

Ramu Manjhi Vs. State of Bihar

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Court : Jharkhand

Decided On : Jul-29-2003

Reported in : [2003(3)JCR742(Jhr)]

Judge : Deoki Nandan Prasad and; Hari Shankar Prasad, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 300 and 302

Appeal No. : Crl. Appeal No. 172 of 1997 (R)

Appellant : Ramu Manjhi

Respondent : State of Bihar

Advocate for Def. : APP

Advocate for Pet/Ap. : K.P. Chaudhary and; Anubha Rawat, Advs.

Disposition : Appeal dismissed

Judgement :

ORDER

1. This appeal is directed against the judgment of conviction and sentence dated 29th June, 1995 and 3.7.1995 respectively passed by 1st Additional Sessions Judge, Hazaribagh in connection with Sessions Trial No. 128/30 of 1991-95, whereby and whereunder the learned Additional Sessions Judge convicted the appellant under Section 302 of the Indian Penal Code and sentenced him to

undergo rigorous imprisonment for life.

2. Prosecution story in brief is that informant Bhagru Manjhi stated before the police that his sister Shanti Devi was married with the appellant Ramu Manjhi of the same village. The informant was working as a Khalasi in a truck. On 20.12.1990 at 10 a.m. he returned to his village and learnt that on the last night his brother-in-law committed murder of his sister by means of tangi. He went to the house of the appellant and found the dead body of his sister lying on a cot in a bedroom with several cut injuries and also blood stains on her face. He came to know from the villagers that accused-appellant made an extra-judicial confession before the villagers Mahabir Manjhi, Koka Manjhi, Mathura Manjhi and others, who had also gone to the house of the appellant and found the dead body of Shanti Devi lying on a cot. Appellant confessed his guilt before the villagers for committing murder of his wife with tangi on account of domestic quarrel. When the villagers tried to arrest him, he fled away towards Jungle under the pretext of going to call of nature. The informant went to the police station on the same day alongwith villagers and lodged the first information report. The police investigated into the case and submitted charge-sheet against the appellant. Witnesses were examined before the trial Court and after hearing both sides the appellant was found to be guilty and accordingly he was convicted and sentenced in the manner as alleged above. 3. The allegation against the appellant is that he had made extra-judicial confession before the villagers claiming that he killed his wife with tangi. The police also seized the said tangi with blood stains, which will be evident from the seizure list. The doctor, who had held post mortem on the dead body of Shanti Devi, found the following ante-mortem injuries :

(i) Lacerated wound above angle of right eye 2' x 1/2' bone deep; right maxilla was fractured.

(ii) Lacerated wound above angle of right eye. 3' x 1/2' x bone deep with fracture of right frontal bone.

(iii) Nose was incised 2-1/2' x 1/2' x bone deep.

(iv) Abrasion over left buttock 5' x 3'. (v) Abrasion over coraso lumber region 3' x 2'.

(vi) Rib on the right side chest wall fractured from 2nd to 7th.

(vii) Rib on the left side fractured from 3rd to 10th.'

4. According to the doctor, the cause of death was due to shock and haemorrhage caused by hard and blunt substance on the head and chest. Injury Nos. (i) and (ii) were caused by hard and blunt substance but other injuries were caused by sharp cutting weapon. He also proved the post mortem report (Ext. 2). He stated in his cross-examination that injury Nos. (i) and (ii) could not have been caused due to fall on hard substance and injury No. (iii) could not have been caused by fall on any pointed object.

5. PW 1 is the Investigating Officer, who recorded the first information report (Ext. 1) and investigation was made. He also visited the place of occurrence, which is situated in village Kurketa Tola Kenduwa and the dead-body was lying on a cot in the Khapraposh house belonging to the appellant. He also seized the blood stained soya, blouse, earth and tangi. It is true that the said materials could not be sent for chemical examination, which he admitted In his cross-examination.

6. PW 2 is the person before whom the appellant said to have made extra-judicial confession and he admitted that he assaulted his wife due to some domestic quarrel with tangi. PW.2 and other witnesses went to the house of the appellant in the morning and found the dead body of Shanti Devi lying on a cot. He further stated in para 4 that police also seized blood stained tangi, soya and earth in his presence and he put his signature over the seizure list (Ext. 1/2). It is stated in his cross- examination that appellant Ramu Manjhi has got his house separated from the house of his brother and father.

7. PW 3 is the brother of the deceased who claimed that when he came to know about the death of his sister, he went to her sasural and found the dead body of his sister lying on a cot. There was also blood on the cot. He further stated that he also went to the police station and lodged the first information report alongwith

informant.

8. PW 4 claimed that he had gone to the house of Ramu Manjhi, appellant, alongwith Mahabir Manjhi (PW 2) and found the dead body. According to him, Mahabir Manjhi disclosed that the appellant made extra-judicial confession admitting his guilt. It is true that. PW 5 have also stated on the same line claiming that he alongwith Mahabir Manjhi and others went to the house of the appellant and found the dead body in injured condition and she was dead. PW 6 also claimed to had seen the dead body of the wife of appellant Ramu Manjhi on a cot and there were several injuries on her person. PW 7 has also stated in the same manner as he had been present with PW 2 at the place of occurrence.

9. The appellant was examined under Section 313, Cr PC and denied the allegation. There is no denial that Shanti Devi was murdered by inflicting injuries on her person, which have been found by the doctor, who conducted autopsy on the dead body and found as many as 7 injuries including the injuries caused by sharp cutting weapon and all those injuries were ante-mortem injuries. The doctor opined that injury No. (iii) was caused by sharp cutting weapon and other injuries were caused by hard and blunt substances Shanti Devi was done to death admittedly in the house of appellant. PW 2 is very much consistent in his statement that it was the appellant, who made extra-judicial confession admitting that he had killed his wife due to domestic quarrel with tangi. There is no reason why this witness will speak falsely. Other witnesses of the village also corroborated this fact and the testimony of PW 2 also finds support by the medical evidence. There is no reason to discard or disbelieve the testimony of PWs specifically PW 2, who can be said to be the only independent witness. It is obvious that injuries were inflicted by the appellant on the person of the deceased resulting her death but it is also true that injuries are not establishing the/fact that the appellant had intention to kill the deceased. There is no eye-witness of the occurrence. Except the extra-judicial confession, which is weak type of evidence, there is no positive evidence as well as it is not certain that all the injuries are caused by this sole appellant but deceased was lying dead in the house of the appellant. Nothing has been shown that this appellant had intention to kill. There was no premeditation and the incident has occurred in a sudden quarrel and in heat of passion. Thus Exception

4 of Section 300, IPC is attracted in this case.

10. In the result, we find that appellant is to be convicted under Section 304, Part I of the Indian Penal Code and thus we set aside the Judgment of conviction and sentence for the offence under Section 302 of the Indian Penal Code. Since the appellant has already been in jail custody since 1990 and has been sufficiently punished, we reduce the period of sentence to the period already undergone by him in jail and the appellant, Ramu Manjhi is directed to be released forthwith, if not wanted in any other case.

11. With the above modification, this appeal is dismissed.

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