

Deepla Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Feb-25-1982

Reported in : 1982WLN(UC)170

Judge : M.C. Jain and; M.B. Sharma, JJ.

Appeal No. : D.B. Criminal Jail Appeal No. 499/76

Appellant : Deepla

Respondent : State of Rajasthan

Disposition : Appeal dismissed

Judgement :

M.C. Jain, J.

1. The appellant stands convicted of the offence under Section 302 I.P.C. and has been sentenced to imprisonment for life by the learned Sessions Judge Sri Ganganagar by his judgment dated April 27, 1976.

2. The prosecution case, in brief, is that the appellant was serving the deceased Bakshis Singh on a salary of Rs. 1200/- per year, on 18. 12. 74 one Ramnath Bagwan (P.W. 4) came to the deceased Bakshis Singh and told him that the appellant Deepla had stolen 'Maltas' from the garden which he had taken on lease from Gyansingh on the night intervening Friday and Saturday. The deceased

asked the appellant about it First the appellant refused but then he confessed the fact of theft of 'maltas. There upon it is said that the deceased asked the appellant either to seek apology from Ramnath Bagwan or to pay compensation to him. Thereafter the son of the deceased, namely Gurmitsingh and the appellant went to the field situated at Chak 65 G. B. Bakshis Singh came to the field at noon with meals. After taking the meal, the accused Deepla told Bakshis Singh that he will not serve and his account may be settled, both of them left the field. The deceased was ahead of the accused. It is said that the accused gave 'Kasia-blow' on the head of Bakshis Singh and repeated one more blow on his head. The occurrence was witnessed by Gurmit Singh and two more witnesses, namely, Mahendrasingh and Bhajansingh. Mahendrasingh was working in the nearby field and Bhajan Singh had happened to come to the field from the way which was just near the place of the occurrence. As a result of injuries Bakshis Singh fell down. He was then removed to the house and from there he was taken to Anopgarh hospital but on being advised he was taken for treatment to Ganganagar hospital. Bakshis Singh succumbed to the injuries on 19.12.74 at 10.30 A.M. Before that report of the occurrence was lodged by Gurmit Singh at the Police Station Anupgarh on the day of the occurrence at about 4.30 P.M. The case under Sections 307 and 324 I.P.C. was registered but after the death of Bakshis Singh it was converted to one under Section 302 I.P.C. The deceased was first medically examined and the following two injuries were found on his person:

(1) Incised wound 3 1/2' x 1/2,' x 1' near left parietal eminence.

(2) Lacerated wound 2 1/2' x 1' x V near right parietal eminence.'

After the death, post mortem examination was conducted on the dead body. The post mortem report is Ex. P. 7. The medical officer who conducted the post mortem examination found that there was a comminuted fracture of right temporal bone and there was massive sub-dural haematome extending frontal temporal parietal region on the right side of brain. In his opinion the cause of death was head injury which was due to internal haemorrhage causing brain oedema and increased tension asphyxia of brain Gopal Ram (P. W. 11) conducted the spot investigation and arrested the accused on 12-12-74 vide memo Ex P. 3 His shirt

