

Sanika Sandi Purty Vs State of Jharkhand

Court: JHARKHAND HIGH COURT

Date of Decision: May 3, 2016

Acts Referred: Penal Code, 1860 (IPC) - Section 302

Citation: (2016) 3 JLJR 239

Hon'ble Judges: Mr. D.N. Upadhyay and Mr. Ratnaker Bhengra, JJ.

Bench: Division Bench

Advocate: Mr. Binod Kumar, Advocate, for the Appellant; Mr. Ravi Prakash, Addl. P.P, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

D.N. Upadhyay, J. - This criminal appeal has been directed against the judgment of conviction and order of sentence dated 2nd August, 2004

and 3rd August, 2004 respectively passed by learned Additional Sessions Judge, F.T.C.-II, Singhbhum West at Chaibasa, in connection with

Sessions Trial no.15 of 2004 corresponding to G.R. Case no.218 of 2003 arising out of Bandgaon P.S. Case no.25 of 2003, whereby the

appellant has been held guilty for the offence punishable under Sections 302 of Indian Penal Code and sentenced to undergo rigorous

imprisonment for life. Considering poverty of the appellant, no fine was imposed.

2. The facts, in brief, are that on 23.09.2003 at 12.00 noon, the informant with her husband-Ladu Sandi Purty(deceased) was going to harvest

paddy. On the way, Sanika Sandi Purty @ Konda Sandi Purty(appellant), who happens to be elder brother of the deceased, met with him and

asked as to why he is not ready to partition the property whereupon the deceased replied that let the partition of the property be decided in the

meeting. The appellant did not agree and inflicted spade blow on the head of Ladu Sandi Purty, as a result of which he fell down and died.

Fardbeyan of Radha Mundarin(informant) was recorded on 24.09.2003 at about 12.15 noon and a case being Bandgaon P.S. Case no.25 of

2003 under section 302 I.P.C. against the appellant was registered.

The investigation was carried out, incriminating materials were collected, witnesses were examined and finally charge sheet against the appellant

was submitted. Accordingly cognizance was taken and the case was committed to the court of Sessions and registered as Sessions Trial no. 15 of

2004.

3. Charge under section 302 I.P.C. was framed against the appellant to which he pleaded not guilty and claimed to be tried.

To substantiate the charges, prosecution has examined altogether nine witnesses, including informant and the doctor, namely, Dr. Murli Manish

(P.W.1), who had conducted post mortem examination. Rameshwar Kumar Singh (P.W.9) is the Investigating Officer, who has proved the

documents like Fardbeyan, Formal F.I.R., inquest report etc.

Learned Additional Sessions Judge, at the conclusion of trial, placing reliance on the evidences and documents available on record, held the

appellant guilty for the offence of murder and inflicted sentence as indicated above.

4. The appellant has assailed the impugned judgment on the ground that informant is the only eye witness to the occurrence and she is highly

interested witness. According to informant, the occurrence took place at 12.00 noon while she was going to harvest paddy with her husband.

During day hour and particularly during harvesting season, the movement of villagers towards their field is normal, but in the case at hand, no other

witness has come forward to support contention of the informant. Bukhan @ Bukan Munda(P.W.3), Patras Sandi Purty(P.W.5), Badhram Sandi

Purty(P.W.6), Hindu Sandi Purty(P.W.7) and Sukhdeo Sandi Purty(P.W.8) are all hearsay witnesses and they have given hearsay version of the

occurrence. It is submitted that informant in her fardbeyan has stated that only one blow by means of spade on the head of deceased was given,

but post mortem report indicates that doctor had found two incised wound on the head of the deceased. Therefore, the injury on the person of the

deceased does not find support from the post mortem report and the evidence of doctor(P.W.1).

5. Learned Addl. P. P. has opposed the argument and submitted that informant is a natural witness and nothing material has been elicited from her

to disbelieve or discard her testimony. She has clearly stated in her deposition in court that two blows by means of spade were given on the head

of deceased and no contradiction has been taken from her by the defence counsel. Her attention towards fardbeyan has not been drawn. First

Information Report is not encyclopedia of the occurrence and it is not expected that each and every detail is to be mentioned in the F.I.R. Sunil

Sandi Purty (P.W.2) is a witness before whom the appellant had admitted his guilt. Patras Sandi Purty(P.W.5) is a witness, who had seen the

appellant fleeing away with spade. Therefore, version of the informant finds corroboration from the evidence of these witnesses. The number of

blows inflicted by the appellant as stated by the informant, finds support from post mortem report and the evidence of Dr. Murli Manish (P.W.1).

Thus, there is no merit in this appeal and the same is liable to be dismissed.

6. We have considered the evidences and documents available on record. Radha Mundarin(P.W.4) is the informant, who has fully supported the

prosecution case, as made out by her in fardbeyan. She has also supported the other facts, when she along with her husband was going to harvest

paddy, the appellant met with them and asked for partition of the property. Her husband requested that let the matter be decided in the Panchayt,

but the appellant did not agree and inflicted blows by means of spade on the head of deceased causing injuries as a result the husband of the

informant died at the spot. Patras Sandi Purty(P.W.5) had seen the appellant fleeing away with spade. The appellant has confessed his guilt before

P.W. 2. Thus, the ocular evidence finds support from the post mortem report. Investigating Officer(P.W.9) has proved Fardbeyan (Ext.3),

endorsement made on the Fardbeyan (Ext.3/1), formal F.I.R. (Ext.4) and inquest report (Ext.5). He has supported the investigation done by him

and described the place of occurrence during his examination.

7. Thus, we do not find that any contradiction has been taken from mouth of the informant to disbelieve her version. The prosecution story as

brought on record stands intact and, therefore, we do not feel inclined to interfere with the findings of learned Additional Sessions Judge, F.T.C. II,

Singhbhum West, Chaibasa. Accordingly, this appeal stands dismissed.

8. The judgment of conviction and order of sentence dated 2nd August, 2004 and 3rd August, 2004 respectively passed by learned Additional

Sessions Judge, F.T.C.-II, Singhbhum West, Chaibasa in connection with Sessions Trial no.15 of 2004 corresponding to G.R. Case no.218 of

2003 arising out of Bandgaon P.S. Case no.25 of 2003 is hereby upheld.