

Raj Singh Vs. State

Raj Singh Vs. State

SooperKanoon Citation : sooperkanoon.com/712929

Court : Delhi

Decided On : Mar-14-2007

Reported in : 140(2007)DLT750

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

Acts : Indian Penal Code (IPC) - Sections 201, 302, 392, 394, 412 and 436; Code of Criminal Procedure (CrPC) - Sections 313 and 428

Appeal No. : Criminal Appeal No. 570 of 2003

Appellant : Raj Singh

Respondent : State

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

Advocate for Pet/Ap. : Mukesh Jain, Adv

Disposition : Appeal dismissed

Judgement :

R.S. Sodhi, J.

1. Criminal Appeal No. 570 of 2003 seeks to challenge the judgment dated 30.04.2003 in Sessions Case No. 50 of 1999, F.I.R. No. 259 of 1999, Police Station Nangloi, whereby the learned Judge has convicted the appellant under

Section 302/392/394 IPC. Further by a separate order dated 15.05.2003, the appellant was sentenced to undergo imprisonment for life together with fine of Rs. 10,000/- (rupees ten thousand) and in default of payment of fine to further undergo simple imprisonment for one year under Section 302 IPC. Under Section 392 IPC, he was sentenced to rigorous imprisonment for three months. He was sentenced to undergo rigorous imprisonment for seven years with a fine of Rs. 3,000/- (rupees three thousand) and in default of payment of fine to further undergo simple imprisonment for three months under Section 394 IPC. All the sentences were directed to run concurrently and the accused was entitled to benefit of Section 428 Cr.P.C.

2. Brief facts of the case as noted by Additional Sessions Judge are as follows: On the night intervening 10th and 11th March, 1999 at about 4.05 a.m. information was received at P.P. Nihal Vihar through L/Const. Babita of the PCR. According to her a fire had broken out in a house bearing No. E or T-8, Adhyapak Nagar, Nazafgarh Road. DD No. 29, P.P. Nihal Vihar, P.S. Nangloi was recorded on this information and was entrusted to SI B.S. Chillar who along with Const. Ranbir Singh had left for the spot. This information was also given to Inspt. S.S. Ramela who was posted as SHO P.S. Nangloi on that day. Inspt. S.S. Ramela reached I-8, Adhyapak Nagar, Delhi on his official gypsy where he came to know that the incident had taken place at H-86, Adhyapak Nagar. He, therefore, reached the spot H-86, Adhyapak Nagar, where he found SI Vijender Singh, in charge, P.P. Nihal Vihar and Const. Ranbir Singh already present there. DD No. 29 was handed over to him by SI B.S. Chillar. Inspt. S.S. Ramela entered the room where the incident had taken place in order to inspect the same. He found number of burnt clothes. He also found four dead bodies which were identified to be those of Ramesh Chand Varun, aged 39 years, his wife Vimla, aged about 33 years and their two daughters aged about 5 and 7 years. The dead body of Vimla, w/o Ramesh Chand Varun was in a charred condition and was lying on a folding bed. The dead bodies of Ramesh Chand Varun and his two daughters were found 'inside a wooden Diwan'. The dead body of Ramesh Chand Varun and several injuries including one on the head from which blood in sufficient quantity had come out. The eyes and mouth were closed. On his right and left lay the dead bodies of his two daughters Preeti and Aarti. Preeti had a Chunni ligature tied over her neck;

