

(1999) 1 MPLJ 704

Madhya Pradesh High Court

Case No: Criminal A. No. 447 of 1989

Azad Singh

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision: Jan. 7, 1999

Acts Referred:

Penal Code, 1860 (IPC) " Section 300

Citation: (1999) 1 MPLJ 704

Hon'ble Judges: Rajeev Gupta, J; P.N.S. Chauhan, J

Bench: Division Bench

Advocate: S.C. Dutta, for the Appellant; B.P. Athya, for the Respondent

Final Decision: Dismissed

Judgement

R.P. Gupta, J.

The appellant has been convicted in S.T. No. 38/87 by judgment dated 1-2-1989 of Additional Sessions Judge, Narsinghpur u/s 302, Indian

Penal Code and sentenced to life imprisonment. The charge found established against him is that he committed murder of his wife Smt. Babitabai

on 23-12-1986 at about 3-45 p.m. by giving blows to her with a Gadasa and caused 3 injuries on various parts of the body including neck and cut

vital parts resulting in her death.

The finding of the trial court is mainly based on the testimony of PW 8 Halkibai, PW 9 Shantibai, PW 10 Santosh, brother of the deceased aged

about 10 years, and PW 11 Motilal father of the deceased who lodged the F.I.R.. The murder was committed in the house of Motilal where the

deceased was at the relevant time and where the accused had gone that day. Babita died at the spot at once as a result of the injuries. PW 8 and

PW 9 asserted having seen the accused striking the deceased with Gadasa while PW 10 only said that the fact was told to him by Halkibai and

Shanti as he found his sister Babita lying dead. There is further circumstantial evidence relied upon by the trial court that is on arrest of the accused

on 24-12-1986 at about 6.30 p.m., the pant and bush-shirt of the accused were taken into possession and were sent to chemical examiner and

serologist and as per reports Ex. P-21 and P-22 these were found to be stained with human blood. The autopsy surgeon's report indicated 3

injuries with sharp edged weapon on the neck and shoulder part of the body of the deceased. These injuries had cut spinal vertebra No. 3 on the

right side of the neck and also cut acromion process of scapula. The death was caused due to shock resulting from the haemorrhage from the

injuries. The FIR Ex.P-13 was lodged by Motilal on 23-6-1986 at 5 p.m. i.e. within 2 hours of the incident. In this the accused was named as the

author of the crime.

In defence, the accused had simply denied that he attacked his wife or caused her death. He gave no explanation regarding blood stains on his

clothes or why PW 8 and PW 9 as also PW 10 were deposing against him.

Learned counsel for the appellant during the argument asserted that at pre-trial stage the accused had been sent to mental hospital Gwalior and

remained there for a year and thereafter he was tried when he was found fit to be tried and of sound mind which resulted into present conviction.

We find that no defence was taken by the accused during the trial that at the relevant time of offence he was suffering from any mental infirmity or

he did not understand the nature of his action. That defence was not suggested to neither any witness nor taken even in statement of the accused

u/s 313, Criminal Procedure Code.

On close perusal of the testimony of PW 9 Shantibai who is neighbour of Motilal where the incident had occurred and whose attention was drawn

on hearing the shrieks, there is no reason to discard her testimony. Her presence is natural being a neighbourer. There was no impediment in her

seeing the incident and there is no reason why she should depose falsely against the accused. She had asserted that she saw the incident and

accused had given blows to deceased with Gadasa. The witness is fully supported by PW 8 Halkibai. So far as PW 10 is concerned he is brother

of the deceased and saw the deceased dead. PWs 8 and 9 had told him that the accused had hit Babita. Santosh in his turn told his father to lodge

the FIR and that is the reason why he named this accused as assailant in the FIR. The narration that hits were given with Gadasa is corroborated

by the medical evidence of the autopsy surgeon. It is further confirmed by the fact that the accused"s clothes were stained with human blood for

which there is no explanation given by him. Learned counsel for the appellant has not been able to create any dent in the evidence of these

witnesses or in the circumstantial evidence. We find that the trial court has rightly believed the evidence and reached the conclusion of the guilt of

this accused. Of course there is no evidence of motive against the appellant as to why he should kill his wife and so far as Santosh is concerned he

says that the accused was attacking his wife. But motive is not an ingredient for crime and motive is generally hidden in the mind of the criminal and

many times it would not reveal itself outward. So absence of motive cannot disprove the crime or lead to an inference about its non- commission

by an accused.

The net result is that the trial court has rightly appreciated the evidence and convicted the accused of the crime of murder. The victim had died at

the time of assault itself. We find no merit in this appeal. The same is dismissed. The appellant shall suffer his remaining part of the sentence.