

Bhera Ram Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jul-04-1986

Reported in : 1986(2)WLN472

Judge : Guman Mal Lodha and; Sobhag Mal Jain, JJ.

Appeal No. : D.B. Cr. (Jail) Appeal No. 358 of 1980

Appellant : Bhera Ram

Respondent : State of Rajasthan

Disposition : Appeal dismissed

Judgement :

Sobhag Mal Jain, J.

1. The appellant stands convicted and sentenced under Section 302 IPC to imprisonment for life for committing the murder of his wife Smt. Sukhi.

2. The prosecution case, in brief, was that on the night of January 1, 1980, the accused and his wife Smt. Sukhi had gone to sleep in Jhumpa (hut) in the Gawari of his parents as usual. In the morning, the following day i.e. January 2, 1980, they were found missing. Several persons, including Deepa Ram and Surja Ram were sent in search for them. Deepa Ram and Surja Ram, came to Jodhpur and found the accused there at the railway station. They enquired the accused about the

whereabouts of his wife. The accused told them that she was at the house of her parents. They brought the accused to their village Bhewra. His parents and other people from the village were present. The accused was again asked as to where he had taken his wife. He then confessed that he had killed her and thrown her body in the well of Shiv Narain Purohit. On this, the Sarpanch Jai Narain, Ward Panch Pratap Singh and others went to Shiv Narain's well and peeped in the well. They saw a Gathdi in the well. A report was drawn by the Secretary, Gram Panchayat and was sent to the police station through Sunder Ram who presented it at the police station, Osian at about 3.30 p.m. on January 3, 1980. A case under Section 302 IPC was registered against the accused and investigation started. The Investigating Officer went to the well of Shiv Narain Purohit and recovered a Gathdi from there. It contained a dead body which was identified to be of Smt. Sukhi. Dr. Tarachand was called at the spot, who performed the post mortem examination of the dead body and found several ante-mortem injuries on the body. He opined that the cause of death of Smt. Sukhi was asphyxia due to smothering. The Investigating Officer arrested the accused and recovered a knife on the information and at the instance of the accused. He also recovered a silver ingot at his instance. The hut, where the accused and his wife had slept together was also inspected by the Investigating Officer and a cot and a 'rali' were seized which on chemical examination were found stained with blood. After investigation a charge-sheet against the accused was filed and a challan in the Court of the Chief Judicial Magistrate, Jodhpur, who committed him to the Court of Sessions for trial under Section 302 IPC.

3. The learned Sessions Judge framed a charge against the accused under Section 302 IPC and recorded his plea. The accused pleaded not guilty and claimed to be tried. As many as 18 witnesses were examined by the prosecution in support of its case. There being no direct evidence, the case against the accused was based on circumstantial evidence and the extrajudicial confession alleged to have been made by him. In his statement, recorded under Sections 313 Cr.PC the accused denied the prosecution allegations and claimed that he was innocent and had been falsely implicated at the instance of his father, who was annoyed with him.

4. By the judgment, dated 31st July, 1980 the Sessions Judge, Jodhpur, has convicted and sentenced the appellant under Section 302 IPC to imprisonment for life. The learned Sessions Judge has held the following circumstances proved against the accused:

(1) The accused and the victim Smt. Sukhi went as usual to sleep in their Jhumpa in the night of 1-1-80. Both of them were found missing in the next morning;

(2) The accused was found at Jodhpur and he gave false explanations that his wife had gone to her parents, or that she was at village Bhewra; and;

(3) The accused made extra-judicial confession in the night of 2-1-80 and in the morning of 3-1-80. It was on the basis of the information furnished by him extra-judicial confession that the dead body of his wife Smt. Sukhi was found in the Bera of Shiv Narain Purohit.

Aggrieved by the aforesaid judgment, the appellant has filed this appeal through jail. As the accused was unrepresented, Shri Suresh Kumbhat was appointed as Amicus Curiae to argue the case on his behalf. Shri Kumbhat has appeared and argued the appeal on behalf of the accused.

5. Shri Kumbhat has argued that the circumstances relied upon by the learned Sessions Judge have not been proved by the prosecution and in any case these circumstances were not sufficient to sustain the conviction of 1 he accused for the offence under Section 302 IPC.

6. There is no doubt in our mind that Smt. Sukhi had a number of injuries on her body. Dr. Tarachand (PW 14) found the following injuries when he conducted the post-mortem examination of the dead body of Smt. Sukhi;

Wounds:

Stab wound 3 cm. 1/4 cm. obliquely placed towards umbilicus deep upto abdominal cavity. It was 10 cm. lateral and 5 cm. above the umbilicus on left side.

