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Court : Patna

Decided On : May-06-1998

Judge : R.N. Sahay and A.K. Prasad, JJ.

Appeal No. : Criminal Appeal No. 225 of 1985

Appellant : Janardan Singh

Respondent : State of Bihar

Disposition : Appeal Dismissed

Judgement :

R.N. Sahay, J.

1. The sole appellant Janardan Singh has been sentenced imprisonment for life having been charged under Section 302/149, IPC.

2. The occurrence which was subject matter of the charge against the appellant took place on 30.1.1982 in a High School known as Raj Kuer Vidya Mandir, Gopalpur. The victim of the occurrence was Jungi Prasad Singh son of the informant. The deceased was done to death in a most brutal and cruel manner as would appear from the version given out by the informant in his Jardbeyan as narrated by the trial Judge in the opening paragraph of his judgment. It would be useful to extract the said paragraph hereunder:

In this fardbeyan Ram Pal Singh has stated that 30.1.1982 was the day of celebration of Sarswati Puja and on that occasion a ceremony was organised by Gopalpur High School which was known as Raj Kuer Vidya Mandir and the informant's son Jungi Pd. Singh had gone to participate in the celebration by Jeep at 2.30 p.m. at about 4.30 p.m. when prasad distribution was over the deceased Jungi Pd. Singh was to leave school premises for his village and hardly he had reached the gate of the school building the accused Janardan Singh threw some article looked like bomb on the person of Jungi Prasad Singh. Having seen such situation Jungi Singh ran away towards the school building and had entered into the laterine but he could not close the door from inside in the meantime Nagina Tatwan, armed with Pasuli. Munsi Mushar, Mithju Mushar, Pradeep Tantwan, Sen Tatwan along with 4 to 5 unknown persons armed with Pasuli and Pistol rushed to the accused, Sen Tatwan fired his pistol hitting one Sheo Dyal Singh. Accused persons dragged Jungi Pd. Singh from the room and felled him down in the Verandah. The accused Nagina Tatwan, Munshi Mushar and Mithu Mushar cut the throat of Jungi Pd. Singh by means of Pasuli. The witnesses having seen such incident wanted to save the life of the deceased but they failed in such venture. On the alarm raised there, the accused fled away. Jungi Pd. Singh died on the spot.

2. The motive behind the occurrence as contended in the fardbeyan is that one Gorakh Mushar who was related to Mithu was killed in which deceased Jungi Pd. Singh was an accused. The case relating to murder of Gorakh Mushar was going on in the Court. Other accused persons are friendly to Mithu Mushar and it appears that for this reason the accused persons did such occurrence and took the life of the informant's son Jungi Pd. Singh.

3. The appellant was not only person involved in the murder. The remaining persons also had taken active part and absconded and it is not known whether they were later apprehended during trial.

4. The offence was committed in broad-day light in presence of large number of witnesses. Ram Pal Singh, father of the victim was one of the main witness. His testimony is that on 30.1.1982. Sarswati Puja was being celebrated at Raj Kuer Vidya Mandir and his son the deceased was secretary of the institution and as

such he had gone to participate in the function. After conclusion of the function prasad was distributed on the roof of the school building. Fungi Prasad Singh came down from the roof of the school building. He had hardly reached boundary gate of the school, the named accused responded to Lalkar of Maro maro, whereafter the appellant is said to have thrown some article over the deceased causing smoke. The deceased ran for his life and took shelter in the bathroom of the building followed by other accused including the present appellant. The deceased was dragged out from the room and felled down on the Verandah. The appellant and his two companions pressed the legs of the deceased whereas Nagina Tatwan, Munshi and Mithu Tatwan started cutting the neck of Jungi Prasad Singh. Jungi Prasad Singh died on the spot.

5. Learned trial Judge was very much impressed by the evidence of the informant since despite lengthy cross-examination he remained consistent and unshaken. The evidence of the informant has corroboration of Ram Satan Singh (PW 1), Ram Ekbal Singh (PW 2), Balbir Narain Singh (PW 3), Baidehi Saran Singh (PW 4), Deep Narain Singh (PW 5) and Ram Pratap Rai (PW 7), They are all eye-witnesses of the occurrence. One witness Sheo Dayal Singh (PW 10) was teacher. He tried to save the deceased and got injury himself.

