

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

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Court : Allahabad

Decided On : Jul-11-2001

Reported in : 2001CriLJ4428

Judge : S.K. Agarwal, J.

Acts : Indian Penal Code (IPC) - Sections 302 and 394

Appeal No. : Cri. Misc. Bail Appln. No. 10380 of 2001

Appellant : Smt. Manbhawati Devi

Respondent : State of U.P.

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : Shashank Shekhar, Adv.

Judgement :

ORDER

S.K. Agarwal, J.

1. Heard learned Counsel for the applicant and learned AGA.

2. It is contended by learned Counsel for the applicant that the husband of the applicant was missing for a considerably long time. She was living along with her children with her aged in laws since then. On the date of incident according to her

confessional statement she had called Shashi Ranjan Pandey and her own unmarried sister Km. Sita for her help.

3. It is further available from her confessional statement that these three persons the applicant, Km. Sita and Shashi Ranjan Pandey connived and committed these two murder. The story as contained in her confessional statement has many snags. The story reveals that Sita has sustained injuries while assaulting the mother in law and applicant had gagged her mouth. She had also pressed her legs. The deceased was finally killed by Satish with a Dav as Sita was unable to do it. The other deceased, father-in-law was done away with by Satish alone. This accused too had sustained number of injuries which were caused by a spindle shaped sharp edged weapon and Sita's injuries are caused by some blunt object or weapon. The prosecution evidence is such that these injuries remain wholly unexplained. These injuries on their person are such in nature that this lame duck explanation indicates that the Investigating Officer has adopted a highly short sighted approach in this case. It appears to have ignored all other possible angles of the case and has failed to appreciate that they may have been caused or inflicted by some other person. It has also failed to take into account the aspect of gumshudagi of her husband who was the only son of her in laws. It has also not evaluated who could be the possible beneficiaries from these murders. What benefit this applicant is entitled to from their assassination. It has also not considered that she has children, male and female, who shall be direct heirs of the estate of the deceased couple. She was not going to have any immediate benefit. This demolishes existence of any motive against her. The deceased couple had sufficient landed property and cash. They have five sons in laws. Some of whom are living in the same village. To what extent they shall be benefitted by the murder of these two and involvement of this applicant in their murder. Her minor kids will live a life of orphanage in her absence. The son in laws have applied for mutation of their name on the property of the two deceased within three months probably immediately after charge-sheet. It creates a big room for suspicion in the quality and correctness of this investigation. Its intentions are explicit and it leaves much to be desired. It has suffered due to serious lapse on the part of senior officials such as Circle Officer, who is that immediate superior to whom all the parchas of case diary are sent by the investigating Officer on a day to day basis.

The next senior official is either Superintendent of Police Rural or City or S.S.P. But it appears that none of them could find any time to check the activity of the Investigating Officer. It is a pity that these Superior Officers do not find time from either due to sycophancy or from attending the V.V.I.Ps. ministers Central and State both who used to be present in the districts almost every day. This dereliction from their legal as well as social obligation on the part of these senior officials has brought the investigation process to such a callous pass. It has provided the Investigating Officers long rope to work according to their whims. They also expose to fore the collusive character of the investigation. Time and again these situations were brought to the notice of the highest authorities as well as the Government of the State but no concrete steps apparently have been taken as yet in this regard by any one of them. It is a matter of serious concern. The need to create a separate cell in each and every district under some Senior Official to keep a regular vigil over our primitive method of investigation from completely going haywire is more seriously felt in the present state of lawlessness in the State. The Officials appointed to this cell should not be enjoined with any V.I.P. duties.

4. The injuries of these co-accused persons do not subscribe to the alleged explanation brought forth by the prosecution in her confessional statement. These are close door murders. Any eye-witness account is a remote probability. The only circumstance that probably weighed heavily with the Investigating Officer was absence of any injury on her person. He failed to take into notice the probability that if persons other than the inmates had designed and perpetrated these murders they will leave her unscathed to fully accomplish their design. The scattering of household articles might also be a part of their design.

5. Any recovery of blood-stained clothes or so-called weapon of assault may not have any bearing upon the accused because it is not known whether the blood on them is human and also belongs to the blood group of the deceased persons. Neither learned Counsel for the complainant nor the learned Counsel for the State applicant could provide any positive information in this regard. It is also significant that these discoveries were from the house of the deceased. The blood may be their own.

6. In my opinion this case requires further investigation by some superior agency of the State. The confession to a Police official is not admissible in evidence. Her participation in the facts and circumstances discussed above appears not free from doubt. She is entitled to bail.

7. Let the applicant be enlarged on bail on her furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Chief Judicial Magistrate, Mirzapur in case Crime No. 112 of 2001 under Sections 394, 302, IPC Police Station Ahraura, District Mirzapur.

8. The Secretary Home, Govt. of U.P. is directed to examine the case diary either himself or by any senior official of the rank of a D.I.G. in the light of the observations made in this order and if there exist a need for further investigation by a superior agency an order to this effect must come to be passed by him. A report of the action taken in compliance of this order should also be submitted to this Court within 8 weeks from the date a copy of this order is received by him or his office.

9. The Registry is directed to send a copy of this order to Secretary Home, Government of U.P. within fifteen days for necessary compliance.