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J.P. Lal Vs. State

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Court : Delhi

Decided On : Jan-11-1995

Reported in : 1995CriLJ1715; 57(1995)DLT394

Judge : P.K. Bahri and; S.D. Pandit, JJ.

Acts : Indian Penal Code (IPC), 1860 - Sections 302; Code of Criminal Procedure (CrPC) , 1973 - Sections 313

Appeal No. : Criminal Appeal No. 105/90

Appellant : J.P. Lal

Respondent : State

Advocate for Def. : R.D. Jolly, Adv.

Advocate for Pet/Ap. : V. Shekhar, amices Curia

Judgement :

P.K. Bhari, J.

1. This appeal is directed against judgment and order dated May 29, 1990, of an Additional Sessions Judge, by which he has convicted the appellant for the offence punishable under Section 302 of the Indian Penal Code and has sentenced the appellant to undergo rigorous imprisonment for life and to pay a fine

of Rs. 100/- and in default to undergo rigorous imprisonment for one month more.

2. Facts of the case, in brief, are that one Kundan Lal with his wife Laxmi (deceased) and children was residing in house No. I/28A, Seema Nagari and the appellant, who is a junk dealer, had taken a shop on rent from Kundan Lal in that area. Appellant was on visiting terms at the house of Kundan Lal and he was also visiting the said house in absence of Kundan Lal. It is the case of the prosecution that on March 28, 1986, at about 1 p.m. the appellant had brought Laxmi (since deceased) to a room in house No. E-51, Mansarovar Park, Shahdara. One Vijay is stated to be a tenant in one of the rooms in that house. Vijay was known to the appellant and the appellant had come to that room with the said lady on the date at that time. Dhianpal Singh, son of the landlord, was residing in the adjacent room in that house with his father and one of his cousins, namely, Mahavir Singh was at that time residing in one of the rooms on the ground floor. Another tenant, who is a resident of that house, is Gangeshwari Prasad Dhianpal Singh was present in his room at the time the appellant had brought that lady to the said room tenanted by Vijay Kumar at 1 p.m.

3. It has come out in the testimony of Dhianpal Singh that appellant has been visiting that room of Vijay Kumar earlier also. At about 1.30 p.m. or so, Dhianpal Singh had heard the shrieks of the lady coming from the said tenanted room of Vijay Kumar and he rushed to the said room which he found bolted from inside. He pushed open the window of the said room and witnessed the appellant stabbing Laxmi on different parts of her body at random. The appellant was heard by him and P.W. 2 to have uttered the words that Laxmi had betrayed him in his love and he would teach her the lesson of her life and saying that he had also stabbed himself in his abdomen with the same knife. Dhianpal Singh P.W. 1 had called P.W. 2 Mahavir Singh and P.W. 3 Gangeshwari Nath to the spot. P.W. 2 had also witnessed from the said window of the room of Vijay Kumar that appellant had stabbed himself in the abdomen with the knife and had fallen down. They bolted the room from outside and Gangeshwari Nath went away to call the police.

4. A telephone message was given to the police by Gangeshwari Nath which was recorded at 2.15 p.m. in Daily Diary No. 8A of the Police Station Shahdara, copy of

which is Ex. P.W. 10A. Shri Balister Singh ASI accompanied by Constable Surinder Pal reached the place of occurrence and statement of P.W. 1 Dhianpal Singh was recorded, which is Ex. P.W. 1/A on the basis of which the case was registered under Section 302 of the Indian Penal Code as per FIR No. 155/86 at Police Station Shahdara on the same day. The Investigating Officer had taken into possession various articles i.e. one lady wrist watch, chain of steel broken into two pieces, blood stained locket, one steel ring, some pieces of red broken bangles, one pair of lady sandals, blood stained pair of gents chhapals, blood stained angocha and one blood stained towel lying near the dead body of Laxmi and had converted the same into sealed parcel and taken into possession vide recovery memo prepared at the spot. The weapon of offence a knife (chhuri) lying at the spot, which also bore blood stains, was also got sealed and taken into possession vide recovery memo. A sketch was also prepared and blood was also lifted from the spot and converted into sealed parcel. He prepared the inquest papers and had sent the dead body for post-mortem.