6. Dr. Tribeni Prasad Sinha, who performed autopsy on the dead body of the deceased found two sharp cut injuries on the person of the deceased.

7. Learned Additional Sessions Judge has considered the defence arguments with regard to laches in the prosecution case in paragraphs 28 and 29 of the judgment under appeal which are extracted below:

28. The learned Counsel for the defence placed before me that the occurrence as alleged had taken place at around 5 p.m. On 30.1. 1982 and the I.O. had reached the place of occurrence a few hours after he had been therefor whole of the night and the fardbeyan is said to have been recorded on that very day at 8 p.m. but the I.O. came to the Court on 1.2.1982 for taking processes against the accused persons. In his evidence, the I.O. in the Court has not stated through whom he sent the fardbeyan to the police station for institution of a case. Therefore, it was very strongly urged before me by the learned defence Counsel that the fardbeyan

is ante-dated. There is evidence on the record that the police station is not near the place of occurrence so if there is no positive evidence to show the fardbeyan was ante-dated. The evidence of the I.O. is very clear on this point that he returned to the police station on the next day that is on 31.1.1982. In this circumstances, it is too much to say that the fardbeyan was ante-dated. After all why the police would antedate the fardbeyan and come in collusion with the prosecution party. The learned defence Counsel drew my attention to the statement of the PW 6 made in para 6 of his evidence that he went to the Maner Police Station and told that murder of Jungi Pd. Singh has taken place and then the officer incharge of the police station went to the place of occurrence. He has further stated that no body told there who murdered Jungi Singh. In the circumstances, the prosecution has placed story before the Court, a panic had already been created there, therefore, the entire atmosphere would have been surcharged with terror. On that very moment to my mind, it would not be probable to get witness at that very moment so the statement of Hari Narain Singh made in para 3 of his deposition does not cut any ice with the defence. On the strength of this statement, it cannot be said that the witnesses for the prosecution has planted and tutored to say what they have spoken in the Court.

29. It was next argued before me by the learned defence Counsel that the prosecution has developed the case in the witness box. In this connection, he referred to the contents of the fardbeyan wherein it is stated that Sheo Dayal Singh was along with the deceased and he had received the injury on his person and he could have been the best and competent witness to say about the prosecution case. Sheo Dayal Singh (PW 10) has stated that after the cracker blast there was a panic and he went towards the middle school building and he received injury on his right hand by means of Pasuli and that Jungi Pd. Singh the deceased went inside the bathroom. Subsequent statement of this witness is that he was crying for help and thereafter he was taken to Dinapore hospital through a tri-wheeler. Factually this witness has not stated about the actual commission of murder of Jungi Pd. Singh. It, however, appears to me that while attempt on the life of Jungi Singh was being made at the very verandah of the bathroom he flew away on receiving injury on his person. Therefore, there is nothing unnaturality or inconsistency in the evidence of this witness. What he has seen, he has stated

before the Court and what he has not seen he has not stated in the witness box. To me it appears that he is thoroughly competent witness and no amount of argument can dislodge the testimony of this witness. If Sheo Dayal Singh was a tutored witness, he could also say about the main occurrence of the murder of Jungi Singh at the verandah of the school building but he has not stated that part of story. Therefore, I am not at all in agreement with the argument advanced by the learned Counsel for the defence.

8. With regard to the evidence of pressing of legs of the deceased by Janardan Singh, the argument -was that no such story was given in the fardbeyan. Learned trial Judge held that it would not be ground to discard the evidence with regard to participation of the present appellant. The motive for the crime was fully established according to the trial Judge. False implication was held to be without substance for reasons in para 36 of the judgment under appeal.

9. In view of the evidence, I am fully satisfied that the conviction of the appellant is fully justified. There is overwhelming evidence to support the charge.

10. There is no merit in this appeal and it is accordingly dismissed. The appellant is on bail. He shall surrender before the Court below to serve out the remaining period of his sentence.

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