

Arjun Sharma Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Apr-22-1998

Reported in : I(1999)DMC323

Judge : Rajeev Gupta and ;Usha Shukla, JJ.

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

Appeal No. : Criminal Appeal No. 478 of 1988

Appellant : Arjun Sharma

Respondent : State of M.P.

Advocate for Def. : Raiz Mohd., Government Adv.

Advocate for Pet/Ap. : A.S. Gaharwar, Adv.

Disposition : Appeal dismissed

Judgement :

Rajeev Gupta, J.

1. Appellant Arjun Sharma has preferred this appeal against his conviction under Section 302 of the Indian Penal Code, with sentence of imprisonment for life recorded by 1st Additional Sessions Judge, Ambikapur (Surguja), vide judgment dated 14.3.1988, passed in Sessions Trial No. 147/84.

2. The prosecution case, in short, is that Radha Bai (since deceased) was the 'legally wedded wife' of accused Arjun Sharma, and used to reside with him in his house. Accused Arjun Sharma was in the habit of consuming liquor frequently, and under its influence used to assault his wife Radha Bai very often. On 16.3.1984, accused Arjun Singh strangled his wife Radha Bai to death and thereafter raised hue and cry that his wife has committed suicide, by hanging herself. On postmortem examination, one incised wound on the forehead and multiple abrasions on the face were found on the body of deceased Radha Bai. Ligature marks and abrasions were also found on her neck. In the opinion of the Autopsy Surgeon, the cause of her death was asphyxia due to strangulation. After completing the investigation, Police Jai Nagar charge-sheeted the accused for the commission of the offence under Section 302 of the IPC.

3. Accused Arjun Sharma denied the allegations contained against him, in the charge-sheet, and pleaded false implication. It was specifically pleaded by him that he had gone for attending his duties in the night and when he came back in the morning, he found that the doors of the house were bolted from inside and when the same was broken open, Radha Bai was found dead.

4. For establishing the charge of murder against the accused, prosecution relied upon the evidence of 9 witnesses, examined at the trial. The accused, however, did not examine any witness in his defence.

5. The Trial Court, relying upon the ocular and medical evidence on record, found it proved that deceased Radha Bai had died a homicidal death in the house of accused Arjun Sharma, on 16.3.1984. Though there was no eye-witness account available in the case for connecting the accused with the commission of murder of his wife Radha Bai, but relying upon the evidence led by the prosecution, for establishing the incriminating circumstances against the accused, the Trial Court held him guilty of commission of murder of his wife Radha Bai and, therefore, convicted and sentenced him as mentioned above.

6. Mr. A.S. Gaharwar, the learned Counsel for the appellant, vehemently argued that the appellant's conviction under Section 302 of the IPC, is not sustainable, as there is no eye-witness of the alleged commission of murder by him, and the

circumstances found incriminating by the Trial Court have not been established conclusively. Mr. Riaz Mohammad, the learned Government Advocate on the other hand supported the impugned judgment of conviction and submitted that absence of an eye-witness, in the case, is not at all a set back to the prosecution case, which stands amply proved on the evidence of the prosecution witnesses, examined at the trial.

7. On a thorough analysis of the Trial Court's Judgment, we gather that the Trial Court found the following incriminating circumstances proved against the appellant:

- (i) Only the appellant used to reside with his wife, deceased Radha Bai, in his house;
- (ii) Appellant Arjun Sharma was with his wife when she met her end on 16.3.1984;
- (iii) Presence of incised wounds on the fore-head and multiple abrasions on the face excludes the possibility of it being a case of suicide;
- (iv) Deceased Radha Bai had died a homicided death on account of her strangulation;
- (v) The appellant was the first person to notice that his wife was dead, and of raising alarm in that behalf; and,
- (vi) The appellant has failed to explain either to the witnesses, or in his examination under Section 313 of the Code of Criminal Procedure, as to how and in what circumstance his wife Radha Bai died a homicidal death, in his house.

Relying upon the above conclusively proved incriminating circumstances, the Trial Court held appellant Arjun Sharma guilty of commission of murder of his wife Radha Bai and, therefore, recorded his conviction.

8. Out of the 9 witnesses examined by the prosecution at the trial, only the evidence of Mohan Singh (PW 2), Kadam Singh (PW 3), Dr. P.C. Jain (PW 4), Anjali Bai (PW 6), Shanti Bai (PW 7), A.A.K. Naidu (PW 8) and Satish Mishra (PW 9) is relevant for deciding this appeal. On a close scrutiny of the evidence of the

above-named witnesses, we find that their evidence establishes that appellant Arjun Sharma alone used to reside with his wife deceased Radha Bai, in his house, and on the date of the incident also, he alone was with her in the house. The ocular evidence and the medical evidence of PW 4 - Dr. P.S. Jain establish that deceased Radha Bai had sustained an incised wound on her fore-head and multiple abrasions on her face prior to her death. His evidence further establishes that Radha Bai had died due to strangulation, and not on account of hanging. Appellant Arjun Sharma was the first person to break the news of the death of his wife Radha Bai to the neighbours. The appellant has failed in giving an explanation as to how and in what circumstances his wife Radha Bai came to sustain the external injuries found on her body, and died a homicidal death. We are thus satisfied that the incriminating circumstances found proved by the Trial Court against the appellant are very much established on the evidence on record. All these circumstances stand proved conclusively. These conclusively proved circumstances, taken together, do lead to the irresistible conclusion that it was the appellant and appellant Arjun Sharma alone, who had strangled his wife Radha Bai to death. The Trial Court, therefore, has not committed any illegality in holding appellant Arjun Sharma guilty of commission of the murder of his wife Radha Bai. In this view of the matter, we do not find any scope for interference in this appeal.

9. For the foregoing reasons, the appeal, filed by appellant Arjun Sharma, fails and is hereby dismissed in-toto. His conviction under Section 302 of the Indian Penal Code, and sentence of imprisonment for life are hereby affirmed.

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