken about she being harassed by her husband who was an alcoholic. She said that the incident took place when she protested against her husbands drinking excessively and he told her to shut up and threatened that he would set her on fire. She challenged him to do so. Her husband poured kerosene oil on her and set her on fire. She said that it had become her husbands habit over the last two three years to drink and beat her.

13. It is trite that if a dying declaration inspires confidence the same is sufficient evidence and needs no corroboration.

14. We have perused the testimony of Smt.Shimla PW-19 and Suman PW-20. Their claim of living in a room adjoining the room where deceased and Ram Avtar lived has been admitted by Ram Avtar when he was examined under Section 313 Cr.P.C. Both of them have said that when they saw Guddi on fire they saw Ram

Avtar running away. Both of them have said that when they tried to catch Ram Avtar he kicked them and ran away. Suman has said that Guddi shouted that her husband had set her on fire.

15. We see no reason why the two ladies would speak a lie. We have perused their testimony as also the cross-examination and would simply note that nothing has been brought out to discredit their statements.

16. It is true that Suman admitted that Guddi was depressed because she could bear no child, but therefrom it does not necessary flow that Guddi had a reason to commit suicide and she committed suicide, an argument sought to be advanced today.

17. The position therefore would be that Ram Avtar ran away when his wife was on fire. When Suman and Shimla tried to catch him, he kicked them and ran away. His conduct speaks for itself. If his wife had tried to commit suicide he would have rescued her and not run away.

18. We therefore have two consistent dying declarations made by Guddi and appellants conduct of running away from his matrimonial house when his wife was on fire.

19. Lastly, we need to note that Ram Avtar, whose wife suffered burn injuries on March 14, 1995 never returned to his house after he fled in the late afternoon of March 14, 1995. He was arrested on December 12, 1995.

20. His claim that he was not present in the house when his wife committed suicide would require his conduct of returning home, as a husband would do, and upon learning that his wife had suffered burn injuries and removed to RML hospital he would have gone to RML hospital. He never did so. He never came back to his house. He was arrested on December 12, 1995.

21. We need not note any further evidence as it would be useless for us to do so save and except that Guddis post mortem report Ex.PW-10/A evidences that Guddi died due to septicaemia consequent upon infection occasioned due to burn wounds. Ramesh Chand PW-8 the brother of Guddi has deposed that the accused

used to consume alcohol and used to beat his wife.

22. The appeal is dismissed. Ram Avtars conviction and sentence to undergo imprisonment for life is affirmed.

23. TCR be returned. (PRADEEP NANDRAJOG) JUDGE (MUKTA GUPTA)
JUDGE SEPTEMBER02 2014 skb

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