

Krishan Kumar Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jul-18-2003

Reported in : RLW2004(2)Raj1101; 2003(4)WLC607

Judge : N.N. Mathur and; K.K. Acharya, JJ.

Acts : Indian Penal Code (IPC) - Sections 302

Appeal No. : D.B. Criminal Appeal No. 302 of 2000

Appellant : Krishan Kumar

Respondent : State of Rajasthan

Advocate for Def. : K.R. Bishnoi, Public Prosecutor

Advocate for Pet/Ap. : M.L. Garg, Adv.

Disposition : Appeal dismissed

Judgement :

N.N. Mathur, J.

1. The back drop of the case unfurls a story of continued hostility between the appellant husband Krishan Kumar and his wife Smt. Simla Devi. The unfortunate victim is the intervenor Kaur Singh who ventured to bring peace and happiness in their life. In the mid night at about 12:00 P.W.6 Sher Singh alias Pappu informed

P.W. 1 Surjit Singh that his son Kaur Singh was being assaulted by appellant Krishan Kumar, Shravan Ram and Asha Ram (both since acquitted) by sword, Kulhari, Dantar etc. in the street behind the house of P.W. 7 Gurjant Singh. He rushed to the spot and challenged them. The assailants seeing him took to their heels and escaped from the place. He found the body of Kaur Singh smeared with blood. Kaur Singh breathed last on the spot. PW 1 Surjit Singh lodged a written First Information Report of the incident on 21st June, 1997 at 7:00 A.M. at Police Station, Padampur. On this information police registered a case for offence under Section 302, 302/34 I.P.C. and proceeded with the investigation. After usual investigation police laid charge-sheet against the appellant and his two other brothers namely Asha Ram and Shravan Ram.

2. The appellant denied the charges leveled against him and claimed trial. The prosecution in support of the case examined 11 witnesses. The trial court relying on the testimony of eye-witnesses PW. 6 Sher Singh and P.W. 7 Gurjat Singh corroborated by the medical evidence, the recovery of blood stained sword and other evidence found the charges leveled against the appellant proved. The Additional Sessions Judge, Sri Karanpur by judgment dated 27.4.2000 convicted the appellant for offence under Section 302 I.P.C. and sentenced to imprisonment for life and to pay of fine of Rs. 50,000/- in default of payment to further undergo two months simple imprisonment. However, the trial court acquitted accused Asha Ram and Shravan Ram.

3. Mr. M.L. Garg learned counsel appearing for the appellant has read the evidence of the prosecution witnesses particularly PW. 6 Sher Singh and PW. 7 Gurjant Singh in his endeavour to satisfy as that their testimony is not trustworthy. Having read the statements of both the witnesses we are of the view that their statements are of intrinsic merit.

4. Before we deal with the evidence of eye-witnesses, we consider it appropriate to briefly refer the evidence of other witnesses. P.W. 1 Surjit Singh is the father of the deceased Kaur Singh. He stated that the appellant Krishan Kumar and his wife used to quarrel and as such a village panchayat was convened. In the Panchayat his son Kaur Singh pleaded against appellant Krishan Kumar. On the fateful day

i.e. 20th June, 1997 a quarrel took place between the appellant Krishan Kumar and his wife. P.W. 6 Sher Singh, P.W.7 Gurjant Singh and the deceased Kaur Singh again intervened and delivered the wife of appellant namely Simla at the house of Jasbir Singh. In the night at about 12:00 Sher Singh arrived at his house and informed that his son Kaur Singh was being assaulted by Krishan Kumar, Asha Ram and Shравan Ram in street behind the house of Gurjant Singh. Hearing the shocking news, he rushed to the spot and saw the dead body of his son Kaur Singh. The appellant and the two other accused persons seeing them took the heels and escaped from the place. There is lengthy cross examination but nothing substantial has been elicited to discredit the testimony of this witness.

5. P.W. 2 Jasbir Singh stated that the appellant Krishan Kumar used to beat his wife Simla Devi. Thus, a panchayat had assembled in the village. He had attended the second parichayat. In the said panchayat Member Singh, Sher Singh, Gurjant Singh and Kaur Singh were also present. It was resolved that Smt. Simla Devi will stay with her husband Krishan Kumar and he will behave with her in a decent manner. In the panchayat deceased Kaur Singh had pointed out the misdeeds of appellant Krishan Lal. Since then Krishan Kumar was unhappy with Kaur Singh. On the fateful day at about 9:30 P.M. the appellant again belaboured his wife Simla. The incident was reported by Kaur Singh to Sher Singh. Kaur Singh, Gurjant Singh and Sher Singh went to the house of appellant Krishan Kumar to remind them that they were required to live peacefully. The appellant Krishan Kumar asked them to take away his wife Simla and leave at her parents house. In the panchayat when a decision was taken that the couple i.e. Krishan Kumar and his wife will live in a separate house, Sher Singh and Kaur Singh stood surety for maintenance of cordial relations between them. Under this obligation Kaur Singh and Sher Singh brought Simla Devi to his Dhani and asked him to take her to her parents house, the cross examination is mostly directed with respect to the panchayat meeting. Nothing substantial has been elicited to discredit the testimony of this witness.

