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Court : Rajasthan

Decided On : Jan-06-1987

Reported in : 1987WLN(UC)214

Judge : Shyam Sunder Byas and; Ashok Kumar Mathur, JJ.

Appeal No. : D.B. Cr. Jail Appeal No. 851 of 1975

Appellant : Megha

Respondent : State of Rajasthan

Disposition : Appeal dismissed

Judgement :

Ashok Kumar Mathur J.

1. This jail appeal is directed against the judgment of the learned Sessions Judge, Balotra dated 1-11-1975.

2. The facts giving rise to this case are that on 22-7-1975 at 5 a.m. a complaint was filed by complainant Kachhaba s/o Veerma by caste Darji resident of village Khari at Police Station Gudamalani that on the previous day when he was cultivating his field one Dansingh of village Khari informed him that Nanga son of Gaga was beaten to death by Megha s/o Suja. Since Gaga father of the deceased was not at the house therefore Dansingh Information him that Gaga's wife has

called him immediately. On this Kachhaba immediately rushed to the Dhani of Gaga and he found that deceased Nanga was lying on a coat. He was informed that the deceased was cultivating his field and he was belaboured by the accused Megha. This was seen by Pyari PW 3 and she shouted for help and at that time PW 1 Mst. Indra mother of the deceased & PW 2 Dhapu immediately reached at the scene of occurrence and seeing them the accused ran away from the scene of occurrence.

3. On this information a case under Section 302, IPC was registered against Megha. The police took up investigation and the dead body of the deceased was immediately seized and sent for post mortem. The Doctor found as many as 18 injuries including lacerated and contusion wounds on the person of the deceased. The accused Megha was thereafter apprehended and after close of the investigation a challan under Section 302 IPC was filed against the accused. The accused faced the trial under section 302 IPC and the learned Sessions Judge, Balotra by his judgment dated 1-11-1975 convicted the accused under Section 302 IPC and sentenced him to imprisonment for life and a fine of Rs. 200/- or in default of payment of fine to further suffer rigorous imprisonment for two months. Aggrieved against this the accused preferred this appeal from jail.

4. Since the accused was not represented by any counsel therefore the assistance of Amicus Curiae was made available to him and Mr. Anand Purohit was appointed as Amicus Curiae to assist the court.

5. We have heard Mr. Anand Purohit, Amicus Curiae & perused the record. In the present case, the statement of Mst. Pyari PW 3 who is the main eye-witness of the incident is very clear without any contradiction that the accused Megha beat his brother deceased Nanga with Akare-ki-lathi. She was also working in the just nearby field. She has deposed that the accused shouted to Nanga that why he has broken the Kheda of his field. This was protested by the deceased. Thereafter, Megha started beating him. He gave first blow on the head of the deceased. Thereafter Nanga fell down and he gave number of lathi blows on the deceased Nanga when the was lying. She shouted for help and on that her mother Mst. Indra and Mst. Dhapu came on the scene and thereafter the accused ran away from that

place. This version of PW 3 has been supported by the testimony of PW 1 Mst. Indra and PW 2 Dhapu.

6. Mr. Anand Purohit, Amicus Curiae submitted that all the three witnesses are very closely related with each other. Moreover, he submits that PW 3 Mst. Pyari is young girl of only 12 years of age. Therefore, her testimony should not be accepted. We have bestowed our considerable attention to this aspect and after going through the statements of these three witnesses we are of the opinion that the statement of PW 3 Mst. Pyari is unimpeachable and she was a natural witness as she was working in the nearby field. Similarly, the presence of Mst. Indra PW 1 and Mst. Dhapu PW 2 in the nearby field cannot be ruled out. Not with standing that they are closely related their testimony is reliable. The statements of both the witnesses corroborate the testimony of PW 3 Mst. Pyari.

7. Another circumstance which has weighed with us is that the name of the accused finds mention in the First Information Report. The nature of injuries on the person of the deceased also supports the version of the eyewitnesses.

8. Thus, in the result, we do not find any merit in this appeal and the same is dismissed. We confirm the conviction of the accused under section 302, IPC and sentence of life imprisonment without any fine.

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