

Pratap Vs. State of Rajasthan

Pratap Vs. State of Rajasthan

SooperKanoon Citation : sooperkanoon.com/765943

Court : Rajasthan

Decided On : Aug-07-2007

Reported in : 2007CriLJ4357; RLW2007(4)Raj34

Judge : Shiv Kumar Sharma and; Guman Singh, JJ.

Appellant : Pratap

Respondent : State of Rajasthan

Disposition : Appeal dismissed

Judgement :

Guman Singh, J.

1. Challenge in this appeal is to the judgment dated February 27, 2003 of the learned Additional Sessions Judge (Fast Track) Hindaun City, District Karauli, whereby accused appellant Pratap alias Pradhan was convicted and sentenced for the offence under Section 302 of the Indian Penal Code to suffer imprisonment for life and fine of Rs. 1000/-, in default to further suffer additional rigorous imprisonment for three months.

2. Briefly stated, the prosecution case is that on 28-3-2001 at 7.05 p.m. a telephonic message was received at police station Sadar, Alwar wherein it was informed by Rarnaswaroop Gurjar R/o Khedli that Smt. Ram Rati had been

murdered by her husband Pradhan in the day, so necessary action be taken in the matter. On the aforesaid message, the police party headed by Sub Inspector Nohbar Singh proceeded to the place of occurrence. On arrival at village Khedli at 8.30 p.m., the informant Ramswaroop Gurjar presented a written report wherein it was stated that on 28-3-2001 when he returned from Hindaun in the afternoon, he was informed by Fattey, Jai Singh, Rambala and Chouthi Lal that in the day at about 3 to 4 p.m., Pradhan had murdered his wife Ramrati while they were cutting wheat crop in the field and that he had already informed about the incident to the police on telephone. On enquiry, the informant further informed that the dead body of deceased Ramrati was already cremated. This report was sent to the police station where a case under Section 302/201, IPC was registered on 28-3-2001 at 9.15 p.m.

3. The investigation commenced and after collecting necessary evidence, the police filed charge-sheet in the Court.

4. In due course, the case came up before Additional Sessions Judge, Hindaun City for trial. Accused appellant Pratap alias Pradhan was charge-sheeted for the offence under Sections 302 and 201, IPC while co-accused Hiroli. Fattey and Shankar were charge-sheeted for the offence under Sections 176 and 201, IPC. The accused pleaded not guilty and claimed trial.

5. The prosecution examined as many as eleven witnesses, namely; Meera D/o Pratap alias Pradhan (P.W. 1), Ramswaroop (P.W. 2), Dhooji Ram (P.W. 3), Chandrabhan (P.W. 4), Shri Nohbar Singh (P.W. 5), Kulraj Singh (P.W. 6), Kanwar Singh (P.W. 7), Dalveer Singh (P.W. 8), Ram Niwas (P.W. 9), Ram Kishan Soni (P.W. 10) and Dr. Govind Gupta (P.W. 11). Then the statements of the accused were recorded under Section 313, Cr. P.C. In the statement accused appellant explained that he occasionally had spells of mental disorder resulting loss of senses and on this account his services were terminated from armed forces and on the day of incident he was suddenly afflicted by a spell of such mental disorder causing loss of his senses and he did not know as to what occurred thereafter. He further stated that he did not kill Ramrati and rather he liked her very much. No witness in defence was examined. After the trial, the learned trial Court

acquitted co-accused Fattey, Haroli and Shankar for the offences under Sections 201 and 176, IPC. Accused appellant Pratap alias Pradhan was also acquitted for the offence under Section 201, IPC while he was convicted and sentenced for the offence Under Section 302, IPC and was sentenced as indicated hereinabove.

6. We have heard the rival submissions and scanned the material on record.

7. On re-appraisal of the prosecution evidence, it is revealed that the occurrence had taken place in the afternoon at about 3 or 4 p.m. on 28-3-2001 in the field situated in the revenue area of village Khedli Gurjer and belonged to appellant Pratap where he had gone along with his wife Ramrati and his daughter Meera aged 15 years for harvesting wheat crop. Meera (P.W. 1) is the only eye-witness to the occurrence. She herself was injured in the incident. In her statement, she has deposed that on the day of incident at about 2 o' clock in the afternoon while she along with her mother Ramrati and father Pratap was in the field, her father inflicted sickle blow on breast of her mother and also inflicted injury on her hands. When she tried to intervene, her little finger of right hand was also sustained a cut injury. According to her, after the aforesaid incident her father ran away from the place of occurrence and she became unconscious and she remained unconscious until her mother was cremated. She further deposed that site map of the place of occurrence was prepared and she was also medically examined for her injury. Ramswaroop (P.W. 2) is the informant who has corroborated the fact that he informed the police and also presented a written report (Ex. P. 2) to the police though he was not an eye-witness to the occurrence, Dhooji Ram (P.W. 3) and Chandrabhan (P.W.' 4) were present in the nearby fields where the occurrence took place. Both of them deposed that they heard cries of child Meera (P.W. 1) from the field of the appellant but they did not go to their field where the occurrence took place and these two witnesses have been declared hostile by the prosecution. Dr. Govind Gupta (P.W. 11) is the witness regarding the medical examination of Meera (P.W. 1) whom he examined on 28-3-2001 and he found one incised wound 2 x 1.5 cmx muscle deep on index finger of right hand. According to him, he prepared injury report (Ex. P. 26) and found that the injury was caused within six hours from the time of examination. Sub Inspector Kulraj Singh (P.W. 6) deposed that he was a member of the police party who went to the

site where the pyre of deceased Ramrati was burning and a piece of bone from the pyre was recovered vide Ex. P6. Ram Niwas (P.W. 9) deposed that he was posted at police station Hindaun City and on registering the case he sealed three packets containing half burnt pieces of vertebrae bone and deposited in the Malkhana Register vide Ex. P. 18 which were sent for chemical examination. Ram Kishan Soni (P.W. 10) deposed that he had taken photographs of the place where deceased Ramrati was cremated and also of injured Meera as well as the place of occurrence where the incident had taken place. These photographs were marked as Ex. P. 22 to Ex. P. 25.