5. The appellant, who was found lying injured at the spot, was also sent to the hospital and in the medico legal report prepared by the doctor with regard in the injuries of the appellant Ex. P.W. 18/A it was recorded therein that the appellant had been brought with alleged history of being stabbed in abdomen by himself. The appellant had the wound in his abdomen with his omentum bulging out of the said wound.

6. The post-mortem on the dead body of the deceased was performed by Dr. L. T. Ramani P.W. 6 who prepared the post-mortem report Ex. P.W. 6/A and he had found nine incised wounds on the various parts of the body of the deceased and opined that injuries were ante-mortem caused by a sharp edged weapon and were possibly with the chhuri in question which was also produced before him and he found that injuries Nos. 3 & 4, which were on the chest of the deceased, were sufficient to cause death in the ordinary course of nature and death was due to hameorrhage and shock resulting from the injuries.

7. The learned Additional Sessions Judge has brought home the offence to the appellant beyond any reasonable doubt in coming to the conclusion that the eye

witness account of P.W. 1 and P.W. 2 particularly is trustworthy and does not suffer from any blemishes. He, keeping in view the material produced before him, held the appellant to be guilty of offence punishable under Section 302 of the Indian Penal Code.

8. The appellant could not engage any counsel to contest this appeal on his behalf. On his request we had appointed Shri V. Shekhar, Advocate, as amices Curiae to represent him in this appeal at State expense. Shri Shekhar has done a commendable job in arguing this appeal. He has gone through the whole record before us and has urged that the appellant could not have any motive to do away with his beloved and in all probabilities it could be the lady's husband who must have perpetrated this ghastly crime and also tried to kill the appellant and had escaped from the scene of occurrence without being noticed by anyone and the appellant has been falsely implicated in this case. He has referred to the statements of P.W. 1 & P.W. 2 particularly and has urged that they might not have noticed the presence of the third person at the scene of occurrence inasmuch as both of them are stated to have seen the room through the window from which the inner side of the room was only partially visible. Counsel for the State, on the other hand, has supported the findings of the Additional Sessions Judge and has argued that witnesses in the present case are totally independent and have no axe of their own to grind in falsely implicating the appellant and allowing the real culprit to escape.

9. We have gone through the statement of P.W. 1 and find that his presence at the time of the occurrence in the house was most probable. He is a young student and was son of the landlord and was present in the adjacent room on the first floor of the house when he heard the shrieks of the lady. He came to the room of Vijay Kumar and found the door bolted from inside and had pushed open the window of that room and had himself seen the appellant stabbing the said lady Laxmi with a knife repeatedly. He has also heard the appellant uttering the words that he would teach the lady a lesson of her life as she had betrayed him in love. Soon after he had called P.W. 2 and he came back with P.W. 2 whose presence also at the time of the occurrence in the said house is natural because he was residing in a room on the ground floor. Both P.W. 1 and P.W. 2 Mahavir Singh had seen the appellant

stabbing himself in the abdomen while uttering the said crucial words. P.W. 3 had also been called there, who is another tenant residing in one of the rooms in that house. It is true that P.W. 3 has not given the version which he gave to the police in the police statement but he corroborates the prosecution version to this extent that he had gone to call the police and when the police came the dead body of Laxmi was found in the room and the appellant was also found lying injured and unconscious in that room. In cross-examination of these witnesses, the only thing which was highlighted was that perhaps they had not seen the whole of the occurrence and a portion of the room was not visible from the said window and possibly they have been made to implicate the appellant in this crime at the instance of the police while the real culprit must have been somebody else.

10. P.W. 1 was the first witness to come in the witness box, but no suggestion was given that it was Kundan Lal who had perpetrated the crime. Later on the appellant had in his statement under Section 313 of the Code of Criminal Procedure while admitting his presence and presence of Laxmi in that house at that time and Laxmi being murdered in that room and he being also stabbed, came up with the story that Kundan Lal had come and assaulted on Laxmi and him and had then run away from the spot. It appears that the appellant was not sure as to what stand he should take when P.W. 1 was being examined. This stand by the appellant in his statement under Section 313 of the Code of Criminal Procedure for the first time appears to be an after thought.

