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Dharamvir Singh Vs. the State

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Court : Allahabad

Decided On : Jan-24-2003

Reported in : 2003CriLJ3452

Judge : M.C. Jain and ;K.N. Ojha, JJ.

Acts : Indian Penal Code (IPC), 1860 - Sections 201, 300 and 302

Appeal No. : Criminal Appeal No. 2109 of 1995

Appellant : Dharamvir Singh

Respondent : The State

Advocate for Def. : J. Narain, Adv. and ;N.K. Chaturvedi, A.G.A.

Advocate for Pet/Ap. : P.N. Misra, ;M.S. Pipersenia, ;P.C. Sharma, ;A.B.L. Gaur and ;Apul Misra, Advs.

Disposition : Appeal dismissed

Judgement :

K.N. Ojha, J.

1. This appeal has been filed against order of conviction and sentence dated 18-11-1995 passed by II Additional Sessions Judge, Etah in S.T. No. 157 of 1994. Dharamvir Singh has been convicted under Section 302 I.P.C. and sentenced to

undergo rigorous imprisonment for life and under Section 201, I.P.C. to undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs. 5,000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of one year. The learned Sessions Judge has directed that both the sentences passed under Sections 302 and 201, I.P.C. will run concurrently.

2. Murder of his own wife Smt. Anandi Kumari was allegedly committed by the appellant on 12-7-93 or before it. F.I.R. was lodged by her brother, Amar Singh at Police Station Kotwali, District Etah bearing crime No. 48 on 17-7-1993 at 9.30 p.m. under Section 364, I.P.C. against the appellant Dharamvir Singh and his father Naubat Singh. Later on the offence was converted in Sections 302, 364, 201 and 120B, I.P.C. The dead body of Smt. Anandi Kumari could not be traced out.

3. Prosecution examined P.W. 1 Peetam Singh, brother of the deceased, who is witness of the fact that cruelty was done by the appellant on Smt. Anandi Kumari, P.W. 2 Asharfee Lal is a witness of criminal conspiracy, P.W. 3 Ramesh Chandra Pachauri is witness of extra-judicial confession made by the appellant Dharamvir, P.W. 4 Amar Singh, brother of the deceased, is informant and witness of cruelty, P.W. 5 Police Sub-Inspector Chote Lal Gupta and P.W. 6 Police Sub Inspector, Prayag Singh are Investigating Officers, C.W. 1 Km. Mahendra Verma is Oath Commissioner, C.W. 2 is Dr. Vinod Kumar Gupta, who had examined the injury of Smt. Anandi Kumari earlier on 19-9-1986 in District Hospital, Etah and C.W. 3 is Constable Deo Singh.

4. The facts of the case are that accused-appellant Dr. Dharamvir Singh, was married with Smt. Anandi Kumari. Appellant had a medical clinic in the city of Etah and he was residing with Smt. Anandi Kumari, his wife and three children in a rented house of Sri Roop Narain Johri, Advocate, Etah. It is alleged that Amar Singh, brother of Smt. Anandi Kumari, had gone to the residence of the appellant on 12-7-1993 to meet his sister Anandi Kumari. He found that the rented house of appellant was locked. It was told by the neighbourers that Dharamvir Singh, appellant had vacated the house. Thereafter. Amar Singh made enquiry from the landlord, who told that the appellant vacated the house on 10-7-1993 and he had

been told that Smt. Anandi Kumar was suffering from blood cancer and, therefore, he along with his family was going to Agra and Aligarh for treatment of his wife. Amar Singh and his family members made search of appellant and Smt. Anandi Kumari at Agra and Aligarh, but their whereabouts could not be known. Though search was made at other places but nothing could be known. Therefore, Amar Singh suspected that his sister and three children were killed and their dead bodies had been disposed of. The appellant was not having cordial relations with his wife, Smt. Anandi Kumari and, therefore, he used to beat and assault her. He was characterless man and had illicit relation with one Madhu Kumari of village Amritpur, Police Station Mirchchi, District Etah.

5. In the F.I.R. made by Amar Singh, brother of the deceased on 17-7-1993 at Police Station Kotwali City, Etah, the investigation was entrusted to Prayag Singh, Police Sub-Inspector, who recorded the statement of Amar Singh and other witnesses. During investigation it was found by the Investigating Officer that Smt. Anandi Kumari was murdered. Therefore, a case under Sections 302 and 201 I.P.C. besides case under Section 364, I.P.C. was registered on 16-10-1993. Appellant was not traceable anywhere because he was absconding. He recorded the statement of witnesses Ramesh Chandra Pachauri on 12-10-1993 to whom the confession was made by the accused-appellant. Appellant surrendered before the Court of Magistrate on 18-10-1993. Later on investigation was done by Inspector, Chhotey Lal Gupta, who recorded the statements of Ramesh Kumar and Smt. Prabha Kumari alias Madhu Kumari, Babloo and Km. Ritu and submitted charge-sheet against the appellant and his father Naubat Singh.

