courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.
Website: www.courtkutchehry.com
Printed For:
Date: 16/12/2025

(2018) 03 MP CK 0079

Madhya Pradesh High Court (Jabalpur Bench)

Case No: CRA NO. 770 OF 2008

Nathulal	APPELLANT
Vs	
State Of Madhya Pradesh	RESPONDENT

Date of Decision: March 19, 2018

Acts Referred:

- Indian Penal Code, 1860 - Section 302

Hon'ble Judges: ANJULI PALO, J; S.K.GANGELE, J

Bench: Division Bench

Advocate: Santosh Yadav, Aditya Jain

Final Decision: Dismissed

Judgement

1. The appellant/accused has filed this appeal being aggrieved by the judgment dated 27.12.2007 passed by learned VIth Additional Sessions Judge,

Jabalpur in S.T. No.25/2006 whereby the appellant has been convicted under Section 302 of the Indian Penal Code and sentenced to undergo R.I. for

life and fine amount of Rs.1,000/-, with default stipulation.

2. The prosecution story in brief is that on 08.11.2005 at about 8.30 pm at Ranjhi the appellant committed murder of Prabhu Yadav because he was

involved for a construction of a temple at public place. Appellant raised objection for it. When Prabhu Yadav (since deceased) went to lock the gate

of the said temple, at that time appellant assaulted him by knife. Mansha Yadav (PW-4) wife of deceased came to rescue him then appellant fled

away from the spot. Some neighbours were witnessed the said incident. They saw the injuries of Prabhu Yadav. They brought him to Police Station.

Mansha Yadav (PW-4) lodged FIR (Ex.P/4) at Police Station Ranjhi, Jabalpur angainst appellant. Deceased had died in Victoria Hospital, Jabalpur.

Police registered case under Section 302 of I.P.C. against the appellant. After completion of investigation, charge-sheet for the offence under Section

302 of I.P.C. has been filed against the appellant.

3. After committal of the case, learned trial Court framed charge under Section 302 of the Indian Penal Code against the appellant.Â Appellant

abjured his guilt and pleaded that he is innocent and falsely implicated in this case.

4. Learned trial Court convicted the appellant mainly on the basis of testimony of eye witnesses Mansha Yadav (PW-4) and Savita Yadav (PW-7). It

was found that their testimony duly corroborated by the medical evidence. Hence, appellant was convicted and sentenced as mentioned above.

5. The appellant has challenged the aforesaid findings on the grounds that the trial Court wrongly appreciated the facts and circumstances of the case.

There are serious omissions and contradictions on the part of the prosecution witnesses Mansha Yadav (PW-4) and Savita Yadav (PW-7). It is

further alleged by the appellant that nature of injuries sustained by the deceased were not sufficient to cause his death in ordinary course of nature.

Therefore, he prayed to set aside the impugned judgment of conviction and he be acquitted from the charges levelled against him.

6. We have heard learned counsel for the parties and perused the record.

7. Learned Government Advocate for the respondent- State has contended that the appellant was rightly convicted and sentenced by the trial Court.

8. It is not in dispute that deceased Prabhu Singh Yadav has died due to 13 knife injuries sustained by him.

9. The testimony of Dr. J. Arora (PW-14) is unrebutted that on 08.11.2005, the deceased was brought to the Victoria Hospital, Jabalpur as dead. Dr.

R.P. Pyasi (PW-13) conducted autopsy of the deceased. He found following injuries on the deceased:-

(i) Incised wound of size 4â€x1â€x bone deep on the right thigh and the blood vessels were cut. Blood was present in the wound.

(ii). Incised wound of size 1â€x Â½â€ x Â½â€ x deep on the right hip.

(iii). Incised wound of size 1â€x Â½â€ x Â½â€ x deep external on the right hip.

(iv).Â Incised wound of size 1â€x Â½â€ x muscle deep over the middle part of right thigh.

(v). Incised wound of size 1â€x Â½â€ x muscle deep on dorsal part of right side of thigh.

(vi). Incised wound of size 1â€x Â½â€ x muscle deep on the part of right thigh.

(vii). Incised wound of size 1â€x Â½â€ x muscle deep on front side of left thigh.

(viii). Incised wound of size 1â€x Â½â€ x muscle deep on upper side of left thigh.

(xi). Incised wound of size 1â€x Â½â€ x muscle deep on the lateral part of left thigh.

(x). Incised wound of size 1â€x Â½â€ x muscle deep on the left thigh medial side of lower end.

(xi). Incised wound of size 1â€x Â½â€ x muscle deep on the left hip dorsal.