11. At any rate, P.W. 1 & P.W. 2, who are independent witnesses and have no connection whatsoever either with the deceased or with the appellant, had no reason whatsoever to falsely implicate the appellant in this case. Their statements are straight forward and they have stood the test of cross-examination and nothing substantial has come out from their cross-examination to throw any doubt with regard to their truthfulness in narrating the facts of this case. The Additional Sessions Judge, in our view, was right in believing the statements of these two witnesses in coming to the conclusion that they are truthful witnesses and implicit faith can be had in them for reaching the truth in this case that it was the appellant, who after murdering Laxmi for the reason given by him, had also inflicted the wound on himself to kill himself. His injury was also found dangerous by the doctor

who examined him. This also finds corroboration from the history recorded in the M.L.C. of the appellant.

12. The case property was sent to the Central Forensic Science Laboratory and the reports of the CFSL had come which are Exs. PA, PB & PC which show that blood of human nature of 'O' group was found on all the case properties. The learned counsel for the appellant has contended that the Investigating Officer had not cared to take the blood sample of the appellant and thus, mere finding of the human blood on the clothes of the appellant which was also of the blood group of the deceased would not mean that the appellant had committed the murder of the said lady. We do not find any merit in this contention. After all it was the appellant and the lady who were present in that room as per credit-worthy testimony of P.W. 1 and P.W. 2 and when the police came, it was the appellant and the dead body of the lady who were found in that particular room. So, the evidence is quite clear that it was the appellant who had stabbed that lady with intention to murder her and then feeling some remorse for the ghastly act he had committed, he also tried to kill himself by stabbing himself in the abdomen.

13. Evidence also shows that after the post-mortem the dead body of the deceased was handed over to Kundan Lal and it cannot be said that Kundan Lal had become unavailable after this crime was committed so that any finger of suspicion could be pointed towards him. The appellant has also made a statement before the learned Additional Sessions Judge, when he was given an opportunity to show as to what sentence he should undergo for the conviction brought home against him, wherein he stated that the lady was killed on a Good Friday and he being a Christian would not have performed such an unheavenly act on that particular holy day. We do not think that the appellant was incapable of committing such a heinous crime on any holy day whatsoever. We have no reason to disbelieve the truthful account given by P.W. 1 and P.W. 2 as to the manner in which occurrence had taken place. We may also mention that the Additional Sessions Judge had visited the place of occurrence and had recorded an inspection note which clearly shows that even after opening one leaf of the door of the window almost whole of the room was visible except a small portion near the door of the room. In case any third person had been present in the said room P.W.

1 and P.W. 2 would not have failed to notice his presence when P.W. 1 had seen the appellant stabbing the deceased and P.W. 1 and P.W. 2 had also seen the appellant stabbing himself with a knife. So, the question of any other person being present in the said room and perpetrating this crime could not have arisen at all.

14. The learned counsel for the appellant has urged that in all probability the lady must have given some grave and sudden provocation to the appellant and thus, the appellant losing his balance of mind had committed this crime and thus, it should be held that the appellant is not guilty of offence punishable under Section 302 of the Indian Penal Code. We do not find any merit in this contention on the facts which have come on the record. The evidence clearly shows that the appellant was piqued because of his having come to know that deceased had betrayed him in love and he wanted to finish the deceased for that reason. He had clear intention to kill the deceased and there is no evidence of the deceased lady providing him any provocation what to talk of sudden and grave provocation to the appellant for commission of this particular crime at the hands of the appellant. It is true that P.W. 1 was not aware of the language in which the appellant and the deceased must have been conversing but that does not mean that there must have been some grave and sudden provocation at the hands of the lady which resulted in assault on her body by the appellant when we keep in view the fact that the appellant himself had uttered the crucial words in Hindi which could be understood by P.W. 1 and P.W. 2 that he wanted to teach a lesson life to the lady as she had betrayed him in love. So, we hold that the learned Additional Sessions Judge has rightly come to the conclusion in the present case that the offence punishable under Section 302 of the Indian Penal Code stands committed beyond any shadow of reasonable doubt by the appellant on that day and at that time. We maintain his conviction and sentence and dismiss his appeal.

15. A copy of the judgment be sent to the appellant through Superintendent (Jail).

16. Appeal dismissed.

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