

Sanjay Vs. State

Sanjay Vs. State

SooperKanoon Citation : sooperkanoon.com/712554

Court : Delhi

Decided On : Nov-06-2006

Reported in : 2006(92)DRJ521

Judge : R.S. Sodhi and; S.N. Dhindra, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 302, 366 and 376; Code of Criminal Procedure (CrPC) - Sections 428

Appeal No. : Criminal Appeal No. 691 of 2001

Appellant : Sanjay

Respondent : State

Advocate for Def. : Ravinder Chadha, APP and; Jagdish Prasad, Adv.

Advocate for Pet/Ap. : Charu Verma, Adv

Judgement :

R.S. Sodhi, J.

1. Criminal Appeal No. 691 of 2001 seeks to challenge the judgment and order of the Additional Sessions Judge in Sessions Case No. 55 of 1999 arising out of FIR No. 249/1999, Police Station Malviya Nagar, New Delhi dated 20.07,2001 whereby the learned judge has held the appellant guilty for offence under Sections

302/366/376 IPC and further by his order dated 21.07.2001 has sentenced the appellant under Section 302 IPC to undergo imprisonment for life and to pay a fine of Rs. 100/- in default to suffer rigorous imprisonment for seven days; under Section 366 IPC to undergo rigorous imprisonment for 10 years and to pay a fine of Rs. 100/- in default to suffer rigorous imprisonment for seven days and under Section 376 IPC to undergo rigorous imprisonment for 10 years and to pay a fine of Rs. 100/- in default to suffer rigorous imprisonment for seven days. All the sentences were directed to run concurrently. Benefit under Section 428 Cr.P.C. was given to him.

2. Brief facts of the case as has been noted by Additional Sessions Judge are as under:

Rattan Lal (P.W. 2) is the real uncle of the accused. Meenakshi alias Mona, the deceased in this case was the real daughter of Rattan Lal (P.W. 2). On 26.04.1999, Meenakshi alias Mona who was aged 7 years disappeared from in front of her house at about 6 P.M. Rattan Lal then made a frantic search for her and when he could not locate her, he went to the police station and lodged a missing report. It was recorded in D.D. No. 72-B. Its copy is Ex. P.W. 2/2. It was lodged at 12.05 A.M. on 27.04.1999. In the morning at about 8/8:30 A.M., when Rattan Lal was making search for Meenakshi and was enquiring from the neighbours, he was informed by Dinesh Raj Yadav (P.W. 3) that he had seen Meenakshi in the company of the accused on 26.04.1999 at 6:45/7 P.M., both of them were seen near the community centre of Chirag Delhi. Since Rattan Lal (P.W. 2) got a very vital clue from Dinesh Raj Yadav (P.W. 3), he again went to the police station and lodged the FIR at 9:15 A.M. The carbon copy of the FIR is Ex. P.W. 2/1. A search was then made for the accused. At about 12 noon, on 27.04.1999, the accused was apprehended by SI Vijay Pal Dahiya (P.W. 12) in the presence of Rattan Lal (P.W. 2), Mahesh (P.W. 4) and constable Dinesh (P.W. 7). At that time, the accused was present at T-point, Khan Pur Bus Stand. The accused was then interrogated. Initially, he did not divulge anything. When the I.O. noticed blood stains near the zip of his pant, he again questioned the accused. Thereafter, the accused disclosed everything. He confessed his guilt. He disclosed that after committing rape on Mona, he had hit on her head with a stone. He left

the dead body at that place and went to see the movie. He can point out the pit inside the jungle of Jahanpanah Peer Baba Dargah and can get recovered the dead body of Mona. The disclosure statement is Ex. P.W. 4/2. The accused then led the police party to the jungle of Jahanpanah Peer Baba Dargah and pointed out the place from where the dead body of Mona was recovered. The pointing out memo and the-recovery memo of dead body of deceased Mona alias Meenakshi is Ex. P.W. 4/3. The dead body was identified by Mahesh vide memo Ex. P.W. 4/B. The two stones (one was allegedly kept under the head and the other was allegedly used for hitting the head, Ex. P/1 and Ex. P/2) which were stained with blood and were lying near the dead body of the deceased, were taken into possession vide memo Ex. P.W. 4/4. A pair of chappal (Ex. P/3) was also seized from near the dead body of Mona. Sample blood, earth control were also sealed in separate pulandas and were taken into possession vide memo Ex. P.W. 4/4. The place of occurrence was got photographed. The photographs are Ex. P.W. 14/1 to Ex. P.W. 14/11. Postmortem examination on the dead body of Mona was got conducted. The postmortem report is Ex. P.W. 15/1. The clothes which were on the person of the accused at the time of arrest were also seized vide memo Ex. P.W. 5/2. His blood sample was also taken. The clothes which were on the person of the deceased were sealed in a pulanda by the doctor. These were taken into possession vide memo Ex. P.W. 7/1. Site plan Ex. P.W. 12/1 was prepared. Inquest report Ex. P.W. 12/2 was prepared. The accused was also got medically examined vide application Ex. P.W. 12/4. The M.L.C. of the accused is Ex. P.W. 1/1. The sealed pulandas were deposited with the M.H.C.M. They were sent to C.F.S.L. The reports of C.F.S.L. are Ex. P.W. 12/6 to Ex. P.W. 12/9. After completion of investigation, the accused was challahed.

