
(2024) 11 JH CK 0032

Jharkhand High Court

Case No: Criminal Appeal (D.B.) No. 386 Of 2002

Sanjay Kumar

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision: Nov. 27, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 313
- Indian Penal Code, 1860 - Section 120B, 302

Hon'ble Judges: Ananda Sen, J; Gautam Kumar Choudhary, J

Bench: Division Bench

Advocate: Sankalp Goswami, Priya Shrestha

Final Decision: Dismissed

Judgement

Ananda Sen, J.:

1. The instant criminal appeal is directed against the conviction of the sole appellant under Section 302 of the Indian Penal Code vide judgment of

conviction dated 23.05.2002 and order of sentence dated 28.05.2002, passed by learned Additional Judicial Commissioner-cum- Special Judge-IV,

Ranchi, in S.T. No.677 of 1996, whereby he has been sentenced to undergo rigorous imprisonment for life.

2. Learned counsel appearing on behalf of the appellant submitted that this appellant has been falsely implicated in this case. The prosecution and the

witnesses and the family members of the deceased in order to save their skin had falsely implicated this appellant. The real story behind the

occurrence is that the deceased was adamant to marry this appellant as there was love affair between them, which was opposed by the family

members of the deceased. The grand-father of the deceased also had come to the house of the deceased to make her understand and agree with the proposal of the marriage, which was fixed by her family members, but she did not agree and was adamant. Hot exchange of words took place and the brother of the deceased stabbed the deceased by dagger. He submitted that dagger was found in the room of the informant, which is suggestive of the fact that it is none, but the family members of the informant, who had committed the murder. As per him, this is an honour killing and the informant in order to save his skin has lodged a false case. He argued that witnesses Anupam and Pradeep were in fact not the eye witness and admittedly they reached the place of occurrence after the stabbing had already taken place. Madhuri Devi, who is mother of the deceased is also not an eye witness. Forensic Science Laboratory report only suggest presence of blood, but this is not sufficient to convict the appellant. Finger print on the handle of the dagger was also not sent for Forensic Science Examination to see as to whether the same matches with the finger print of this appellant or not. In absence of the Forensic Science examination, this appellant cannot be convicted. On these ground, acquittal is sought for.

3. Learned counsel appearing on behalf of the State opposed the prayer of the appellant and submitted that the eye witnesses have stated that it is this appellant who had committed the murder. The informant is the eye witness as the deceased was along with him. The mother of the deceased immediately rushed to the room, hearing scream and saw this appellant fleeing and saw the injured. Their statement suggest that it is this appellant, who had committed the murder. The defence version is not supported by any evidence. Even the other co-accused, namely, Mani Lal and Mithilesh Kumar, in their statement under Section 313 Cr.P.C. have not whispered about any love affair between this appellant and the deceased which suggest the falsity of the case. It is an admitted fact that immediately after the murder, this appellant consumed poison which would suggest that it is this appellant who had committed the murder. On these grounds, as per the A.P.P., this appeal needs to be dismissed.

4. The informant (Bindeshwari Sao) is P.W.-9 has stated that he and his grand-daughter (deceased) were sitting in the varandah of their house.

Mother of the deceased was inside the house. Sanjay Kumar (appellant), who was a tenant residing in the 1st floor of the same house came and asked about Anup. In the meantime, mother of the deceased came out, then Sanjay told her to go upstairs and see the water tap which was out of order. Mother of the deceased proceeded towards the room of Sanjay. Meanwhile, Sanjay took out a knife and stabbed Archana Kumari indiscriminately. Archana screamed loudly and fell down and was lying in a pool of blood. On hearing scream, mother of Archana, Anupam and other neighbours also rushed to the place of occurrence. Anupam enquired from Mani Lal as to why Sanjay stabbed his sister. Thereupon Mani Lal Sao and Mithilesh Kumar Verma chased him to assault and said that they may also be killed. Injured Archana was taken to the hospital for treatment, but she died. Informant further stated that Sanjay Kumar had consumed poison in order to commit suicide, but in the meantime, police arrived and taken Sanjay Kumar to the hospital for treatment. It is alleged by the informant that Sanjay Kumar was of a bad character and was keeping an evil eye on Archana.

