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HARI BADAN RAI AND ORS.

v.

STATE OF BIHAR

DECEMBER 8, 2004

B

[K.G. BALAKRISHNAN AND DR. AR. LAKSHMANAN, JJ.]

*Indian Penal Code, 1860 :*

C

*Ss. 302/34 and 201/34—Victim killed by accused—Incident seen by eye witnesses—Body thrown in river—Decomposed head and bones recovered—Head identified as that of deceased—Remnants of body indicating injuries—Motive of crime proved—Conviction and sentence as awarded by trial court and affirmed by High Court, not interfered with.*

D

Appellants, alongwith another accused, were prosecuted under sections 302/34 and 201/34 IPC. The prosecution case was that they attacked the deceased with various weapons and killed him. The incident was witnessed by PWs 5, 7 and 8, who were threatened and chased away by the accused persons. Thereafter the accused took the body in a boat and threw it in the river. During the investigation a decomposed head, which was identified as that of the deceased, and some bones were recovered. The trial court convicted all the accused persons of the offences charged. The High Court confirmed the conviction and sentence. One of the accused died pending appeal before the High Court. Therefore, the present appeal was filed by the remaining six accused.

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Dismissing the appeal, the Court

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HELD : The incident was witnessed by PWs 5, 7 and 8. The witnesses also clearly identified the head portion of the body recovered as that of the deceased. The post-mortem report indicated that certain marks of injuries were found on the remnants of the dead body. There is clear and convincing evidence of PWs 5, 7 and 8 to prove the motive for the crime. No flaw is found in the appreciation of the evidence of the witnesses. The investigation was also conducted properly and no infirmity therein was pointed out. There is no reason to interfere with the finding recorded by the High Court. [778-D, G; 779-B, C]

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal  
No. 1419 of 2003.

From the Judgment and Order dated 19.2.2003 of the Patna High Court  
in Crl.A. (D.B.) No. 316 of 1995.

L. Nageswara Rao, Ajai Bhalla, Rajeev Singh, Ms. Abha R. Sharma,  
Ms. Sunita Singh and Rajesh Pd. Singh for the Appellants.

B.B. Singh and Kumar Rajesh Singh for the Respondent.

The Judgment of the Court was delivered by

**K.G. BALAKRISHNAN, J.** : Seven accused persons were tried by  
the 6th Additional District and Sessions Judge, Chapra in Bihar for the  
offences punishable under Section 302 and Section 201 read with Section  
34 IPC. All of them were found guilty and were sentenced to undergo  
imprisonment for life for the offence under Section 302 read with Section  
34 IPC and for the offence under Section 201 each of them was sentenced  
to undergo imprisonment for three years.

All the seven accused jointly filed an appeal before the High Court.  
During the pendency of the appeal, A-1 Dublal Rai died and the High Court  
by the impugned Judgment confirmed the conviction and sentence of all the  
appellants. The Judgment of the Division Bench is challenged before us.

The prosecution case is that on 29.12.1986 at about 7.00 a.m. deceased  
Ram Krishna Singh along with his relatives and co-villagers had gone to  
Dariyaoganj Ghat to sprinkle milk on the ashes at the funeral place of his  
mother who had died on the previous day. After completing these rituals,  
deceased Ram Krishna Singh was coming back with Uma Singh, Birendra  
Singh and Kapil Singh. The first informant and others remained there for  
few minutes to take a bath in the river. When Ram Krishna Singh and others  
reached in front of the house of Sant Lal Rai A-1 Dublal Rai (since dead)  
and other accused persons attacked Ram Krishna Singh with various weapons.  
A-1 Dublal Rai exhorted other accused persons to kill Ram Krishna Singh.  
A-2 Hari Badan Rai and A-3 Parina Rai gave bhala blows on the right chest  
and left abdomen of deceased Ram Krishna Singh. Ram Krishna Singh fell  
in the ditch, and accused persons continued to cause various injuries on him.

- A The persons who were with deceased Ram Krishna Singh were threatened by the accused and they could not save Ram Krishna Singh. The accused then brought a bamboo raft and the dead body of Ram Krishna Singh was tied over the bamboo raft. Some of the villagers came there but the assailants chased them away and the body of Ram Krishna Singh was taken to the river.
- B They took him on a boat and rowed the boat towards south east and threw the body of Ram Krishna Singh in the river. The first informant, the son of deceased Ram Krishna Singh went to the police station and the case was registered on the same day. On 4.1.1987, during the course of the investigation, the decomposed head and some bones were recovered from the river at village Bhabangawan and after investigation, a final report was filed.

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The prosecution examined 17 witnesses. PW 5, 7 and 8 are eye-witnesses. To prove that the skull and other bones recovered by the police were that of deceased Ram Krishna Singh, PW 3 Nitya Nand, PW 4 Raj Ballabh Singh, PW 6 Raghubansh Singh, PW 7 Kapil Singh and PW 8 Ajay Kumar Singh were examined. PW 6 Raghubansh Singh deposed that after the murder, he carried out a search for the dead body and on 4.1.1987, he came to know that the dead body was lying in the river at Bhabangawa. He went there at 10.00 AM and met the Mukhiya of the village and others. He also deposed that the head portion of the dead body was found tied in a cloth and it was in his presence that the cloth bundle was opened and he found that the head was that of Ram Krishna Singh. He also deposed that it was in a highly decomposed state and that after 10-15 minutes, the flesh started disintegrating. PW 11, the Investigation Officer also supported the evidence of PW 6. The dead body was identified by PW 3 Nitya Nand, PW 4 Raj Ballabh Singh, PW 7 Kapil Singh and PW 8 Ajay Kumar Singh and inquest of the dead body was held at the Sadar Hospital Chapra. These witnesses clearly deposed that they could identify the head portion as that of Ram Krishna Singh.

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PW 10 Dr. B.N. Mishra, conducted the post-mortem examination. It is important to note that certain marks of injuries were found on the remnants of the dead body. Only some of the bones could be recovered and were available for post-mortem examination and PW 15 Dr. N.K. Jha, Professor & Head of the Department of Anatomy gave an opinion that the bones were of a male aged above 45 years. There is clear and convincing evidence of PW 5, PW 7 Kapil Singh and PW 8 Ajay Kumar Singh to prove the motive for the crime. The Trial Court as well as the High Court placed reliance on

evidence of these witnesses and as regards the motive, PW 8 Ajay Kumar A  
deposed that one Lok Nath Rai, the father of A-2 Hari Badan Rai and A-  
5 Gyan Chand Rai was caught and produced before Ram Krishna Singh  
alleging that he had committed theft of cattle and deceased Ram Krishna  
Singh said that Lok Nath Rai be produced before the police, but on the way B  
to the police station, he died. The appellants believed that he must have been  
done to death at the instance of Ram Krishna Singh. The evidence of PW  
5, PW 7 and PW 8 have been critically examined and analysed by the High  
Court. We do not find any flaw in the appreciation of the evidence of these  
witnesses. The investigation was also conducted properly and the learned  
Counsel for the appellant could not point out any infirmity. We do not find C  
any reason to disagree with the finding of the Division Bench of the High  
Court.

The appeal is accordingly dismissed.

R.P.

Appeal dismissed.

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