

Manju Grover Vs. State

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Court : Delhi

Decided On : Feb-12-1986

Reported in : 30(1986)DLT270; 1986(10)DRJ339; 1986RLR275

Judge : R.N. Aggarwal and; Malik Sharief-Ud-Din, JJ.

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

Appeal No. : Criminal Appeal No. 158 of 1982

Appellant : Manju Grover

Respondent : State

Advocate for Pet/Ap. : D.R. Sethi,; R.P. Lao,; K.K. Luthra and;

Judgement :

Malik Sharief-ud-din, J.

(1) The appellant Miss Manju Grover (hereinafter for short known as Manju) was charged by the Additional Sessions Judge Delhi, under Section 302 Indian Penal Code for committing murder of one Bhagwanti Grover. She was found guilty and was convicted and sentenced to undergo imprisonment for life. Aggrieved with this order she has filed this appeal.

(2) The date of incident is 2.1.79 near-about 3 Pm and a report in, this respect is lodged by one Shri D.D. Grover, son of the deceased at police station Rajinder Nagar. We may quote the report he made in verbatim which is as under :-

'THAT his mother was alone on the ground floor of house No. R. 808. New Rajinder Nagar and when in the evening he returned to his house he found darkness and despite repeated knocks he did not: hear any response from her.'

(3) This report was lodged at 6.25 PM. Consequent to this report S.I .Puran Chand Public Witness 20 goes to the spot. Om Parkash constable scales the back wall of the house and opens the front door. The mother of the complainant Smt. Bhagwanti, aged about 85 years, was found dead in rear courtyard. Crime Team was summoned. Place of incident was photographed. A hair, a sample of earth from a piece of stone, blood lying near the dead- body and a hair clip were picked up and secured. Furthermore, Public Witness 20- Puran Chand saw some nail marks with blood on the neck of the deceased. On postmortem, the opinion delivered was that she has died of strangulation.. Postmortem was conducted by Public Witness 13 Dr. L.T.Ramani.

(4) On 4th January 1979, as testified to by Public Witness 23 S.L Dharampal, Public Witness I D.D. Grover and Public Witness 4 Dr. N.P.Narang, are alleged to have come to the police station at 9 Am and informed him that the appellant on that morning had made an extra-judicial confession before the about her involvement in the commission of this crime. According to him at 6 Pm on the same day the appellant came to the police station to enquire as to what was the postmortem report. She was detained for interrogation. He further took her two hair clips and arrested her. She was sent for medical examination as some marks of injuries were found on her person. This medical examination of Manju was done by Dr. S.C. Chaudhary Public Witness 10. Her hair sample was also taken in the presence of Public Witness 16 P.K. Dhana, Sub Judge. 1st Class Delhi. Manju was medically examined also on 5th January 1979- and 7th January 1979. We have, however, on record documents to the effect that she was also medically examined on 3rd January 1979 by Dr. Mirdha who had also taken her nail clippings at the request of the police. We may right in the beginning notice that

injuries which were found on the person of Manju on 3rd January 1979 are different than what were noticed on her person on 5th and 7th January 1979. Public Witness 17 Lady Head Constable Thakur has also deposed that she took Manju for medical examination on 3-1-7 when her nail clippings were also taken.

(5) At this stage we may notice some more facts. Manju along with her mother Vidhyawati Grover on the relevant date was residing on the first floor of the same house. Her father V.R. Grover had died on 17th August, 1978. The deceased was the grand-mother of Manju. The prosecution case, as it finally developed on investigation, is that on the date of incident Pw 9 Postman Raghu Nath had gone to deliver a notice purported to have been sent by the deceased to the mother of Manju. On pressing call-belt Vidhyawati came to the door steps, signed the receipt and took the notice. In the meantime Manju is alleged to have come there and taken the notice. After going through it she is alleged to have said that she will settle with the lady. The allegation is that soon thereafter the deceased was done to death. by Manju by. strangulation.

