

Chandra Mohan @ Chanda Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Feb-01-2006

Reported in : I(2006)DMC635; RLW2006(2)Raj1186; 2006(2)WLC466

Judge : Shiv Kumar Sharma and; Khem Chand Sharma, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 302; Code of Criminal Procedure (CrPC) - Sections 313

Appeal No. : Criminal Jail Appeal No. 144 of 2003

Appellant : Chandra Mohan @ Chanda

Respondent : State of Rajasthan

Advocate for Def. : R.P. Kuldeep, Public Prosecutor

Advocate for Pet/Ap. : Satyapal Poshwal, Amicus Curaie

Disposition : Appeal dismissed

Judgement :

Khem Chand Sharma, J.

1. This criminal appeal by appellant Chandra Mohan @ Chandar sent through Superintendent Central Jail, Jaipur arises out of the judgment and order dated 31.10.2002 passed by the learned Judge Special Court (Fake Currency Cases),

Jaipur City, Jaipur by which the learned Judge has convicted the appellant for offence under Section 302, IPC and sentenced him to life imprisonment with a fine of Rs. 1,000. In default of payment of fine, to further undergo 3 months' rigorous imprisonment.

2. On 20.9.2001, Kumari Reema (P.W. 1) who is none other than the daughter of appellant lodged a written report, Ex. PI at Police Station Ramganj, Jaipur alleging therein that her father used to beat her mother Mst. Chhagani, since deceased. He had been quarelling with her mother continuously for last 3-4 days and had been threatening to kill her by cutting her neck. She alleged that her father was unemployed. Whenever her mother used to ask him to earn livelihood, he beat her. On the day of incident at about 6.00 a.m. her mother had gone to attend the call of nature. She had left for fetching water and her father was sitting out side the gate of her house. At about 6.30 a.m. soon her mother reached near the house of Suwalal, her father caught hold of her and cut her neck. When she came running, she found her mother lying on the ground and blood was oozing out from her neck and her father ran away with knife (Chhuri) in his hand. Hearing her hue and cry, the persons of the vicinity collected there.

3. On the above written report, police registered a case for offence under Section 302, IPC vide FIR Ex. P10 and proceeded with investigation. In the course of investigation, police got conducted autopsy on the dead body, collected post mortem report Ex. P23, prepared site plan Ex. P4 and recorded the statements of witnesses. Having completed investigation, the police submitted charge sheet against the appellant.

4. On the basis of evidence and material collected during investigation, the police framed charge under Section 302, IPC. The accused denied the charge and claimed trial. In the course of trial, the prosecution, in order to prove its case examined as many as 22 witnesses and got exhibited some documents. Thereafter the accused was examined under Section 313, Cr. P.C. The accused did not examine any witness in his defence.

5. At the conclusion of trial, the learned Trial Court found the accused appellant guilty of having committed murder of his wife and accordingly convicted and

sentenced him in the manner stated hereinabove. Hence, the present jail appeal.

6. We have heard learned Counsel for the parties and gone through the evidence and material available on record.

7. P.W. 1 Mst. Reema, daughter of deceased and accused appellant in her statement has categorically deposed that on the day of incident at about 6.30 a.m. when her mother returned after attending the call of nature and reached near the house of one Suwa Lal, her father pressed the mouth of her mother and cut her neck. On her crying, the accused ran away. She stated in categorical terms, that her father cut the neck of her mother by knife (Chhuri) in front of the house of Suwa Lal. The witness made it clear that Chhuri was made of iron. She further categorically deposed she had seen her father striking knife blow. Her mother fell down on the ground and blood was oozing out from her neck. P.W. 2 Rahul, son of the deceased and appellant has fully corroborated the statement of his sister P.W. 1 Reema and has categorically deposed that it was the appellant who inflicted injury by knife on the neck of his mother. The statements of these two witnesses stand in corroboration with medical evidence. P.W. 20 Dr. O.P. Saini who conducted autopsy vide post-mortem report Ex. P. 23 on the dead body found injury No. 1 i.e., incised wound 13x5 cm. on neck upper part 6 cm. below chin, transversely placed, 7cm. on right side and 6cm. on left side from mid line. On dissection of body, the jurist noticed cut of skin, subcutaneous tissue, partial cut of right sterno-mastoid muscle, cut of both superior horn of thyroid cartilage, muscles and ligaments between hyoid bone and thyroid cartilage, cut of right side external and internal carotid artery. In the opinion of doctor, the cause of death was shock due to haemorrhage as a result of injury No. 1 caused by sharp edged weapon, which was sufficient to cause death in the ordinary course of nature.

8. It further appears from the evidence that the deceased in order to save herself from the clutches of her husband, the present appellant, received injuries on both her hands, which is further corroborated by the recovery of knife (vide recovery memo Ex. P. 13) at the instance and on the information (Ex. 25) furnished by the appellant. P.W. 13 Suresh Kumar Vyas, P.W. 14 Om Prakash, P.W. 18 Ajeet Singh, ASI (witnesses to the recovery) and P.W. 21 Harish Chand Sharma, SHO

have proved the above fact. That apart a glance at FSL report, Ex. P. 26 reflects that knife recovered vide memo Ex. P. 13 was found to be stained with human blood.

9. From what has been stated herein above it stands proved beyond doubt that deceased used to ask her husband the present appellant to earn bread for family members and her husband, in turn, usually quarrelled with her and also used to threaten to cut her neck. Ultimately, on the fateful day at about 6.30 a.m., the appellant inflicted knife injury on the neck of his wife when she returned after attending the call of nature and reached near the house of Suwa Lal. The injury inflicted on the neck of deceased resulted in instantaneous death. The injury which the appellant inflicted on the neck of deceased was, according to the doctor was sufficient to cause death in the ordinary course of nature. In our considered view, the learned Trial Court has critically examined the evidence led by the prosecution and has rightly arrived at a conclusion of guilt against the appellant. The judgment of conviction impugned in this appeal, therefore, calls for no interference.

10. For these reasons, we do not find any merit in the instant appeal and the same stands accordingly dismissed. The conviction and sentence awarded to appellant under Section 302, IPC are confirmed.