
(2024) 10 JH CK 0085

Jharkhand High Court

Case No: Criminal Appeal (D.B.) No. 746 Of 2016

Jujhar Tudu @ Khera son of Late
Bhogan Tudu

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision: Oct. 14, 2024

Acts Referred:

- Indian Penal Code, 1860 - Section 302

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

Bench: Division Bench

Advocate: Arun Kumar, Vineet Kumar Vashistha

Final Decision: Dismissed

Judgement

1. The sole appellant is before this Court in appeal against the judgment of conviction and sentence under Section 302 of the IPC.

2. Informant of the case is the brother of the appellant. As per the fardbeyan, on 23.02.2015, his younger brother Jujhar Tudu (appellant) returned

home at 9.30 in the night heavily drunk. Thereafter, he slept in the adjoining room. Next morning, he left home stating that he had hacked his wife to

death. Informant found the wife of the appellant lying on the ground in a pool of blood. Motive of the offence has been stated that appellant was in the

habit of taking drink which was opposed by the deceased leading to altercation between the appellant and the deceased. Appellant suspected illicit

relationship of the deceased with someone else.

3. On the basis of the fardbeyan, Dumaria P.S. Case No.2/2015 was registered under Section 302 of the IPC against the appellant. Police on

investigation, found the case true and submitted charge sheet against the appellant, who was put on trial for the offence under Section 302 of the IPC.

4. Prosecution has examined altogether eight witnesses and relevant documents which include FIR, post-mortem examination report and inquest

report, have been adduced into evidence and marked as Exhibit 1 " 5. Weapon of offence i.e. axe was produced as material Exhibit 1.

5. Judgment of conviction and sentence has been assailed on the ground that there is no direct eye witness to the incidence. Learned trial Court has

relied on extra judicial confession of the appellant which is a very weak piece of evidence.

6. Learned A.P.P. has defended the judgment of conviction and sentence.

7. There is no delay in lodging the FIR. The incidence took place in the intervening night of 23/24.02.2015 and the FIR has been lodged on 24.02.2015

against the appellant, who happens to be the husband of deceased. Deceased died a homicidal death, is beyond any shade of doubt which has been

established by the post-mortem examination report (Exhibit 3). Autopsy Surgeon (P.W. 3) found the following ante mortem injuries: -

i. Sharp cutting injury posterior to left ear length 3 cm x width 1/2 cm.

ii. Sharp cutting injury 5 cm in length on left ear.

iii. Sharp cutting injury 9 cm x 3 cm with fracture of cervical vertebra.

iv. Sharp cutting injury on neck 7 cm x 2 cm.

In the opinion of Doctor, cause of death is due to hemorrhage and shock. In his cross- examination, he opined that injury was caused by Bhujali and

sword.

8. Informant (P.W. 4) has deposed that appellant was his brother. It has been stated by him that he had seen the dead body of the appellant's

wife in the house of the appellant with sharp cut injury over her neck. The appellant had gone to the house of the Village Pradhan (P.W. 2) and he

had also gone there. He confessed before the Pradhan that he had committed the murder of his wife with Tangi.

P.W. 2 has deposed that the appellant had come to him and informed that he had committed murder of his wife, thereafter, he fled away. Police was

informed and the Tangi was seized from the place of occurrence.

9. On the basis of the testimony of witnesses, the following incriminating circumstance is established against the appellant: -

I. Deceased, the wife of the appellant died a homicidal death in her house.

II. Informant (P.W. 4) who is the brother the appellant, has testified that the dead body of the deceased was found in the house with sharp cut injury over her neck.

Other witnesses P.W. 2 and P.W. 6 have also testified that the dead body was found in the house which has been corroborated by Investigating Officer (P.W. 8).

III. Blood-stained Tangi was also seized from the house as deposed by the Investigating Officer (P.W. 8) in para 2. The seizure list and the inquest report corroborate

the testimony of witnesses regarding the place of occurrence to be the house of the appellant.

IV. Appellant made extra judicial confession before the Village Headman (P.W. 2).

10. On combined reading of the testimony of prosecution evidence, it is established that the deceased was murdered in cold blood by Tangi in her own

house. Appellant being the husband, has offered no explanation or put up any plausible defence version with regard to the homicidal death of his wife.

It was incumbent on the part of the appellant to explain as to how his wife met her death in a such gruesome manner within the fore-corners of the

house. In the absence of any defence plea, the irresistible inference can be drawn that it was the appellant, who was the author of crime. This is

further corroborated by the extra judicial confession made to the Village Headman (P.W. 2) . There is no reason whatsoever to disbelieve the account

of P.W. 2 and PW-4 that appellant had made extra-judicial confession.

Under the circumstance and for the reasons discussed above, we do not find any infirmity in the judgment of conviction and sentence passed by the

learned trial Court.

Criminal Appeal stands dismissed.

Pending Interlocutory Application, if any, is disposed of.

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