6. Dr. Dharamvir Singh and his father Naubat Singh were tried by the Sessions Judge. They denied their involvement in the crime. They examined one witness -- Sri Ram, in their defence. Naubat Singh was charged under Section 120B and 201, I.P.C. for committing conspiracy, while his son Dr. Dharmavir Singh who committed murder of Smt. Anandi Kumari and disposed of her dead body in a concealed manner was charged under Sections 364, 302, 201 and 120B, I.P.C. The learned Sessions Judge held that charge was not proved against Naubat Singh, father of Dharamvir Singh and he was acquitted but Dharamvir was convicted and sentenced as stated earlier.

7. P.W. 1 Peetam Singh and P.W. 4 Amar Singh are brothers. Amar Singh has stated that Smt. Anandi Kumari was his sister and was married with accused Dharamvir Singh in January 1980. After the marriage he came to know that accused Dharamvir Singh was a characterless person and had illicit relation with many girls and he had also such relations with Madhu Kumari alias Prabha Kumari of village Amritpur which was the village of the accused. Madhu had left her husband and maintained illicit relations with the accused and after using the certificates of High School and Intermediate of Smt. Anandi Kumari, the accused Dharamvir Singh had got Madhu Kumari admitted at A.N.M. Nursing Training Centre, Bannadevi, Aligarh. When his sister could not trace out her certificates, she told it to her brother, Peetam Singh and thereafter he along with his sister went to the Training Centre on 8-8-1981 and moved a complaint to the Incharge of the Centre, the Copy of the complaint in Ex.Ka-1. Since then his sister started to live at his residence. Then the accused sent a letter through the compounder to Smt. Anandi Kumari, who was called 'Anju' by her family members. This letter has also been proved as Ex.Ka-2. Smt. Anju came to her father's residence and Dharamvir went to her father's residence to take her. In the presence of Village Pradhan and MLA of the area on 30-8-1981 it was decided that Smt. Anandi Kumari would go with Dharamvir Singh and would live with him and in case of any unnatural happenings, Dharamvir Singh would be responsible for it. An agreement was reduced in writing and the paper is Ex.Ka-3, He went to the residence of the accused and enquired his sister about the character of Dharamvir Singh. But there was no change in cruel conduct of the accused as he used to beat her and to have illicit relations with other girls. One letter was written by his sister to her father on 8-6-1984. This letter was also proved as Ex.Ka-4 in which Smt. Anandi Kumari had narrated about physical and mental torture heaped on her by the appellant, The accused beat Smt. Anandi Kumari seriously on 17-6-1989 and tried to strangulate her and also threatened to kill her and she was turned out by him from the house. Smt. Anandi Kumari lodged FIR at P. S. Mirchchi. Thereafter, she came to her father's residence and lived about four months there. But again she was sent to the residence of accused Dharamvir Singh. It is also stated that on 12-7-1993-when his brother P.W. 4 Amar Singh went to see his sister, he found that the house of the accused was locked and the accused was not present at his

clinic. He enquired from Sri Johri, Advocate, the landlord of the house, who told that Dharamvir Singh left the house and had gone to Aligarh and Agra for medical treatment of his wife. The family members of Smt. Anandi Kumari tried to trace out her at Aligarh and Agra but whereabouts of Smt. Anandi Kumari and her children could not be known. Naubat Singh, father of Dharamvir Singh along with three children of Smt. Anandi Kumari reached Kotwali of District Etah and then the witness and his family members came to know that Smt. Anandi Kumari was killed by the accused Dharamvir Singh, P.W. 1 Peetam Singh has further stated that he met P.W. 3 Ramesh Chandra Pachauri on 12-10-1993, who told him that Dharamvir Singh had informed him that he had killed his wife Smt. Anandi Kumari and had disposed of her dead body. Then P.W. 4 Amar Singh went to the Police Station and lodged FIR against Naubat Singh and Dharamvir Singh on 17-7-1993. The witness has also stated that the accused Dharamvir Singh had moved bail application before the Court that Smt. Anandi Kumari was ill and died in Geetanjali Nursing Home, Aligarh. While real fact is that neither she was ill nor any such Information was given to him or his family members.

8. P.W. 4 Amar Singh, who is brother of P.W. 1 Peetam Singh has corroborated the statement of his brother, Peetam Singh and has proved inland letter Ex.Ka-4, which was sent by Smt. Anandi Kumari on 8-6-1989 to her father and had made complaint that Dharamvir Singh usually beat her. He has also stated that FIR was lodged by Smt. Anandi Kumari on 21-6-1989 against Dharamvir Singh at Police Station Mirchchi. He has stated that when he went to his sister's residence on 12-7-93 he was not present and the landlord told that Dharamvir Singh had already vacated the house on 10-7-1993. He has proved that on 17-7-1993 he got FIR written by his brother Ved Prakash and lodged at the Police Station.

