

Babu Ram Vs. State

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Court : Delhi

Decided On : Oct-01-1996

Reported in : 1996(39)DRJ353

Judge : K.S. Gupta, J.

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

Appeal No. : Criminal Appeal No. 178 of 1993

Appellant : Babu Ram

Respondent : State

Advocate for Pet/Ap. : Rajeev Awasthil, Adv

Judgement :

Arun Kumar, J.

(1) 'DIE appellant was convicted for the offences under sections 452, 302 I.P.C. and under section 27 of the Arms Act for the murder of a young girl named Kavita by the Addl.Scissions Judge, Delhi vide impugned judgment dated 22nd April 1992. The appellant was sentenced to life imprisonment and a fine of Rs. 1000.00 for the offence under section 302 Indian Penal Code For the offences under section 452 Indian Penal Code and section 27 Arms Act, he was sentenced to five years R.I. and a fine of Rs.500.00 each.

(2) The case of the prosecution is based on a statement of Laxmi, mother of the deceased girl recorded on 8th December 1987. According to the said statement Laxmi was sitting on the floor in the varandah of her house and her daughter Kavita aged about 15/16 years was also lying there on a cot. Babu @ Nepali (hereinafter referred to as the appellant) had been residing in her neighbourhood. He used to tease her daughter Kavita. On being rebuked he gave up teasing Kavita for the time being. Kavita's parents did not allow her to go out of the house because of this. On 8th December 1987 at about 2.15 P.M. the appellant came to Kavita's house from the roof. He climbed down the stairs and came to the place where Laxmi and Kavita were present in the varandah of the house. He was holding a dagger in his right hand. On reaching near them he addressed Laxmi that she was not allowing him to marry Kavita so he would kill Kavita that day itself. Saying so he gave dagger blows to Kavita who was lying on a cot. The dagger blows were given on left side while pressing her neck with his left hand so that Kavita may not get up. She was hit on her abdominal cavity below her right ribs. Resultantly blood oozed out profusely. Kavita took a sigh and thereafter collapsed there and then. When Laxmi raised an alarm, the appellant stabbed himself with the dagger in his abdomen. He lay in the pool of blood which had oozed out from the injuries caused to Kavita by the appellant. The clothes of the appellant got smeared with blood. In the meanwhile Babu Ram son of Jage Ram Saini who was a tenant in the same house under Laxmi came to his house to take his lunch. He overpowered the appellant along with the dagger. Her husband also arrived in the meanwhile. Babu Ram handed over the appellant to the husband of Laxmi along with the dagger. Kavita was taken to hospital with the help of neighbours. Meanwhile the police also arrived. Laxmi's husband, i.e., father of Kavita handed over the dagger and the appellant to the police. This statement of Laxmi was recorded at about 4.00 P.M. and was sent to the police station for registration of the FIR. The Fir no.445 (Ex.19/A) was recorded at 4.10 P.M. on 8th December, 1987.

(3) The Mlc of Kavita is Ex. Public Witness -3/A. As per the Mlc Kavita was brought to the hospital by Ram Chander Public Witness -1. She reached the hospital at 3.05 P.M. according to the MLC. The Mlc further records that the patient was brought dead. Dr. L.T. Ramani Public Witness -5 conducted the post

mortem on 9th December, 1987. According to the post mortem report, all clothes worn by the deceased were blood stained at places. Her kurta and pyjama showed cut marks corresponding to the injuries on her body. The following injuries were found on the body of the deceased:- External Injuries

(4) An incised stab wound 5 cm. x 1.5 cm x muscle deep present obliquely on the back of right elbow. Margins of the wound were regular and upper and was acutely cut.

2. Incised wound 2.5 cm x 1 cm x muscle deep present on the medial aspect of the right elbow 2 cm away from injury no.

1. .Both the injuries were communicating and were the result of one blow.

3. An incised wound 2.5 cm x 1 cm x depth? To be ascertained, placed obliquely on the right side of chest wall on the tenth rib- margins were regular, upper edged walls acutely cut and fluid blood was oozing out from the injury.

