

Putti Lal Vs. State

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Court : Allahabad

Decided On : May-30-1968

Reported in : 1969CriLJ531

Judge : R. Chandra, J.

Appellant : Putti Lal

Respondent : State

Judgement :

R. Chandra, J.

1. This is an appeal by Putti Lal, resident of Panditpurwa Babaganj, police station Rupaidiha, district Bahraich, against his conviction under Section 304, Part II, of the Indian Penal Code by the Sessions Judge, Bahraich. He has been sentenced to undergo five years' rigorous imprisonment. I have heard the learned Counsel for the appellant and the Assistant Government Advocate for the State.

2. The facts of the case in brief are, that Banwari, P.W. 1. the younger brother of Asharfi, deceased, visited the house of prosecution witnesses Pojey and Bindra to engage them as labourers. When Banwari was talking to Pojey, Putti Lal, appellant, also arrived there and enquired from Pojey what wages he had charged from Ram Dularey with whom he had worked. Pojey replied that he got wages in kind, namely, one panseri of wheat. Thereupon, Putti Lal remarked that now it

would be difficult even for big persons to pay wages. After about 3 or 4 days, namely, on 6th September, 1965, in the evening, Banwari was cutting grass in his field. In the neighbouring field, Asharfi, deceased, was also scraping grass. Shanker was grazing she buffalo in that very locality. Banwari narrated to him the incident which had taken place earlier with Pojey and Putti Lal. Banwari also complained to Shanker that Dashrat, brother-in-law of Putti Lal had purchased from him paddy worth Rs. 6, and he paid the price to Putti Lal but lie kept the money with him and did not pay it.

It was said that when this talk was going on, Putti Lal also arrived there. He enquired from Shanker about the talk that was going on. Shanker repeated what Banwari had told him. Thereupon, Putti Lal talked to Banwari, and tauntingly remarked that he would see as to how big he was and what wages he could pay. He also refuted the charge that he had retained the money paid by Dasrath, Putti Lal showered abuses on Banwari, and also slapped him. He raised an alarm. Asharfi who was in the neighbouring field rushed there. In the meantime, Putti Lal left the place and started going towards west. Asharfi showered filthy abuses on Putti Lal and chased him for some distance, when he returned and caught hold of Asharfi's neck, lifted him bodily and threw him on the mend of the field. The incident was witnessed by Chheda, Ram Phal, Budh Sagar, Awadh Ram, Shanker and Banwari. They chased Putti Lal, but he could not be arrested. When they returned, they found Asharfi lying in a critical condition, and soon after he expired. The chaukidar was called. The dead body was left by Banwari in the charge of his nephew and his brother's wife. He himself went to the thana, where he lodged the report, Ext. Ka-1 on 6th September 1965 at 10-30 p.m.. (The distance of the police station from the scene of occurrence was about five miles.) The investigation was started by Sri K.H.M. Tripathi, P.W. 9, station officer. After necessary formalities, the dead body of Asharfi was despatched for post mortem examination.

3. On 8th September, 1965, at 11-30 a.m., Dr. S.N. Gupta, Civil Surgeon, Bahraich, conducted the post mortem examination on the body of Asharfi. He estimated the age of the deceased as about 60 years, and the probable time since death about two days. He found the following ante mortem injuries on his person:

- (1) Multiple abrasions of varying sizes, irregular shape in an area of 20 cm. by 5 cm. on left scapular region and outer side of left shoulder.
 - (2) Abrasion 3 cm. by 0.5 cm. on the outer side left leg upper third.
 - (3) Abrasion 1.5 cm. by 0.3 cm. on left side neck 2 cm. below the lower border of left mandible middle of ramus.
 - (4) Contusion 17 cm. by 15 cm. left frontal, left temporal and left parietal regions of head. On cutting extensive ecchymosis present.
 - (5) Ecchymosis right side neck at the base 1.5 cm. by 1 cm. confirmed by cutting.
 - (6) Patchy ecchymosis left side root of neck outer aspect in area of 3 cm. by 1.5 cm. confirmed by cutting.
4. The internal examination further revealed that the membranes were congested. Brain was softened. First left and second right ribs were broken at their posterior convexity. Pleura was adherent bilateral. Larynx was congested. Right and left lungs were adherent and congested. Pericardium was full of dark-coloured blood partly clotted. The heart showed an irregular rupture 2 cm. by 0.5 cm. through and through the entire thickness of the wall of left ventricle its upper hind part. The heart was big in size and flabby. It was empty. Its weight was 250 gm. Coronary arteries dissected. Extensive abnormal changes were seen. Abnormal aorta showed very marked extensive abnormal changes-plaques and ulcers. The stomach contained digested rice meal 200 grams. The small intestine was empty. The large intestine contained soft semi-solid faecal matter. Gall bladder was empty. The bladder was empty. In the opinion of the doctor death was due to rupture of the heart. (Vide post mortem report, Ext. Ka-2, and the statement of the doctor, Ext. Ka-10.)
5. After completing the investigation the charge-sheet was submitted on 20.11.1965.
6. The appellant pleaded not guilty, and denied the charges. He attributed his false prosecution to enmity with Ram Dularey Pradhan.