(6) Prior to the death of V.R. Grover, father of Manju, on 5-2-78, D.D. Grover Public Witness 1 had written to him a letter that in case of dissolution of two firms which they owned jointly V.R. Grover will be the owner with full rights of the whole of premises (plot and the construction thereon) of A-17 Naraina Industrial Area Phase-1, New Delhi and D.D. Grover will be the owner with full rights of the whole of premises (plot and the construction thereon) of A-16, Naraina Industrial Area Phase-1, New Delhi. Regarding house No. R-808, he wrote to him that V.R. Grover will be the owner of the first and second floor and he will be the owner of the ground floor. He also affirmed having taken a loan of Rs. 85,000.00 from V.R. Grover and promised to pay it from January 1979 onwards by a monthly installment of Rs. 5,000.00. Soon thereafter on 27th January 1978 V.R. Grover executed a Will in favor of his wife and daughter, Vidhyawati and Manju Grover in respect of the properties and other assets he owned. Surprisingly, within 4- days of the death of his brother D.D. Grover manages to send a notice to the widow of his brother V.R. Grover on behalf of the deceased Bhagwanti. that she was entitled to 1/3rd of her late son's property and money. It was from this stage onward* that the woes of Manju and her mother started'. The whole record is

replace with instance of what followed. What followed was a long drawn litigation between the parties which if still going on. Manju even made a complaint to police that D.D. Grover was not only- harassing her but was also compelling her to have illicit relations with him and she made many more allegations. We are making a mention of all these facts as it is necessary to approach the case and the testimony of D.D.. Grover Public Witness 1 with this back-ground in view.

(7) This brings us to the merits of the case. The cause of death, injuries on the person of the deceased are not in dispute. The injuries found on the person of the accused have been proved by Public Witness 21 Babu Lal and Pw 10 Dr. S.C. Chaudhary and there can be no doubt about their existence.. We have already stated that the injuries found on her person on 3rd January 1979 are, however, different than those found on her person on 5th and 7th. January 1979. On 3rd January injuries were found on hands while on 5th and 7th January these were found on thigh and buttock.

(8) The entire prosecution case rests on circumstantial evidence. The first circumstance is the recovery of hair clip seized at the scene of incident. This was supposed to be that of Manju but on comparison by-C.F.S.L. with the sample hair and clip of Manju he found no similarity between them. This circumstance as such is of no importance,

(9) The second circumstance is that blood was found on the nail clippings of Manju and it was found to be of human origin. There is, however, no evidence that this blood was of 'o' group which is that of the deceased. Admittedly, Manju refused to give her blood sample and the contention raised on behalf of the State is that adverse inference should be drawn against her. We, however, do not agree with the contention as it is not relevant. If blood group of the blood found on the Nail clippings of Manju could not be determined, what useful purpose could be served by the blood sample of Manju? The same is true about the blood found on the nail .clippings of the deceased. .

(10) The third circumstance is the evidence tendered by Public Witness 6 Girdhar Lal.He would like the court to believe that on 2nd January 1979 he had gone to Shankar Road New Rajinder Nagar to see one Sh. R.L. Chopra in connection with

business at about 4 PM. He was told by his son that he had gone to Library. He went to the library but could not find him and while he was passing on the back side of library, he heard shrieks of a woman from the house. He further found the name plate of Shri D.D. Grover displayed at the gate of the house. He also wants the court to believe that then he saw Manju appellant coming out from the ground floor in a nervous condition and saw her going up-stair. Her hair were dishevelled. Further lays that he then went to his home and on the next morning went to Lucknow and while in train he learnt from newspaper report that a murder had taken place in New Rajinder Nagar, Delhi. He also says that he returned to Delhi on 13-1-79 and after talking and discussing with his friends and family members he went to inform the police as to what he had seen.

