

**Raj Kumari Vs. State**

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**Court :** Delhi

**Decided On :** Apr-23-2010

**Judge :** Pradeep Nandrajog and; Suresh Kait, JJ.

**Acts :** Indian Penal Code (IPC) - Sections 34 and 302

**Appeal No. :** Crl. Appeal No. 824/2008

**Appellant :** Raj Kumari

**Respondent :** State

**Advocate for Def. :** M.N. Dudeja, A.P.P.

**Advocate for Pet/Ap. :** Bhupesh Narula, Adv.

**Disposition :** Appeal dismissed

**Judgement :**

**Pradeep Nandrajog, J.**

1. Vide impugned judgment and order dated 19.7.2008 the appellant has been convicted for the offence punishable under Section 302/34 IPC.
2. Trial of two juvenile co-accused was referred to the Juvenile Court as they were juvenile.

3. On 30.6.2001 at about 6:50 PM information was received at PS Bawana through PCR that something lying in a gunny bag near a Johad near Sharma Colony was attracting dogs. SI Mukesh Kumar accompanied by HC Rajender and Const. Anand reached the spot and from within the gunny bag recovered the dead body of a male. The dead body was badly mutilated being eaten by maggots. FIR for the offence of murder was got registered.

4. It was a blind murder. Nobody could throw light on even the identity of the person and hence on 5.7.2001 postmortem of the unidentified dead body was conducted. After 72 hours thereof the body was disposed of.

5. One Ratan Lal went missing. The circumstances of his missing have been deposed to by his brother-in-law Paras Ram PW-5 as per whom, on the day of Rakshabandhan, in the year 2001, his wife Ram Pyari accompanied by her sister Uma Devi went to the house of their brother Ratan Lal to tie a rakhi and found the house locked. They made inquiries from the people in the neighbourhood who told them that the wife of Ratan Lal told them that her husband had gone to the native village and they saw wife of Ratan Lal leave along with the luggage with two persons namely Mukhram and Prem. As per Paras Ram, he telephoned the mother of Ratan Lal at her village in the State of Uttar Pradesh and learnt from her that Ratan Lal had not visited his native village. Accordingly, on 8.8.2001 accompanied by Chooramani (PW-6), the other brother-in-law of Ratan Lal, he went to police post Shahbad to lodge a complaint of Ratan Lal being missing and as he gave the description of Ratan Lal to the police he was told that a body matching said description was recovered at PS Bawana. He went to PS Bawana where Insp.Meena showed the clothes, earrings and the photographs of the dead body which was recovered on 30.6.2001 and he and Chooramani immediately identified the dead body as that of Ratan Lal.

6. Thus, on 8.8.2001 for the first time it came to the knowledge of the police that Ratan Lal had been killed.

7. It transpired that the appellant had left her children in the house of her mother-in-law i.e. the mother of Ratan Lal.

8. It was obvious that the conduct of the appellant was highly suspicious. As a wife she could not have gone all over, leaving her children in the house of her mother-in-law and not informing anyone about her husband being missing unless she had an intrigue up her sleeve.

9. It appears that the appellant was somewhere around and sensed something amiss for the reason as deposed to by Chooramani PW-6 and Paras Ram PW-5 respectively, as also the third brother-in-law of the deceased Ratan Lal namely Biran PW-3, appellant reached the jhuggi of Paras Ram on 10.8.2001 and started weeping. She uttered that she had committed a blunder by killing her husband with the active aid of Prem and Mukhram.

10. At the trial Biran PW-3, Paras Ram PW-5 and Chooramani PW-6 have deposed about the extra judicial confession made by the appellant but have differed with respect to the time when the appellant made the extra judicial confession. In addition, Paras Ram PW-5 has deposed that on the day of Rakshabandhan his wife accompanied by her sister Uma Devi went to the house of Ratan Lal to tie a rakhi. They found the house locked. From persons in the neighbourhood they gathered that the appellant had spread a word that her husband has gone to the native village and thereafter she left in the company of two male persons. Paras Ram identified the belongings of Ratan Lal being an earring Ex.PX as also a ring Ex.PY and the photographs Ex.PW-5/A to Ex.PW-5/E as that of the dead body of Ratan Lal.

11. Sanjay PW-4 the son of the appellant and Ratan Lal deposed that the appellant was his mother and Prem and Chhotu were residing in their house along with their father. He saw his mother having caught the legs of his father. Chhotu caught the hands of his father and Prem hit his father with a brick on the head and forehead. His father started bleeding.

12. Dr. R.K. Punia PW-15 who conducted the postmortem of an unknown dead body (that of Ratan Lal) on 5.7.2001 proved the post-mortem report Ex.PW-15/A. He deposed that the internal injury detected was extravasation of blood over the frontal legion in the scalp. He deposed that there was an extravasation of blood in the neck. He deposed that the head and neck injury were ante mortem in nature

and were caused by a blunt object/force and that death was due to the combined effect of the head injury and pressure over neck. We find that the injuries were sufficient to cause death in ordinary course.