4. An incised wound 2 cm x 1 cm x skin deep placed just behind right anterior superior illiac spine.

5. An incised wound 2.7 cm x 1 cm x muscle deep transversely present on the left buttock over Gluteal fold.'

4. The entire case is based on the evidence of Laxmi Public Witness -10 who was the sole eye witness. However, there is corroborative evidence of Ratan Lal Public Witness -11, husband of Laxmi and father of the deceased girl. Babu Ram Public Witness -12 who is resident of the same house belonging to Laxmi being a tenant under her 355 and Ram Chander Public Witness -1 another neighbour who had taken Kavita to the hospital after she had received the injuries. Apart from the oral testimony of these witnesses, the other material against the appellant is a seizure memo dated 10th December 1987 Ex.PW 9/C whereby blood stained pant along with the belt of the appellant were taken possession along with two letters which were inside the right pocket of the pant of the appellant. The letters are purportedly written in the hand of the appellant. They simply contain love/romantic songs from Hindi movies written in Hindi. The appellant had denied having written these

letters. However, he was required to give specimen writing and his specimen writing and specimen signature were compared with the writing contained on the letters. Shri S.C.Mittal, Public Witness -21, Senior Scientific Officer, Grade I (Documents) in the Office of the Chemical Examiner to the Government of India, Cfsi, New Delhi, was examined in court and gave an opinion that the writing on the said letters was that of the appellant. They are Ex.PW 21/Q1 and Ex.PW21 /Q2 Q3.

(5) The appellant was also referred to hospital on account of injuries sustained by him. His Mlc Ex. Public Witness -2/A shows that he was taken to the hospital by Constable Sushil Kumar and his arrival in the hospital is shown at 3.20 P.M. on 8th December, 1987. The significant fact recorded on the Mlc is the history of 'having stabbed himself'. The doctor who prepared the Mlc appeared as Public Witness - 13. To a pointed question about recording of the fact of injuries being self inflicted, she stated - 'the patient was conscious when he came for treatment and he was able to answer all our questions and he himself had stated that injury on his person was self inflicted'. However, in his statement under section 313 Criminal Procedure Code ., the appellant stated that he wanted to marry Kavita and her family caused injuries to the appellant as well as to Kavita. According to the appellant, the family of Kavita got a letter written from him under pressure and he had been falsely implicated in the case. He did not produce any defense evidence.

(6) The prosecution is mainly based on the statement of Laxmi Public Witness -10, mother of deceased who is said to be an eye witness of the occurrence. She maintained the same stand as contained in her statement Ex. Public Witness - 10/A (Rukka) on the basis whereof the Fir was registered. According to her the appellant came inside her house from the back side entry of the house. She knew the appellant since prior to the date of occurrence because he used to live in the neighbourhood. According to her, Kavita had told her earlier whenever she used to go out of the house, the appellant used to tease her. She also stopped Kavita from going out of the house. On the date of occurrence the appellant came to the house from the back side entrance and addressed Laxmi that as she was not allowing him to marry her daughter Kavita, he would kill Kavita. Kavita was lying on the cot with her back towards the appellant. The appellant caught hold of Kavita by her

neck with one hand (left hand) and inflicted knife blows on her person with his right hand. The stab wound was on right side below the ribs. On account of stab injury; Kavita started bleeding profusely- Kavita groaned with pain and thereafter did not speak. The witness raised hue and cry. At this the appellant tried to run away but while doing so he slipped on the blood which had oozed out from the wound of Kavita. The appellant fell down. In the meanwhile, Laxmi's tenant Babu Ram Public Witness -12 came and when the appellant thought he could not escape, he stabbed himself by that knife in his abdomen. Babu Ram apprehended the appellant and took the knife from his hand. Babu Ram thereafter handed over the knife to Ratan Lal Public Witness -11 husband of Laxmi, who had also reached in the meanwhile. 'Die appellant was held at the spot till the police arrived and he was handed over to the police along with the dagger.

(7) From the cross-examination of this witness it was brought out that Laxmi had three sons and two daughters including Kavita. Her eldest son and daughter were married. The married son was living in the same house with the parents. Her daughter-in-law was inside at the time of the incident. The witness could not recall whether her daughter-in-law after hearing the hue and cry came out or not because she was feeding her child in a room in the interior of the house. She denied the suggestion that there was any love affair between the appellant and her daughter Kavita. It was sought to be suggested to the witness that the tenant Babu Ram Public Witness -12 helped in inflicting the injuries on Kavita as well as the appellant because Babu Ram was interested in marrying Kavita but the witness replied that Babu Ram was a married man having a child and the suggestion was totally denied. Public Witness -11 Ratan Lal father of the deceased Kavita stated that when he returned to his house after purchasing bidis from the market, he saw a crowd collected in his house. He rushed inside the house and found his daughter Kavita aged about 17 years lying injured on a cot and he saw his wife crying and shouting that the appellant had killed her daughter. The appellant was present at the spot and Babu Ram Public Witness -12 had caught hold of him. Ratan Lal is not an eye witness to the actual occurrence because he reached the scene after the actual stabbing incident was over. However, he witnessed whatever followed the incident. PW-12 corroborated the evidence of Public Witness -10 and Public Witness -11. Public Witness -1 Ram Chander is a neighbour who accompanied