9. Thus statements of P.W. 1 Peetam Singh and P.W. 4 Amar Singh establish that Dharamvir Singh had no love and affection for his wife Smt. Anandi Kumari and that is the reason, he wanted to get rid of her. Papers which have been proved by the witnesses show that Smt. Anandi Kumari had sent letter to her father Daulat Ram which is Ex.Ka-4. Original inland letter has been filed and proved which specifically makes it clear that she was subjected to cruelty and was hated by the accused Dharamvir Singh. Ex.C-2 is injury report of Smt. Anandi Kumari which

shows that she was medically examined in District Hospital Etah on 19-9-1986 at 1.15p.m. and six injuries were found on her body including right arm, left arm, left shoulder, right side of neck and left side of back. Ex.Ka-3 shows that Smt. Anandi Kumari had lodged FIR against her husband Dharamvir Singh on 21-6-1989 at 8-10 p.m. at P.S. Mirchchi, District Etah under Sections 323, 504, 506, I.P.C. specifically mentioning that she was seriously beaten in the night of 17/18-6-1989 at about 1.00 a.m. Ex.K2 is a letter in two pages written by the accused Dharamvir Singh in his own hand-writing addressing Smt. Anandi Kumari as Anju, in which he had confessed that he had sent the form in her name. This letter shows that the certificates of Smt. Anandi Kumari were misused for another girl Madhu Kumari and he concealed the High School and Intermediate certificate of his wife and used for another girl showing that she was his wife. In fact Dharamvir Singh had no love and affection for his wife Smt. Anandi Kumari and this shows his intention to commit murder of Smt. Anandi Kumari. Further, there is injury report of Smt. Anandi Kumari and FIR against Dharamvir Singh. She wrote letter to her father that she was subjected to cruelty, physical and mental torture was exercised on her. Panchayat was also called for her and the agreement was made in writing. These occurrences did take place at different times in different years which prove cruelty of Dharamvir Singh on his wife continued. These proved facts supplied important circumstantial evidence that the appellant Dharamvir Singh committed murder of his wife, Smt. Anandi Kumari.

10. We should point out that if a person lives with his wife and children in a rented house and is in medical practice, all of sudden, he will not leave that place to some unknown place without informing her relatives and will not try to conceal his presence. Whatever may be the status of the doctor, whether he is a prominent doctor or a medical practitioner at a very small place, it is difficult for a doctor to leave clinic even for a single day. But to leave the residence and clinic and disappear from the society in such a manner shows guilty intention of accused applicant. It cannot be believed that Smt. Anandi Kumari became ill and the doctor left the residence for her treatment at Aligarh or Agra. She died and still no necessity was felt by him for information being given to her father, mother and brothers. If really Smt. Anandi Kumari would have been ill, Information would have been immediately sent to her parents and they would have run to her rescue.

Whereabouts of the deceased would not have been concealed by the accused in the manner he actually did. It means Smt. Anandi Kumari was done to death by the appellant and her dead body was disposed of, in such a manner that it could not be traced out.

11. Papers show that one bail application was moved for the appellant. In the application it was specifically mentioned that she was suffering from cancer. One Suresh Chandra filed affidavit before the District and Sessions Judge, Etah that Smt. Anandi Kumari was suffering from cancer and she was under medical treatment of Dr. P. Viswas and she died. One Om Prakash filed affidavit in the Court of Sessions Judge, Etah that Smt. Anandi Kumari wife of Dharamvir Singh suffered from cardiac arrest on 15-7-1993 and expired in Geetanjali Nursing Home, Aligarh. The fact is that she was not under medical treatment of Dr. P. Viswas. It has been submitted by the counsel for the appellant that relations of applicant with the father and brother of Smt. Anandi Kumari were not cordial and this was the reason that information was not sent by the appellant and appellant went to Aligarh for medical treatment of the deceased. When two brothers of the deceased used to visit her to know about her welfare it should be inferred that there was no serious dispute between the appellant and the father and brothers of the deceased. The brothers of the deceased usually visited the residence of the appellant. Besides it, even if she was so seriously ill that the clinic was to be closed and the residence was to be left, it cannot be believed that a man in normal circumstances will not inform the family members of the wife. Therefore, information would have been given to the father, brothers and family members of the deceased. It shows that in order to conceal the fact of the offence being committed, no information was sent to them and the appellant thought that it would be proper to leave the place as it was certain that after sometime the police would be behind him.

12. In case his wife was missing from his residence, certainly FIR would have been lodged by him or information sent to her father, brothers and the family members. Therefore, the only conclusion emerges from the circumstances that the appellant committed murder of his wife in order to get rid of her.