8. Learned Counsel has argued that the appellant occasionally had spells of mental disorder and could not know as to what happened while under such spell. The learned Counsel has referred the explanation put forth by the appellant in his statement Under Section 313, Cr. P.C. that he did not know whether he had caused any injury as alleged to deceased Ramrati because he was afflicted by such a spell of mental disorder. Learned Counsel also argued that because of such a state of mental disorder, the services of the appellant were also terminated from the armed forces. Therefore, according to the learned Counsel, the appellant is entitled to the benefit of Section 84 of the Indian Penal Code. For ready reference Section 84 of the Indian Penal Code is reproduced as under:

84. Act of a person of unsound mind.- Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

9. Learned Public Prosecutor controverted the aforesaid arguments and argued that there is nothing on record from which it can be inferred that the appellant was a person of unsound mind and was incapable of knowing the nature of the act for which he was charge-sheeted.

10. From the evidence on record on the point, it is revealed that Meera (P.W. 1) who is a girl of 15 years old and has stated nothing in her examination-in-chief which may suggest that the appellant was under any mental disorder while he inflicted sickle blows to her mother and also to her when she tried to intervene.

She has rather categorically deposed that after the incident, her father ran away from the place of occurrence. This shows that the appellant was in a fit state of mind and no such abnormality as alleged was observed by this witness at the time of occurrence. Meera (P.W. 1) has been cross-examined thoroughly on the point as she has denied the suggestion that her father had any kind of distorted mental state though she agreed that her father used to quarrel without any rhyme or reason. In the cross-examination, she has already expressed her ignorance that her father started behaving abnormally or started weeping after the aforesaid incident. From the deposition of Meera (P.W. 1) aged 15 years, it is revealed that she is a girl of matured understanding and from her deposition, it has been further revealed that the act of the appellant was voluntary at the time when he inflicted injuries to deceased Ramrati as well as to her when she intervened. Learned Counsel for the appellant has argued that during trial the accused appellant was referred for treatment at Mental Hospital, Janta Colony, Jaipur and was prescribed treatment as per the prescription slips available on record. But on perusal of the aforesaid prescript slip dated 8-8-2001, it is revealed that on psycho diagnosis, the appellant was not seen to. have any gross psycho-pathology findings, Ramaswaroop (P.W.2), Dhooji Ram (P.W. 3) and Chandrabhan (P.W. 4) are the witnesses who belonged to the same village Khedli Gujar to which the appellant belonged but no question has been asked to them regarding the alleged state of mind of the accused in the past as alleged by the appellant. On being questioned in the cross-examination, the Investigating Officer Nohbar Singh (P.W. 5) has deposed that though he did come across any motive behind the crime but on enquiry he found that the appellant is a scoundrel and he had given a beating to one officer of the rank of Subedar while he was in armed forces on false pretext that he was labouring under mental disorder.

11. Therefore, in view of the above discussions, we find that there is nothing on record to suggest that the accused appellant has committed the alleged crime in the state of mental disorder as alleged. We find that after the alleged incident, the accused appellant ran away from the place of occurrence and body of the deceased Ramrati was disposed of after performing her funeral without post-mortem even before the police arrived in the evening, are such of the factors which run counter to the plea of mental disorder. It was next argued by the learned

Counsel for the appellant that in case the appellant is found liable for killing Ramrati, his act does not go beyond the offence under Section 304, Part II, IPC as he did not intend to kill his wife Ramrati. In support of the aforesaid arguments, the learned Counsel for the appellant has cited Shera Ram alias Vishnu Dutta v. State of Rajasthan 2005 (1) Cr LR (Raj) 81 : 2005 Cri LJ NOC 147, Ram Prasad v. State of Rajasthan 2007 (1) RCC 300 and Manish alias Banti v. State of Rajasthan 2007 (1) WLC (Raj) 284.

12. In the instant case, the manner in which the incident took place, it is clear that the accused appellant had inflicted fatal blows to the deceased resulting instant death of deceased Ramrati and after incident he ran away from the place of occurrence leaving behind his wife deceased Ramrati and daughter Meera (P.W. 1) aged 15 years who was also injured on trying to intervene and that deceased Ramrati was cremated soon after the alleged crime is indicative of a sequence and there remains no room to infer that the accused appellant did not intend to commit murder of his wife Ramrati.

13. We thus see no infirmity in the impugned judgment of learned trial Judge. In our opinion, the guilt under Section 302. IPC is proved against the appellant beyond doubt.

14. For these reasons, we find no merit in the instant appeal and the same accordingly stands dismissed. Conviction and sentence awarded to the appellant under Section 302', IPC are maintained.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com