

Murlidhar Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jan-03-2006

Reported in : RLW2006(2)Raj1234; 2006(2)WLC138

Judge : Shiv Kumar Sharma and; Shashi Kant Sharma, JJ.

Acts : Indian Penal Code (IPC) - Sections 302; Code of Criminal Procedure (CrPC) - Sections 161 and 313

Appeal No. : D.B. Criminal Jail Appeal No. 409 of 2001

Appellant : Murlidhar

Respondent : State of Rajasthan

Advocate for Pet/Ap. : Ronak Singhvi, Amicus curiae and; B.N. Sandu, Public Prosecutor

Disposition : Appeal dismissed

Judgement :

S.K. Sharma, J.

1. Instant appeal filed by the accused appellant Murlidhar is against the judgment dated 3rd July, 2001 passed by Addl. Sessions Judge, No. 2, (Fast Track), Kota whereby he convicted the appellant for the offence punishable under Section 302

IPC and sentenced him to undergo life imprisonment and a fine of Rs. 100/- and in default of payment of fine to further undergo three months RI.

2. The brief facts which are relevant and essential for the disposal of this appeal are as under:

3. PW 1 Gajanand lodged a written report Ex.P-1 before SHO PS Sangod District Kota wherein he has written that in the last night he was sleeping at his home, in the night at about 2 PM Murlidhar and Daulatram came and Murlidhar asked him to accompany with him to his home. Murlidhar told him that he slept his wife Santosh and after that she went to urination and she fell down and some stones fell upon her and she died. Thereafter Gajanand and Daulatram and Murlidhar went to the house of Murlidhar where father of the accused, Madan Lal told him that the accused appellant has killed his wife. At that time sister-in-law of accused namely Anokhbai was also present. She also said that accused has killed his wife Santosh. On this report, police registered a case for the offence under Section 302 IPC. Statements of witnesses under Section 161 Cr.P.C. were recorded. Site plan was also prepared. Autopsy was done on the body of deceased Santosh. Blood stained trousers of accused was seized. One 'Kudali' was also seized by the police. Doctor has also examined the injury on the person of Anokh Bai and prepared a injury report Ex.P-13. Accused Murlidhar was arrested and after completion of the investigation, challan was filed before the concerned Magistrate against accused Murlidhar for the offence under Section 302 IPC wherefrom the case was committed to Sessions Judge, Kota and ultimately the case was transferred to Addl. Sessions Judge No. 2 (Fast Track), Kota.

4. In this case prosecution has examined as many as 17 witnesses namely Gajanand PW-1, Pushpdayal PW-2 Kishgopal PW-3, Babulal PW-4, Parmanand PW-5, Moolchand PW-6, Daulatram PW-7, Dhannalal PW-8, Mohanlal PW-9, Vilasibai PW-10, Mangilal PW-11, Dr. Laxminath Meena PW-12, Chouthmal PW-13, Chandrakant Yadav PW- 14, Nihal Ahmed PW-15, Bhajanlal PW-16 and Anokh Bai PW-17. Statement of accused Murlidhar was recorded under Section 313 Cr.P.C. Accused has not examined any defence witness. Arguments were heard and ultimately the Addl. Sessions Judge, No. 2 (Fast Track), Kota has

convicted the accused for the offence under Section 302 IPC and sentenced him as indicated hereinabove. Aggrieved by this judgment, accused appellant has filed this jail appeal in which amicus curiae was appointed.

5. Arguments of both the parties have been heard.

6. Learned Amicus Curiae argued that the prosecution has not proved offence under Section 302 IPC against the appellant. It is argued by him that this conviction is merely based on the testimony of PW-17 Anokh Bai. It is also argued that the statement of Anokh Bai is not trustworthy. It is also argued that deceased Santosh fell down and some stones fell upon her and she died because of injuries received by those stones.

7. On the other hand, learned Public Prosecutor has argued that statement of Anokh Bai is wholly reliable and there is no reason to disbelieve the same. She was sleeping in the same room in which this incident occurred. It is also argued by the learned Public Prosecutor that this witness has also received some injuries on her hand and this fact is corroborated by the statement of Dr. Laxmi Nath Meena and injury report Ex.P-13. The learned public Prosecutor has also argued that statement of Anokh Bai is also corroborated by the statement of PW-3 Kishgopal. He has also argued that the accused appellant Murlidhar has not explained any incriminating circumstance put to him in the statement under Section 313 Cr.P.C.

8. It is also argued by learned Public Prosecutor that Gajanand PW-1 has turned hostile but even then he has proved the written report Ex.P-1. It is also argued that the statement of Anokh Bai is also supported by the statement of PW-8 Dhanna Lal where he says that on hearing cry he went to the house of Murlidhar where Murlidhar was standing and Murlidhar asked him to go out and sister-in-law of accused was weeping and wife of Murlidhar was lying dead. It is also argued by learned Public Prosecutor that the case of the prosecution is also corroborated by the statement of Dr. Laxmi Nath Meena PW-12 who has conducted autopsy on the body of the deceased Santosh. He found following injuries on the person of deceased :

1. Lacerated wound 2' x 1' bone deep & multiple fractures of Rt. parietal & temporal bone with haematoma seen.
2. Lacerated 1 1/2' x 1/2' bone deep with multiple fracture of Rt. frontal bone of skull.
3. Lacerated wound 1 1/2' x 1/2' bone deep with fracture of under lying bone on Rt. Supra orbital region of bone.
4. Lacerated wound 1 1/2' x 1/2' x bone deep with multiple fracture of Rt. maxillary bone of face.
5. Lacerated wound size 2' x 1/2' bone deep with multiple fractures at Lt. Maxillary bone.
6. Lacerated wound 2' x 3/4' bone deep with of under lying over Lt. supra orbital region.
7. 1 1/2' x 1/2' x bone deep over vertex position with fracture of underlying bone.
8. Lacerated wound 1' x 1/4' x bone deep with fracture of underlying of Rt. maxilla.
9. Lacerated wound 1/2' x 1/4' x thickness of upper lip.
10. Bruise 3' x 1' Rt. shoulder frontal aspect.

