

Ramja Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Sep-12-1986

Reported in : 1987(1)WLN168

Judge : Shyam Sunder Byas and; Jas Raj Chopra, JJ.

Appeal No. : D.B. Cr. Jail Appeal No. 485 of 1976

Appellant : Ramja

Respondent : State of Rajasthan

Advocate for Pet/Ap. : Mr. S.R. Singhi

Judgement :

Shyam Sunder Byas, J.

1. These are two appeals directed against the judgment of the learned Sessions Judge, Sri Ganganagar dated May, 8, 1976 by which accused Ramja was convicted under Section 302, I.P.C. and was sentenced to imprisonment for life.

2. At about 5.00 p.m. on December 30, 1975, the accused appeared at Police Out Post, Lalgah before the Head Constable Hardeva Ram (PW 8) and stated before him that he had killed his wife Smt. Laxmi, aged about 25 years in the noon of that very day in his house. The Head Constable recorded his statement Ex. P 10. It appeared from his statement that he had committed the murder of his wife. He,

therefore, took the accused along with his statement Ex. P 10 to Police Station, Chunawadh. The Station House Officer registered a case under Section 302 I.P.C. treating Ex. P 10 as the First Information Report. The SHO Nathu Ram (PW 9) arrived at the house of the accused and on opening it found the dead body of Smt. Laxmi lying therein. He prepared the inquest report of the dead body and the site plan. The post-mortem examination of the victim's dead body was conducted on December 31, 1975 by PW 10 Dr. S.S. Buxi the then Medical Jurist, Government Hospital, Ganganagar. The doctor noticed the following injury on the victim's dead body:

Multiple contusions dark bluish red in colour on both the buttocks, both thighs and both legs posteriorly and anteriorly.

The doctor was of the opinion that the cause of death was shock due to multiple injuries. On the completion of investigation, the police submitted a challan against the accused in the Court of Additional Munsif & Judicial Magistrate, Sri Ganganagar, who, in his turn, committed the case for trial to the Court of Sessions. The learned Sessions Judge framed a charge under Section 302, IPC against the accused, to which he pleaded not guilty and claimed to be tried. In support of its case, the prosecution examined ten witnesses and filed some documents. In defence, the accused adduced no evidence. On the conclusion of trial, the learned Sessions Judge found the accused guilty of the offence he was charged with. The accused was consequently convicted and sentenced as mentioned at the very out-set. Aggrieved against his conviction, the accused has taken these appeals.

3. Before proceeding further, it may be pointed out that the learned Sessions Judge excluded the First Information Report (Ex.P 10) from consideration as it amounted to a confession of the accused. However, he accepted the testimony of PW 4 Ratna Ram before whom the accused is alleged to have made the extra-judicial confession. He further took into consideration the fact of the recovery of the victim's dead body in the accused's house in consequence of the information furnished by him.

4. We have heard Mr. S.R. Singhi learned Counsel for the appellant and Mr. Niyazuddin Khan the learned Public Prosecutor for the State. We have also gone through the case file carefully.

5. Mr. Singhi appearing for the accused did not challenge the finding of the trial Court that the accused had given a beating to his wife Smt. Laxmi alias Lichhmi, and thereby caused her death. The contention of Mr. Singhi is that she accused was wrongly convicted under Section 302, I.P.C. It was argued that there was no bad-blood between the accused and his wife Mst. Laxmi. They were living amicably with no quarrel. The accused became hot headed because the wife went to her parents' house without informing the accused. It was further urged that the medical evidence is very vague and loose The doctor has not mentioned the number, nature and dimensions of the injuries he found on the victim's dead body. It was further argued that according to PW 10 Dr. S.S. Buxi, none of the injuries was sufficient in the ordinary course of nature to cause the death. Though the doctor has stated that the injuries were collectively sufficient to cause the death, but he did not state that they were sufficient in the ordinary course of nature to cause death. The submission of Mr. Singhi is that the offence made out does not fall within the ambit of Section 302, I.P.C. The only offence made out against the accused does not travel beyond Section 304, Part II, I.P.C. It was, on the other hand, contended by the learned Public Prosecutor that the injuries caused to the victim were multiple and she died instantaneously on the spot. The accused was, therefore, rightly convicted under Section 302, I.P.C. We have given our thoughtful consideration to the rival submissions.

6. Undisputably, there was no bad-blood between the accused and his wife Laxmi. The prosecution evidence discloses that the relations between them were sweet with no dissension. It is further there in the prosecution evidence that the victim had left the accused's house in his absence without informing him. He went to her parents to bring her back. There was thus, no intention on the part of the accused to commit the murder of his wife Laxmi. The testimony of PW 10 Dr. S.S. Buxi simply shows that he found multiple contusions on the buttocks, thighs and legs of the victim. Unfortunately, the doctor has not described the number, nature and dimensions of the multiple contusions he found on the victim's dead body. The

testimony of Dr. S.S. Buxi is vague, loose and indecisive. It does not point out as to whether the injuries caused to the victim were simple or grievous. No fracture of any bone was detected by the doctor in the victim's dead body. Dr. Buxi admitted that no injury was individually sufficient in the ordinary course of nature to cause death. He further added that the injuries were collectively sufficient to have caused the death. It is true that the injuries sustained by the victim had caused her death, but the doctor did not state that those injuries were sufficient in the ordinary course of nature to cause death. Simply because the injuries caused to the victim had resulted in her death, it cannot be said that they were collectively sufficient in the ordinary course of nature to cause death. The phrase 'in the ordinary course of nature' occurring in Clause 3rdly of Section 300, I.P.C. has a vital significance. The injuries must be 'sufficient in the ordinary course of nature to cause death.' Simply because the injuries have resulted in the death of the victim, it cannot be inferred that they were sufficient in the ordinary course of nature to cause death.

7. Since death has resulted from the injuries caused to the victim by the accused, 'knowledge' can be safely attributed to him that the act was done by him with the knowledge that it was likely to cause death, though without any intention to cause death or to cause such bodily injury as is likely to cause death. The conviction of the accused under Section 302, I.P.C. cannot, therefore, be maintained. He should be convicted under Section 304, Part II, I.P.C.

8. The accused has remained in custody for two years and eight months during investigation, enquiry, trial and thereafter. The offence was committed long back in 1975. It would not be proper now to re-send him to jail. It would not be improper to sentence him to the period of detention already undergone by him.

9. In the result, the appeals of accused Ramja are partly allowed. His conviction and sentence under Section 302, I.P.C. are set-aside and instead he is convicted Under Section 304, Part II, I.P.C. and is sentenced to imprisonment for the period of detention already undergone by him.

10. The appeals shall accordingly stand disposed of.

