

Mukesh Vs. State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Mar-23-2005

Reported in : 2005CriLJ2784; 2005(3)MPHT195

Judge : Deepak Verma and ;A.K. Awasthy, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 302

Appeal No. : Crl. Appeal No. 265 of 1997

Appellant : Mukesh

Respondent : State of Madhya Pradesh

Advocate for Def. : Girish Desai, Dy. Adv. General

Disposition : Appeal dismissed

Judgement :

1. Appellant - accused has filed the appeal against the judgment and order dated 6th February, 1997 in Sessions Trial No. 70/1996 delivered by learned Sessions Judge, Shajapur, of his conviction and sentence under Section 302 of IPC for the imprisonment for life and fine of Rs. 1,000-00, in default further RI of 1 year.

2. The prosecution case is that on 19-11-1995 at about 9.00 a.m. the accused Mukesh has inflicted the knife blows on the abdomen of Antarisingh and ran away towards the forest. The eye-witnesses of the incident were Mahendrasingh (PW-

1), Mumtaz Bi (PW-2) and Mohan (PW-3). That Antarsingh died soon after the incident and the FIR Ex. P/1 was lodged in the police station by Mahendrasingh (PW-1). Station House Officer S. S. Choudhary (PW-11) prepared the Panchnama of the dead body Ex. P/5 and the autopsy was conducted by Dr. N. K. Rathore (PW-4) who has found 10 incised and penetrated wounds on the body of the deceased. After the usual investigation, the charge-sheet was filed against the accused.

3. The accused has abjured the guilt and denied the prosecution allegations and pleaded that the eye-witnesses have falsely implicated him due to enmity. No witness in defence was examined.

4. The learned Trial Court has relied on the statements of eye witnesses PW-1, PW-2 and PW-3 and the accused was convicted and sentenced as stated above.

5. In appeal it was alleged that the statements of the witnesses were not properly appreciated and the learned Trial Court has erred in holding the accused guilty.

6. The autopsy report Ex. P/3 indicates that deceased was having 4 stab injuries on his abdomen and there were 6 other incised wounds on his body. Dr. N. K. Rathore (PW-4) has testified that all the five injuries on the abdomen were sufficient in ordinary course of nature to cause the death.

7. The FIR Ex. P/1 was lodged by Mahendrasingh (PW-1) on 19-11-1995 at 11.05 a.m. The distance of the place of incident from the police station is only four furlong. In the detailed and prompt FIR Ex. P/1 Mahendrasingh (PW-1) has reported that the accused has caused the repeated blow on the abdomen of the deceased. The version of Mahendrasingh (PW-1) is that at about 8.00 a.m. when he was on the road, he saw the accused causing the injury to Antarsingh and thereafter he ran away towards the forest. There is no material contradiction in the statement of Mahendrasingh (PW-1) and promptly lodged FIR Ex. P/1.

8. Eye witnesses Mumtaz Bi (PW-2) and Mohan (PW-3) have stated that the accused has inflicted the knife blow to deceased Antarsingh. The house of Mumtaz Bi (PW-2) is near to the place of incident. She has no reason to falsely

implicate the accused. In the promptly lodged FIR Ex. P/1 it is mentioned that Mumtaz Bi (PW-2) has seen the incident. There is absence of material contradiction in the statement of Mumtaz Bi (PW-2). Mohan (PW-3) is an independent witness. His name is mentioned in FIR Ex. P/1 as eye witness. In the cross-examination of Mohan (PW-3) there is absence of material contradiction. From the close scrutiny of the statements of Mumtaz Bi (PW-2) and Mohan (PW-3) it is clear that they are the natural and trustworthy witnesses and there is inherent consistency in their statements. Consequently, the learned Trial Court has rightly relied on the statements of Mumtaz Bi (PW-2) and Mohan (PW-3) to corroborate the version of Mahendrasingh (PW-1).

9. From the testimony of Dr. N. K. 2005 Cri. L. J./175 VII Rathore (PW-4) it is proved that the injuries dangerous to life were caused and they were sufficient in ordinary course of nature to cause the death of the deceased. The accused was the author of the injuries. Consequently, the conviction of the accused for the offence punishable under Section 302 of the IPC is proper.

10. The appeal is devoid of merits and it is hereby dismissed.