

Chet Ram Vs. State

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Court : Delhi

Decided On : Feb-02-2007

Reported in : 2007(94)DRJ171

Judge : R.S. Sodhi and; P.K. Bhasin, JJ.

Acts : Indian Penal Code (IPC) - Sections 120B, 201 and 302; Code of Criminal Procedure (CrPC) - Sections 41(2), 109 and 428

Appeal No. : Criminal Appeal No. 505 of 2002 and Criminal Miscellaneous Bail Appl. No. 890/2006

Appellant : Chet Ram

Respondent : State

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

Advocate for Pet/Ap. : Ravinder Kumar, Adv

Judgement :

R.S. Sodhi, J.

1. Criminal Appeal 505 of 2002 seeks to challenge the judgment dated 08.05.2002 of the Additional Sessions Judge in Sessions Case No. 187/1997, F.I.R. No. 153/96, registered at Police Station Ambedkar Nagar under Section 302/120B/201

IPC, whereby the learned Judge convicted accused Chet Ram under Section 302/201 IPC. The other accused persons, namely, Bacha Ram and Ragho Ram were acquitted of all charges leveled against them. Vide separate order dated 15.05.2002, the learned Judge sentenced the convict, Chet Ram to undergo imprisonment for life with a fine of Rs. 10,000/- (rupees ten thousand) under Section 302 IPC and in default of payment of fine to further undergo simple imprisonment for one year. The convict was also sentenced to undergo rigorous imprisonment for seven years with a fine of Rs. 5,000/- (rupees five thousand) under Section 201 IPC and in default of payment of fine to further undergo simple imprisonment for six months. Both the sentences were directed to run concurrently. The benefit of Section 428 Cr.P.C. was also given to the convict.

2. Brief facts of the case as noted by the Additional Sessions Judge are as follows:. that on 24/25.2.96 SI Surinder Singh Along with HC Balraj and Ct.Raj Kumar was patrolling in the area and while patrolling they found two persons in suspicious condition, whose names were revealed as Chet Ram and Rishi Muni. Both the persons could not give any satisfactory answers to their questions and were arrested under Section 41(2)/109 Cr.P.C. They were brought to the PS. Accused Chet Ram made disclosure statement that about seven years back he Along with his brother Bacha Ram and Ragho Ram, Rishi Muni and Swaminathan had conspired and decided to kill Nanku who was working as chowkidar in kothi No. A-223, Sainik Farm and they were working as beldar there as the deceased used to check and obstruct them from selling building material. He further disclosed that he had been made to work as chowkidar when deceased had gone to his village for the marriage of his daughter, so on his return he thought of killing him. He further disclosed that at night at around 9.30 p.m. he hit at the neck of Nanku with a kassi and other accused persons caught hold of his hands and legs. Thereafter he (Chet Ram) hit with a blunt end of kassi on the genital of Nanku till he died and thereafter he Along with other accused persons dug 3 feet deep trench in a small room of the kothi and then buried the dead body of Nanku over there. He further disclosed that thereafter he (Chet Ram) started working as chowkidar at the said premises. After about two and a half years when his brother Ragho Ram came to Delhi, he told him about the incident and they both conspired to take out the dead body from the said place and buried it in another place in the

same premises, so as to destroy the evidence.

The disclosure statement was put up before the SHO. Thereafter SHO, Addl. SHO, public witness Tej Parkash Gaur, Ins. R.K. Gulia, HC Balraj, SI Surinder and Ct. Raj Kumar Along with accused Chet Ram went to A-223, Sainik Farm. There were three kothies under construction at the said premises. Accused Chet Ram pointed out to the place where he had buried the dead body of deceased Nanku after committing his murder. That place was dug out and eight bones of human being were recovered from there. The said bones were put in a parcel and sealed with the seal of JBS. Thereafter accused Chet Ram pointed out to another place. That place was also dug. From there lot of bones of a human skeleton, one iron kara, one tobacco box, one finger ring, one lungi and one shirt were recovered. In all six parcels were prepared and were sealed with the seal of JBS. All the articles were seized. The seal after use was handed over to public witness Tej Prakash Gaur. Ins. Jai Bhagwan prepared the rukka and sent Ct. Raj Kumar to the PS for the registration of the case. FIR was got registered. Senior officers were informed. Crime team was summoned. Dr. O.P. Murti and Dr. Gupta from AIIMS were called to the spot. IO inspected the site and prepared the site plan. The photographer was also called and the photographs of the scene of crime were taken. Accused Chet Ram was further interrogated, who got recovered one kassi by which deceased Nanku was attacked. The kassi was also seized. Accused Chet Ram was arrested. Thereafter accused Ragho Ram was arrested who made a disclosure statement and his personal search was conducted.

