

Ranjit Kumar Singh Vs. State of Bihar

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Court : Patna

Decided On : Nov-27-1999

Judge : M.L. Visa and S.K. Katriar, JJ.

Appeal No. : Cr. Appl. (D.B.) No. 432 of 1994

Appellant : Ranjit Kumar Singh

Respondent : State of Bihar

Disposition : Appeal Dismissed

Judgement :

M.L. Visa, J.

1. This appeal by sole appellant is against the judgment and order dated 28-7-94 passed by 2nd Addl. Sessions Judge, Muzaffarpur in Sessions Trial No. 29/93 convicting and sentencing the appellant to undergo imprisonment for life under Section 302 of the Indian Penal Code, (in short 'I.P.C.') and R.I. for five years under Sections 376/511 of I.P.C. Both the sentences have, however, been ordered to run concurrently.

2. The prosecution case as stated by informant Ram Milan Singh (P.W. 5) in his fardbeyan (Ext. 3) in short is that on 6-3-92 at about 4.30 a.m. in the morning as per his daily routine, he along with his wife Nutan Devi after crossing railway line

was going to his 'bathan' and when they reached near the 'bathan' of Sarpanch he sat for urinating but his wife continued moving and when she had crossed a distance of about 50 yards towards west, she all of a sudden cried for help and informant then ran to the place from where his wife was crying, he found that the appellant was attempting to commit rape on her and she was protesting. Nutan Devi received injury on her left hand by Chhura and when the appellant saw the informant he cut the throat of Nutan Devi and chased the informant who ran raising hulla, Nutan Devi even after receiving injuries ran away from there but she fell down near the 'bathan' of Jagdish Singh (P.W. 4). She in presence of Hardwar Singh (P.W. 3), Baijnath Singh (P.W. 6) and Gagan Dev Singh (not examined) wrote the name of appellant on a plain paper as her assailant and thereafter, she became unconscious. In the meantime, number of villagers assembled there and Nutan Devi was taken to the Hospital where she died. Fardbeyan of informant was recorded by S.I. Ajay Thakur (not examined) on 6-3-92 at 12 hours at S.K. Medical College and Hospital, Muzaffarpur. On the basis of fardbeyan of informant a formal F.I.R. (Ext. 4) was drawn under Sections 302 and 376/511, I.P.C. against the appellant and the police after investigation submitted charge-sheet under the same sections against the appellant.

3. After the cognizance the case was committed to the Court of Session where charges under Sections 302 and 376/511, I.P.C. were framed against the appellant who denied the charges and pleaded not guilty. The defence of appellant as it appears from the trend of cross-examination of prosecution witnesses is that the deceased Nutan Devi was a woman of bad character having affairs with one Sanjeev Kumar Singh and no occurrence as alleged ever took place and the appellant has been falsely implicated, in this case.

4. In order to prove its case, the prosecution has examined seven witnesses in this case. Ram Milan Singh (P.W. 5) is the informant and husband of deceased Nutan Devi. Dr. Binod Kumar Mehta (P.W. 2) is the doctor who had conducted the autopsy on the dead-body of deceased Nutan Devi. Ashok Kumar (P.W. 1), Hari Prasad Singh (P.W. 3), Jagdish Singh (P.W. 4), Baijnath Singh (P.W. 6), father of informant and Arjun Singh (P.W. 7) are the witnesses who on hearing hulla had gone to the place near the 'bathan' of Jagdish Singh (P.W. 4) where the deceased

Nutan Devi after receiving injuries was lying. Surendra Prasad (P.W. 8) is the I.O. of this case but as his examination-in-chief remained incomplete and as thereafter he was not produced for his further examination and cross-examination his evidence has not been considered by the Court below.

5. Dr. Binod Kumar Mehta (P.W. 2) in his evidence has stated that on 6-3-92 he was posted as Tutor of Forensic Department of S.K. Medical College, Muzaffarpur and on that day at about 1.20 p.m., he conducted the post-mortem examination on the dead-body of Nutan Devi and found the following ante-mortem injuries:

(i) Incised wound with clear cut margin 2 1/2' x 1/2' x neck cavity deep on the front and right side of neck in the middle portion, cutting the muscles, vessels, trachea and other structures.

