

Smt. Rukhmina Devi Vs. State of U.P.

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Court : Allahabad

Decided On : Nov-15-1988

Reported in : 1989CriLJ548

Judge : V.P. Mathur and ;M.M. Lal, JJ.

Appellant : Smt. Rukhmina Devi

Respondent : State of U.P.

Judgement :

V.P. Mathur, J.

1. This is an appeal against the judgment and order passed by Mr. Brij Mohan, the then 1st Additional Sessions Judge, Ballia on 11-9-1978 in Sessions Trial No. A 167 of 1974, wherein Smt. Rukmini Devi has been convicted and sentenced under Section 302, I.P.C. to imprisonment for life and under Section 309, I.P.C. to three months simple imprisonment and the two sentences have been made concurrent.

2. The occurrence took place between 6.00 am. and 9.00 a.m. on 19-6-1974 in village Basirkapur, which lies within the police station of Haldi of district Ballia. The first informant is Laxman Prasad, the husband of Smt. Rukmini Devi, Appellant. An information was first communicated to the Thana concerned through Ext. Ka-18, a memo sent by Dr. K. N. Pandey which was received in the Thana at about 11.30 a.m. and on the basis of the same, the Investigating Officer came to Primary

Health Centre, Dubahar where the deceased boy as well as the appellant were present, Laxman Prasad was also there and he handed over to the Investigating Officer first information report in writing Ext. Ka-1 at 12.45 p. m. which was despatched by the Investigating Officer to police station, Haldi, where it was received and the case was registered on 19-6-1974 at 2.00 p.m.

3. The deceased in this case is Arbind Kumar aged about 3 years (according to the medical evidence 5 years) son of Smt. Rukmini Devi and Laxman Prasad Dr. K. N. Pandey (P.W. 11) as soon as he saw the boy, examined him and found that he was already dead and thereafter the dead body was brought to Ballia where post-mortem examination was conducted by Dr. P. N. Rai (P.W. 4) on 20-6-1974 at 10.00 a.m. The report Ext. Ka-2 shows that the probable time since death was about one day and the following ante-mortem injuries were found on the dead body:

1. Stab wound 1 cm. x 1/2 cm. x chest cavity deep on the upper part of the chest just near right margin of sternum intercostal space. It was elliptical in shape and the margins were clean cut and straight inward. The wound was transversely placed.

2. Incised wound 1 cm. x 1/2 cm., sternum deep on the upper part of chest 2 cm. above and medial to injury No. 1. Transversely placed. Margins were clean cut.

3. Transverse incised wound right side front of neck in middle 3 cm. x 1/4 cm. x muscle deep with clean cut margins.

4. Pericardium had been cut anteriorly. The right ventricle of the heart was punctured in a length of 1/3 cm, In the opinion of the doctor, death was caused by shock and haemorrhage, which was a result of injury No. 1.

5. Smt. Rukmini Devi was examined by Dr. K. N. Pandey (P.W. 11) Medical Officer Primary Health Centre, Dubahar on 19-6-1974 at about 10.30 a.m. and she was found having the following injuries on her person:

1. Punctured wound at two places 1/2' apart from each other-1/2" x 1/3' x probing not done, on the front of neck-just above the medial end of left clavicle.

2. Abrasion at two places in front of neck $1/4'$ x $1/4'$ x $1/4'$, $1\ 1/2'$ above the manubrium sterni.
3. Punctured wound $1/3'$ x $1/3'$ x $1/2'$ in front of neck, $1/2'$ above the injury No. 2.
4. Punctured wound at 5 places in an area of $3'$ diameter in front of abdomen. $2'$ above the umbilicus- (a) $1/2'$ x $1/3'$ x probing not done (b, c, d & e) $1/3'$ x $1/4'$ x $1/2'$.
5. Punctured wound at 8 places around the umbilicus- 4 right and 4 left to umbilicus. 5 of them - $1/3'$ x $1/4'$ x $3/4'$ direction downwards. 3 of them - $1/4'$ x $1/4'$ x $1/3'$ direction downwards.
6. Punctured wound $3'$ below the umbilicus on lower abdomen, $1/4'$ x $1/4'$ x $1/3'$ - direction-oblique.

At the time of her medical examination she was unconscious with feeble pulse and hurried respiration. The doctor was of the opinion that the injuries were fresh and had been caused by means of a sharp pointed instrument like knife.

