

Pratap Singh Vs. the State of Rajasthan

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Court : Rajasthan

Decided On : Oct-31-1983

Reported in : 1983WLN(UC)430

Judge : M.C. Jain and; S.C. Agarwal, JJ.

Appeal No. : D.B. Criminal (Jail) Appeal No. 483 of 1977

Appellant : Pratap Singh

Respondent : The State of Rajasthan

Disposition : Appeal allowed

Judgement :

M.C. Jain, J.

1. The Sessions Judge, Jalore, by his judgment dated October 11, 1977, convicted the appellant Pratap Singh of the offence under Section 302, IPC, and sentenced him to imprisonment for life. The appellant was charged of the offence of the murder for having killed Ewan, his wife on 21-4-1976 at about 8 or 8.30 a.m., in the kitchen of his house, with a Sambal. One Dalpat Singh informed Ran Singh at about 9.00 a.m. the same day, when Ran Singh was at his well Gangajalia. On this information Ran Singh went to the police out-post, Siyana and lodged a verbal report Ex.P/1, which was recorded by Guman Singh, Head Constable, Police Out-

Post, Siyana, at 12.15 p m The same was went by him to the Police Station, Jalore, through Sawar Singh, constable, and he himself along with constable Prighvi Singh and Hamir Singh, went to the spot. On receipt of this information Punjraj Singh, S.H O., Police Station, Jalore, registered a case under Section 302, IPC. Punjraj Singh also proceeded to the spot after registration of the cace. By the time Punjraj Singh reached the spot, Guman Singh had apprehended the accused from a Padwa (apartment), which was found locked by him and on arrival of Punjraj Singh at about 3.00 p.m., formal arrest of the accused was effected. The dead body of Smt. Ewan was lying in the kitchen. Shri Punjraj Singh conducted the spot investigation. He prepared the site inspection notes (Ex.P/2) and site plan (Ex P/11) and Fird Surat Hal Lash (Ex.P/3). He also seized the blood stained clothes of the deceased Ewan. Broken bangles and Juti of one foot having blood stained, were recovered. At the time of the arrest of the accused was wearing one shoe in his left foot. He was also wearing Dhoti. Both were stained with blood, which were taken from his person and were packed and sealed. The blood stained clothes of the deceased were also seized. Post-mortem examination of the dead body was conducted at the spot by Dr. Govind Narain Calla. He found the following injuries on the person of the deceased:

Wounds-position, size, nature:

(1) Wound at Rt. eye and frontal region of the head above Rt. eye. Anti-mortem size 2-1/2' x 2-1/2' grievous lacerated.

Bruises-position, size, nature:

(2) Bruise Anti-mortem 2' x 2' occipital region.

Condition of pupils:

Rt. eye injured--Left eye pupil semi-dilated.

calp, skull and vertebrae:

Rt. frontal part of scalp lacerated surrounding Rt. eye.

Rt. side frontal bone. Multiple fractures (spine).

Membranes:

Duramatex lacerated frontal part.

Rt. side Interacranial haemorrhage present.

Brain & spinal comp:

Rt. fronta 1 lobe cupressed and lacerated.

Muscues bones & joints:

Injury:

Orbicularix oculi

Frontalia

Laceration of Rt. eye crushed

2. In the opinion of the Doctor, the deceased died on account of intra cranial haemorrhage, which occurred due to injuries to the right eye and frontal part of the head above right eye and injury to the brain. On the same day at about 7 00 p.m., the accused gave information in respect of the Sambal, the alleged weapon of offence and got the same recovered. The Sambal was said to be blood stained. The blood stained articles were sent for chemical examination. The chemical examination reveals that Sambal, the two Jutis of the left foot and the right foot and that Dhoti of the accused were stained with blood and on chemical examination, Sambal and Dhoti of the accused were found stained with human blood. The Chemical Examination Report is Ex.P/14 and the Serologist report is Ex.P/15. After completion of the investigation, charge-sheet was prepared against the accused and the accused was committed for trial and the Sessions Judge, Jalore, tried the accused for the offence under Section 302, IPC. The accused pleaded not guilty to the charge and claimed trial. At the trial the prosecution examined Ran Singh (PW 1), Ramswaroop (PW 2), Lal Singh (PW 3), Umrao Khan (PW 4), Smt. Chhagni (PW 5), Bhav Singh (PW 9), Mangal Singh (PW 7), Guman Singh (PW 8), Punjraj Singh, S.H.O. (PW 9), Dr. Govind Narayan Calla

(PW 10), and Achal Singh (PW 11). In his statement, the accused denied the prosecution case. No evidence was led in defence. The learned Sessions Judge, on the basis of the circumstances appearing on the record of the case, found the accused guilty of the offence under Section 302, IPC.