the tongue had protruded out; eyes were closed. The neck of Aarti was tied with a blouse, her tongue had also protruded out and her eyes were lying closed. There were blood stains on the spot at various places. Blood stains were also found in the kitchen, staircase and on the roof. Inside the room there were some burnt clothes which were also stained with blood. Blood in sufficient quantity was also lying inside the Diwan. No eyewitness was available on the spot. Inspector S.S. Ramela prepared a rukka on the basis of the evidence available on the spot and got a case registered under Sections 302/201/436 IPC through Constable Ranbir Singh. He also summoned the dog squad and the Crime Team, a photographer and a team from the CFSL. He had also requested that a special report be sent through a special messenger. Case FIR No. 259/99 was thus registered at P.S. Nangloi on the basis of the rukka sent by Inspector S.S. Ramela. The investigation was taken over by him. The spot was got photographed from different angles. The Crime Team which comprised of SI Dhan Singh and Mr. K.N. Singh, Finger Print Experts, was successful in lifting two chance prints from the spot. The dead bodies were sent for postmortem to Mortuary Subzi Mandi. The postmortem on the dead bodies were performed on 12.3.1999 where after these were handed over to the relations of the deceased. On 14.3.99, a police party headed by Inspector S.S. Ramela and comprising of Inspector Sukhbir Singh, SI Bijender Singh, SI Ranbir Singh, ASI Pratap Singh, Constable Rajbir, Constable Satvir and PW Rajbir Singh, the brother of Ramesh Chand (deceased) proceeded to Sonapat in a private tempo. They first went to village Sarsand, District Sonapat. On the way, they met SI Prakash Chand, SHO P.S. Gohana, Haryana who had met the police party near village Nagar Gadhi. The facts of this case were brought to his notice by Inspector S.S. Ramela and he was joined in the investigation of this case. The police party then went to village Sarsand at the house of Ram Phal. On entering the house of Ram Phal, they found accused Raj Singh lying on a cot in a room. Underneath the pillow lying on the cot, the police found a cream coloured purse containing a pair of Jhumka, a pair of Kundal, a gold chain, three rings, a nose pin, a Mangal Sutra and 86 currency notes of the denomination of Rs. 50/- each. The police also found 5 tablets of Diazepam and some powder in a phial. The jewellery items were identified by PW Rajbir Singh as belonging to Vimla (deceased), his sister-in-law. Accused Raj Singh had made a disclosure statement Ex. PW 6/A to Inspector S.S.

Ramela.

On 16.3.99, the accused led the police party to his house. He got recovered his clothes which he was allegedly wearing at the time of committal of the crime from an almirah lying in the house. The clothes were blood stained. The vest was also burnt in the front. The accused also got recovered some silver articles from the roof of a room in front of his house. These jewellery articles were also identified by Rajbir Singh as belonging to his sister-in-law. The finger prints of the accused were taken on 14.3.99 and were sent to Finger Prints Bureau for comparison. The parcels prepared in this case were sent to FSL and after the result of the Chemical Analyst as well as the Finger Prints Bureau, a challan was filed against the accused. The Finger Prints Bureau had been able to match the chance prints lifted from the spot with the finger prints of the accused sent to them for comparison.

Accused Raj Singh was charged under Section 302 IPC for having committed murders of Ramesh Chand Varun, Vimla, Preeti and Aarti. He was charged under Section 392/394 IPC for having committed robbery of cash and jewellery belonging to Ramesh Chand Varun and his wife Vimla. He was also charged under Section 412 IPC for having been found in possession of the aforesaid jewellery items as well as the amount of Rs. 4,300/- in cash, the possession of which had been obtained through robbery. The accused had pleaded not guilty to the charge and had claimed trial.

3. The Prosecution in order to prove its case examined 26 witnesses, of which PW-4, Rajbir Singh is the brother of the deceased. He deposes to the effect that he had come to stay with his brother fifteen days prior to the incident and on 10.03.1999 at about 8.30 p.m. he was going towards Shahdara to meet his friend when at a distance of about fifty yards from his brother's house he met Raj Singh, accused, who inquired from him as to whether his brother, Ramesh Chand was at home. Rajbir informed Raj Singh that his brother along with his family was present at home. On hearing this Raj Singh trudged along towards the house of his brother, while the witness proceeded towards Shahdara. On 11.03.1999, Rajbir returned to the house of his brother at around 4.00 p.m. and was informed that his brother, his brother's wife and their two daughters had been killed. On checking

