

Rajdeo Singh Vs. State of Bihar (Now Jharkhand)

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Court : Jharkhand

Decided On : May-16-2006

Reported in : 2006CriLJ4490

Judge : N. Dhinakar, C.J. and; R.R. Prasad, J.

Appellant : Rajdeo Singh

Respondent : State of Bihar (Now Jharkhand)

Disposition : Appeal dismissed

Judgement :

1. The accused appeals.
2. The appellant, Rajdeo Singh @ Bhanjan Singh @ Manjan Singh, was tried and convicted under Section 302 and on being convicted, he was sentenced to imprisonment for life. The present appeal is against the said conviction and sentence.
3. The facts necessary to dispose of this appeal are as follows: Lalita Kumari, deceased in this case, is the daughter of P.W. 4, Beni Sahu. P.W. 8, Gita Devi, is the mother of the deceased. P.W. 1, Jitan Kumari, is the friend of the deceased. The deceased and Jitan Kumari, P.W. 1, went to Jungle at about 3.00 p.m. on 14-4-1994 to collect dead woods. After collecting dead woods, they were returning to their house with bundles of wood on their head. When they were on their way to

the house, the appellant appeared before them and caught hold of the hands of Lalita Kumari. The deceased protested. The appellant took out a dagger from his waist and inflicted stab injuries on various part of her body including her neck. The deceased fell down crying, but the appellant continued to attack her and inflicted 8 or 10 injuries on her persons. On seeing dastardly attack on the deceased, P.W. 1 ran towards the village. On reaching the village, she informed P.W. 4 Beni Sahu, father of the deceased, P.W.8, Gita Devi, mother of the deceased and P.W. 2, Ramdhani Sahu, a villager, P.W. 3, Tarkeshwar Sahu and then P.W. 7, Ram Sewak Sahu. She narrated the whole incident to them. They went to the place and thereafter P.W. 1 gave the fardbeyan, Ext. 2, at the police station at 5.30 p.m. This was registered as a crime and investigation was taken up by P.W. 5, Niranjan Mandal. He conducted inquest over the dead body of Lalita Kumari by preparing inquest report, Ext. 3. The Police Officer, after conducting inquest, sent the dead body to the hospital for post mortem, on receipt of which, P.W. 12, Dr. Arun Kumar, conducted autopsy on the dead body and found the following injuries:

STAB WOUNDS.-

- (i) 3 x 1 x 4 cm on left lateral neck upper part;
- (ii) 3 x 1 x 3 cm on left lateral neck middle part,
- (iii) 1 x 1/2 x 1 1/2 cm left cheek
- (iv) 1 x 1 1/2 x 1 1/2 cm left chest front upper part
- (v) Perforating wound:
 - (a) wound of entrance 03 x 1 cm on left lateral arm middle part. The weapon passed through soft tissues made an exit wound 1 x 1/2 cm on left arm medial side upper part;
 - (b) wound of entrance 3x1 cm on left wrist back. The weapon passed through soft tissues and made an exit wound 2x1 cm on left wrist medial side, (vi) 2 x 1 cm x cavity deep on left chest back. The weapon passed through soft tissues and entered into left lung.

(vii) 21/2 x cavity deep on right chest back. The weapon passed through soft tissues and entered into right lung &

(viii) 2 x 1 cm x cavity deep, 3 x 1 cm x cavity deep, '2 x 1 cm x cavity deep, 2 x 1 cm x cavity deep on back of trunk lower part. The weapon passed through abdominal wall and entered into small intestine and mesentery. There was presence of blood and blood clot in thoraco abdominal cavity.

The Doctor issued Ext. 5, the post mortem certificate, with his opinion that death is on account of shock and hemorrhage due to the injuries and that the said injuries would have been caused by a sharp cutting weapon and possibly by knife.

4. After the completion of investigation, final report was filed against the appellant and when he was questioned under Section 313 Cr.P.C., he denied all the incriminating circumstances. He examined DW 1, Sheonandan Singh, who is the father of the appellant, D.W. 2; Ramchandra Singh, the person in whose house the appellant was staying and D.W. 3, Jagdish Sahu, a villager of another village. Through them, Exts. A series, B and C were marked. The case of the accused through the evidence of the defence witnesses is that on the date of incident, namely, 14-4-1994, the appellant appeared for Matriculation Examination and that therefore, he could not have been present at the scene and at the time spoken to by P.W. 1. In short, his plea is one of alibi.

5. Learned counsel, appearing for the appellant, strenuously contends that the evidence of P.W. 1 cannot be believed as her evidence is not only not corroborated by any other independent source but also not corroborated by the medical evidence, as the Doctor, who conducted autopsy, did not find any injury on the lower part of the dead body. It is his further submission that though P.W.5 claimed in his evidence that he seized the pant and handkerchief of the appellant, they were not sent for analysis. Learned Counsel further submits that in view of the evidence of D.Ws. 1 to 3, the trial Court ought to have held that the appellant was attending examination on the date of incident and therefore, could not have been present at the scene and therefore, could not have committed the offence. On the above submission, we have heard Mr. R.R. Mukhopadhyaya, learned Counsel appearing for the State.

6. Lalita Kumari died and died on account of homicidal violence. The above fact stands established through the evidence of the Doctor, P.W. 12, who conducted autopsy and who issued Ext. 5, the post mortem certificate.