(ii) Incised injury 3/2' x 1/2' x muscle deep on left hand in between left thumb and left index finger.

According to him, death was due to shock and haemorrhage as a result of aforesaid injuries which were caused by sharp-cutting weapon which may be a Chhura and injury No. (i) was sufficient in ordinary course of nature to cause death and time elapsed since death was within 12 hours. He has proved his post-mortem examination report (Ext. 2). From the evidence of this witness, it is clear that death of deceased was homicide and it resulted because of the injuries inflicted on her neck by sharp-cutting weapon which may be a chura. The time of death as suggested by this witness corresponds to the time of death as given by the prosecution. Now, it has to be seen what evidence has been led by prosecution against the appellant for making him responsible for these fatal injuries.

6. Ram Milan Singh (P.W. 5), informant and husband of deceased, is the only eye-witness to the occurrence. He in his evidence has stated that on the day of occurrence 4-5 a.m., he along with his wife was going to his 'bathan' and when they reached near the 'bathan' of Sarpanch, he sat for urinating but his wife continued moving on the path and thereafter he heard cries of his wife and when he went there running, he saw that the appellant was trying to commit rape on his wife and his wife was protesting. The appellant wiped out a knife and inflicted

injury on her neck and thereafter, he again gave knife injury on the neck of his wife and thereafter, he with the knife ran to assault him but he then ran towards his house. His wife after receiving injuries moved up to the 'bathan' of Jagdish Singh (P.W. 4) and when Jagdish Singh asked her who had assaulted her she by gestures demanded writing materials and a pen and paper were given to her and then she wrote the name of appellant in reply of question of her assailant and she also wrote the name 'Lakar' which is the name of father of appellant. He has further stated that his wife was taken to S.K. Medical College, Muzaffarpur but the moment she was on bed she died. According to him, his fardbeyan was recorded by police which he read and thereafter, he put his signature (Ext. 1/2). In cross-examination, he has denied the suggestion of defence that on the previous night of the day of occurrence he had gone to the house of her elder sister and he has not seen any occurrence as alleged by him. Ashok Kumar (P.W. 1), Hari Prasad Singh (P.W. 3), Jagdish Singh (P.W. 4), Baijnath Singh (P.W. 6), father of informant and father-in-law of deceased and Arjun Singh (P.W. 7) all have stated that at the time of occurrence they reached a road in front of 'bathan' of Jagdish Singh (P.W. 4) on hearing hulla where they found Nutan Devi fallen on the ground with a cut . and bleeding injury on her neck. Ashok Kumar (P.W. 1) has stated that on being asked Nutan Devi by gestures demanded writing materials and when 'dafadar' gave her one note book and a pen and asked her to write the name other assailant she wrote the name of appellant on the exercise book and when she was asked the name of father of her assailant she named 'Lakra' which is the name of father of appellant. He has further stated that the @ name of 'Lakra' is Devnandan Singh. Hari Prasad Singh (P.W. 3), Jagdish Singh (P.W. 4), Baijnath Singh (P.W. 6) and Arjun Singh (P.W. 7) have also said that the deceased by gestures demanded writing materials and when 'dafadar' gave her pen and paper she wrote the name of appellant as her assailant and also wrote the name of father of appellant. Ram Milan Singh (P.W. 5) has proved the writings of deceased (Ext. 6) where she had written the name of appellant and name of 'Lakra' alias name of father of appellant.

7. It is true that informant Rain Milan Singh (P.W. 5), the husband of deceased is the only eye-witness to the occurrence but then the evidence of P.W. 1, P.W. 3, P.W. 4, P.W. 6 and P.W. 7 fully supports the case of prosecution because these

witnesses had immediately after the occurrence on hearing hulla had reached the place where the deceased had fallen down and had seen her with a bleeding injury inflicted on her neck. Ext. 6 on which the deceased had written the name of appellant and his father further supports the case of prosecution.