(11) We are unable to rely on his testimony for the reason that this version on his part has come into existence 15 days after the incident. He did not know D.D. Grover or Manju prior to that date but despite that he has named Manju Grover in his statement under Section 161 Cr.P.C. One does not understand as to how it was possible for him to name a person whom he did not know earlier to that date. He resides at a distance of two km. from the place of incident. There is no evidence that he had business dealings with R.L. Chopra, nor is there any evidence that R.L. Chopra lived in 'R' Block New Rajinder Nagar. He did not narrate this incident to any one till 17-1-79., There is no proof that on 3-1-79 he had gone to Lucknow and had only returned on 13-1-79. He says that he discussed what he had seen with two or three friends but strangely he does not remember their names. Can there be anything more strange and absurd? Assuming though not granting that he had gone to Lucknow, he even on his return on 13th and till 16th January 1979 does not contact the police. We can only guess why it is so? He has not identified Manju Grover in,, test identification parade. In his statement under Section 161 Criminal Procedure Code ..marked Ex. Public Witness 6/DA he has not stated that the hair of Manju were dishevelled or that he saw the name plate of D.D. Grover. He did not know any one in the family and saw Manju Grover for the first time but despite that he has named her in the police statement. All this clearly goes to show that he is a false witness and we are as such unable to place any reliance on what he has testified.

(12) The next circumstance in the series is the deposition of Public Witness 9 Raghu Nath postman. He states that he had gone to deliver a notice, pressed a call-bell on which Vidhyawati came out. After taking receipt he delivered the notice and saw Manju appearing at the scene. According to him Manju then takes the notice, reads it and then says that she will have to deal 'with this lady. We have gone through that notice. It takes a few minutes to read it. After having collected the receipt and after delivering the notice we find no reason for him to stand there. There was no occasion for him to wait for Manju to read the notice. Manju would not normally utter such a warning in the presence of a stranger even if she intended to do away with the deceased. Infact, Manju had no quarrel with the deceased and, if she had any score to settle it was with her uncle D.D. Grover who, in fact, was out to ruin her and her mother-Raghu Nath Public Witness 9 has admitted that he was never questioned by the police. This witness to use the words of Mr. D.R. Sethi, learned counsel for the appellant, has really come from the blue. Under these circumstances he does not appear to be a reliable witness. He also did not know Manju Grover but has identified her in the court. He has made a statement in court on 27-7-81, more than two years after the incident and had not identified Manju Grover in a test identification parade. We are as such unable to trust his testimony though it may be true that he delivered the notice to Vidhyawati at her residence. The rest of his testimony is not reliable.

(13) The next circumstance is the alleged extra-judicial confession which Manju is supposed to have made before Public Witness 1 D D Grover and Public Witness 4 Dr.N.P. Narang. Public Witness 23S.I. Dharampal has stated that both the aforesaid PWs came to him at police station at 9 Am on 4-1-79 and told him that Manju had on that morning confessed that she had committed this crime and that she did so after coming down the stairs to the ground floor where D.D. Grover was residing. Public Witness 4 Dr. N.P. Narang is the brother-in-law of Public Witness - 1 D.D. Grover. According to him he had gone to the house on learning about the incident, on 2-1-79 and he does not remember to have gone there again on 4th -in the morning, : He has categorically stated that no extra-judicial confession was made by Manju in his presence. D.D. Grover Public Witness I has, however, testified that on 4th January 1979 Manju came down the stairs to him and told him that she had gone wild on receipt of the notice and had pressed the neck of her

grand mother and that she confessed in the presence of Public Witness 4 Dr. N.P. Narang his brother-in-law. ...

(14) We find it extremely difficult to rely on this type of evidence. We have earlier indicated the terrible strain on the, relationship of the parties, When such is the state of affairs, it is absolutely difficult to believe that Manju Would have come to him and volunteered such a confession. D.D. Grover Public Witness . 1 on this point has also been belied by his own brother-in-law PW4. It is somehow strange that despite this evidence having surfaced at 9 Am the investigating officer has made no effort' to arrest Manju till. 6 Pm on 4th January 1979 and that loo when she herself.camtt to the police sation.

(15) We have yet another reason to disbelieve the testimony of D.D. Grover as according to our view of case Manju was in police custody from 3rd January onwards. That aspect of the case we are taking separately. From these facts it would thus appear .that Public Witness 1 D.D. Grover with. a view to ruin Manju and her mother had been behind the fabrication of all these circumstances. We are as such unable to rely upon his testimony.