He has been charged under Sections 366/376/302 IPC. He has pleaded not guilty to all the charges.

3. Prosecution in order to establish its case examined as many as fifteen witnesses. Of these, Dr. Sunil Sharma, PW-1 has proved the MLC Ex. PW1/1 of the accused Sanjay. He has deposed to the effect that he has examined the accused who is 24 years of age with the history of being involved in a rape case and murder of a seven year old girl. On examination, he found accused Sanjay

capable to performing sexual intercourse. His report is Ex. PW1/1. PW-1, Rattan Lai, the complainant, has deposed to the effect that Meenakshi @ Mona was his daughter. That accused Sanjay is the son of his elder brother. That on 26.04.1999, Mona, aged 7 years, was playing outside. She did not return home at about 6:30 pm. On this, the witness went to Police Station Malviya Nagar and lodged a missing report. On the following day, that is, on 27.04.1999, Dinesh informed him that he had Seen Mona with accused near community centre at about 6:45/7:00 pm. This fact was also made known to the police at Malviya Nagar. The witness goes on to say that on 27.04.1999, the police arrested Sanjay in his presence and personal search was taken. Its memo is Ex. PW 4/1. The accused made a disclosure to the effect that on 26.04.1999, he had taken Mona to the mazaar of Jahanpanah Peer Baba at Madangir Road where he committed rape upon her and thereafter killed her. The statement was recorded as Ex. PW 4/2. Thereafter, accused led the police party, of which this witness was one of the members, to the jungle near the mazaar at Madangir Road and got recovered the dead body of Mona from a pit. The body was photographed and taken into possession vide a memo Ex. PW 4/3. Two stones and a pair of chappals were also taken into possession and sealed in a pulanda. They are Ex. PW 4/4. The body of the deceased was identified by this witness fide his statement Ex. PW2/3. PW-3, Dinesh Raj Yadav states that he is a tenant in respect of one of the rooms in House No. 716, Chirag Delhi, New Delhi, belonging to Hem Raj. That on 26.04.1999 at about 6:45/7:00 pm he was coming back to his house from his office and saw Mona, daughter of Rattan Lal, along with accused Sanjay near the community centre, Chirag Delhi. He talked to Mona who told him that she was going along with her brother. The witness goes on to say that on the following morning he came to know that Mona had not come home and informed Rattan Lal of having seen Mona along with accused Sanjay on 26.04.1999 near the community centre. The witness was extensively cross-examined but no meaningful contradiction could be elicited. He stuck to his version in chief PW-4, Mahesh Kumar, deposed to the effect that Rattan Lal was searching for his daughter on 26.04.1999 and thereafter lodged a report. He also stated the fact that the accused was arrested on 27.04.1999 and that the accused made a disclosure statement pursuant where to he got the dead body recovered. PW-5 is Constable

Chander Mohan who remained with the dead body and received the clothes worn by the deceased from the doctor. PW-6 is Constable Girish Kumar who accompanied the accused to the hospital and had him medically examined. After the examination of the accused, he was handed over three sealed pulandas by the doctor which are Ex. PW 5/2. PW-8 Constable Kiran Pal Singh had taken the sealed pulandas from the moharar Head Constable, Malkhana and deposited them with the office of the CFSL. Head Constable Om Prakash, PW-9, deposed to the effect that he had received the sealed pulandas and made an entry in registry No. 19 being moharar Head Constable PW-10, Head Constable Dalbir Singh had recorded missing person's report in DD No. 72 Ex. PW 2/2. PW-12, S.I. Vijay Pal Dahiya is the Investigating Officer while PW-15 is Dr. S.K. Gupta who conducted the postmortem examination on the dead body.

4. From the analysis of the depositions of witnesses, it stands established that the deceased was last seen with the accused at about 6:45/7:00 pm at the community centre, Chirag Delhi, by also stands established that the clothes worn by the accused were blood stained and also that the penis of the accused had clotted blood on it. The blood on the clothes of the accused as also on his penis was of type 'AB Group' which blood matched that of the deceased Mona. Dr. Sunil Sharma, PW-1, noted that there were multiple superficial injuries/abrasions on the right side of the neck and face of the accused and that the penis was found to have blood stains. These were found on the glands penis. This witness was not cross-examined.

5. From the report of the CFSL we get that the blood found on the clothes of the accused as also on his penis is type 'AB Group' which is the blood group of the deceased. With these facts having been proved, the trial court after detailed reasoning arrived at a conclusion that the accused had committed rape upon the deceased before killing her. We ourselves have carefully examined the material placed before us and already stated above, re-appreciated the ocular, medical and scientific evidence made available on record and have come to the conclusion that the judgment of the trial court cannot be faulted with. Consequently; we uphold the judgment of the trial court and dismiss Criminal Appeal No. 691/2001.