Doctor Laxmi Nath Meena has also deposed that these above all injuries were Ante mortem.

9. It is also argued that in this case investigating officer has also been examined. It is also argued that accused was also examined under Section 313 Cr.P.C. but he has not given any explanation about any of the incriminating circumstance appearing in evidence against him.

10. We have heard rival submissions of both the parties and have perused the entire evidence on the record.

11. In this case most important and material witness is PW-17 Anokh Bai. This witness Anokh Bai is real sister of the deceased Santosh and sister-in-law of the accused appellant Murlidhar. In this case, deceased Santosh is wife of accused. According to prosecution case at the time of occurrence Anokh Bai, accused Murlidhar and deceased Santosh were sleeping in the same room. Anokh Bai has given full details of this incident in her statement. She has been cross-examined at length. She has said that in this incident she has also received injuries on her right hand and this fact is also corroborated by the statement of Dr. Laxmi nath Meena who has examined her and prepared injury report Ex.P-13. We have gone through the entire statements of this witness Anokh Bai, we do not find any reason to disbelieve the statement of this witness. We do not see any reason why this Anokh Bai would falsely implicate this accused appellant Murlidhar. Anokh Bai is a sole eye witness of this occurrence. She has deposed in her statement that she has seen the accused beating her sister by 'Kudali'.

12. Statement of PW-3 Kishan Gopal is also material in this case. He deposed that he went to the spot and he saw the deceased lying on a coat. She was not speaking and sister in law of accused told him that accused appellant Murlidhar has caused injuries to Santosh by 'Kudali'. She has also said that accused has also caused injuries on her person. This witness has also deposed that he has seen the injury on the body of Anokh Bai. We have also examined the statement of this prosecution witness Kishan Gopal in detail. We see no reason to disbelieve the statement of this witness. We are of the view that the statement of Kishan Gopal supports the prosecution story and corroborates the statement of Anokh Bai. We have also examined the statement of PW-8 Dhanna Lal. He has deposed that on hearing cry from the house of Murlidhar he went there where Murlidhar was standing and Murlidhar asked him to go out. He also deposed that sister-in-law of accused was weeping and wife of Murlidhar was lying dead. We have examined the statement of this witness, we see no reason to disbelieve the statement of this witness and we are of the view that the statement of this witness Dhanna Lal also corroborates the prosecution story as well as the statement of Anokh Bai.

13. PW-1 Gajanand Sharma has turned hostile but even then he has proved written report Ex.P-1 and he has deposed that this report Ex.P. is in his hand writing and he has also signed on this report. PW-2 Pushpdayal, Babulal PW-4, Parmanand PW-5, Moolchand PW-6, Mohanlal PW-9, Mangilal, PW-11 Chandrakant Yadav, PW-14 are formal witnesses. PW-15 Nihal Ahmed is Malkhana clerk. He has kept three sealed packets in Malkhana and sent those packets to FSL through Bhajan Lal constable. PW-16 Bhajan Lal is a constable he has taken those sealed packets from Malkhana to FSL, Jaipur. PW-13 Chauthmal is an Assistant Sub-Inspector of Police he has investigated this case. We have also examined the statement of accused Murlidhar which were recorded under Section 313 Cr.P.C. He has not explained any incriminating circumstance appearing in evidence against him in his statement. He does not say that his wife fell down and some stones fell on her and because of the injuries caused by those stones his wife died. We have examined the entire evidence placed on record. We are of the firm view that the statement of Anokh Bai is completely reliable and there is no reason to disbelieve her statement and is fully corroborated by Dr. Laxmi Nath Meena who has conducted autopsy on the body of deceased and also examined injuries on the body of Anokh Bai. Her statement is also corroborated by the statement of Kishan Gopal PW-3 and PW-8 Dhanna Lal. We have also considered this fact that Dr. Laxmi Nath Meena PW-12 has found as many as 10 injuries on the body of deceased Santosh. We have also considered the nature of those injuries and part of body where those injuries were inflicted. We have also considered that Doctor found many multiple fractures on the body of deceased Santosh. We have also considered this fact that many injuries were found on vital part of the body. After considering the statement of Doctor and postmortem report and statement of Anokh Bai and other witnesses, we are of the view that prosecution has proved beyond reasonable doubt that accused appellant has caused as many as 10 Injuries on the body of Santosh. It is also clear that he has caused many injuries on the vital part of the body of the deceased and many of them were grievous in nature. After considering the entire evidence available on record we are of the view that prosecution has fully proved the guilt against accused appellant and Trial Court has rightly convicted and sentenced the accused appellant Murlidhar for the offence under Section 302 IPC. We are of the

view that this appeal is devoid of merit and is liable to be dismissed.

14. For these reasons, we do not find any merit in this appeal. The same stands dismissed. The conviction and sentence of the appellant under Section 302 IPC is confirmed.

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