6. P.W. 5 Teja Singh has not supported the prosecution case and as such he has been declared hostile. P.W. 6 Sher Singh alias Pappu stated that the relations of appellant Krishan Kumar with his wife were not cordial. He used to belabour her.

1-1/2 month before the date of incident a panchayat was convened to discuss the complaint regarding the misbehaviour of appellant with his wife. In the panchayat amongst others Jasbir Singh, Member Singh, Gurjant Singh and Kaur Singh were present. The panchayat brought a reconciliation between them. As per the terms of reconciliation the couple was allotted a plot in a different village so they could they away from their parents. In spite of that the hostility between them continued. The appellant continued to belabour her. He along with Gurjant Singh and Kaur Singh visited the house of Krishan Kumar. They advised him to behave decently with his wife as per the panchayat resolution. However, he was not prepared to listen them, he retorted that it was his personal affair and he would behave with his wife in the manner as he like. In the night he along with Kaur Singh, Gurjant Singh took the wife of Krishan Kumar to the house of Jasbir Singh at village Padampur. In doing so they were discharging duty in accordance with the resolution of the panchayat. Thereafter all the there returned to their village. He returned to his field. After some time person named Asha Ram approached to him and inquired about his brother Krishan Kumar. He was carrying a sword in his hand. He pleaded ignorance about the whereabouts of Krishan Kumar. After about 1-1/2 hour he along with Gurjant Singh and Kaur Singh returned to village Makkasar in a Jeep. They alighted from the Jeep and proceeded towards their respective houses. Kaur Singh proceeded for consuming liquor. But he has hardly traveled upto the house of Gurjant Singh and was taking turn, he saw appellant Krishan Kumar assaulting Kaur Singh by a sword. He could witness the incident in the light of the jeep. Asha Ram and Shraavan Ram were also with Krishan Kumar armed with Kulhari and Dantar. They had surrounded Kaur Singh. He straight away proceeded to his house and informed Surjit Singh the father of Kaur Singh about the incident. Thereafter, he went to his house. There is a lengthy cross examination. The learned counsel has pointed out some discrepancies in his statement, but nothing substantial has been elicited to discredit his testimony.

7. P.W. 7 Gurjant Singh a another eye-witness, his statements are almost in the line of P.W. 6 Sher Singh. He stated that after dropping the wife of appellant Krishan Kumar at the house of Jasbir Singh at Padampur he along wit Sher Singh and deceased Kaur Singh returned to village Makkasar. Asha Ram inquired to them about the whereabouts of his brother Krishan Kumar. He was armed with a

sword. They dropped Asha Ram in the way. Kaur Singh proceeded for consuming liquor. After a minute or 2 Sher Singh dropped him as well. He went to the Chaubara of his house. From there he saw that Krishan Kumar was assaulting Kaur Singh by sword. Asha Ram and Shravan Ram had also surrounded Kaur Singh. They were armed with Kulhari and Dantar. He made a cry. Out of fear he did not come out of the house. There is a lengthy cross examination but nothing substantial could be brought in the cross examination to shake his version.

8. The statements of both the eye-witnesses find corroboration from the medical evidence. P.W. 10 Dr. Satish Sharma conducted the postmortem Ex.PSO on the dead body of deceased Kaur Singh. He found the following injuries on his person:-

' (1) Incised wound 11 cm x 2 cm x 1 1/2 cm on (R) side of face cutting through (R) pinna in middle part reaching 2 cm lateral to (R) eye and extending to neck (R) side.

(2) Incised wound 16 cm x 5 cm x muscle deep extending from (L) side of face passing through down part of (L) Pinna (which is cut) and reaching neck posteriorly to mid region. On further dissection muscles of left side of neck found cut. Carotid vessel (Artery and vein) found cut.

(3) Abrasion 15 cm x 1/2 cm on (L) scapular region.' In his opinion: 'Person died due to cutting of carotid vessels on left side of neck by sharp weapon which causes excessive haemorrhage, shock and finally death.'

9. The another incriminating circumstance against the appellant is the recovery of blood stained sword. In pursuance of the information given by the appellant vide Ex.P43 a blood stained sword was recovered from his possession vide Ex.P2. The sword was packed and sealed on the spot. It was sent to the Forensic Science Laboratory for chemical examination. It is not necessary to discuss the link evidence as the learned counsel has not challenged the same. It is suffice to say that there is sufficient material on record to show that the recovered sword packed and sealed on the spot reached the Forensic Science Laboratory intact. On examining the blood stains on the sword the Serologist found it to be of human origin.

10. Thus, on careful consideration, we conclude that the evidence on the eye witnesses namely P.W. 6 Sher Singh and P.W. 7 Gurjant Singh have well stood the test of cross examination and has been rightly accepted by the trial court. The witnesses have supported the prosecution case in all material particulars. The statement of the eye witnesses is corroborated by the evidence of PW. 1 Surjit Singh, P.W. 3 Jasbir Singh. The prosecution case finds further support from the medical evidence as well as the recovery of the blood stained sword. Thus, we hold that prosecution has succeeded in establishing the case against the appellant, the charge of murder of Kaur Singh.

11. Consequently, the appeal being devoid of merit stands dismissed. The appellant is in Jail. He will serve out the remaining part of the sentence.

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