(xii). Incised wound of size 1â€x Â½â€ x muscle deep on the left hip of lateral part.

(xiii). Incised wound of size 1â€x Â½â€ x muscle deep on the left thigh at medial side.

10. Dr. Pyasi (PW-13) found cut marks on the pant and underwear of the deceased. He opined that deceased was died due to haemorrhage and

shock within 24 hours from his postmortem. All the injuries were ante-mortem and homicidal in nature. They are sufficient to cause the death of the

deceased in ordinary course of nature. All the injuries were caused by hard and sharp edged object.

11. During cross-examination Dr. Pyasi (PW-13) further explained that in injury no.1 nerves of thighs were cut. This single injury is sufficient to cause

the death of the deceased.

12. Learned counsel for the appellant mainly contended on the nature of injuries that there was a possibility that life of the deceased could have been

saved, if he had been given medical aid immediately. He further submitted that ingredients for the offence under Section 302 of I.P.C. has not made

out against the appellant. He placed reliance in the case of Ramesh Kumar vs. State of M.P. (2010) 6 SCC 685.

13. In our opinion, the injuries caused to the deceased itself established the intention of the assailant that he knowingly and intentionally inflicted

various blows of hard and sharp object knife on the deceased on his vital body part. Artery passes through thigh, if it is ruptured, certainly the blood

flow from the heart and the same is adversely affected. Therefore, it cannot be said that thigh is not vital part of the body.

14. Dr. Pyasi opined that the injuries are sufficient to cause the death of the deceased. Hence, learned trial Court rightly held that the deceased was

murdered.

15. With regard to the reliability of the testimony of Smt. Mansha yadav (PW-4) wife of the deceasedÂ and Smt. Savita Yadav (PW-7) mother of

the deceased, both were close relative of the deceased. At the time of the incident, their presence at their house is unrebutted. Learned counsel for

the appellant contended that Mansha Yadav (PW-4) is the wife of the deceased. She is an interested witness, hence, her evidence is trustworthy in

support of the prosecution case.

16. It is also unchallenged that at about 07:00 pm, the deceased came to his house for taking dinner. As per Smt. Mansha Yadav (PW-4) and Smt.

Savita Yadav (PW-7), Prabhu Yadav was involved with the neighbours for construction of temple in front of their house. After taking dinner at about

08:30 pm Prabhu Yadav was ready to proceed his office. Meanwhile, he went to lock the door of the temple. Smt. Mansha Yadav (PW-4) followed

him. She saw the appellant standing at the road, suddenly, he started assaulting the deceased by knife. Therefore, she shouted, Omprakash, Ashok,

Laxmi Pandey, Hari Kevat and other neighbours were came there. Appellant threaten them and fled away from the spot. Thereafter, they brought

Prabhu Yadav at police station, Ranjhi. Smt. Mansha Yadav (PW-4) lodged FIR by name against the appellant. FIR is Ex.P-4. It is established that

FIR has been lodged within 15 minutes from the incident. It prevented the possibility that the complainant party framed a concocted story to falsely

implicate the appellant in the crime.

17. A.K. Bajpai, S.I. (PW-16) explained that Police Station is situated nearby the place of incident. Thereafter, police sent injured Prabhu Yadav to

Victoria Hospital, Jabalpur. After some time, A.K. Bajpai, S.I. (PW-16) received a death information of Prabhu Yadav from the hospital.

18. In such circumstances, we do not find any reason to disbelieve the testimony ofÂ Smt. Mansha Yadav (PW-4). Hence, naturally it is presumed

that she had not falsely implicated the appellant to save real culprit, who is responsible to the death of her husband. In case of Raju vs. State of T.N.

(2012) 12 SCC 701, the Supreme Court has held as under:-

21. What is the difference between a related witness and an interested witness? This has been brought out in State of Rajasthan v. Kalki [(1981) 2

SCC 752]. It was held that:

(SCC p. 754, para 7)

7. ... True, it is, she is the wife of the deceased; but she cannot be called an 'interested' witness. She is related to the deceased. 'Related' is not

equivalent to 'interested'. A witness may be called 'interested' only when he or she derives some benefit from the result of a litigation; in the decree in

a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eyewitness in the circumstances of a

case cannot be said to be 'interested'.

19. As per the spot map (Ex.P/5) the appellant and the deceased both were neighbours. At place-'B' there is an electric poll, another source of light

was on point-'F', point-'A'Â is the spot which is just in front of the Baramda of the deceased. Therefore, Smt. Mansha yadav (PW-4) was in position

to witness the incident. Hence, we are not inclined to disbelieve the testimony of Mansha Yadav (PW-4) as an interested eye witness.

