

[2013] 2 S.C.R. 797

RAM PAL @ BUNDA
v.
STATE OF HARYANA
(Criminal Appeal No. 120 of 2012)

APRIL 11, 2013

[DR. B.S. CHAUHAN AND FAKKIR MOHAMED
IBRAHIM KALIFULLA, JJ.]

Penal Code, 1860 - ss.302 and 376 - Rape and murder - Case based on circumstantial evidence - Conviction of accused-appellant with 10 years RI - Justification - Held: Justified - Medical evidence revealed that the victim was subjected to sexual intercourse before her death - PW-10, mother of the victim found the accused present at the scene of crime immediately after the occurrence - Accused ran away from the scene of occurrence without responding to the queries of PW-10 and remained absconding for two days - All the circumstances only supported the prosecution version - No missing link in any of the circumstances found proved against the accused - Further, accused had inimical relationship with the family of the victim and thus, motive aspect demonstrated by the prosecution also acceptable - Moreover, accused-appellant did not let in any evidence for his defence.

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 120 of 2012.

From the Judgment and Order dated 07.09.2011 of the High Court of Punjab and Haryana at Chandigarh in Criminal Appeal No. 686-DB of 2006.

R.K. Talwar, David Rao, K. Kaushik, Chander Shekhar Ashri for the Appellant.

A Kamal Mohan Gupta for the Respondent.

The following order of the Court was delivered

O R D E R

B 1. The sole appellant is the accused who was convicted
for the offences under Sections 302 and 376, Indian Penal
Code (IPC). He was sentenced to undergo rigorous
imprisonment for life and 10 years rigorous imprisonment for
committing rape and murder of one Devi (real name disguised).
C According to the prosecution, a telephonic intimation was
received in the police station regarding the dead body of Devi
resident of Mangalore within the jurisdiction of Shahzadpur
police station, Ambala, lying in the fields of one Prithi Pal. On
reaching the spot PW-14, SHO recorded the statement of PW-
D 10 Sumitra Devi the mother of the deceased. It was learnt
through her that she had two daughters, that the elder one was
married while the younger one who went to the fields on
18.2.2005 at 6.30 p.m. to ease herself did not return and their
intensive search was in vain. In her statement she mentioned
E the name of the appellant who was stated to have been found
at the place of search and on being asked, he pleaded
ignorance about the victim. It was her further statement that
only on the next day morning in day light they were able to trace
the body of the victim whose neck was wrapped with a blue
shawl owned by her. The complainant PW-10 raised suspicion
F about the involvement of the appellant in the commission of the
offence in view of his past misbehavior towards her elder
daughter on which occasion he was reprimanded before the
local Panchayat and was forced to tender an apology. As it
was a case of circumstantial evidence, the trial Court after
G scrutinizing the evidence of prosecution witnesses and after
taking into account the stand of the appellant in his 313 Cr.P.C.
statement noted the circumstances in paragraph 17 of the
judgment.

H 2. The circumstances noted were as under:

1) Medical evidence

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2) presence of accused at the scene of crime immediately after the occurrence

3) conduct of the accused in running away from the village and remaining absconding for two days after the occurrence and

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4) motive for the offence.

3. While examining the above circumstances, on the motive aspect the trial Court found that PW-11 Natho Devi, the elder daughter of PW-10 in her evidence deposed that in the year 2002 when she along with her cousin was returning from the fields, the appellant met them on the way along with his cousin Sham Lal and that both of them teased deceased PW-11 and her cousin and the bundle of the grass carried by them fell down. It was also her statement that by providence they could save themselves from the onslaught of the appellant and his cousin on that occasion. She reported the same to her parents. Pursuant to her complaint, a Panchayat was convened in her village and in the Panchayat, the appellant and his cousin begged pardon and that the appellant thereafter used to tell her that one day or other he would take a revenge for the said incident. It was also in her evidence that she belonged to labour class and the appellant was nurturing a long standing grievance and grudge in his mind against the family of the complainant as he felt that he was humiliated in the Panchayat. The said version of PW-11 was also corroborated by PW-10, the mother of the victim and Natho Devi, PW-11. In the 313 statement except making a simple denial, the appellant did not come forward with any explanation insofar as the motive aspect was concerned.

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4. As far as the presence of the appellant at the scene of occurrence was concerned PW-10 in her evidence categorically explained as to how while searching for her daughter she found the appellant in the fields and that on being questioned about the whereabouts of her daughter the appellant

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A without responding to her query ran away from the place of occurrence. Though at the instance of the appellant it was suggested that there were certain variations as compared to her statement to the police as regards the presence of the appellant, the trial Court found that such variation did not
B materially affect the evidence of PW-10 as regards the presence of the appellant in the place of occurrence at the relevant point of time and his running away from the scene of occurrence without responding to the queries of the complainant PW-10.

C 5. As far as the absence of the appellant from the village for two days after the occurrence enough evidence was let in. PW-12 father of the deceased who categorically stated that while the occurrence took place on 18.2.2005, the appellant was produced before the investigating officer by Jagmal Singh
D only on 21.2.2005 when he was arrested. It came to light that after 18.2.2005 the appellant could be traced in the village only on 21.2.2005 when he was arrested. Though PW-13 Jagmal Singh who stated to have produced the appellant, turned hostile, having regard to the record of proceedings which was not
E contradicted in the manner known to law, the above factum about the absence of the appellant in the village for more than two days was quite apparent and there was no reason to disbelieve the said factum.

F 6. When the medical evidence was analyzed, the trial Court has found that according to PW-1 Dr. Ramesh and Dr. Sushil Kumar Singal, the cause of death was asphyxia due to strangulation which was ante-mortem and was sufficient to cause death. Multiple aberrations and contusion of varying sizes on the face, chin and few superficial aberrations on the
G back were noted. Exhibit PD and PD/1, the report of the forensic science laboratory revealed blood on Shawl, Salwar and underwear of the deceased. Human semen was detected on the vaginal swab of the deceased. On examination of the accused, after his arrest, by PW-2 Dr. Vikas Pal who took into
H possession the underwear of the appellant revealed that human

semen was detected in that as per the FSL report. The medical evidence also revealed that the victim was subjected to sexual intercourse before her death. A

7. Thus all the above circumstances only supported the prosecution version and there was no missing link in any of the circumstances found proved against the appellant. B

8. The appellant did not choose to let in any evidence for his defence. In the 313 questioning what all the appellant said was that due to inimical relations with the family of the complainant, he was falsely implicated. The trial Court has rightly noted that apart from what was alleged by PWs-10 and 11 no other inimical aspect with the family of the complainant was brought forth as against the appellant. In the said circumstances, the stand of the appellant also fully supported the version of PWs-10 and 11. It is not the case of the appellant that there was no previous contact in any manner whatsoever as between the appellant and the family of the complainant. Further considering the version of PWs-10 and 11 and the stand of the appellant that there was inimical relationship with the family of the complainant, it can only be concluded that such inimical relationship would only relate to the appellant's misbehaviour in the past with PW-11 and as stated by her in her evidence the appellant who was forced to express his apologies in the presence of elders in Panchayat, developed a grudge in his mind to settle score with the family of the complainant. Therefore, the motive aspect demonstrated by the prosecution and accepted by the trial Court was also fully justified. C
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9. Having regard to our above conclusion, we are convinced that the conviction and sentence imposed on the appellant by the trial Court which was also confirmed by the High Court was perfectly justified and we do not find any good grounds to interfere with the same. The appeal fails and the same is dismissed. G

B.B.B.

Appeal Dismissed. H