

Pradeep Singh Vs. State of Bihar

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Court : Patna

Decided On : Jan-09-2004

Judge : R.N. Prasad and C.M. Prasad, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 34, 201, 302 and 498

Appeal No. : Criminal Appeal No. 494 of 2000

Appellant : Pradeep Singh

Respondent : State of Bihar

Advocate for Def. : Lala Kailash Bihari, Adv.

Advocate for Pet/Ap. : Devendra Kumar Singh and Bharat Lal, Adv. and Anil Kumar, Adv. No. 1

Disposition : Appeal allowed

Judgement :

R.N. Prasad, J.

1. The sole appellant has preferred this appeal against the judgment and order dated 24th August, 2000 passed by the 1st Addl. Sessions Judge, Munger in ST. No. 285/98 whereby the appellant has been convicted for the offence under Section 302/34, IPC and sentenced to undergo rigorous imprisonment for life and

has further been convicted for the offence under Section 498A, IPC and sentenced to undergo rigorous imprisonment for two years. He has further been convicted for the offence under Section 201, IPC and sentenced to undergo rigorous imprisonment for two years. The sentences were ordered to run concurrently.

2. One Deep Narain Manjhi gave his fardbeyan on 19.5.1997 at about 7.45 p.m. before the Officer-in-charge of Tarapur Police Station at the Bus stand that his daughter Sarita Devi was married about ten years ago to Pradeep Singh, the appellant. At the time of marriage he had given gifts. After marriage the people of her sasural used to demand motor cycle and money which he could not fulfil. The people of his daughter's sasural used to torture her. However, the people of the village solved the problem. On 19.5.1997 in the morning he learnt that his daughter has been killed by the people of her sasural. He went to Manjhidihi, the sasural of his daughter and found that the house was locked. He learnt from the people that his daughter has been killed by poisoning by Pradeep Singh, Kuldip Singh, Sunil Singh, Bhanmantri Devi, Sudha Devi and Jagdish Singh in the night of 17/18.5.1997 and they have concealed the dead body.

3. On the aforesaid fardbeyan formal first information report was drawn and investigation was taken up. On completion of investigation, charge-sheet was submitted only against two persons, that appellant and one Jagdish Singh. On receipt of charge-sheet cognizance was taken and the case was committed to the Court of sessions for trial. The trial Court convicted the appellant as indicated above, however, acquitted Jagdish Singh.

4. The defence of the appellant was that the appellant was not married to the victim lady. There was no relationship between them as husband and wife. The deceased was married to one Shankar and the appellant was married to the daughter of Ambika Singh of village Naugachhia.

5. The prosecution, in support of its case, examined 8 witnesses, out of whom PW 1 and 5 did not support the prosecution case. PWs 2, 3, 4 and 7 were declared hostile. PW 6 is the informant and PW 8 is Doctor who held post-mortem over the dead body.

6. It is evident from the analysis of evidence of the witnesses that the only witness PW 6, the father of the deceased, has supported the prosecution case. His evidence is that his daughter was married in the year 1986 to the appellant. The marriage was solemnized in the Gorakhnath temple. In the marriage Rs. 50,000/- were spent. The daughter stayed at her 'sasural' for about 15 days and thereafter she came to his house. His son-in-law came and thereafter she was taken to her sasural. There was demand of motor cycle, T.V. and Rs, 12000/-. He was unable to fulfil the demand. On 15.3.1997 he sent her daughter to her sasural. There was a demand and as such he went to Tarapur Police Station. The Sub-Inspector of Police came and asked the appellant not to torture her, otherwise he would be sent to jail. On 5.5.1997 he had given a Sanha before the Chief Judicial Magistrate, Ext. 1. He learnt on 19.5.1997 that his daughter has been killed. He got information from Shankar Singh. However, Shankar Singh has not been examined in this case. He went to Machhidih and found the house locked. He went to Tarapur Police Station and there he gave his fardbeyan on which he put his signature. Subsequently, the dead body was found in the Belharni river. He went there and identified the dead body of his daughter. He learnt the names of the accused persons from one Om Prakash, PW 3, who has been declared hostile. The witness was cross-examined by the defence and his attention was drawn to earlier statement made before the police. In cross-examination the witness stated that he did not remember that in Ext. 1 he requested for action. Sanha was not given to the officer but to the Peshkar. However, the witness admitted that no sanha was given to the police.

7. PW 1 has denied the marriage of the deceased with the appellant and has categorically stated that the appellant was married to the daughter of Ambika Singh of village Naugachhia. In cross-examination the witness stated that Sarita Devi was not living in the house of the appellant. PW 5 has said nothing in favour of the prosecution, rather he showed his ignorance about the occurrence.

8. The Doctor, PW 7, who held post-mortem over the dead body, has stated in his evidence that no external injury could be found as the body was in the stage of decomposition. The death in his opinion was due to asphyxia. The time elapsed since death was 3 to 5 days.

9. It is evident from discussion of evidence that there is no eye witness to the occurrence. PW 6 is the informant and father of the deceased. He is a hearsay witness as he stated in his evidence that he learnt about the incident from one Shankar Singh. Shankar Singh was not examined. Similarly, he also stated in his evidence that he learnt about the name of the accused persons from Om Prakash. On Prakash has been examined as PW 3 but he has been declared hostile. The defence has denied marriage with the deceased. PW 1 has categorically stated that Sarita was not married to the appellant. The appellant was married to the daughter of Ambika Singh of village Naugachhi. Suggestion was also given to PW 1 that Sarita was married to Shankar Singh which has been denied. The marriage is said to have been solemnized in the temple but the priest was not examined to establish the marriage. Thus it is evident from the evidence of prosecution witnesses itself that the prosecution has failed to establish even the marriage of the deceased with the appellant. Moreover, there is no eye witness or any cogent circumstantial evidence to connect the appellant with the crime.

10. Thus, on consideration, we find that the prosecution has miserably failed to establish its case. Thus the appeal is allowed. The judgment and order of conviction is hereby set aside. The appellant who is in jail is directed to be released forthwith if not required in any other case.

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