Bruises:

- (1) Bruise 5 cm. 3-1/2 cm. on anterior side of left knee at Pattelear region;
- (2) Bruise 5 cm. 4 cm. on anterior side of right knee at Pattelear region.
- (3) Bruise 3 cm. 1 cm. inner side of lower lip.
- (4) Bruise 3 cm. 1 -1/2 cm. on inner side of upper lip.
- (5) Bruise 2 cm. 1-1/2 cm, on the tip of nose.

The stab wound found on the abdomen of Smt. Sukhi was 8 cm. in diameter, distended loops of intestines protruding out on the paritoniuuro haemotoma was present around the wound. The large intestines were distended and haemotoma was present. The right side of the heart was full of blood and the left side was empty. The doctor has opined that the cause of death of Smt. Sukhi was asphxia due to smothering. The doctor in his statement has deposed that the stab wounds and the bruises found on the dead body of the victim were not sufficient in the ordinary, course of nature to cause death. After going through his evidence and having considered the nature of the injuries found on her body, we do not agree with the opinion of the doctor that the injury, particularly the stab wound on her abdomen was not sufficient to cause her death. We are of the view that the stab wound on the body of Smt. Sukhi was very serious. It was deep upto the abdominal cavity causing the intestines to protrude. It must be held to be sufficient in the ordinary course of nature to cause her death. The conclusion is irresistible that Smt. Sukhi met a homicidal death.

7. The most important circumstance against the accused in his extrajudicial confession made in the presence of Jai Narain Sarpanch; Pratap oingh a Ward Panch; Dhan Singh, Sunder Ram, Surja Ram, Mana Ram and Nima Ram. The evidence of these witnesses has been relied upon by the Sessions Judge. They have stated that on being enquired about the where ubouis of Srnt. Sukhi, the appellant admitted to have killed her and thrown her in the well of Shiv Narain Purohif. The statements of these witnesses were read over to us. Mana Ram (PW 11) is the father of the accused, while Jiwan Ram (PW 12) is his real uncle. Sunder Ram (PW 6) in also related to him. Jai Narain (PW 1) is the Sarpanch of

the Panchayat, while Dhan Singh (PW 2) and Pratap Singh (PW 3) are Ward Panchas. No reason has been shown, why these witnesses would come forward to implicate She accused falsely in a case of murder. These witnesses are reliable and there is nothing in their deposition to discredit their testimony. It is proved by their evidence that the accused made a confession in their presence that he killed his wife and threw her in the well of Shivnarain Purohit.

8. The other conclusions recorded by the Sessions Judge are;

(1) that the accused and his wife Smt. Sukhi went to sleep in their 'jhumpa' in the night of 1-1-1982 and next morning both of them were found missing;

(2) that when the accused was asked about the whereabouts of his wife, he first gave a false explanation that she had gone to her parents' village; and

(3) that the dead body of Smt. Sukhi was found in the Bera of Shiv Narain Purohit as disclosed by the accused in his extra judicial confession and ultimately it was recovered from that well by the police.

9. We have gone through the relevant evidence and we agree with the learned Sessions Judge that these circumstances stand established by the prosecution evidence. The circumstance that the accused and his wife went to sleep in their 'Jhumpa' in the night of 1-1-1980 and that on the next morning they both were found missing, is proved by the evidence of PW5, Dee pa Ram; PW 8, Mani Lal; PW 10, Smt. Jiyan and PW 11, Mana Ram. PW 10, Smt. Jiyan is the mother of the accused and PW 11, Mana Ram is his father. It is inconceivable that they would falsely implicate their own son in a case of murder. There is no reason to disbelieve the testimony of the above prosecution witnesses. Their evidence fully established that the accused and his wife had gone to sleep in their 'Jhumpa' on the night of January 1, 1980 and they were found missing on the following morning. They were thus last seen together. Afterwards it was the dead body of Smt. Sukhi, which was found in the well as aforesaid. The circumstance that the accused gave a false explanation that his wife had gone to her parents' house, is deposed to by Surjaram and we find no infirmity in his evidence to hold him unreliable.

10. The last but the most important circumstance which lends support to the extra-judicial confession is the recovery of the dead body from the well of Shiv Narain Purohit. The evidence of extra-judicial confession furnished by the witnesses was itself reliable and sufficient to uphold the conviction of the accused. In this case, however, this finds enough support from other circumstances as mentioned above. The circumstances found against the accused, including his extra judicial confession are sufficient to hold that it was the accused who caused the death of his wife.

11. In this view of the matter, the conviction of the accused-appellant recorded by the learned Sessions Judge is correct and the order of conviction and sentence passed by him calls for no interference.

12. The appeal is, accordingly, dismissed.

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