13. It has been submitted by the learned Counsel for the appellant that there is inordinate delay in lodging FIR. Application was moved by Amar Singh, P.W. 4, brother of the deceased on 17-7-1993 specifically mentioning that when he went to the residence of the appellant on 12-7-1993 he found that the clinic and house were locked. The landlord, Sri Johari, Advocate told him that the doctor had left the house for medical treatment of his wife at Aligarh or Agra. When, the information for leaving the place was only to the landlord and the commission of the crime remained secret, family-members, came to know about the offence only when he visited the appellant and found that his wife and children were not there. FIR was lodged five days thereafter because in spite of much efforts no trace was found. But when the father of the appellant along with three children reached Kotwali Police Station, it came to be confirmed that the appellant was absconding and the fact was confirmed that Smt. Anandi Kumari was killed. Then the offence was converted from Section 364, 302 IPC. In such circumstances when efforts made by the family members to trace out Smt. Anandi Kumari failed, F.I.R. was lodged on 17-7-1993, five days after the visit of the informant to the residence of the appellant. Thus, there is sufficient explanation of the delay.

14. Besides above circumstantial evidence, there is extra-judicial confession of the appellant. P.W. 3 Ramesh Chandra Pachauri, has stated that he knows the appellant, Dharamvir Singh since last five years. He is a teacher by profession and lives in city Etah. His father was ill, so he used to visit the appellant for medical treatment. His house was at the distance of 100 meters from the residence where appellant Dharamvir Singh was living. So he developed intimacy with Dharamvir Singh, appellant. When he went to the clinic of appellant, the appellant had got him introduced with his brother-in-law. He had got medical treatment done of his father up to July, 1993. From July, 1993 when Dharamvir Singh, appellant was not available at his clinic he got his father's medical treatment done from other doctor. On 10-10-1993, appellant Dharamvir Singh went to his residence in Civil Lines, Etah. He was mentally tense. He told that the had committed murder of his wife and had disposed of her body, his clinic was closed, police was behind him and if some compromise was got done by him (P.W. 3 Ramesh Chandra Pachauri) between him and his father-in-law and brothers-in-law, it will be great help to him. He also requested this witness to go to Bangaon, where elder brother-in-law (sala)

of appellant lives. He has further stated that the appellant asked that the information be sent by him to his brother-in-law to consider over the matter and this fact was told by him (this witness) to Peetam Singh. The learned Counsel for the appellant submits that Ramesh Chandra Pachauri is an ordinary person and the doctor had no reason to make such statement about his guilt to the witness because neither Pachauri is related to him nor Pachauri has any special position to protect the appellant. Ex.Ka-6 is medical prescription issued by the appellant which shows that appellant had done B.Sc. from Agra and B.A.M.S. from Kanpur. He carried on clinic at District Etah, U.P. There is no Medical College or University at Etah as it is not big city of U.P. Besides it, the appellant had not such financial or social status that Ramesh Chandra Pachauari, who had house at the distance of about only 100 meters from residence and clinic of the appellant could not have any contact with the appellant. The residence and clinic both are rented. It means his financial position was of ordinary citizen. Police was searching him and it was knowing his residence and relation. So, police could arrest him. In such circumstance he confessed to Ramesh Chandra Pachauri, who could have some contact with brothers-in-law because by doing so he would have been successful in getting these witnesses for not supporting the prosecution case. The statement of Ramesh Chandra Pachauri shows that the appellant made confession to him with the hope that if brothers 'of the deceased would not pursue the case, he may escape from the punishment of the legal proceedings. There is nothing unnatural in statement of Ramesh Chandra Pachauri. It is also important to note that the appellant got a paper prepared, to show that Smt. Anandi Kumari was admitted at the clinic of Dr. Viswas at Aligarh. Later on Dr. Viswas filed affidavit on 28-10-93 in bail application No. 2126/93 of Dharamvir Singh that due to mistake he had issued such certificate and he had no knowledge whether the wife of appellant Dharamvir Singh died or not. In view of the admission of Dr. Viswas, the learned Additional Sessions Judge has directed that he should be prosecuted for fabricating false evidence of death certificate of Smt. Anandi Kumari under Section 192 of Indian Penal Code. Thus the appellant went to such extent as to obtain forged certificate from Dr. Viswas as to death of his wife.

15. In view of the above discussion on different relevant aspects, the guilt of the appellant Under Sections 302 and 201 I.P.C. is proved to the hilt by clinching

circumstantial evidence coupled by his extra-judicial confession.

16. We dismiss this appeal.

17. The conviction and sentences passed against the appellant by the trial Judge are affirmed. He shall be taken into custody and lodged in jail.

18. A copy of the judgment along with record be sent to the Court below for needful compliance and report within two months.

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