5. On the aforesaid fardbeyan, Kotwali (S. Nagar) P.S. Case No.375 of 1995 was registered under Sections 302/120(B) of the Indian Penal Code.

The police after investigation filed chargesheet against the appellant under Section 302 of the Indian Penal Code.

6. The Court took cognizance and committed the case to the Court of Sessions. As the appellant pleaded not guilty, charge was framed against him

under Section 302 of IPC and he was put on trial. Twelve witnesses have been examined in this case, who are as follows:-

(i) P.W.-1 Madhuri Devi

Â (ii) P.W.-2 Pradeep Kumar Kashyap

Â (iii) P.W.-3 Arjun Prasad

(iv) P.W.-4 Anupam Kumar

(v) P.W.-5 Rageshwari Sah

(vi) P.W.-6 Sanjiv Choudhary

(vii)P.W.-7 Yaspal Singh

(viii) P.W.-8 Dr. Ajit Kumar Choudhary

(xi) P.W.-9 Bindhashwari Sao, Informant

(x) P.W.-10 Cevi Lal Sah

(xi) P.W.-11 Awadesh Kumar, Investigating Officer

(xii) P.W.-12 Dudh Nath Tiwary

7. Several documents were also exhibited by the prosecution. The Trial Court after completion of the prosecution evidence examined this appellant

under Section 313 of Cr.P.C. and after hearing the parties, convicted the appellant under section 302 of IPC and sentence as aforesaid.

8. In this case to prove the homicidal death, the prosecution has examined P.W.-8 the Doctor, who conducted the post-mortem. He found the

following injuries:-

“Antemortem Injuries:-

(a) Stab wounds- 3 cm x 1.6 cm x 4 cm over the left forearm back middle part.

(b) 3 cm x 2 cm x 4 ½ cm over the middle and front part of the left arm.

(c) 3 cm x 1 cm x cavity deep over the front of left chest on the left breast situated 5 cm left midline and 3 cm right to left nipple. The doctor has found that the

weapon passed through left heart intercostal space cutting the cartilage portion of 3rd ribs and entered into right ventricle heart.

(d) Perforating wound-

Wound of entrance 3 x 1 cm on front and middle part of left arm. The weapon passes through soft tissue and makes an exit wound 2 x 1 cm on medial side of left

arm. On dissection of the cranial, thoracic, abdominal cavity there was presence of blood and blood clot in the thoracic cavity and internal organs were pale.”

Doctor opined that all the injuries were antemortem caused by sharp cutting cum pointed weapon and the death was due to hemorrhage and shock

due to injury on heart.

Both the prosecution and the defence has admitted that deceased died because of stab injuries and she was stabbed. Thus, there is no doubt about the

fact that death of the deceased is homicidal and the same was caused by stabbing injury.

9. P.W.-9 is the informant of this case. He stated that he and his grand-daughter (deceased), were in the veranda, when this appellant came and told the mother of the deceased that a tap was not in order and the water is not flowing. The mother of the deceased started proceeding towards the room of this appellant and this appellant was accompanying her, but suddenly he returned and with a dagger indiscriminately assaulted the deceased. The deceased screamed when Anupam (P.W.-4) and Pradeep Kumar (P.W.-2) rushed to the place of occurrence. This appellant pushed P.W.-1, Madhuri Devi and continued the assault. When Anupam and Pradeep reached the place of occurrence, throwing the dagger, this appellant fled. They chased, the appellant who went inside his residence with the other accused persons (acquitted in the trial) threatened them also. From the evidence of this witness, we find that he is an eye witness and seen the occurrence. He stated that the assault was indiscriminate on the chest and other part of the body, which matches with the post-mortem report.

10. Madhuri Devi is the mother of the deceased. She is prosecution witness No.1. She corroborates the evidence given by the informant (P.W.-9). She has stated that the informant and the deceased were in the veranda, when this appellant came and requested to check the tap. When she was proceeding towards his room, the appellant returned and started indiscriminate assault upon the deceased, upon which, the deceased shouted when this witness came to save, but she could not. Anupam and Pradeep also reached there and on seeing them, this appellant threw the knife and rushed to his room, he was followed but Sanjay's father did not allow Sanjay to come out and threatened them.