8. It has been argued by the learned Counsel on behalf of appellant that the case of prosecution that the deceased even after receiving injuries on her neck wrote the name of appellant as her assailant does not appear to be true because after receiving such injuries she would not have been in a position to write the name of her assailant. It has come in the evidence of informant that the deceased was a literate lady. The mere perusal of Ext.6 shows that the deceased wrote only two names one of appellant and another of his father. These writings clearly show that it has been written with great effort suggesting that author, at the time of writing, was in great pain and agony. The further argument raised on behalf of appellant is that as the deceased had bleeding injuries on her neck as well as on her hand the paper Ext. 6 should have contained blood stains and the absence of blood stains on Ext 6 falsifies the case of prosecution that the deceased wrote the names of appellant and his father on Ext. 6. We have carefully examined Ext. 6 and we find that there are some spots on it suggesting to be of blood. Moreover, the deceased had received injuries on her left hand and not on her right hand as per the case of prosecution which is also supported by the medical evidence. The evidence of prosecution witnesses that the deceased in their presence wrote the name of her assailant on Ext. 6 does not leave room for any doubt that Ext. 6 is not written by the deceased. Besides this, Ext. 6 is not the only material on which the entire case of prosecution is based. It is the specific evidence of P.W. 5 that the appellant gave knife blow on the neck of his wife which proved fatal. This evidence is supported by P.W. 1, P.W. 3, P.W. 4, P.W. 6 and P.W. 7, who immediately after the occurrence had reached the place where the deceased was lying down with injuries on her neck.

9. It has been further argued on behalf of appellant that non-examination of I.O. in this case has greatly prejudiced the case of defence because attention of prosecution witnesses drawn towards their contradictions in their earlier statements and in the evidence could not be corroborated by I.O. As stated earlier

the prosecution produced the I.O., his evidence could not be concluded because he did not appear for his further examination-in-chief and cross-examination and, therefore, his part evidence has not been considered. From the cross-examination of prosecution witnesses, we find that attention of P.W. 1 has been drawn towards the fact that whether he had stated earlier that deceased had received a cut and bleeding injury on her neck and she by gestures demanded writing materials, attention of P.W. 3 has been drawn towards the fact that he had not stated earlier that on demand by gestures the 'dafadar' gave exercise book and pen to the deceased and he had not stated that he had seen cut and bleeding injury on the neck of deceased, attention of P.W. 4 has only been drawn towards the fact that he had earlier stated that the deceased wrote the name of appellant in the light of match stick lighted by 'dafadar' and he had not stated that deceased was asked to write the name of father of appellant and the alias name of 'Lakar' is Dev Nandan Singh, attention of informant has been drawn towards the fact that by gestures the deceased demanded writing materials and a 'vaishali' note book was given to her and the deceased wrote the name of appellant and his father, attention of P.W. 6 has also been drawn towards the fact that he had not stated earlier that deceased demanded writing materials by gestures and she wrote the name of appellant and his father and attention of P.W. 7 has been drawn towards the fact that the identified the deceased in the light of matchstick. These suggestions are not of such nature that if admitted will hit the root of prosecution case. Different type of suggestions to different witnesses have been given. Some of them have been asked whether they had earlier stated that they saw the cut and bleeding injury on deceased, some of them have been asked whether they had earlier stated that the deceased demanded writing material by gestures and P.W. 7 has simply been asked that earlier he had stated that he identified the deceased in the light of a match stick. So we find that the absence of evidence of I.O. has not caused any prejudice to the appellant.

10. Considering the evidence adduced on behalf of prosecution, we find the prosecution has proved its case beyond all reasonable doubts against the appellant that he made an attempt to commit rape on the deceased and inflicted injury on her neck which proved fatal. The appellant has rightly been found guilty by the Court below and his conviction and sentence do not warrant any

interference by this Court.

11. In the result, the appeal is dismissed. The judgment and order dated 28-7-94 passed below convicting and sentencing the appellant is hereby confirmed.

S.K. Katriar, J.

12. I agree.

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