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(2012) 01 JH CK 0025

Jharkhand High Court

Case No: Criminal Appeal (DB) No. 697 of 2003

Tara Pado Mahto — APPELLANT

Vs

The State of Jharkhand — RESPONDENT

Date of Decision: Jan. 18, 2012

Acts Referred:

- Penal Code, 1860 (IPC) - Section 201, 302

Citation: (2012) 2 JCR 591

Hon'ble Judges: R.K. Merathia, J; Dhrub Narayan Upadhyay, J

Bench: Division Bench

Final Decision: Allowed

Judgement

1. This appeal is directed against the judgment and order of conviction and sentence dated 30.6.2004 passed by learned Additional District & Sessions Judge, East Tract Court-9, Ranchi in Sessions Trial No. 60 of 2001, convicting the appellant u/s 302 I.P.C. and sentencing him to undergo rigorous imprisonment for life. He has also been convicted u/s 201 I.P.C. and sentenced to undergo imprisonment for seven years. However, both the sentences were run concurrently. The prosecution case in short is that the informant (P.W.3) gave fardbeyan before police on 15.6.2000 at 10.30 hours to the effect that his daughter Renuka Devi (deceased) was married with the appellant 15 years ago. They had one baby also. Her daughter"s mental condition was not good due to which the appellant used to tell that he would kill the deceased and would perform second marriage. On this, informant party advised not to do so and he may perform second marriage. Due to this reason, the appellant used to assault the deceased. On 14.6.2000 at about 2.00 P.M., the informant learnt from his son Mukund Mahto that the appellant had murdered the deceased and had concealed his dead body under the bush. On this the informant inquired and learnt on 14.6.2006 at about 5 P.M. that from the evening of 13.6.2000, the deceased was not in her house. The Informant and his friend Shankar Lohar (P.W.1) along with the appellant went to search the informant"s daughter. The dead body was lying hear a Nala under the bush. The dead body had injuries. When the

P.W. 1 and the informant"s son told the appellant to lift the dead body, he fled away. All these things created serious suspicion against the appellant that he has killed the deceased with stone like weapon for performing second marriage.

2. The prosecution has examined eight witnesses. P.W. 1 is Shankar Lohar who saw the dead body. P.W. 2 is Janardan Swansi who is inquest witness. P.W. 3 Doman Mahto is informant. P.W. 4 (Sagar Mahto) is one of the son of the informant. P.W. 5 (Pooran Mahto) and P.W. 6 (Keshoki Devi) are hostile witnesses. P.W. 7 is a Doctor who conducted postmortem. P.W. 8 is a formal witness.

3. Mr. H. K. Mahato, learned counsel, appearing for the appellant; assailed the impugned judgment on various grounds. He submitted that there is no eye witness and the case is based only on suspicion for which the appellant has remained in jail for about 10 years.

4. On the other hand, learned counsel, appearing for the State, supported the impugned judgment.

5. It appears that there is no eye witness. The informant had suspicion that the appellant might have killed the deceased. The Doctor found that the dead body was highly decomposed and there was no evidence of any mechanical injuries. However, internally he found that there was fracture of streamum and bilateral fracture of 4th to 7th ribs with tearing of liver and presence of blood and blood clots in the abdominal cavity. As per the Doctor the said injury was caused by hard and blunt substance and the time elapsed since death was between 3-7 days. After carefully going through the records and hearing the parries at length, we are satisfied that the prosecution has not been able to prove its case beyond all reasonable doubt. There is no eye witness. There was only suspicions against the appellant. Even as per the prosecution case, the appellant along with P.W. 1 went to search the wife of the appellant P.W. 1 first saw the dead body, on his call the appellant came but refused to lift the dead body and fled. Except this, there is nothing against the appellant. In the result, this appeal is allowed and the conviction and sentence dated 30.06.2004 passed by Additional Judicial Commissioner, Fast Track Court-9, Ranchi, in Sessions Trial No. 60 of 2001 against appellant is set aside. Accordingly, the appellant named above is directed to be released forthwith, if not " wanted in any other case.