and 'Payjama' which he was wearing were seized vide memo Ex. P. 14. Both the clothes were found stained with blood. On 23.12.74 the accused gave information in respect of 'Kasia' and on his information and at his instance 'Kasia' was recovered which was found blood stained. The information memo is Ex. p. 15 and the seizure memo of 'kasia' is Ex.P.4. The sealed packets of the clothes as well as of kasia were sent for Chemical Examination. Blood was detected by the Chemical Examiner on these articles. The Serologist found 'Payjama' stained with human blood. Blood on 'kasia' was found disintegrated. After completion of he investigation charge sheet was presented against the appellant. The appellant was ultimately tried for the offence under Section 302 I.P.C. by the learned Sessions Judge Ganganagar. At the trial the prosecution examined Gurmitsingh P.W.I, Harbhajan Singh P.W 2, Mahendra Singh P.W. 3 as eye witnesses of the occurrence. Ramnath P.W. 4 was examined to prove that theft was committed in his garden by the accused which was taken on lease by him; which fact he reported to the deceased. Mukhtiarsingh P.W.5 was another employee of Bakshis Singh whose statement is to the effect that the accused told Bakshis Singh that a false charge of theft has been levelled against him and so he will not serve and Bakshis Singh thereupon told him that he will not keep a thief in his service and he may settle the account. The other witnesses are Tijendra Singh P.W. 6 and Vikaram Singh P.W.7, Ram dutt P.W.8, Harisal Singh P.W.9 Dr. Kailash Nath Markande P.W. 10 and Gopal Ram Investigation Officer P.W. 11. The statement of the accused was recorded in which he denied the entire prosecution case. No evidence was led by him in defence. After hearing the arguments the learned Sessions Judge found the accused guilty under Section 302 I.P.C., placing reliance on the ocular testimony of three eyewitnesses, & on the evidence of recovery of 'Payjama' found to be stained with human blood and on the circumstances of recovery of blood stained 'kasia' The accused has preferred this appeal through jail against the conviction and sentence.

3. We have heard Shri B. Advani Amicus Curiae for the appellant and Shri M.C. Bhati learned Public Prosecutor for the State.

4. Haveing heard the learned Counsel for the parties we are of the opinion that offence under Section 302 I.P.C. is fully established against the appellant. The

occurrence took place at about I.P.M. and the report of which the occurrence was lodged within about three hours, by Gurmit Singh in which the material prosecution case has been embodied and it has been stated that Mahendrasingh came at the spot from his 'murabba' and Bhajansingh also appeared on the scene of occurrence from the way. All these three witnesses have clearly and categorically stated that the deceased was ahead of the accused Deepla and the accused Deepla inflicted two 'kasia' blows on the head of the deceased. There are no reasons to disbelieve the testimony of these witnesses. Nothing has been made out in cross-examination to discredit their testimony. The presence of Gurmitsingh and Mahendra Singh at the spot was quite natural and Harbhajan Singh who happened to be on the way came at the scene of the occurrence and his name finds mention in the first information report. It appears from the evidence on record that a charge of theft was levelled against the appellant and on account of that the deceased did not like that the appellant may continue to serve him. The charge of theft enraged the appellant and he onsequently inflicted 'kasia' blows on the head of the deceased from sharp as well as blunt side which ultimately resulted in his death. Injury No. 1 does not appear to be a grievous injury as it is not stated by the Doctor that it resulted into fracture. But Dr. Kailash Nath P.W. 10 clearly stated that injury No. 2 i.e. lacerated wound on the right-parietal eminence corresponds with injury which he has stated under the head 'scalp skull in his post mortem report Fx.P.7 There was communitated fracture of right temporal bone and there was massive sub-cural haemotoma the very nature of the injury shows that it was this injury which caused the death. In accordance with the medical opinion this injury alone was sufficient in the ordinary course of nature to cause death. Thus by the direct evidence corroborated by the medical evidence, offence under Section 302 I.P.C. is well proved against the appellant. Besides the above evidence, there are two material circumstances which stand established by cogent evidence; one is that the accused at the time of his arrest was wearing 'Payjama' which was seized and sealed and this 'Payjama' was found to bear human blood stains for which no explanation has been offered by the accused. Besides that the circumstance of recovery of 'kasia' on the information and at the instance of the accused which has also been found blood stained, can also be pressed into service for connecting the accused with the commission of the offence. Doctor has

also stated that the injuries on the person of the deceasee can be caused by Kasia Article 3. Thus the finding entered on the basis of the evidence on record by the learned Sessions Judge with regard to the commission of the offence of murder by the accused is correct and is unassailable, and the appellant has rightly been held guilty of the said offence.

5. In the result we do not find any force in this appeal so it is hereby dismissed.

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