6. The prosecution story is that Laxman Prasad, Smt. Rukmini Devi, their son deceased Arvind Kumar and the mother of Laxman Prasad and his brother all lived in one Kotha in village Barirkapur. Adjacent to his room, there are other rooms also, the total being five in number, in which his other collaterals namely Deonath (P.W. 7), and Sheoraj also used to live. To the extreme west of all these rooms and other buildings, there is a pond and further to its west is the house of Ram Kripal(P.W. 3). On the date of this occurrence (i. e. 19-6-1974) in the early morning hours at about 6.00 a.m. the mother of the first informant had brought some curd (butter milk). The quantity was however not sufficient for all the members of the family and therefore she mixed some water with it. Smt. Rukmini Devi, accused appellant did not like this and it led to a quarrel between her and her mother-in-law. The first informant sided with the mother and asked the appellant not to unnecessarily quarrel with the mother and also threatened that if she persisted in this behaviour, then she will have to face dire consequences. It appears that this infuriated Smt. Rukmini Devi. After this exchange of hot words, Laxman Prasad and his mother as well as his brother Bharat Prasad all left for the

fields. But Smt. Rukmini Devi and her son Arvind Kumar remained there. The prosecution suggestion is that Smt. Rukmini Devi closed herself in the room of the house and bolted the door from inside. Then she gave fatal blow to the son and killed him and herself tried to commit suicide and caused injuries on her person. At about 9.00 in the morning while Laxman Prasad was still in his field, which was not very far away from the room, he heard the cries coming from his house, which it appears, were raised by his uncle Deonath (P.W. 7); He rushed and reached his house and found Deonath (P.W. 7) neighbour Ram Kripal (P.W. 3), Bharat Prasad, Suresh, Sheoraj and other villagers present at the door of his house. They were trying to open the door of his room, which was closed from inside. Deonath had already brought a spade (Phavda) and was in the process of digging up the chaukhat with a view to get the whole door frame loose, an attempt to open the door had already been made and it had failed. Ultimately the , entire door with chaukhat etc. was removed after breaking open the side walls and the top wall Then the witnesses entered inside the room. They saw Arvind Kumar lying on the charpoy with a pool of blood and in an unconscious condition. Smt. Rukmini Devi was also lying on the ground by the side of that charpoy again in an unconscious state. There were stab wounds on the body of the boy and of the appellant and blood was trickling out from the wounds. A blood-stained knife Ext. 5 was lying by the side of the charpoy. Torn pieces of a ten rupee currency note and a one rupee currency note were lying scattered on the ground Smt Rukmini Devi and the boy were promptly taken to Dubahar Primary Health Centre and there the doctor reported the boy already dead and examined the injuries of Smt. Rukmini Devi about which we have already made a mention.

7. On the memo sent by the doctor, Mr. Arvind Kumar Singh, sub-inspector reached the Primary Health Centre Dubahar at 12.45 p.m. where the first information report Ext. Ka-1 was given by Laxman Presad to him and as we have already mentioned earlier, it was sent to the thana through constable Sikander Zama, where the case was registered and necessary papers were prepared

8. Mr. Arvind Kumar Singh conducted the inquest on the dead body vide Ext. Ka-6 and prepared other documents and then arranged to send the dead body to the District Mortuary for post mortem examination. He also sent Smt. Rukmini Devi to

the District Hospital for medical treatment. After that he went to the scene of occurrence, recorded the statements of Laxman Prasad and other witnesses and prepared the site plan Ext. Ka-11 and also examined the charpoy on which the boy was lying at the time of the occurrence. The blood stained baadh of the charpoy were taken into custody, vide Ext. Ka-2. The blood-stained knife Ext. Ka-5 which was also lying near the charpoy was also taken into custody along with the torn pieces of the currency notes Ext. 1. Laxman Prasad thereafter showed spade (phawda) with which the door had been dug out and it was taken into custody vide, memo Ext. Ka-15,

9. Mr. B. K. Singh, Magistrate First Class (P.W. 10) recorded the statement of Smt. Rukmini Devi at 8.45 p.m. on 19-6-74 in the District Hospital, Ballia. We may at this stage point out that since Smt. Rukmini Devi has survived, the dying declaration has no legal value and has to be ignored

10. The Investigating Officer recorded the statements of Deonath (P.W. 7), Ramkripal (P.W. 3) and other witnesses and arranged to send blood stained articles to the police maalkhana, where from they were sent to the Chemical Examiner and the Serologist. Human blood stains were found on the baadh of the charpoy, the shirt and bush-shirt. Stains of blood were also found on the knife, but they were disintegrated. The report is Ext. Ka-20.

11. The accused appellant denied her guilt and simply pleaded that she was innocent. She denied having killed her own son Arvind Kumar. She also said that she never attempted to commit suicide. Her contention was that there was a quarrel between her and her mother-in-law on curd and her husband who was annoyed with her kicked her in her abdomen and since she was pregnant she fell down and became unconscious. Thereafter she does not know what had happened.

12. In support of its case the prosecution examined in all eleven witnesses. It is a case of circumstantial evidence and the three witnesses who come to depose in respect of the circumstances are Laxman Prasad (P.W. 2) Ram Kripal (P.W. 3) and Deonath (P.W. 7). All the other witnesses are either police personnel or the two doctors or other witnesses who furnish link evidence.

