

Santa Singh Vs. State

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Court : Rajasthan

Decided On : Mar-23-1984

Reported in : 1984WLN(UC)100

Judge : D.L. Mehta and; S.S. Byas, JJ.

Appeal No. : D.B. Criminal Appeal No. 243/79

Appellant : Santa Singh

Respondent : State

Disposition : Appeal dismissed

Judgement :

S.S. Byas, J.

1. By his judgment dated May 7, 1979, the learned Sessions Judge, Sriganagar convicted the accused Santasingh under Sections 302 and 392, IPC and sentenced him to imprisonment for life with a fine of Rs. 200/-in default of payment of fine to further undergo six months' rigorous imprisonment on the first count and five years' rigorous imprisonment with a fine of Rs. 200/-, in default of payment of fine to further undergo six months' like imprisonment on the second count. Substantive sentences were directed to run concurrently, while those in default of payment of fine consecutively.

2. The prosecution case is short and simple. Briefly stated, it is that the deceased-victim Mst. Narayan Kaur was the wife of PW 1 Kartar Singh and was living with him in his house situate ii 11-3G Chhoti, Police Station, Chuaawat, District Sri Ganganagar. The appellant is the real nephew of PW 1 Kartar Singh. He lives in Jalalabad (Punjab), but used to come to 11-G Chhoti at the house of Kartar Singh off and on. It is alleged that the accused came to the house of PW. 1 Kartar Singh on 21-5-78 and stayed with him in his house. The accused told Kartar Singh that he had come in search of job. Kartar Singh and his son Satnam Singh went to their field leaving the appellant and Mst. Narayan Kaur there in the house. Next day in the morning when Kartar Singh returned from the field, he found Mst. Narayan Kaur lying murdered in a Kotha. Mst. Narayan Kaur was wearing gold ear-rings and gold Mohurs. Both these ornaments were found missing. Kartar Singh went to police Station Chunawat and verbally lodged report Ex. P/I of the occurrence mentioning there in all these details that the appellant had come to his house and was no more available. The police registered a case and proceeded with investigation.

3. It so happened that on 6-6-73, the accused was located by PW 2 Bihari Lal, the Station House Officer, Police Station, Jalalabad, District Ferozpur (Punjab), on the road at Jalalabad. The movenunts of the appellant were suspicious. The S HO, Bihari Lal (PW 2) detained him and took his search. Three gold Mohurs were found in his possession. They were seized and sealed and the seizure memo was prepared. On interrogation, the appellant told the SHO, Bihari Lal (PW 2) that he had also pledged a pair of gold ear-rings and Balias to one Sohanlal (PW 6). The SHO, Bihari Lal, sent for Sohan Lal. He produced the gold Balias.

4. The post mortem examination of the victim's dead body was conducted by Dr. K.L. Bsnawal (PW. 4) the then Medical Officer-in-charge, Government Dispensary, Gulabawala at about 2.00 PM on 22-5-78. The following numerous injuries were found on her person:

INJURIES:

(1) An abrasion on left fore arm posteriorly middle part 1' x 1/4'

- (2) An abrasion on right knee anteriorly 1/2' x 1/4'
- (3) An abrasion on left knee anteriorly 1/4' x 1/4'
- (4) An abrasion on right anterior superior iliac spine 1' x 1/4'
- (5) Left ear lobule torn in its lower part 1/2' x 1/4'
- (6) Ecchymosis and swelling of both eye lid on both side present
- (7) An incised wound on the right pinna of ear 1' x 1/4' x cartilage deep
- (8) An incised wound on right parotid area from tragus toward the zygoma 2 1/2' x 3/4' x bone deep
- (9) An incised wound on right mastoid area across the right pinna of the ear 1 1/2' x 3/4' x bone deep
- (10) A contusion on right cheek and right forehead across the eye 3' x 2'
- (11) A contusion on the right temporal area 3' x 2'
- (12) A contusion on the left temporo frontal area 2' x 2'
- (13) Fracture of the right maxillary (Sinuses) bone present
- (14) Fracture of the left front bone present
- (15) Membranes in the fracture area injured
- (16) Blood clots present on the brain on its anterior part.

All these injuries were ante-mortem in nature and were sufficient to cause death in the ordinary course of nature. In the opinion of Dr. Beniwal, the cause of death were multiple injuries leading to haemorrhage and shock and finally resulting in death. The post mortem examination report issued by him is Ex. P/9. The accused, who was arrested in Punjab, was brought by the Investigation Officer at Police Station, Chunawat. The gold ornaments recovered from the possession of the accused were put for test identification and were correctly identified by PW. 9

Kartarsingh as belonging to his wife Mst. Narayan Kaur. On the completion of investigation, the police submitted a challan against the accused in the Court of Additional Munsif and Judicial Magistrate, Ganganagar who in his turn committed the case for trial to the Court of Sessions. The learned Sessions Judge framed charges under Sections 392, 404 and 302, IPC against the accused to which he pleaded not guilty and faced the trial. During trial, the prosecution examined nine witnesses and filed some documents. In defence, the accused adduced no evidence. On the conclusion of trial, the learned Sessions Judge held the accused guilty. The accused was consequently convicted and sentenced, as mentioned at the very out-set.

5. We have heard Mr. B. Advani, learned counsel appearing for the appellant and the learned Public Prosecutor. We have also gone through the case file carefully.

