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**Janglia Vs. State**

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**SooperKanoon Citation** : sooperkanoon.com/499076

**Court** : Madhya Pradesh

**Decided On :** Feb-16-1956

**Reported in** : 1956CriLJ1410

**Judge** : Nevaskar and ;Samvatsar, JJ.

**Appellant** : Janglia

**Respondent** : State

**Judgement** :

**Samvatsar, J.**

1. Accused Jangaliya was prosecuted before the-Sessions Judge, Ratlam, (Camp Alirajpur) for an offence under Section 302, I.P.C. who found him guilty under that Section and sentenced him to transportation for life.

2. Accused has preferred this appeal.

3. The facts giving rise to the present prosecution may be briefly stated as follows:

Deceased Nansingh along with prosecution witnesses Nanbu and Kaharu had gone to Bordu for picking up Mahua fruit. While they were returning in the evening they found accused Jangaliya. Ansinggh, Dhansingh and Pidia sitting by the trunk of a tree. The deceased and his companions had a potli (bundle) of Mahua fruit with him and Nanbu and the deceased were armed with bows and arrows.

Jangaliya asked them who were they.

They gave out their names. Jangaliya then abused them after stopping them. He then discharged an arrow which struck deceased Nansingh on his ribs. His companions fled. Jangaliya chased them and overtook Nanbu and caught him by his hand and after snatching away the bow from him struck him with it. Kaharu was struck with an arrow by Dhansingh. It injured him on his arm. Both of them escaped and went to Kaharu's father Patliya and narrated to him the incident.

Matla directed them to Nansingh's brother Jenia. Jenia was approached who said that they would report the matter in the morning to Tadavi. In the morning while all the three were going to Tadavi they, however, met him in the way. All proceeded to the place of the incident. They found Nansingh's dead body and the Tadavi then asked them to report the matter to the Police. All the three then went to the Police stations nearby.

But the Head Constable of Begda village had already reported the incident. According to him information about the dead body lying there was given to him by accused Ansingh to Velia Tadavi of the village Begada. The Sub-Inspector of Police along with them went to the place of the incident. The dead body of Nansingh was taken to Hospital at Alirajpur, where it was examined by Dr. Bhatnagar. The death according to Dr. Bhatnagar, was due to rupture of the spleen and consequent haemorrhage due to a penetrating wound in the spleen. Dr. Ranade examined Nanbu and Kaharu, He found a contusion on Nanbu's neck and an incised wound skindeep on Kaharu's arm.

4. On these facts the accused was prosecuted.

5. At the trial the prosecution examined Nanbu, Kaharu, Jenia, Natla, Velia Tadavi and Dr. Bhatnagar and Dr. Ranade besides the Police and Panch witnesses.

6. According to Nanbu he along with Kaharu and Nansingh were returning with bundles of Mahua from Bordu where they had gone to pick up Mahua. On their way they met accused Jangaliya, Ansingh, Dhansingh and Pidia sitting near a Tad tree. Jangaliya asked them about their identity and on discloser by them of their

names Jangaliya abused them and discharged an arrow which struck Nansingh on his side. He and Kaharu attempted to run. Jangaliya caught hold of him by his hair and struck him with the bow three or four times on his back. Dhansingh discharged an arrow towards Kaharu while he was attempting to escape.

Both of them then ran home. They went to Matla, father of Kaharu and narrated to him what had happened. Malta asked them to report the matter to the Police. In his cross-examination he denied the fact that Jangaliya has turned out his sister whom he had kept as his wife. According to him it was a bright night and the accused discharged an arrow towards Nansingh from a distance of 4 or 5 paces.

7. Kaharu besides stating what Nanbu had stated, said that all the four when they met near the Tad tree were drunk. Jangaliya was dead drunk. He stated that he knew all of them and always called Jangaliya kaka. He admitted that there was never any previous quarrel between them and the accused. According to him Mahua belonging to the accused were at a distance from the place where the incident occurred,

8. Matla, father of Kaharu, speaks of a report to him by his son Kaharu and Nanbu about the incident. According to him both the informants had named Jangaliya and others as the assailants. He then referred them to Jenia, brother of Nansingh. Jangaliya also stated that Nanbu and Kaharu had told him of the incident at night but as there was nobody at his place, he decided to go in the morning to lodge a report.

9. Velia Tadavi of village Vegada stated that he was told by accused Ansingh that a person was lying near a Tad tree either dead or drunk. On this he visited the place mentioned by him. He found there Potlis (bundles) of Mahua by his side and there was bow and arrow.

10. It appears from this evidence that the story told by Nanbu and Kaharu finds support by the injuries on their persons and by the circumstances of the Potli of Mahua lying by the side of the dead body. On the spot a bow and arrow was found.

11. Mr. Paul who appeared for the appellant stressed that the conduct of the witnesses Nanbu and Kaharu in not lodging the report and going home till the next morning is highly suspicious and suggests their knowledge and complicity. He further contended that neither of them reports the matter either to Tadavi Velia of Vigada nor to Miss Ruth who was staying amongst Bhils with a view to ameliorate their lot. The accused denied his complicity in the matter and alleged that he had kept Nanbu's sister and had turned her out later on.

12. Prom the prosecution evidence it appears that Jangaliya was drunk. He stopped Nansingh, Kaharu and, Nanbu and asked them their whereabouts and then discharged an arrow which struck Nansingh ana penetrated his spleen causing his death on the spot. The existence of Potlis, injuries on the person of Kaharu and Nanbu are consistent with their version. There is no evidence worth the name indicating the presence of ill-will between the accused and the witnesses to such an extent as would induce the latter to falsely implicate him. The arrow no doubt struck the deceased on a vital part of his body.

The existence of Mahua trees belonging to the accused nearby and the presence of Mahua potlis there with the accused are circumstances which to a certain extent are in favour of the accused. Both in the absence of any suggestion of Justification by the accused either in the evidence or in his own statement it will be difficult to assume that they are enough to bring the case of the accused under any of the general exceptions.

13. In view of the facts and circumstances on record it is difficult to hold that the accused Jangaliya is not responsible for the injury which led to the death of Nansingh. But it is possible to hold that it was night time and he being drunk might not have chosen the particular spot where the injury was caused. In the absence of evidence regarding the accused having selected the place of injury all that can be said is that he intended to cause bodily injury which was likely to cause death and not one which was sufficient in the ordinary course of nature to cause death.

14. I, therefore, hold the accused guilty under Section 304 Part J, I.P.C. instead of Section 302 I P.C.

15. For these reasons the conviction of the accused under Section 302, I.P.C. and sentence thereunder are set aside and he is convicted under Section 304, Part 1, I.P.C. and sentenced to 5 years' rigorous imprisonment.

**Samvatsar, J.**

16. I agree.

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