the house he found, Rs. 16,000/- (rupees sixteen thousand), in cash and various ornaments, which included, four gold bangles, two gold chains, one pair of Jhumka, one pair of earrings, two gold rings, a pair of silver payal etc. were missing. Rajbir suspected that the crime had been committed by Raj Singh and informed the Police accordingly. He then accompanied the Police Party to the residence of Raj Singh at Prem Nagar. Raj Singh was not present at his residence nor could the father of Raj Singh give a satisfactory Explanationn about his whereabouts. On 14.03.199, Rajbir joined the Police Party in search of Raj Singh and proceeded to village Sarsan, District Sonapat, Haryana. In the house of Ram Phal, Raj Singh was found lying on a cot. He was overpowered and under his pillow a sum of Rs. 4,300/- (rupees four thousand three hundred) in the form of eighty six currency notes, in the denomination of Rs. 50/- (rupees fifty) each, a gold chain, a nose pin, three gold rings, a pair of gold jhumka, a pair of earrings, a silver locket with a figure of a bird carved in green colour and some tablets of Diazepam were found. These articles were lying in a pouch. The articles were identified by this witness to be those belonging to his sister-in-law. The articles were taken into possession vide Exhibit PW-4/B and sealed with the seal of SSR. This witness goes on to say that he had accompanied the Police Team to the house of the accused, from where he had got recovered silver jewelry from the roof of the house opposite his. He also deposes that from the house of Rajbir his blood stained clothes, namely a vest, a shirt and a trouser were taken into possession.

4. PW-1, is K.N.Singh, he is finger print expert. He deposes that on 11.03.1999 he examined the scene of crime at H-86, Adhyapak Nagar, Nangloi, Delhi, where he was able to develop one chance print on a broken wine bottle and one blood print on steel press. The chance prints were photographed by Head Constable Manmohan Singh and K.N.Singh submitted his report, Exhibit PW-1/A. PW-26 is Head Constable Manmohan Singh, who corroborates the version of PW-1, K.N.Singh.

5. PW-18, S.I.Avdesh Kumar, from the Finger Prints Bureau testifies to having received specimen finger print slip of accused, Raj Singh for comparison with chance prints lifted from the spot by K.N.singh. This was received by him on

18.03.1999. The witness after conducting examination and on comparison found that the chance print Q-1 was identical to the right finger print S-1, said to be the impression of accused Raj Singh. He proved his report PW-18/A. He also produced in Court the case file which contained his original report and had proved the chance prints lifted from the spot by K.N.singh, which is Exhibit PW-18/B. Specimen finger print impression of Raj Singh received from the Investigating Officer is PW-18/D. He has proved the report by comparison done by him shown as Exhibit PW-18/C.

6. PW-19, SI Dhan Singh, was in-charge of the Crime Team which visited the spot on 11.3.1999. Dhan Singh described the layout and position of the bodies and has further deposed that PW-1, K.N.Singh had lifted two prints, one from a broken wine bottle and the other from an iron press. He also deposes to the effect that blood was all over the floor leading to the staircase and the kitchen. He identifies the electric iron press, which is Exhibit PW-20 and the broken pieces of the bottle, Exhibit PW-21.

7. PW-25, is Inspector S.S.Ramela. He is the Investigating Officer of this case and has given a descriptive analysis of the investigation conducted by him as also facts leading to the arrest of Raj Singh. He states inter alias that on 14.03.1999, he along with Inspector Sukhbir Singh, SI Vijender Singh, SI Ranbir Singh, ASI Pratap Singh, Constable Rajbir, Constable Satbir and PW Rajbir Singh, the brother of Ramesh Chand proceeded to Sonapat in a private vehicle. En route they went to Village Mukimpur and from ther they proceeded to Sarsan in District Sonapat. They met S.I.Prakash Chand, S.H.O., Police Station Guhana District, Sonapat and sought his cooperation in arresting Raj Singh. Independent witnesses were sought to be included but they could not succeed in getting any. He deposes that the Police Party proceeded towards Village Sarsan. Enquiries were made through S.I.Prakash Chand through sources and he came to know that an outsider was staying in the house of Ramphal in Village Sarsan. At 3.45 p.m. they reached the house of Ramphal in Village Sarsan and found Raj Singh lying on a cot. He was identified by Rajbir Singh, PW-4 and apprehended. On apprehending Raj Singh they found from under his pillow a cream colour purse. The purse contained a pair of jhumkas, one pair of kundal, a gold chain, three