It is further the case of the prosecution that thereafter they went to D-50 East of Kailash and arrested accused Bacha Ram. His disclosure statement was recorded and his personal search was conducted. Thereafter they returned to the PS and accused Rishi Muni was arrested in the case. Statement of witnesses was recorded. Investigation was handed over to Ins. R.K. Gulia in between. Again Ins. Jai Bhagwan took over the investigation of this case after three days. On 28.9.96 the scaled site plan was got prepared. The skeleton and bones recovered were sent to the mortuary for the post mortem. Later on post mortem report was collected according to which the findings pointed to the dead body being that of the deceased Nanku. The wife of the deceased identified the tobacco box, kara,

ring and clothes recovered Along with the skeleton as that of her husband Nanku. After completing the investigation, accused persons were challaned.

In view of the aforesaid allegations contained in the challan, charge against the accused persons Chet Ram and Bacha Ram was framed under Section 120B/302/201 IPC. A separate charge under Section 201 was framed against accused Ragho Ram. Accused Rishi Muni had died by then. Accused persons pleaded not guilty to the charges framed against them and claimed trial.?

3. The Prosecution in order to establish its case examined 12 witnesses. PW-1, Shri Tej Parkash Gorh, is a witness to the recovery of the remains of the dead body and other articles in the case. PW-2, Smt.Beeta is the wife of the deceased Nanku. She identifies the remains to be those of Nanku on the basis of kada, ring and tobacco box. PW-3, is Constable Raj Kumar who apprehended Chet Ram and Rishi Muni while patrolling the area along with S.I.Surender and Head Constable Balraj and he is also witness to the recovery of the skeleton remains found from premises A-223, Sainik Farm and further got the F.I.R. registered by taking a rukka to Police Station, Ambedkar Nagar.

4. PW-4, Constable Prem Raj, was Duty Officer and had taken the special report to the Magistrate. PW-5, is Head Constable Subhash Chand who is Duty Officer, Police Station Ambedkar Nagar. He recorded the F.I.R. PW-6, is Head Constable Balraj Singh who was patrolling the area along with S.I. Surinder Singh and Constable Raj Kumar and apprehended Chet Ram and Rishi Muni. He is another witness to the recoveries at Kothi No. A-223, Sainik Farm.

5. PW-7 is Inspector R.K.Gulia, who is the Investigating Officer. He interrogated Chet Ram, Raghav Ram, Bacha Ram. PW-8 is S.I. Mukesh Kumar who took rough notice and prepared the scaled plan. PW-9 is S.I.Surinder, who was also patrolling along with PW-3 and PW-6 when Chet Ram and Rishi Muni were apprehended and made the purported disclosure statement. PW-10, is Jai Bhagwan, another Investigating Officer in this case. PW-11, Dr.O.P.Murthy, from All India Institute of Medical Sciences witnessed the recovery of skeleton remains from Kothi No. A-223, Sainik Farm and conducted postmortem examination while PW-12 is Ravinder Dudeja, Metropolitan Magistrate before whom case property

was identified by wife of Nanku, the deceased.

