

Mata Hessa Vs. State of Jharkhand

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SooperKanoon Citation : sooperkanoon.com/522227

Court : Jharkhand

Decided On : Aug-21-2006

Reported in : [2007(1)JCR115(Jhr)]

Judge : D.P. Singh, J.

Appellant : Mata Hessa

Respondent : State of Jharkhand

Disposition : Appeal dismissed

Judgement :

D.P. Singh, J.

1. The sole appellant. Mata Hessa has preferred this appeal against the judgment and order dated 12.6.2002 and 13.6.2002 passed by the 3rd Additional Sessions Judge. Chaibasa in Sessions Trial No. 254 of 2000 whereby and whereunder the appellant has been convicted under Section 304 Part II of the Indian Penal Code and has been sentenced to undergo R.I. for seven years.

2. Brief facts leading to his conviction are that in the evening of 17.3.2000 the informant Boti Kui was sitting in her house alongwith the deceased Turi Banra situated in village Chalgi, P.S. Tonto, district West Singhbhum. Further stated that they were quarrelling on some topic on which the mother of the appellant came

and asked them not to fight over the matter. This infuriated the deceased and he started abusing Lini Kui and sent her out of his house. According to informant after some time Sardar Hessa husband of Lini Kui and the appellant son of the said Lini Kui came in the house and started abusing her husband. Further stated that Sardar Hessa forced tin-deceased on earth when the appellant Mata Hessa gave fatal blow with large stone on his head resulting in instant death.

3. This matter was reported to Tonto police next day in the morning at 10.30 a.m. The police recorded the statement of informant Boti Kui and registered Tonto P.S. case No. 3 of 2000 dated 18.3.2000 under Section 302/34 of the Indian Penal Code. The police arrested the appellant along with his father and investigated the case to finally submit charge-sheet.

4. The case of the appellant was committed to the Court of Sessions for trial wherein charge was framed against the appellant and his father under Section 302/34 of the Indian Penal Code on 11.4.2001. The defence taken by the appellant was of false implication. However, the trial Court found the prosecution story proved and sentenced the appellant to serve R.I. for seven years under Section 304 Part II of the Indian Penal Code while R.I. for one years under Section 323 of the Indian Penal Code against Sardar Hessa. The appellant has remained in custody till admitted to bail by this Court in appeal on 8.1.2003.

5. The present appeal has been preferred on the grounds that the trial Court has committed a mistake of fact when he relied upon the sole testimony of P.W. 4 Boti Kui without any corroborative evidence. It is further submitted that when the police has not examined probable witnesses and S.D. Entry was not proved; doubt arises regarding the correctness of the prosecution case. It is also submitted that the mother of the appellant has not been examined who was an eye-witness of the genesis of the occurrence. According to this memo of appeal no motive or intention has been brought on record to commit the offence. Therefore the appellant who has remained in custody for nearly three years may be acquitted of the charges and released from the liabilities of his bail bond.

6. The learned Counsel for the State opposed this contention on the grounds that the offence is proved beyond all reasonable doubts from the evidence available on

record.

7. I have considered the statements of the counsel for the appellant alongwith material on record. The prosecution has brought on record seven witnesses out of which P.W. 2 and 3 both neighbour have not supported the prosecution case though they found the husband of the informant lying dead with injury on his head. P.Ws. 5 and 6 are witness on the inquest report and seizure list prepared by the police and identified their signature on it as Ext. 2 series. P.W. 5 is also Munda of the village. P.W. 1 is doctor who has conducted the post mortem on the dead body of the deceased. This witness has found external injury on head badly Smashed with multiple fractures of cranial bones. He further found brain badly squeezed out haematoma present. P.W. 7 is the I.O. of this case who has recorded the statement of P.W. 4 at 10.30 a.m. next day and prepared inquest report of the dead body and seized blood stained soil, stone etc. from the place of occurrence. He admitted in cross-examination that hearing about the incident he came to the house of the informant on his own. According to this witness, he has not sent the blood stained soil for forensic report.

8. The P.W. 4, informant specifically stated before the police that Sardar Hcssa threw her husband on ground and appellant Smashed the head of the deceased with stone. She has admitted in cross-examination that on the date of occurrence people were eating and dancing and when her husband requested her for dance the dispute arose. She has further admitted vide paras 9, 10 that the appellant and his father had taken Haria.

9. The learned Counsel for the appellant suggested that the informant herself might have caused the death of her husband and implicated this appellant in this false case. However, no specific reason is given in support of this allegation. The evidence is also criticized on the grounds that P.W. 2 and 3 have not supported the statement of the informant before the Court.

10. On consideration of the statement of P.Ws. 2, 3, 4, 5 and 6, I find that the witnesses are not tutored nor they have tried to implicate the appellant falsely in this case because of their simplicity and sticking to their statement that on hulla when they rushed to the place of occurrence, they found the deceased lying dead

with such injuries which might have been caused only in the manner alleged by the prosecution. The post mortem report supports the version of the prosecution that deceased died due to head injury caused by heavy stone. No other version is available to accept the suggestion of the counsel for the appellant. Accordingly, I find that hold that the learned trial Court having considered the sole testimony of P.W. 4 has rightly come to conclude that appellant Mata Hessa has committed the offences not amounting to murder.

11. At this stage, the learned Counsel for the appellant submits that keeping in view the young age and condition in which (he offence is alleged to have been committed, sentences may be reduced as the appellant has already remained in custody for nearly three years. It is also submitted that the offence was committed in drunken stage only because of the insult made by deceased to his mother.

12. Having considered the entire facts and circumstances of this case, I find (hat. the ends of justice would be served properly if the sentenced awarded to the appellant is modified and reduced to four years along with a sentence of fine of Rs. 2000/- (two thousand) and in lieu thereof S.I. six months. Accordingly, this appeal is dismissed with modification of sentences as aforesaid. Appellant shall deposit the amount of fine and surrender before the Court below within one month to serve the remaining period of sentence, falling which the trial Court shall take appropriate step against the appellant.