6. The cause of death of Mst. Narayan Kaur was not assailed before us by the learned Counsel nor was he in a position to challenge in We have also gone through the testimony of Dr. R.L. Beniwal (PW. 4) and find no good or sound reasons to distrust his opinion relating to the cause of death of the deceased-victim Mst. Narayan Kaur. It, therefore, stands proved that the death of Mst. Narayan Kaur was not natural, but homicidal.

7. Before proceeding further, we may point out that there is no direct evidence against the accused. The whole prosecution case hinges on circumstantial evidence consists of two sets:

(1) The accused came to the house of Kartarsingh and stayed there; and

(2) The recovery of the gold ornaments, which the deceased-victim Mst. Narayan Kaur was wearing when the accused was there in her house.

8. It was vehemently contended by Mr. Advani that the conviction of the accused was wholly bad and unsustainable, it was argued that the two sets of evidence referred to above do not point to the guilt of the appellant. At the most, the accused can be found guilty for being found in possession of the gold ornaments of the deceased-victim. This recovery is not sufficient to raise a presumption that it

was he who had committed the murder of Mst. Narayan Kaur. In reply, the learned Public Prosecutor stated that taking both the sets of evidence together, the irresistible conclusion would be that it was the accused and the accused alone who had put Mst. Narayan Kaur to death. We have taken the respective contentions into consideration.

9. PW 1 Kartarsingh is the real uncle of the accused. He deposed that on the day of occurrence, the accused came from Punjab and stayed with him at his house. The accused told that he had come in search of some job. Thereafter, he (witness) and his son Satnam Singh went to their field. The accused and Mst. Narayan Kaur remained there in his house. Next day when he returned in the morning, he found Mst. Narayan Kaur lying dead in a Kotha. She had multiple wounds on her head and other parts of the body. The gold Mohurs and Balias, which she was wearing, were found missing. The accused was also not found there and was not traceable. He straight way went to the Police Station, Ghunawat and lodged report Ex. P/1 stating all these facts therein. This witness was cross-examined at length, but nothing could be elicited which may make his testimony unworthy of belief. He is the real uncle of the appellant and we are unable to conceive that he would falsely implicate him on grave charge like that of murder. It has not been suggested that relations between him and the appellant were strained before this occurrence. Had there been bad relations between the two the appellant would not have come to the house of PW. 1 Kartar Singh.

10. PW. 1 Kartar Singh took part in the test identification of the gold ornaments and correctly identified gold ornaments, Articles 1, 2, 3, 4 and 5 as belonging to his deceased wife. The prosecution has examined the gold-smith Amarsingh. He deposed that he had prepared the gold Balias, Articles 1 and 2-Kartar Singh (PW. J) got these Balias prepared from him. He also correctly identified these gold Balias and gold Mohurs in the test identification conducted by the Judicial Magistrate. PW. 7 Shyam Lal Gupta, Judicial Magistrate Ganganagar, deposed on the request of the police, he had conducted a test identification of the gold Mohars and gold Balias. He received the packets of these ornaments with seals intact. Both the witnesses Kartarsingh and Amarsingh correctly identified these ornaments.

11. The accused did not lay any claim on these gold ornaments. Taking the testimony of PW 1 Kartarsingh and PW 8 Amarsingh, we have no hesitation in concluding that these gold ornaments Articles 1, 2, 3, 4 and 5 were belonging to Mst. Narayan Kaur, which she was wearing at the time of her murder.

12. PW 2 Bihari Lal, is the SEJO, Police Station, Jalalabad, District Ferozpur (Punjab). He deposed that on 6-6-78 at about 6-00 P.M. he found the appellant in suspicious condition. Since his movements were suspicious, he detained him and took his search. On search being taken, three gold Mohurs Exs. 3, 4 and 5 were found in his possession. These gold Mohurs were seized and sealed and seizure memo Ex. P/2 was prepared. The accused was further interrogated. On his information, PW 6 Sohanlal shop-keeper, was called. Sohanlal, produced gold ear rings (Balias) Articles 1 and 2 before him. They were seized and sealed. Sohanlal (PW 6) deposed that the accused had pledged these Articles for a sum of Rs. 600/- to him on the 12th day of Jesth, Samvat 2035, which comes a day after the death of Mst. Narayan Kaur. Sohanlal (PW. 6) was also cross-examined at length, but nothing could be taken out from him which may make his testimony unworthy of credence.

13. Thus, both the sets of evidence stand fully proved against the appellant. Since the accused went to the house of the deceased-victim, stayed there and, thereafter, was found missing with her gold ornaments, a presumption can be safely raised against him that it was he who put the victim to death and took away her gold ornaments Articles 1,2,3,4 and 5.

14. The accused did not raise any specific plea in defence. He has furnished no explanation of whatsoever nature as to how he came in possession of these gold ornaments of the deceased-victim. Taking these two sets of evidence together, the inevitable conclusion is that it was the accused who had committed the murder of Mst. Narayan Kaur.

15. Coming to the nature of offence, the victim was inflicted numerous blows as many as 16 in number and some of them were on the vital parts. According to medical evidence, the injuries were sufficient in the ordinary course of nature to cause death. The offence made out is, therefore, covered by Section 302, IPC.

16. No other contention was raised. From what has been discussed above, we find no force in this appeal. The accused was rightly convicted and sentenced under Sections 302 and 392, IPC. No interference is called for.

17. The appeal of accused Santa Singh is consequently dismissed.

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