6. The Trial Court on an evaluation of the depositions, came to the conclusion that the case against Chet Ram stands proved beyond reasonable doubt. It further went on to discard the evidence of DW-1, Shri Mohd.Habib Khan, who testifies that he was the village Pradhan of Village Kaili, U.P. Village Kuthwa falls in the jurisdiction of Kaili and he was also the president of village Kuthwa, that is the village of accused Chet Ram, Bacha Ram and Ragho Ram. On 17.2.1996, father of accused Chet Ram came to him and requested him to accompany him as Police had come from Delhi. He saw S.I.Surinder Singh and Head Constable Balraj of Delhi Police who told him that brother of accused Chet Ram had met with an accident in Delhi and, therefore, they wanted to take Chet Ram with them for inquiry. There was another person named Rishi Ram, along with the Delhi Police. It was 8.00 p.m. when this witness met the aforesaid officials. From the village the officials of the Delhi Police took Chet Ram along with Rishi Muni to Chowki Mathura Bazar. This witness told the Delhi Police officials to leave Chet Ram and Rishi Muni, but the officials told him that they would take them to Delhi for inquiry and would relieve them thereafter. That night, Rishi Muni and Chet Ram, along with officials of the Delhi Police remained in the chowki. The witness returned thereafter to his village. In cross-examination by the learned Additional Public Prosecutor, the witness states that he saw Rishi Muni on the same day and he requested him to have him released from the Police along with Chet Ram. The witness claims to have known Chet Ram for the last 35 to 40 years. He denied that he had falsely mentioned that Chet Ram was taken by the Police on 17.02.1996, or that Rishi Muni was also in custody at that time.

7. DW-2, Sohrat, states that he was working as chowkidar, Police Station Lalia on 17.02.1996, Head Constable Balraj and S.I. Surinder had brought accused Chet Ram at Chowki Mathura Bazar at 8.00 p.m. Chet Ram was detained in chowki during night since he had to be taken to Delhi as his brother had met with an accident. One more person was also along with Chet Ram but he does not know his name. Next day Police took Chet Ram to Delhi around 8.00 a.m. from the Police Post. The witness claims to be official chowkidar of the police station since last 35 years. In cross-examination by the learned Public Prosecutor the witness

states that he knew Chet Ram as Chet Ram was a resident of his halka. He had known Chet Ram since his childhood. He denied the suggestion that he is deposing falsely regarding the Delhi Police having taken Chet Ram on the pretext of accident of his brother or that Chet Ram was detained in the police station by the officials of the Delhi Police.

8. It is contented by counsel for the appellant that the Trial Court has acquitted all the other accused persons who were stated to be members of the party that is supposed to have caused death of Nanku. In other words, the Trial Court has come to the conclusion that it was Chet Ram who caused death of Nanku single handedly. He then buried Nanku in House No. A- 223, Sainik Farm and years thereafter transferred Nanku's remains to a different location. This finding is contrary to the Prosecution's case and would destroy the very edifice upon which the Prosecution is basing its claims. He contends that this is a strange case where after seven years a person who would be arrested for loitering would oblige the Police with solving a case which was not even registered. He also contends that the village Pradhan, DW-1, and the police station chowkidar, DW-2, have both categorically stated that Chet Ram was picked up from his village in U.P. on 17.2.1996; he was kept in Mathura Bazar Chowki on that night and the following morning taken to Delhi. There is absolutely no meaningful cross-examination of this witness other than why they had not reported the matter to higher authorities. He also contends that there is nothing on record to show that Chet Ram was employed as chowkidar in Kothi No. A-223, Sainik Farm. There is also nothing on record to show that Chet Ram knew Nanku or that Chet Ram had worked in the construction of the kothi at Sainik Farm. He contends that recovery of bones of human origin did not necessarily mean that Chet Ram killed Nanku and then buried him. The recoveries of a kada, a ring and/or a rusted box cannot be implied to belong to deceased Nanku, since there is no identification mark on either of the articles pointed out by wife of Nanku, who claims that she was told by the Police that she is required to identify the articles of her deceased husband. Such identification of articles is a traversery of justice. Counsel further submits that it is impermissible to use the so-called disclosure statement, PW-6/A, to build up the entire case of the Prosecution, which disclosure statement itself is doubtful since Chet Ram was arrested from his village on 17.2.1996 and not by the Police while

patrolling on 24/25.02.1996. In any case, even if Exhibit PW-6/A is taken as a disclosure then the disclosure is against Bacha Ram, Ragho Ram, Rishi Muni and Swaminathan who had conspired to kill Nanku but the Trial Court has thought it wise to acquit the other accused. On the same evidence it would not be proper to hold the appellant guilty.

9. Counsel for the State submits that there is no reason why the disclosure statement of Chet Ram may not be read against him as the recoveries were effected at his instance. He submits that recoveries were effected in presence of an independent witness and it can safely be deduced that if Chet Ram knew where the remains of Nanku were available, surely, he would also be responsible for the death of Nanku, unless he comes up with a proper Explanationn.