3. We have heard Shri Roop Raj Vyas, Amicus Curiae, for the appellant and Shri Niyazuddin Khan, learned Public Prosecutor, for the State.

4. There is no direct evidence in this case. Smt. Chhagni, the mother-in-law of the deceased, is said to be the eye witness, but she has not supported the prosecution. She has turned hostile. Her statement is to the effect that she was not at the house and had gone out for attending the nature's call. How Mst. Ewan died, she does not know. As regards the accused, she stated that the accused was not at the house. When she left for attending the nature's call, Ewan was all alone at the house. The accused was out from the house for the last three days. Bhav Singh (PW 6) has also not supported the prosecution. The accused Pratapsingh is his nephew. According to him, when he returned from the jungle for taking his meal at about 10.00 a.m , then he learnt that Ewan had died. When he visited the house, he found that dead body of Ewan in the kitchen. At that time Pratap Singh was not in the house and his mother alone was in the house. Mangal Singh (PW 7) is not a relation of the accused. He is of the same caste. He too has not supported the prosecution and the Public Prosecutor was allowed to cross-examine him. He stated that the accused was not arrested in his presence. When he visited the house, he was under arrest by the police. Thus, there is no ocular evidence proving the fact that the accused caused injuries on the person of the deceased.

5. The prosecution places reliance on the circumstantial evidence of the recovery of the blood stained Sambal on the information and at the instance of the accused and had placed reliance on the circumstance that the two Jutis of the accused were found stained with blood and that the Dhoti, which the accused was wearing was found stained with human blood and the weapon of the offence was also found stained with human blood. The accused did not explain as to how the human blood appeared on the Dhoti and how blood appeared on his two Jutis.

The prosecution also places reliance on the fact that it was natural for the husband to be with the wife at the house. So considering the relation of the accused with the deceased and the above noted circumstances, clearly prove that it was the accused, who gave blows with the Sambal and caused the death of his wife Ewan. As regards the recovery of the Sambal, it may be stated that Umrao Khan, Motbir of the recovery, has not supported the prosecution. He has stated that the Sambal was already with the police and it was recovered from the front Barna of Pratap Singh. The other witness of the recovery, namely Tulsa, has not been examined. Ran Singh was also present at that time. According to Ran Singh, the Sambal was lying at the spot near the dead body. In view of this evidence on record, on our opinion, it would be unsafe to place reliance on the solitary testimony of Punjraj Singh, Investigating Officer. Thus, this circumstance of the recovery of weapon of offence, cannot be pressed into service. As regards the blood stains found on Jutis and on the Dhoti, in our opinion, this circumstance cannot be considered to be clinching and is otherwise explicable. The appellant being the husband of the deceased, it may be that he might have come after the death of the deceased and might have handled the dead body and in that process blood stains might have appeared on the Jutis and Dhoti. Besides that, there is no evidence on record to the effect that the seals on the sealed packets remained intact till they were delivered at the Forensic Science Laboratory. The prosecution has examined one Achal Singh constable, who has stated that he carried the sealed packets to the S.P. Office, Jalore. From the S P Office, Jalore, he was handed over the sealed packets on 9-5-1976 and deposited the same at the Laboratory on 10-5-1976. No evidence has been led by the prosecution that from the date of deposit in the Malkhana till the sealed packets were delivered to Shri Achal Singh, the seals of the sealed packets remained intact and further there is also no evidence that the seals of the sealed packets at the S.P. Office remained intact between 3-5-1976 to 9-5-1976. Thus, the link evidence is not complete. For this reason as well the above circumstance of blood stained Jutis and blood stained Dhoti cannot be employed against the appellant. Thus, in our opinion, there is no satisfactory and clinching evidence on record to connect the accused with the commission of the offence of murder. In our opinion the appellant deserves to be acquitted.

6. In the result, the appeal is allowed, the conviction and the sentence of the accused-appellant are set aside and he is acquitted of the offence under Section 302, IPC. He is in Jail. He shall be released forthwith if not required in any other case.

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