20. Savita Yadav (PW-7) mother of the deceased also corroborated the testimony of Mansha yadav (PW-4). Just after the incident, she heard

shouting of Mansha Yadav (PW-4), who is her daughter-in-law. Then she reached on the spot along with other witnesses. She saw Prabhu Yadav

was injured.

21. As per memorandum (Ex.P/10) of the appellant A.K. Bajpai (PW-16) recovered a knife used by the appellant from his possession at Sheru's

house before panch witnesses Vinod and Narayan. As per seizure memo (Ex.P/9) A.K. Bajpai (PW-16) also seized clothes of the appellant from him.

All the articles were blood stained. A.K. Bajpai (PW-16) explained that it was tried to remove the blood stains from the knife.

22. As per FSL report (Ex-P/25), it was confirmed that on the shirt of the appellant and on the aforesaid knife blood was present. On the shirt of the

appellant human blood was matched with 'A' blood group of the deceased.

23. It is true that serologist failed to detect the origin of blood on the knife due to disintegration of the serum it does not mean that the blood stuck on

the knife could not have been human blood at all. Sometimes it is possible, either because the stain is insufficient in itself, or due to haematological

changes and plasmatic coagulation, that a serologist may fail to detect the origin of the blood in question. However, in such a case, unless the doubt is

of a reasonable dimension, which a judicially conscientious mind may entertain with some objectivity, no benefit can be claimed by the accused in this

regard. Once the recovery is made in pursuance of a disclosure statement made by the accused, the matching or non-matching of blood group loses

significance.

24. Even though panch witness Narayan (PW-11) does not support the prosecution story. But we do not find any reason to disbelieve in the testimony

of I.O., A.K. Bajpai (PW-16).

25. The Supreme Court in the case of Rohtash Kumar Vs. State of Haryana (2013) 14 SCC 434 has held as under:-

35. The term witness, means a person who is capable of providing information by way of deposing as regards relevant facts, via an oral statement, or

a statement in writing, made or given in the court, or otherwise. In Pradeep Narayan Madgaonkar v. State of Maharashtra [(1995) 4 SCC 255] this

Court examined the issue of the requirement of the examination of an independent witness, and whether the evidence of a police witness requires

corroboration. The Court therein held that the same must be subject to strict scrutiny. However, the evidence of police officials cannot be discarded

merely on the ground that they belonged to the police force, and are either interested in the investigating or the prosecuting agency. However, as far

as possible the corroboration of their evidence on material particulars, should be sought. (See also Paras Ram v. State of Haryana [(1992) 4 SCC

662], Balbir Singh v. State [(1996) 11 SCC 139], Kalpnath Rai v. State [(1997) 8 SCC 732], M. Prabhulal v. Directorate of Revenue Intelligence

[(2003) 8 SCC 449] and Ravindran v. Supt. of Customs [(2007) 6 SCC 410].)

36. Thus, a witness is normally considered to be independent, unless he springs from sources which are likely to be tainted and this usually means that

the said witness has cause, to bear such enmity against the accused, so as to implicate him falsely. In view of the above, there can be no prohibition to

the effect that a policeman cannot be a witness, or that his deposition cannot be relied upon.

26. Similarly, in the case of Madhu @ Madhuranatha and another vs. State of Karnataka AIR 2014 SC 394, it has held that Â â€œS.-3 Police witness

â€" Evidence of â€" Police personnel were made recovery witnesses â€" Their evidence is reliable and can not be discarded even though large

number of people were available.â€

27. Thus, the evidence of A.K. Bajpai (PW-16) is not liable to be discarded on the grounds that he is police witness.

28. In our opinion, the contention of the learned counsel for the appellant is not liable to be accepted that there is no evidence on record against the

appellant. Appellant is well known to the witnesses. Source of light is available on the spot. Therefore, the identification of the appellant has no reason

to be suspected.

29. After above discussion, we are come to the conclusion that learned trial Court rightly convicted the appellant under Section 302 of I.P.C. for

committing murder of the deceased. Hence, for the conviction of the appellant, we rely on the case of Chittarlal vs. State of Rajasthan 2003 Cr.L.J.

3548 (SC), in which it hasÂ held that:-

â€œThe injuries were sufficient to cause death in the ordinary course. The entire evidence was proved by the eye witness account, which was found

to be trustworthy and duly supported by medical evidence. Conviction was therefore affirmed.â€

There is no merit in the case to interfere in the impugned judgment. Hence, appeal is hereby dismissed. Appellant is in jail.

30. Copy of this judgment be sent to the Court below for information and compliance along with its record.