10. We have heard learned Counsel and have carefully examined the case. No doubt, there is evidence on record to show that human bones were recovered from two different places in the premises Kothi No. 223 -A, Sainik Farm but since there is no evidence on record, as has been held by the Trial Court for the involvement of other accused persons, what is required to be seen is the individual role of Chet Ram. The story put forth by the prosecution that Chet Ram and Rishi Muni were arrested on 24/25.02.1996 for loitering and both of them made similar disclosure statements but recoveries were effected only at the instance of Chet Ram does not inspire confidence, specially in view of a positive assertion by the defense witnesses that Chet Ram was in the village on 17.02.1996. defense witnesses cannot be discarded unless in cross- examination something substantial comes out which belies their deposition. If that be so, Chet Ram was brought from his village on 17.02.1996 by Head Constable Balraj and SI Surinder Singh, the Prosecution case that he was arrested under Section 41(2)/109 Cr.P.C. on which he made a disclosure statement is incorrect. Even if Chet Ram had been taken into custody on 24/25.02.1996 under Section 41(2)/109 Cr.P.C., there was no occasion for him to have made any disclosure statement. Specially, to the effect implicating himself in a murder case. Coupled with this, is the fact that the so-called disclosure statement is not corroborated by evidence brought on record, namely, that Chet Ram was in Delhi seven years back and that he was working at House No. A-223, Sainik Fam where the deceased was a chowkidar and Chet

Ram was beldar. In the absence of this part of evidence the entire chain built up by the Prosecution stands on weak foundation. It is surprising that the owner of House No. A-223, Sainik Farm has not even been examined to show that his bathrooms have been dug up and that recoveries have been made from his premises and that Chet Ram was employed by him at any point of time or that Nanku was employed by him at any point of time.

11. Coming to the question of identification of the remains of Nanku, the Prosecution has pressed into service, PW-2, Smt.Beeta, the wife of Nanku. She claims to have identified one ring, one kada and a rusted box belonging to her husband. She states that she had been brought from the village by the Police and told to identify the belongings of her husband. None of these articles had any distinguishing marks to identify them specifically. In her examination-in-chief she says that her husband worked at Sainik Farm since his childhood. He never used to say anything about anyone to her. He used to wear a ring and a kada as also kept a small tobacco box. She also states that she made no complaint for seven years that her husband was missing. She does not know the address where Nanku worked. She cannot tell as to which was the last year when he came home but had come in the marriage of her daughter. She does not know which year her daughter got married. She states that Police met her about seven years after the date when her husband went missing and informed her that her husband had died. She also states that the Police had told her that Chet Ram had disclosed to the Police about the killing of Nanku. The Police informed her that some articles, namely, kada, ring etc. had been recovered and have to be shown for identification. With this kind of information having been passed to the witness prior to identification, surely, it cannot be said that the witness had herself correctly identified the articles to have belonged to her husband Nanku. In the absence of proper identification of the remains it cannot be said that the remains are those of Nanku. The Prosecution's Case that Kothi No. A-223, Sainik Farm was under construction when the recoveries were effected and was near a tube-well would belie the Prosecution's case, inasmuch as that Nanku was employed at Kothi No. 223, Sainik Farm, seven years prior when the building was under construction. To base the conviction solely on a disclosure statement or recovery of some bones would be dangerous. The Prosecution's case must stand on all fours. A limping

Prosecution's version cannot be permitted to hold the appellant guilty under Section 302/201 IPC. A close analysis of the material placed before us leads us to the conclusion that the arrest of Chet Ram at Delhi is doubtful and recoveries effected pursuant to disclosure statement do not inspire confidence nor is the identification of articles recovered free from doubt, in which case there is hardly anything to connect the appellant with the murder charge. We, therefore, have no hesitation in setting aside the judgment dated 08.05.2002 and order dated 15.05.2002. The appellant, Chet Ram is acquitted of all charges. He be set at liberty forthwith if not wanted in any other case. Criminal Appeal 505 of 2002 is disposed of. Criminal Miscellaneous Bail Application No. 890/2006 also stands disposed of.

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