rings (two ladies and one gents), a nose pin, a Mangalsutra of silver which was gold plated having a locket with the words 'R' and a picture of a bird in green colour engraved on it. They also found eighty six currency notes of the denomination of Rs. 50/- (rupees fifty) each and some tablets of Diazepam. The articles were separately sealed and taken into possession vide memo, Exhibit PW-4/B. The Investigating Officer interrogated the accused who was arrested vide memo, Exhibit PW-25/D and whose body search was done vide memo, Exhibit PW-25/E. Raj Singh made a disclosure statement Exhibit PW-6/A. He was then sent for medical examination to Din Dayal Upadhyay hospital in custody of Head Constable Dayanand and Constable Robert. Constable Robert brought blood sample and parcel containing underwear of the accused which was taken into possession vide Memo Exhibit Pw-23/A deposited in the Malkhana.

8. On 15.03.1999, Raj Singh was produced in Court and was remanded to Police custody. There he made a disclosure statement that he had kept some jewelry items hidden in his village but later on disclosed that the items were kept not in his village but on the rooftop of the opposite house of T-24, Prem Nagar-II, Sultanpuri. The disclosure statement is Exhibit Pw-6/B. Pursuant thereto, Raj Singh lead the Police Party to T-24, Prem Nagar-II, Sultanpuri and went to the rooftop of the house under construction, opposite his house, from where he got recovered the biscuit colour purse. It contained three pajeb of silver; it also contained a big pajeb, a pair of bihuas and silver chain. A ladies gold ring was also recovered along with a silver key chain. These items were taken into possession vide Exhibit PW-4/D, sealed with a seal of SSR. Raj Singh, thereafter led the Police Party to an almirah in the room, from where he got recovered one brown colour trouser, one striped shirt and a vest. The vest was heavily blood stained and also had burn marks. Thr trouser and shirt were also blood stained and also had burn marks. The trouser and shirt were also blood stained. The clothes were taken into possession vide Memo, Exhibit PW-4/F.

9. On 19.05.1999, parcels were prepared in this case. The parcels were sent to CFSL through Constable Satender Kumar. Result of the FSL, Finger Prints Bureau was presented against the accused. PW-15, Satish Kumar and PW-9, P.K.Madan, testify to their having taken photographs from different angles.

10. PW-21, S.I. B.S. Chillar, was in-charge, Polie Post Nihal Vihar, Nangloi. He reached the spot and in the first instance he accompanied Rajbir Singh. Further, D.D. No. 29 had been entrusted to him and later he joined investigation with Inspector S.S. Ramela. He is also witness to Exhibit PW-20/A-1 to A-18. He also visited Inspector S.S. Ramela to village Sarsand and is witness to the recovery of gold ornaments found from the house of Ramphal. Chillar is also witness to the disclosure statement made by the accused as also the subsequent recovery of silver ornaments from the place opposite his house, as also the clothes of the accused from the house.

11. PW-20, Ranbir Singh, is witness to the recovery memos, Exhibit PW-20/A-1 to A-18. PW-22, S.I. Randhir Singh is a witness to the recovery of the gold ornaments and a sum of Rs. 33,000/- (Rupees thirty three thousand) from the possession of Raj Singh.

12. PW-24, S.I. Prakash Chand was working as SHO, Police Station, District Sonapat. On 14.03.1999 he joined investigation at the instance of Inspector S.S. Ramela and is a witness to the recoveries at Village Sarsan.

