

Ram Kishun Vs. State of U.P.

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Court : Allahabad

Decided On : Feb-08-1994

Reported in : 1996CriLJ440

Judge : Palok Basu and ;A.S. Tripathi, JJ.

Acts : Indian Penal Code (IPC) - Sections 302; Code of Criminal Procedure (CrPC) , 1974 - Sections 229 and 313

Appeal No. : Criminal Appeal No. 786 of 1991

Appellant : Ram Kishun

Respondent : State of U.P.

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : Tej Prakash, Adv.

Disposition : Appeal dismissed

Judgement :

Palok Basu, J.

1. Ram Kishun appellant has filed this appeal from Jail against the judgment and order dated 2-2-1988 passed by Sessions Judge, Mirzapur convicting and sentencing him under Section 302, IPC to Imprisonment for life.

2. Sri Tej Prakash has been appointed Amicus Curiae who has argued the case with ability. Sri S. P. Tewari, learned A.G.A. has espoused the cause of the State. The charge against the appellant was [that he has committed the murder of his wife by inflicting upon her an injury by an axe and thereby committed the offence of murder punishable under Section 302 IPC.

3. From a perusal of the order sheet it appears that when this case was taken up by Sessions Judge on 21-11-1987 a charge was framed against the appellant under Section 302 IPC and he pleaded not guilty and claimed to be tried. He had no counsel of his own. The case was taken up on 2-2-1988 by the learned Sessions Judge and he had appointed an Amicus curiae to appear for the appellant. The Sessions Judge had only asked the appellant as to how his wife Smt. Banspati was murdered. In reply to the said question the appellant admitted his guilt that he had killed Smt. Banspati. He detailed the entire circumstances under which he had killed his wife by hitting her with an axe. The trial Judge has noted that he had warned the appellant that his pleading guilty alone can be made the basis of conviction. The learned trial Judge has further recorded his satisfaction that the plea of guilt of the appellant was voluntary without any mental or physical torture or coercion. The statement was recorded in open court in the presence of the counsel of the appellant.

4. The trial Judge has further said that in order that there was no chance of any injustice, he proceeded to record the statement of PW 1, Jaggan Ram. The record further indicates that after recording the statement of PW 1, Jaggan Ram, the statement of the appellant under Section 313 Cr.P.C. was also recorded. In reply to the question as to what has the appellant to say with regard to the statement of PW 1 Jaggan Ram the appellant has said that he had nothing to say and that it is true that he has killed his own wife with an axe. He has further said that he has nothing further to add.

5. The plea of guilt recorded by the Sessions Judge in his own hand-writing is fairly detailed one whereby it is apparent that the appellant has unequivocally admitted his guilt. The Judge had put a question to him after he had pleaded guilty as to why he committed the murder. The translated version of the appellant to the

aforesaid question is as follows:

'Four persons of the village had come to my house and had surrounded me. They wanted to beat and torture me. They had settled that they would hand over my wife to some one else. My wife had not said anything to me but I did not want to leave her. Daughter (wife) wanted to keep me in the in-laws house. I did not want that. She had said that you will be beaten by employing a few Goondas. He had got my neck throttled by four boys near about Holy time I could not speak for 2-4 days. This enraged me and I have killed her.'

6. According to the statement of PW 1 Jaggan Ram the appellant is the son-in-law of Ram Garib of his village. Ram Garib's daughter Banspati was married to the appellant Ram Kishun and he was living in his in-laws' house. Ram Garib had no other issue. About ten months ago at about 7 in the morning this witness had seen Banspati deceased going with a basket containing white lime for cleaning her maternal grand-father's house. Appellant Ram Kishun was following her with an axe in his hand. When Smt. Banspati reached the field, which was his field, situated towards south of the road Ram Kishun struck Smt. Banspati from behind with his axe which hit Banspati as a result of which she fell down. This incident was seen by this witness and Bujhan. They raised hue and cry. Some other villagers arrived, the appellant ran away. Banspati had died as a result of the injury on the neck. This witness narrated the story to Ram Garib, father of Banspati who lodged an FIR with the police. This witness further said that in his presence the trial Judge asked Ram Kishun appellant about the details of the murder of Banspati in reply to which appellant Ram Kishun accepted his guilt for having killed Smt. Banspati by attacking her with the axe.

7. This witness was cross-examined by the counsel wherein he has admitted that Banspati and the appellant lived together but there was no dispute amongst them. He did not know any reason why the appellant had killed Banspati. He was ignorant of the fact as to whether the appellant was attempted to be strangulated a day before the incident. He had seen one axe blow being given, from a distance of 2(K) steps. He had denied the suggestion that the incident was not seen by him.

8. Nothing has been elicited in the cross-examination of PW 1 which may shake the credibility of this witness.

9. As stated above, the trial court had recorded this statement just because this witness was present in the court at the time the appellant had admitted his guilt. It was absolutely not necessary for the trial Judge to record the statement once the appellant had accepted his guilt. However, even if the trial Judge had recorded the statement, legal effect of the acceptance of the guilt does not stand minimised at all.

10. In this connection learned counsel for the appellant argued that the language used in Section 229 Cr.P.C. should be read to mean that if once the charge was framed, because initially the appellant/ accused had claimed to be tried and pleaded not * guilty, his subsequent admission of guilt cannot be recorded. The learned A.G.A. has refused the said argument. For ready reference Section 229 Cr. P.C. may be quoted here :

'229. Conviction on plea of guilty :

If the accused pleads guilty, the Judge shall record the plea and may, in his discretion, convict, him thereon.'

11. It is stated at the outset that plea of guilt of an accused is a voluntary act. It does not partake character of confession. The stage of investigation is over much before the stage of pleading guilt reaches. The Judge's task is to find out truth involved in the case before him and if at any stage the accused pleads guilty and the Judge is satisfied that the said plea is voluntary plea and without any coercion, physical or mental, there is nothing in the Cr. P.C. to prevent such a guilt being recorded and thereafter on its basis, conviction can safely be recorded.

12. Moreover, in the instant case in the statement under Section 313 Cr. P.C. also the appellant has reiterated his plea of guilt. He has said it in so many words that he had killed his wife by the axe he was carrying. Under the circumstances, the trial Judge was justified in placing reliance on the said plea of guilt and rightly closed the prosecution evidence. The necessity of evidence would arise only if and

when the charge is not accepted. There is no reason to restrict the applicability of Section 229 Cr.P.C. to a Particular date or occasion but the purport of section is obvious that plea of guilt can be advanced by an accused at any stage of the trial after framing charge.

13. In view of the aforesaid discussion there is no error in the procedure and the trial Judge has rightly convicted and sentenced the appellant. It may be noticed here that the act of causing the death by axe was of extreme brutality and the young lady has lost her life for no reason whatsoever. The charge of Section 302 IPC as framed against the appellant stands fully proved on the facts and circumstances of the present case.

14. In view of the aforesaid discussion the appeal fails and is dismissed. The appellant is in jail and he will serve out the sentence awarded to him.

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