7. P.W. 1, Jitan Kumari, who is the friend of the deceased, was examined by the prosecution to speak about the occurrence and to prove that the appellant inflicted several injuries on the deceased, Lalita Kumari, and that she died on account of the said injuries. P.W.1, in her evidence, stated that on 14-4-1994, she accompanied by Lalita Kumari went to the Jungle for collecting dead woods and later while they were returning with bundles of woods on their head, the appellant appeared before them and that he held the hands of the deceased. She further deposed that when the deceased protested, the appellant, taking a Panjara, stabbed the deceased on various parts of her body including the neck. According to her, on seeing the attack on the deceased, she was terrified and ran to the village which was at a distance of 1 km. from the scene of occurrence and informed the parents of the deceased, namely, P.Ws. 4 and 8, as well as the villagers, namely, P.Ws. 2, 3 and 7. On going through the evidence of P.W. 1, we find that there is absolutely no material for us to reject her evidence. In fact, her evidence is supported by P.Ws. 2, 3, 4, 7 and 8, who, in their evidence, stated that it was P.W. 1, who came and informed them that the deceased has been murdered. The occurrence, according to the prosecution, took place at about 4.00 p.m. and the fardbeyan, Ext. 2, was given to the police authorities at 5.30 p.m. i.e. within one hour and thirty minutes. In the said first information, which was given immediately after the occurrence, the name of the appellant is found mentioned as the assailant. We, therefore, find it difficult to reject the evidence of P.W. 1.

8. The contention of the learned Counsel that her evidence is not supported by the medical evidence cannot also be accepted, since a perusal of the evidence of P.W. 12 and Ext.5, the post mortem certificate, issued by him shows that the deceased, in fact, suffered an injury even on the lower part of the body. Injury No.(viii) found noted by the Doctor in the post mortem certificate, Ext.5, is on the back of trunk of the Sower part and it was seen weapon passing through the abdominal wall and entering; the small intestine and mesentery. The Doctor also found seven other injuries on vital parts of the deceased. We, therefore, do not

accept the above argument of the learned Counsel that the evidence of P.W. 1 is not supported by the medical evidence. It is also worthwhile to remember at this stage that in preference to the medical evidence, the Court is always expected to look at the evidence of eye-witness and if the evidence of the said eye-witness is found to be satisfactory, it is to be accepted and the said evidence cannot be rejected only on the ground that there are some variations between the oral evidence and the medical evidence.

9. The second contention of the counsel that the pant and handkerchief of the appellant were not sent for analysis and therefore the prosecution case is to be disbelieved is also to be rejected as we do not find as to how by sending such dresses of the appellant, the prosecution Could have established his guilt. It is, no doubt, true that if the dresses of the appellant had been sent for analysis and the analyst had given a certificate with his opinion that the blood stains found on the cloth and the blood content of the deceased belong to the same group, it would have been an additional piece of evidence in favour of the prosecution. The mere fact that the dresses of the appellant was not sent for analysis, therefore, is not a ground to reject the entire prosecution version.

10. We are unable to accept the defence theory that the appellant was elsewhere, i.e. writing Matriculation Examination. A plea of alibi is best of defence and at the same time, is also the worst of defence. If the appellant succeeds in proving alibi beyond doubt, then he will be entitled to an acquittal and if he fails to prove the said plea of alibi, then it is to be presumed that the appellant had come out with a false version and the said false defence itself is an additional circumstance against the appellant. The appellant, by merely examining D.Ws. 1 to 3 and by marking Ext. A - Admit card, Ext. B - Registration Certificate and Ext. C series - question papers, did not succeed in establishing that he was not present at the scene of occurrence, as, according to him, he left for home and reached at 5.30 p.m. We are unable to understand as to how the Exts. A series, B and C will show that the appellant was not present at the scene of occurrence and at best, the above documents may only go to show that the appellant probably wrote the examination on the day. It does not mean that he was not present at the scene of occurrence at 4.00 or 4.30 p.m. There is also no documentary evidence to support the theory of

the appellant that he was in his house in the village at the time of occurrence. The oral evidence of D.Ws. 1 to 3 are not satisfactory. It is to be remembered that D.W. 1 is the father of the appellant, D.W. 2 is the person in whose house the appellant was said to be residing during the relevant period and D.W.3 is the villager. The evidence of D.W. 3 shows that he is a compulsory liar. He has stated in his evidence that he had seen the deceased being murdered by some one else. If D.W. 3 had really seen the deceased being murdered by some one else then it is but natural for him to have gone to the authorities to lay a complaint. He did not do so but had come to the Court at a later point of time, after the examination of the appellant, to give evidence to the effect that he had seen the occurrence and the deceased was murdered by some one else. We, therefore, do not attach any importance to any of the defence witnesses and the documents marked on the side of the appellant are of no use to prove the plea of alibi of the appellant. We, therefore, reject the evidence of D.Ws. 1 to 3 and the documents marked on his side.

11. On the evidence of P.W. 1, we find that the trial Court was justified in convicting the appellant and we find no reason as to why we should take a different view from the one taken by the trial Court. On the discussion made above, we are of the view that the conviction and sentence imposed upon the appellant are to be confirmed and accordingly are confirmed. This appeal is dismissed.