13. PW-7, Head Constable Sri Bhagwan is the Malkhana Moharrar. He corroborates the testimony of PW-25, S.S. Ramela and proves the deposit of the sealed parcels prepared in the case with him. PW-12, Constable Satender Kumar corroborates the statement of PW-7, Head Constable Sri Bhagwan, and is the witness to having taken 23 parcels and deposited them with FSL, Malviya Nagar.

14. PW-4, Rajbir Singh, PW-5, Pratap Singh and PW-11, Ajay Kumar, identified the dead bodies of the deceased during the inquest proceedings. The postmortem of the dead bodies of Preeti and Aarti was conducted by Dr. L.C. Gupta, PW-10, who proved the report, Ex. PW-10/A and PW-10/B. Postmortem on the dead body of Ramesh Chand and Bimla was conducted by Dr. Komal Singh, PW-14, who proved his report, Ex. PW-14/A and PW-14/B.

15. In his statement under Section 313 Cr.P.C., the accused denied the incriminating circumstances put to him and claimed that on 13.03.1999 at about 9.00 a.m. while he was taking breakfast, Sub-Inspector Bijender Singh reached his

house and took him to the Police Station where he was severely beaten and made to sign certain blank pages and later falsely implicated.

16. It is contended by counsel for the appellant that the Prosecution has miserably failed to prove its case against the appellant and that the case which is based purely on circumstantial evidence does not complete its chain so as to prove the appellant guilty of the offences charged.

17. The trial court while appreciating the evidence on record returned a finding that circumstances that stood proved from the material on record were : (i) The presence of the accused on 10.03.1999 at about 8.30 p.m. near the house of the deceased; (ii) The accused making inquiries to ascertain if Ramesh Chand Varun was present at his house; (iii) Recovery of chance prints from the place of crime by the Crime Team on 11.3.1999 which tallied with those of the accused; (iv) Recovery of jewelry articles belonging to the deceased from the accused at village Sirsand, Distt. Sonapat (Haryana) on 14.3.1999; (iv) Recovery of silver ornaments at the instance of the accused on 16.3.1999 in pursuance to his disclosure statement; (vi) Recovery of clothes of the accused which had blood stains including a vest which was burnt at one place. Consequently, the Trial Court held the appellant guilty of charges framed against him.

18. We have examined the material on record. PW-4, Rajbir Singh, who is the younger brother of Ramesh Chand Varun, has stated that on 10.03.1999, when he left the house of brother at about 10.30 p.m., he met Raj Singh who enquired of him whether his brother was at home. Rajbir had informed him that his brother along with his family was at home, upon which Raj Singh proceeded towards the house of the deceased. This witness was extensively cross-examined, but there is nothing to show that the witness is not a truthful one. His testimony shows that he was present in Delhi on 10.03.1999, had met the accused and talked to him. When the witness returned he was told that his brother and his family had been killed. He stated that he suspected Raj Singh and made this known to the Police at the spot. The recoveries effected from the accused and at his behest of ornaments etc., identified to be those belonging to Bimla, have been proved beyond doubt. Further, the finger prints from the place of occurrence matched those of Raj Singh.

The blood stained trouser, shirt and vest show human blood on them. There are no inquiries on Raj Singh and there is no Explanationn by the accused.

19. The Prosecution, having proved the recoveries, matching of finger prints as also the blood on the clothes, leaves no doubt that Raj Singh is guilty of the crimes charged. The Trial Court has elaborately discussed the evidence on record and has returned a detailed finding on each and every aspect of the case. We need hardly make a repetition of the same since on our own analysis of the material placed on record, we find that the Prosecution has been able to establish recoveries from the accused and at his instance, his finger prints match those lifted from the scene of crime, blood stains on the clothes of the accused match with those of the deceased and there is no Explanationn whatsoever, except a bald denial by the accused. Accordingly, we too have come to the conclusion that the analysis of the material by the Trial Court and its reasoning cannot be faulted with. Consequently, we uphold the judgment dated 30.04.2003 and order on sentence dated 15.05.2003.

20. Criminal Appeal No. 570 of 2003 is dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com