11. Pradeep Kumar is P.W.-2 and Anupam Kumar is P.W.-4 both of them stated that at the relevant time, they were near the road adjacent to their house when all of sudden, they heard screams. They rushed to the house when they saw Sanjay Kumar standing with the blood stained knife and the deceased was lying on the floor and there were mark of blood on the floor and wall. The appellant threw his knife on the table, left and bolted himself in a room of his house. The deceased succumbed to the injury. Anupam Kumar further stated that they immediately after the occurrence rushed to his

neighbour and called him to accompany him with a vehicle to take her sister to the hospital.

Thus, from the evidence of these witnesses, the prosecution has proved the presence of this appellant at the place of occurrence and the fact of stabbing by him upon the deceased has also been proved.

12. P.W.-12 is the scientific expert. As per him and as per the Forensic Science Report, which is Exhibit-5, the blood found on the dagger was human

blood of group-B. The blood stains which was collected from the place of occurrence was also human blood. The blood on the wearing apparels of

the deceased match with the blood in the dagger, which is also of group-B.

13. P.W.-7 is the neighbour, who stated that Anupam (P.W.-4) rushed to his house and told him immediately that this appellant had murder his sister

and requested him to take out his vehicle so that his sister can be carried to the Nursing Home. They took the injured to a nursing home, but she was

refused to be admitted. Thereafter, they went to Sewa Sadan Hospital, where she was declared dead. This fact suggests that immediately after the

occurrence Anupam rushed to the house of P.W.-7 and narrated the story. Further from the impugned judgment, I find that the Trial Court has

correctly taken the view that if at all it was the brother of the deceased who stabbed her, then it is improbable that he will immediately after the

occurrence rush to P.W.-7 and ask him to accompany him in his vehicle, to the hospital for taking his sister as she was stabbed.

14. Now, I deal with the defence version as to whether the story put forth by the defence that this is a honour killing is probable or not. It is the

defence version that the girl was madly in love with the appellant and as the family members of the deceased opposed, the brother of the deceased

committed murder. It has come in evidence that the girl was supposed to be married with some other persons and the marriage was also fixed. This

version of the defence has been narrated by the appellant in his statement, which was recorded under Section 313 of Cr.P.C. To substantiate this fact,

the defence has not brought any evidence. The father of this appellant namely, Mani Lal was also tried along with this appellant. While I go through

his statement under Section 313 of Cr.P.C., I find that he has not whispered a single word about the aforesaid alleged love affair of the deceased with

the appellant. Now when I go through the evidence of P.W.-10, who is a friend of this appellant, I find that he stated that this appellant once confessed before him that he loved the deceased, but the deceased had no love for him and he would commit her murder. Though, he stated that this was disclosed four years ago, when they were studying together and it is when the police insisted, he had given the statement, the fact of one sided love affair cannot be ruled out. This one-sided love affair of the appellant gets substantiated from the evidence of the Investigating Officer, who stated that this appellant immediately after the occurrence of stabbing had taken place, consumed poison and was taken to the hospital for treatment. Thus, I come to the conclusion that the story propounded by the defence is not believable and has only been cooked up for the purpose of defence.

The evidence of the eye witnesses is overwhelming there is nothing in their statement to disbelieve them.

15. The Trial Court has considered all these aspects and has correctly arrived at a conclusion that this appellant is guilty of commission of murder and

the prosecution has been able to prove the guilt of this appellant beyond all reasonable doubt. I find no material to differ with the judgment passed by

the learned Trial Court. Thus, the instant Criminal Appeal stands dismissed. The judgment of conviction dated 23.05.2002 and order of sentence dated

28.05.2002, passed by learned Additional Judicial Commissioner-cum- Special Judge-IV, Ranchi, in S.T. No.677 of 1996 is affirmed.

16. As the appellant is already on bail, his bail is cancelled, he is directed to surrender before the Trial Court to serve the rest of sentence. If he does

not surrender, Trial Court is directed to take appropriate step as per law.

17. Interlocutory application, if any, stand disposed of.

18. Let Trial Court Records along with a copy of this judgment be sent to the concerned Trial Court forthwith.