13. No evidence was produced by the appellant.

14. It is undoubted that the occurrence did take place inside the room of the first informant sometime between 6.00 am, and 9.00 a.m. The uncontroverted testimony of the witnesses including Deonath and Laxman Prasad is that after the exchange of hot words between Smt. Rukmini Devi and the complainant with respect to the behaviour of this lady towards her mother-in-law, all the inmates of these rooms left to look after their agricultural operations and to bring vegetables from their fields and only Rukmini Devi as well as Arvind Kumar, her son remained on the spot. It may be mentioned here that apparently the first information report was registered in the thana at 2.00 p.m. but it had reached thana at 12.45 p.m. through a constable to whom it had been handed over by the Investigating Officer, who in turn had received it from the first informant in the Primary Health Centre Dubahar. It is undoubted again that the doctor had already examined the injuries of Rukmini Devi at 10.30 a.m. at Dubahar Primary Health Centre where Laxman Prasad was undoubtedly present, as he had taken the lady as well as the child to Dubahar for medical examination and treatment. It cannot be said that the first information report was delayed in this case. The child was in a bad condition and ultimately died and the lady had sustained so many as 17 punctured wounds and two abrasions on her person and was also in an unconscious state. The first act of the husband and the other collaterals would therefore have been, as a natural course of conduct, to take these people for medical aid and assistance first. Therefore, there is no force in this argument which has been advanced before us, that although the thana was so close to the Primary Health Centre, the first information report was not lodged first. Then it is argued that when the boy was found already dead, and the injuries of Rukmini Devi had already been examined by 10.30 a.m. here does not appear to be any reason why the first informant did not go to the thana to lodge the report at once. There is reason for this however. The doctor had already sent a memo to the thana which is Ext. Ka-18, and through which he sent information about the receipt in the hospital of the dead body of a child and also of Smt. Rukmini Devi who was in a precariously injured condition and he had asked the police well as to take necessary action in the matter. That being so, it was naturally to be expected that the thana police will lose no time in coming to the Primary Health Centre to take up the matter and, therefore, if the

first informant got the first information report scribed and waited for the sub-inspector to come and then handed it over to him, there was nothing wrong about it. There is no delay in the lodging of the first information report in this case and even otherwise also, in case there had been some inexplicable delay, it would not have affected the merits of this case in view of the circumstances available on the record. Undoubtedly the occurrence did take place in the early morning hours of 19-6-1974. The matter came to light at about 9.00 a.m. Soon thereafter the injured was taken to the nearest Primary Health Centre and from there the dead body was sent to the Sadar and the lady was also got admitted in the district hospital at Ballia, For treatment. If she had already been examined for her injuries at 10,30 am. in the Primary Health Centre; There is no dispute as regards the time of the occurrence. Whether it took place at 6,00 a.m. or sometime between 6 and 9 a.m.. will make no difference.

15. The motive as alleged by the prosecution is a very simple one. There was some quarrel between the mother of the first informant and Smt. Rukmini Devi and it was in connection with curd or mattha. According to the prosecution story, the quantity of the mattha was meagre, and therefore, the mother mixed some water with it, so that all the members of the family may get part of it. According to the statement of Smt. Rukmini Devi, the mother-in-law did not allow her to give curd to Arvind Kumar and then made a false report to Laxman Prasad when he cattle to take food, upon which Laxman Prasad got annoyed Whatever may be the facts, iris undoubted that there was exchange of abuses between Smt. Rukmini Devi on the one hand and the first informant and his mother on the other; and the first informant took side with his mother. There is absolutely no evidence on the record to show that Smt. Rukmani Devi was given a blow in her abdomen by her husband with foot. No such injury was found on her person. Her story was that as a result of this blow, she became unconscious, because she was already pregnant, is not proved by anything on the record and : no cross-examination was made with Laxman Prasad on this aspect of the matter. Therefore, it remains that the prosecution version is believable that after the exchange of hot words and after she had been reprimanded by her husband and, threatened with dire consequences if she persisted in misbehaving with her mother-in-law, when all the members of the family left the place, Smt. Rukmini Devi went inside the kotha