7. In support of the prosecution case, in all nine witnesses were examined. The accused did not produce defence.

8. About the motive, the prosecution mainly relied on the evidence of Banwari, P.W. 1, Pojey P.W. 5 and Bindra P.W. 6. This was also specifically mentioned in the first information report which was lodged quite promptly. These witnesses deposed about the unpleasant incident which took place with Putti Lal, appellant, 3 or 4 days prior to the occurrence, and also when the unfortunate incident took place. It was satisfactorily proved that some altercation took place between Putti Lal and Banwari, resulting in exchange of hot words. Putti Lal also slapped Banwari. When he raised an alarm, his brother Asharfi rushed to his help. In the meantime, Putti Lal had left the place. In the heat of the moment, Asharfi showered filthy abuses on Putti Lal and chased him.

He soon returned, caught hold of Asharfi by his neck, bodily lifted and threw him on the mend of the field. This fall ultimately proved fatal. This occurrence was witnessed by Ram Phal P.W. 2, Budh Sagar, P.W. 3 and Awadh Ram P.W. 4 besides Banwari. All these witnesses were named in the first information report. No real enmity with the accused could be established. They had no apparent motive to implicate him falsely. Relying on their evidence, the trial Judge found:

The result therefore is that I have no hesitation in coming to the conclusion that on the date and time the accused Putti Lal caught hold of the neck of Asharfi and threw him down on the ground and ultimately Asharfi died on the spot.

I have been taken through the evidence in the case, and I agree with the trial Judge that the occurrence as set up by the prosecution is correct.

9. On behalf of the appellant, only two submissions have been made:

(1) That the motive set up for the crime was inadequate.

(2) That even on the medical evidence produced by the prosecution, the charge fell under Section 325, and not under Section 304, Part II, Indian Penal Code, because the doctor clearly stated that Asharfi, deceased, had an enlarged heart, it got ruptured by the fall, and resulted in his death.

10. From the materials on the record, it could not be doubted that some unpleasant incident took place between Banwari and Putti Lal. Hot words were exchanged between them. Putti Lal even slapped Banwari. When Asharfi rushed to the help of his brother he in the heat of the moment showered filthy abuses on Putti Lal and also chased him. In a fit of anger, Putti Lal caught hold of Asharfi by his neck and threw him on the ground of the field. There was nothing improbable in the story set up by the prosecution. It is a matter of common experience that sometimes even trifling matters result in serious crimes. Nobody knows about the working of the mind of a criminal at a particular hour. So, it could not be said that the motive for the crime was inadequate. It is well settled that in a criminal trial the question of motive is of little importance, where there is direct and reliable evidence to prove the crime. In the instant case, it has been satisfactorily proved that Putti Lal caught hold of Asharfi by his neck, and threw him down on the ground and that fall proved fatal. So, this contention of the appellant that the motive for the crime was inadequate is without substance. 11. As regards the second submission, it has some force. The doctor (S.N. Gupta), who conducted the post mortem examination, in his evidence clearly said that the heart of the deceased was enlarged and flabby. The death had resulted due to rupture of the heart. The injuries found on the person of the deceased could be caused by a single fall. He further stated that the rupture of the heart of the deceased on account of his old age, was possible even by an ordinary injury. He added that this, however, could not have occurred in the case of a normal healthy man. It was also clear from the medical evidence that the ribs of Asharfi had been broken. There was nothing on the record to show that the appellant had any knowledge that the deceased had a badly enlarged heart, on account of which he died.

12. On behalf of the appellant, reliance has been placed on the case reported in (1880) ILR 2 All 766 *Empress of India v. O'Brien*. Their Lordships observed:

There is no reason to doubt that the act was not done with the intention of causing death, or of causing such bodily injury as the accused knew was likely to cause the death of the old man, nor was the act done with the intention of causing bodily injury to the man, nor was the bodily injury intended to be inflicted sufficient in the ordinary course of nature to cause death, nor did the accused, when striking the

man, knew that his act so imminently dangerous that it must in all probability cause death or such bodily injury as is likely to cause death. The offence, therefore, of culpable homicide was not committed. But I think that there can be no doubt that the accused committed the offence of the voluntarily causing grievous hurt. He struck deceased on the ribs with a stick and inflicted a hurt which not only endangered his life but actually caused his death and which he must have known was likely to break a rib if it did no worse injury....

Similar view was expressed in another case reported in (1881) ILR 3 All 776 *Empress of India v. Idu Beg*.

13. In the instant case, it was clear that the appellant had no intention or knowledge to cause death of Asharfi. But he caught him by his neck, bodily lifted and threw him on the ground. He was an old man and his ribs were fractured. It could not be doubted that he was thrown from some distance and with sufficient force. So, it could be reasonably presumed that the appellant possessed the requisite knowledge that by his act grievous hurt could be caused to the victim. He is only guilty of the charge under Section 325, Indian Penal Code. His conviction under Section 304, Part II, I.P.C., is clearly erroneous, and must be set aside. As regards the sentence, in my opinion, three years' rigorous imprisonment would amply meet the ends of justice.

14. No other point was pressed.

15. Accordingly, the appeal is partly allowed, and the conviction of Putti Lal is altered from Section 304, Part II, to Section 325, I.P.C., and the sentence of imprisonment is reduced from five years* rigorous imprisonment to three years' rigorous imprisonment. The appellant is reported to be on bail. He shall surrender immediately to serve out the sentence. Non-bailable warrants shall be issued for his arrest and he shall be remanded to jail custody to serve out the sentence awarded to him. The Additional District Magistrate (Judicial), Bahraich, shall report compliance of this order within one month.