

Sheikh Yusuf Vs. State

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Court : Patna

Decided On : May-31-1999

Judge : R.N. Sahay and S.K. Katriar, JJ.

Appeal No. : Criminal Appeal (D.B.) No. 74 of 1990

Appellant : Sheikh Yusuf

Respondent : State

Disposition : Appeal Dismissed

Judgement :

R.N. Sahay, J.

1. It is indeed an irony, we have heard this appeal after the appellant has served out the sentence of life. The appellant has been convicted of uxoricide by the 7th Additional Sessions Judge, Purnea, in Sessions Trial No. 7/1988 of 2/88.

2. Samsunnissan, wife of appellant S. K. Yusuf, was murdered on 20-6-1985 at village Majgaon, P.S. Jakihar (Nandgaon), District Purnea. On 19-6-85 i.e. one day prior to the occurrence, the appellant along with deceased and a child went to the house of Md. Jainuddin, brother of the deceased, on the occasion of Idd. festival. He was made a demand for money from his brother-in-law, who was not in a position to oblige the appellant. The appellant became annoyed and returned

to his house on the same day at 4. p.m. On 21-6-85 in the morning at about 6 a.m., one Sk. Kalim of village Majgaon came to the Jainuddin's house and informed him that his sister had died of snake-bite and returned, Md. Jainuddin along with his brother Jainul, mother Jarina and villagers Reaz, Zuber, Siddiqui, Abbas Alam, Gyasuddin, Moinuddin, Kalim and others went to the house of his brother-in-law (appellant) at village Majgaon, Samsunnissan was found lying dead on the Varandah. On query, he came to know that Sk. Yusuf had assaulted his sister in the previous night, as a result of which she died.

3. Fardbeyan of Md. Jainuddin, the informant, was recorded by Fransis Toppo, the then Officer Incharge of Mahagaon police station on 21-6-85-at 12.30 p.m.

4. The defence of the appellant was that the deceased died due to snake-bite.

5. The learned Additional Sessions Judge has accepted the evidence of demand of money. There is no controversy that the deceased was found lying dead in the varandah. The doctor deposed that the death of the deceased was caused by pressure over chest and neck. On query, the appellant disclosed that his wife died due to rat-biting. The appellant was in a hurry to bury her dead body but he has not allowed to do it. On 22-6-85, Dr. K.P. Saha held autopsy on the dead body of the deceased and found the following injuries:

(a) Dark coloured swelling over right side of forehead with sub-congestival haemorrhage of right eye.

(b) Bruise with swelling in 3' x 2' behind left ear.

(c) Bruise 8(1/2)' x 3(1/3)' with abrasion of 1 (1/2)' x 3/4' over left side of chest on the lower part.

(d) Sharp cut two in numbers each 1/8' x 1/16' x skin deep over inner side of the right index finger.

6. The learned Additional Sessions Judge has summed up the evidence as follows : 'The aforesaid evidence of the P.Ws. shows that none of them had seen accused Sk. Yusuf committing murder of his wife Samsunnissan. But their evidence

establishes the following facts:

(a) The deceased Samsunnissan was the wife of this accused Sk. Yusuf.

(b) On the preceding day of the night of the occurrence, accused Sk. Yusuf along with his wife (deceased) and a child had gone to the house of his brother-in-law (Sala) Sk. Jainuddin, the informant.

(c) As neither any money, as demanded by the accused nor any clothe was given to him by the informant there, on the occasion of Idd festival, he became angry and annoyed and returned back to his house with child on the same day.

(d) On the night of the occurrence, deceased was in his house and he was also present there.

(e) On the following day of the night of the occurrence, the informant Md. Jainuddin P.W. 5 and other witnesses went to his house. He told them that his wife (deceased) died of rat-biting. But, this version of the accused stands falsified by the aforesaid medical evidence.

(f) No explanation has been given by the accused as to how his wife (deceased) sustained the aforesaid injuries on her person in his house on the night of the occurrence.

(g) He was in a hurry to bury her dead body.

7. Circumstantial evidence, enumerated above, was sufficient to establish that the appellant committed the murder of his wife and, therefore, the appellant was rightly convicted.

8. In the result, this appeal is dismissed.

S.K. Katriar, J.

9. I agree.