

(2016) 07 GAU CK 0079

GAUHATI HIGH COURT

Case No: Criminal Appeal No. 43 (J) of 2013.

Nakul Pradhan - Appellant
@HASH State of Assam

APPELLANT

Vs

RESPONDENT

Date of Decision: July 22, 2016

Acts Referred:

- Penal Code, 1860 (IPC) - Section 302, Section 448

Citation: (2016) 5 GauLJ 568 : (2016) 5 GauLR 503

Hon'ble Judges: Ajit Singh, C.J. and Suman Shyam, J.

Bench: Division Bench

Advocate: Ms. Bijita Sarma, learned Amicus Curiae, for the Appellant; Mr. K.A. Mazumdar, Additional Public Prosecutor, Assam, for the Respondent

Final Decision: Dismissed

Judgement

Ajit Singh, C.J. - The sole appellant Nakul Pradhan has been convicted under Section 302 of the Indian Penal Code and sentenced to imprisonment for life and fine of Rs.5,000/- with default stipulation. He has also been convicted under Section 448 of the Indian Penal Code and sentenced to rigorous imprisonment for one year. The jail sentences have been ordered to run concurrently.

2. The victim of the incident was Bhima Chetry, aged 23 years. She was also the wife of appellant.

3. According to the prosecution case, the appellant and Bhima were husband and wife. On 29.3.2010, they along with their small male child had come to the house of Tulosha Chetry (PW-1). Tulosha (PW-1) is mother of Bhima and mother-in-law of the appellant. Runuka Chetry (PW-2) is sister of Bhima. On that date, she was also present in the house. Sometime in the late night, the appellant, without telling anyone, left the house for somewhere and returned around 4 A.M on the following morning i.e. 30.3.2010. He then asked Bhima to lit a lamp. On hearing this, Tulosha

got up and looked for a match box, but could not find one. She, therefore, went to the neighbour's house and returned with a match box. After lighting the lamp, she went to a nearby toilet, but from there, she heard the outcry of Bhima and therefore, she rushed back to her house. On reaching the house, Tulosha saw appellant indiscriminately causing injuries to Bhima with a Khukuri. She also saw Bhima getting up, trying to run away and falling after few steps. Tulosha tried to intervene, but she too fell down due to giddiness. The appellant then gave further blows with khukuri to Bhima and fled. Shocked and stunned, Renuka Chetry (PW-2) removed the child from there to save his life. During the incident, Rupa Das (PW-5), another sister of Bhima, who lived in the neighbourhood, on hearing the commotion also rushed to the place of occurrence and saw the appellant causing injuries to Bhima. Tulosha promptly lodged the ejahar Exhibit -1 wherein she categorically named the appellant as assailant of Bhima. The police came to the spot and prepared the inquest of body Exhibit-4. The police then referred the body for the postmortem examination.

4. Dr. Dambaru Dhar Mali (PW-7) conducted the postmortem examination on the body of Bhima. The doctor found laceration on the scalp and fracture of occipital bone with fragmentation. The doctor also found disfigurement of face with loosing of left eye. The doctor in his postmortem examination report Exhibit-3 opined that cause of death was homicidal due to head injury.

5. The police arrested the appellant on 31.3.2010 and seized one Khukuri from his possession. The seizure memo of Khukuri is Exhibit-2.

6. During trial, the appellant denied his guilt and pleaded false implication.

7. The trial court, having regard to the evidence of eye witnesses Tulosha Chetry (PW-1), Renuka Chetry (PW-2) and Rupa Das (PW-5) convicted and sentenced the appellant as aforesaid. The trial court also relied upon the postmortem examination report and seizure of weapon from the possession of the appellant.

8. After hearing the learned counsel for the parties and perusing the record, we are of the considered view that the appeal has no merit and deserves to be dismissed.

9. As seen above, Tulosha Chetry is mother of Bhima and Renuka Chetry is her another daughter. They were, therefore, naturally present in their house when the appellant caused multiple injuries to Bhima with a Khukuri. They in their evidence have categorically named the appellant as assailant of Bhima. Both of them also stood firm in their cross examination and nothing has been brought out to discredit their evidence. Rupa Das, another daughter of Tulosha, who had reached to the place of occurrence after hearing the commotion, has also fully supported the evidence of Tulosha and Renuka. Even the postmortem examination report of Bhima substantially corroborates the evidence of eye witnesses. The appellant, as husband of Bhima, has failed to give any explanation how she sustained such fatal injuries and died. There is ample evidence against the appellant to confirm the

conviction and sentence as passed by the trial court.

10. The appeal has no merit and is accordingly dismissed.