13. This then, is the evidence which we need to note for disposal of the instant appeal.

14. With reference to the extra judicial confessional statement made by the appellant as claimed to be made by the three brothers-in-law of the deceased; namely Biran PW-3, Paras Ram PW-5 and Chooramani PW-6, it is urged that the same does not inspire confidence for the reason there is no reason why the appellant would make an extra judicial confession and further from the fact that the three are giving different times when stated confession was made.

15. With reference to the stated eye-witness account of Sanjay, it is urged that as per Sanjay he was a student of Class-I when he deposed on 21.10.2002. The crime was committed somewhere towards the end of the month of June 2001. It is urged that unfortunately, age of Sanjay has not been noted by the learned Trial Judge, but from the fact that he was a student of Class-I when he deposed it can safely be gathered that Sanjay would have been 6 or 7 years of age when the crime was committed. Hence his conduct of not telling his grandmother as to what had happened is highly suspicious. It is urged that as per the prosecution, Raj Kumari i.e. the appellant had left her children in the custody of her mother-in-law. It is urged that it is most unnatural for Sanjay not to have told his grandmother that his mother and two other persons had killed his father. Our attention is drawn to the statement of Sanjay who on cross-examination stated that his mother left him on the day of the occurrence itself.

16. With reference to the testimony of Sanjay and the criticism thereto as afore-noted, it would be important for us to note that as per Paras Ram when his wife went to the house of Ratan Lal on Rakshabandhan day the same was locked. It is apparent that nobody was staying in the house. How did Sanjay and his two siblings reached the house of their grandmother? Sanjay has not been quizzed on the said issue. Keeping in view the young age of Sanjay we treat it as a blemish of the young child when he stated that after the incident his mother left him in the

house.

17. As regards the conduct of Sanjay in not telling anybody about the incident, it is difficult for anyone to deal and explain the conduct of the young child. As it is said, nobody has ever been able to explain as to why a small child cannot avoid a puddle of water. Seeing dirty water in a puddle an adult instinctively avoids the same, but equally instinctively a small child is attracted to the puddle and thumps the foot into the puddle to enjoy the splash, unmindful of the dirt and the filth splashing on to the child.

18. The fact of the matter remains that dead body of Ratan Lal was recovered on 30.6.2001. Being his wife, the appellant has to explain her conduct of her husband going missing and she reporting the same to none.

19. Knowing fully well that she had to explain as to in what circumstances she never reported her husband being missing, the appellant chose the safer option of even denying the fact that she was the wife of Ratan Lal. When responding to question No. 9 she said that she was not married.

20. If this be so, what about the claim of Sanjay PW-4 who deposed that the appellant was his mother and the deceased was his father

21. No suggestion has been given to Sanjay that he was deposing falsely and that the appellant was not his mother. Similarly, what about the claim of Biran PW-3, Paras Ram PW-5 and Chooramani PW-6 that the appellant was the wife of Ratan Lal. No suggestion has been given to them that they were falsely stating that the appellant was the wife of Ratan Lal.

22. The conduct of the appellant is sufficient wherefrom the guilt of the appellant can be inferred. As regards the issue of the extra judicial confession made by the appellant to the three brothers-in-law of her husband, we note that the fact of the matter is that the stated extra judicial confession is made on 10.8.2001. There may be some confusion on the time, but considering the fact that all the three witnesses resided in a slum and are daily-wagers, said blemish has to be discounted for, as a natural variation pertaining to time when three humble men

Speak on the same issue.

23. The fact that the appellant was handed over to the police by the three is proof enough of the fact that as claimed by Paras Ram, the appellant went to his jhuggi.

24. It appears that the appellant had some knowledge of what was going on and probably her moorings being lost; overcome by fear or emotions she went to the jhuggi of Paras Ram and blurted out the truth. It does happen that the conscious of a person plays on and when the mind realises that it can bear the conscious no more, truth is spoken. It happens sometimes that when a person realises that the game is up, confession is resorted to.

25. Why would Sanjay depose falsely against his mother? We have found no answer to the question.

26. 3 sets of incriminating evidence have emerged against the appellant. First is the stated eye-witness account of Sanjay. The second is the stated extra-judicial confession made to PW-3, PW-5 and PW-6 and lastly her conduct as afore-noted.

27. We find credit in all the three and thus we conclude against the guilt of the appellant and bring the curtains down by dismissing the appeal after affirming the impugned decision of conviction and order on sentence to undergo imprisonment for life.

28. Since the appellant is in jail we direct that a copy of this decision be sent to the Superintendent, Central Jail Tihar for being made available to the appellant.

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