Kavita to the hospital. His name' is noted in the Mlc of Kavita as the person who brought the patient. He knew the appellant who is known as Babu as well as Nepali. According to him when he reached the house of Ratan Lal he found the dead body of Kavita lying on the cot in the varandah of the house. He saw Babu Ram Public Witness -12 grappling with the appellant and trying to snatch the dagger from his hand. The dagger had blood stains on it. The clothes of the appellant were also blood stained. The floor near the cot also had blood spread on it. The Cfsi report has shown presence of blood on the clothes of deceased as well as the appellant of group

(8) The learned counsel for the appellant argued that appellant and deceased Kavita were in love with each other which was not liked by the parents of Kavita and, therefore, the parents of Kavita with the help of others stabbed Kavita as well as appellant. Kavita died as a result of stab injury. The presence of appellant on the scene of occurrence at the time of incident is not disputed. This fact is also very well established on record that the clothes worn by the appellant at that time had blood stains.

(9) We are unable to accept the contention of learned counsel for the appellant that the appellant is innocent and he has been falsely implicated in the case and that actually the appellant as well as Kavita were stabbed by the parents of Kavita with the help of Public Witness -12. There is nothing to show that there was a love affair between the appellant and Kavita. The only thing that emerges from the letters written by the appellant to Kavita containing love songs is that the appellant may be having an infatuation for Kavita. In order to save Kavita from the advances made by the appellant, the parents restricted her movements outside the house. As a result of which the appellant himself came to the house and the events as deposed by Public Witness -10 i.e. the mother of Kavita, took place. Otherwise we fail to understand why the appellant had come to the house of Kavita on that fateful day. The only reason of his visit could be that Kavita was not being allowed to go out of the house and he wanted to settle the issue because he had a fancy for Kavita. The plea of the appellant that the parents of Kavita wanted to kill their daughter and they also caused injury to the appellant is wholly unbelievable. The parents were only trying to protect Kavita from the appellant. The appellant is said

to be teasing Kavita whenever she went out. This fact was told by Kavita herself to her mother. There was no reason for the parents of Kavita to kill their daughter. This plea is even otherwise preposterous. Assuming for the sake of argument that the parents wanted to kill their daughter, they would have at least adopted some other method of doing so rather than the barbaric method of using a dagger. Secondly, why would the parents try to do this in the presence of the appellant. Did they know that the appellant would be present at a given time and be prepared for that? There was no reason for the parents to arrange for the killing of both the appellant as well as their daughter in their own house. For all these reasons, we are unable to accept the contention of the learned counsel for the appellant that the parents of Kavita wanted to kill their daughter as well as the appellant and, therefore, they caused the stab injuries to both of them.

(10) The plea that the appellant got stab injuries at the instance of parents of Kavita is completely belied by the MLC of the appellant Ex. Public Witness -2A/2B in which it is recorded 'having stabbed himself'. As already noted, Public Witness -13 also stated that appellant was conscious at the time of recording of his MLC and that the injury on his person was self-inflicted. The doctor had no reason to manufacture any facts in the MLC. Whatever the patient told was recorded on the MLC and, therefore, we have no reason to disbelieve the MLC. The MLC thus completely belies the story of the appellant that the injury on his person was caused by any one else than the appellant himself. If this part of the story is belied, the rest' of his story also falls flat. There is no reason for Laxmi Public Witness -10 to tell a lie. We have no reason to disbelieve any part of the statement of Laxmi. Her version of incident appears to be truthful and reliable specially in view of the fact that her testimony is corroborated by the testimony of Ratan Lal Public Witness -11 Babu Ram Public Witness -12 and Ram Chander Public Witness -1.

(11) The learned counsel for the appellant tried to attack the prosecution case by urging that admittedly the daughter-in-law of Laxmi was present in the house inside and in the version of incident narrated by Laxmi, her presence on the scene of occurrence is not shown. From this it is sought to be urged that the entire version of Laxmi is wrong because in normal circumstances the daughter-in-law would have come out to help her mother-in-law Laxmi. In our view this fact is not

so significant as to lead us to disbelieve the entire prosecution story. We feel that the prosecution has been able to prove its case. The entire evidence of the prosecution witnesses is consistent and points to the role of the appellant in the entire incident. We have no doubt whatsoever in our mind about the guilt of the appellant. The recovery of the love letters from the part of the appellant alleged to have been addressed to the deceased by the appellant is a pointer to the fact that the appellant had infatuation for Kavita which led him to commit the gruesome murder of Kavita.

(12) We find no merit in this appeal. The same is dismissed. We uphold the judgment of learned Additional Sessions Judge convicting the appellant under section 302 Indian Penal Code for the murder of Kavita and sentencing him to imprisonment for life and a fine of Rs.1,000.00 and also for offences under sections 452 Ipc and 27 Arms Act sentencing him to five years R.I. and a fine of Rs.500.00 each.

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