

State Vs. Hari Chand

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Court : Delhi

Decided On : Aug-04-2014

Judge : Pradeep Nandrajog

Appellant : State

Respondent : Hari Chand

Judgement :

§~19 * IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.L.P. 387/2014
STATE Represented by: Petitioner Mr.Varun Goswami, APP with Insp.
Sanjeev Kumar PS S.B.Dairy. versus HARI CHAND Respondent Represented
by: CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS.
JUSTICE MUKTA GUPTA % CrI.M.A. 9718/2014

ORDER

0408.2014 For the reasons stated in the application the delay of 66 days in filing the petition is condoned. Application is disposed of. CRL.L.P. 387/2014 1. The State seeks leave to appeal against the judgment dated December 11, 2013 passed by the learned ASJ acquitting the respondent of the offence of murder of his wife Kusum.

2. The FIR was registered on the complaint of PW-1 Sewa Ram, the father of the deceased who stated that he had married the deceased with Hari Chand about 8-10 years ago. Initially, for 3-4 years Hari Chand behaved well with his daughter,

however thereafter he started taking intoxicants and used to frequently quarrel with her. CRL.L.P. 387/2014 On one day he strangulated his Page 1 of 3 daughter. He also deposed that few months prior to the incident Hari Chand had fallen from the roof and sustained injuries due to which he had to undergo surgery. For this reason he was not in a position to work with Pintu contractor. However, Pintu Contractor continued to give expenses to the family of Hari Chand and due to this he used to doubt the character of the deceased. Hari Chand did not like the deceased either meeting or talking to Pintu contractor. On the fateful day he received an information from Hari Chand that his daughter had gone to ease in the jungle and somebody had strangulated her.

3. The prosecution case rest on circumstantial evidence. Though motive has been proved by the deposition of the complainant and PW-4 Geeta, the mother of the deceased, however the prosecution has failed to prove rest of the essential ingredients to complete the chain of events. The other only scientific evidence proved by the prosecution is that as per the FSL report, mud on the nikkar of Hari Chand tallied with the mud found at the spot where the deceased was found dead. The deceased was not found dead at her residence but in the jungle where she had gone to ease.

4. The reasoning of the learned Trial Court while acquitting Hari Chand is that even as per the prosecution case Hari Chand had not fully recovered and used to walk with a stick. The cause of death was strangulation and if Hari Chand had strangulated the deceased there would have been some marks of injury on him due to the protest by the deceased who was a hale and hearty lady. As per the MLC of Hari Chand there was no fresh injury found on his body. The strangulation was not while she was sleeping but while she was fully awake. Further, place of incident does not rule out that somebody else may have strangulated her. Moreover, it is not even the case of the prosecution that Hari Chand strangulated the deceased at her house and then threw her in the jungle. Due to the accident Hari Chand was moving around with a stick and in such a situation it was not possible for him to have carried the deceased to the jungle. The house of the deceased and Hari Chand was situated in a congested area and if there was some struggle neighbours would have heard the cries.

5. The reasoning of the learned Judge in acquitting the respondent cannot be faulted. In a case of circumstantial evidence the prosecution has to prove that the chain of circumstances which lead to only one inference i.e. the guilt of the accused. This the prosecution has not been able to prove in the present case. Consequently, the leave to appeal petition is dismissed.

6. Trial Court Record be sent back. PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

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