along with her son and bolted it from inside. The testimony of Laxman Prasad and Deonath may be of interested and partisan witnesses because the former is the husband and the latter the uncle-in-law of Smt. Rukmini Devi. Although they are equally related to her as well But the testimony of Ram Kripal (P.W. 3) is that of an independent witness. Both Laxman Prasad and Ram Kripal say that they reached the spot on hearing the cries raised by Deonath and Deonath's testimony is to the effect that when he came at about 9,00 a.m. to his own room, he heard some sound of mourning coming from the room of the first informant, He reached there and tried to open the door, but since it was bolted from inside, it could not be opened In order to ensure that there was nothing wrong, he tried to get the door physically removed with the help of a phavada and at the time when he went to get the Phavada he raised cries. As a result of the cries, Lax man Prasad and Ramkripal came on the spot along with others. By that time he had already started digging the walls around the door and ultimately with the help of the witnesses he got the door physically removed from the spot. It may be mentioned here that the Investigating Officer found the entire door including the door frame (chaukhat) removed and separately kept The testimony of all these witnesses is that after removal they saw that the door had been bolted from inside through a wooden killi. The testimony of Deonath is that he tried to first open the door and failed and hence the second best thing was done and he removed the door Physically. The learned Counsel has argued that the kotha has a tiled roof and it would have been easier to remove the tiles, rather than break open the door. In the first place by removal of the tiles, an entrance would have been procured through a fall from the roof, while by removal of the door, the entrance would be in a normal way in which one enters in a room. In the Second place why the tiles were not removed and the removal of the door was considered more appropriate is a matter on which one cannot comment at this stage. The witness Deonath was keen to see that nothing untoward happened inside the room and therefore at the spur of the moment, whatever came to his mind to secure entrance, was carried out. His conduct in this respect does not raise any suspicion. The witnesses then say that both Rukmini Devi and the child were lying in an unconscious state, the former on the ground near the charpoy with face downwards and the latter on the charpoy bleeding from his injuries, The fact that the door was closed from inside and a wooden killi had

fixed it shut, goes to show that the occurrence was not committed by any outsider, but, had been committed by Smt. Rukmini Devi herself. Why she should murder her own son is not for the prosecution to explain. Some ladies are over-sensitive and even a small incident makes them rash and unreasonable. Smt. Rukmini Devi appears to be one of such ladies. Ram Kripal (P.W. 3) who is a close neighbour and independent witness is a completely reliable witness and there is no reason why he should come forward to make a false statement and his statement gives complete corroboration to Laxman Prasad and Deonath who are also absolutely straight and gave the prosecution version in a very clear manner. As we have already said it is a case of circumstantial evidence, but the circumstance made out from the evidence on the record points out only one thing that after a quarrel with her husband and mother-in-law, Smt. Rukmini Devi went inside the kotha along with her son Arvind Kumar, shut the door, locked it from inside through one wooden killi and then first inflicted fatal injuries upon Arvind Kumar and then attempted to commit suicide herself by inflicting a large number of punctured wounds upon her person. The blood stained knife was recovered from the scene of occurrence and undoubtedly all the injuries on the person of the deceased Arvind Kumar and all the injuries except 2 on the person of Smt. Rukmini Devi can be sustained as a result of blows from knife. The two abrasions on the person of Smt Rukmini Devi can be the result of a fall. The lady was found lying on her face when the witnesses entered the room. She must have fallen down after receiving so many injuries and before becoming unconscious.

16. We are in agreement with the learned Sessions Judge that a consideration of the entire evidence on the record and of the totality of the circumstances clearly establish both the charges under Sections 302 and 309, LP.C. against Smt. Rukmani Devi. Even if we assume, for a moment, that the occurrence was a result of provocation, it was given not by Arvind Kumar but by the husband of the lady and her mother-in-law. Therefore so far as the murder of Arvind Kumar is concerned it will not be covered by Exception IV of Section 300,1. P. C. of course it is a clear cut case under Section 302, I.P.C. so far as the murder of Arvind Kumar is concerned, and under Section 305, 1. P. C. so far as Smt. Rukmani Devi's act in inflicting injuries on her own person with a view to commit suicide is concerned She was rightly convicted on both the charges. The sentence of

imprisonment for life under Section 302, I.P.C. and of simple imprisonment for three months under Section 309,1. P. C. cannot, therefore, be said to be harsh.

17. The appeal, therefore, has no force and is hereby dismissed Smt. Rukmani Devi's conviction under Section 302, I.P.C. and Under Section 309, I. P. C as returned by the learned Sessions Judge and the sentence of imprisonment for life and three months' simple imprisonment, both being concurrent are upheld She is on bail Her bail bonds and surety deeds shall be cancelled She will surrender and will be taken into custody forthwith to serve out the sentence.

18. Before parting with this case we also feel that the appellant had apparently no motive to commit murder of her own son but she was driven to that action by rage, when she was very young aged about 17 years. We also feel that in the process she has lost not only her son but also her husband who is now no more interested in keeping her. She is a woman and under these circumstances we feel that it is a fit case in which the Government may consider the feasibility of remitting of part of the punishment to which the appellant has been sentenced in exercise of their power under Section 432, Criminal Procedure Code.

19. A copy of this judgment shall be sent to the Secretary, Department of Home, Government of U.P.