(16) Yet another circumstance is the injuries found on the. person of Manju. The first Doctor to examine her on 3rd January 1979 was Dr. Mirdha. The report in his hand-writing has been proved by Public Witness 21 Babu Lal, a record keeper of police hospital Delhi. It is marked Ex.PW 21/A. On that examination four scratch marks were found on the left thumb, right thumb, middle finger and left little finger, all simple caused by blunt weapon. Duration was 28 hours. This examination was conducted at 10 Pm and it was at that stage that her nail clippings were also taken.

(17) Manju was again medically examined on 5-1-79 at 4.30 Pm by Dr. S.C. Chaudhary Public Witness 10. He noticed one abrasion on her thigh, bruise measuring 4' X 3' on the left buttock and the duration given is 2 to 4 days. The injury was opined to be simple caused by a blunt weapon. When she was again medically examined on her own application on 7-1-79, same injuries were again found on her person by Dr. S.C. Chaudhary and the duration given was 3 to 5 days.

(18) Now considering the duration of injuries noticed on 3-1-79 it would appear that injuries were present on her person at least 9 hours earlier to the incident, it would be 10 hours if the testimony of Girdhari Lal Public Witness 6 in this regard is taken into account. These injuries as such cannot strictly be related to this incident. The injuries noticed on her person on 5th and 7th January were not there on 3rd January 1979 and considering the duration of the injuries, these definitely were caused after the incident. Strangely, the injuries noticed on her person on 3rd of January were not there on 5th January 1979. That goes to strengthen the suggestion of Mr. D.R. Sethi that Manju was manhandled while in police custody. In any case, the prosecution version that Manju was arrested on 4th in the evening is not true. If she was not arrested as a suspect on 3rd January 1979 itself, may we ask, how she was sent for medical examination and how her nail clippings were asked for? It is on record that her nail clippings were taken by Dr Mirdha on 3rd January itself. It is in that view of the matter also that we have refused to rely on the evidence of D.D. Grover Public Witness 1 that she made an extra-judicial confession before him on 4th morning.

(19) There is yet another and a very important aspect of the case which we should not fail to notice. The court is told by Public Witness 1 D.D. Grover that his relations with Manju despite disputes were not bad. Surprisingly, when he comes to his home on this evening and finds it dark and allegedly knocks at the door he straightaway goes to police station to make a report. Nobody from the neighborhood is informed which would have been his normal conduct. Nobody from the neighborhood says that he heard the knocks. Nobody from the neighborhood has come to state that he heard the shrieks. Above all, it was quite natural for Public Witness 1 D D. Grover to find if Manju and her mother were at home as there is admittedly a passage from the first floor leading to ground floor which could enable him to enter ground floor. That would have been quite normal for him in order to find out as to what has happened. He does not do any such thing nor are we told by the prosecution or any witness that Manju and her mother were in the house. Instead of this normal and natural conduct of informing neighbours or finding whether Manju and her mother were home, he rushes to inform the police. None else is told or taken into confidence by him. Frankly speaking, we have not been able to appreciate this conduct on his part and to us

this Appears to be a very suspicious circumstance. There is no evidence that be knocked at the door. Normally, knocking at the door would not go unnoticed by the neighbours. In the circumstances of this case one is only left guessing if be at all had knocked at the door or whether he straightaway went to give a cryptic information to the police. When such is the conduct of the son of the deceased, could Manju be connected with the commission of this crime We, however, do not want to summarize as to who was the culprit.

(20) There is no other evidence in the case and we have dealt with each and every circumstance individually. We find that none of the circumstances pressed in service has been proved in the case and therefore none of the circumstances can be said to be consistent only with the hypothesis of the guilt of Manju. None of these circumstances, as we have found, are conclusive in nature. Viewing the circumstances individually as well as in their totality we find that these do not show that in all probability this crime was committed by Manju. From our view it is absolutely dangerous to base conviction on this type of evidence. Neither individually nor in their totality are these circumstances in any manner conclusive in nature. On the basis of their circumstances, one can at the most suspect that Manju has committed this crime but as the saying goes, suspicion howsoever strong cannot take the place of proof. The circumstances proved in this case in no way are sufficient to destroy the presumption of innocence. We are, therefore, of the view that the prosecution has failed to connect Manju with the commission of this crime. We accordingly set aside her conviction and sentences recorded by the learned Addl. Sessions Judge. The appeal is accepted.