
(1997) 01 MP CK 0019
In the Madhya Pradesh High Court
Case No : Criminal Appeal No. 1275 of 1987

Bandhan	Vs	APPELLANT
State of M.P.		RESPONDENT

Date of Decision : 10-01-1997

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 302, 34

Citation : (1997) 2 DMC 19

Hon'ble Judges : A.K. Mathur, C.J.;Shahi Kant Kulshreshtha, J

Bench : Division Bench

Advocate : N.K. Shukla, for the Appellant; G.S. Ahaluwalia, G.A., for the Respondent

Final Decision : Dismissed

Judgement

S.K. Kulshrestha, J.—The appellant has preferred this appeal against the judgment dated 20.11.1987 of the learned Second Additional Sessions Judge, Ambikapur, in Sessions Trial No. 59/87, by which he has been convicted for offences punishable under Sections 302 and 201 of the Indian Penal Code and sentenced, respectively, to imprisonment for life and R.I. for 7 years; both sentences to run concurrently. Co-accused Heera son of Dhani has also preferred a separate appeal being Criminal Appeal No. 1274/87 against his conviction recorded in the said judgment for offence u/s 201,1.P.C. and sentence of 7 years" R.I. awarded to him thereunder. Both the appeals are, therefore, being disposed of by this common judgment.

2. The two appellants were prosecuted for offences under Sections 302 and 201 of the Indian Penal Code, alternatively u/s 302 read with Section 34, I.P.C. and Section 201 of the Indian Penal Code for the murder of Kuntibai, wife of the appellant Bandhan, and for screening the said offence by giving it a colour of suicide and making a report to the police accordingly.

3. Prosecution story, in brief, is that the deceased Kuntibai was married to the

appellant Bandhan about two years prior to the date of the incident and the appellant Bandhan was ill-treating her as they continued to be issue-less despite this long period. Report Ex. P-9 was made by the appellant Heera to the effect that Kuntibai had committed suicide by hanging and, accordingly, inquest was held. It was found that the dead body of Kuntibai was hanging in the room of the accused Bandhan to a rope of which one end was tied to the neck of the body while the other to the rafter. The dead body was brought down and sent for post-mortem alongwith requisition Ex. P-10. The autopsy was performed by P.W. 10 Dr. S.S. Singh on 13.8.1986 at Primary Health Centre, Ramanujganj, at 4.15 p.m. The doctor found that rigor mortis had passed off and the rope was tied round the neck with its knot on its left side. Doctor noticed that blood mixed froth was coming from nostrils and mouth and the body was partly decomposed with blisters present and skin was peeling from the body. The doctor noticed swelling alongwith marked blackness of skin on left intraclavicular region of the chest over sternum and lower part of front of neck. On dissection, contusion of sternum upper part and in the muscles of intraclavicular region was also noticed. The doctor found swelling in right thigh and on dissection, contusion was noticed in thigh muscles in front portion of thigh. On removing the rope, the doctor noticed that ligature mark was not prominent and on dissection, no whiteness in sub-cutaneous tissues was noticed. In the opinion of the doctor, cause of death was asphyxia caused by chest injury accompanied with compression on the front of lower neck, resulting in compression on trachea. On further dissection the doctor had also noticed swelling on intestine, liver and kidneys. There was also swelling in uterus and blood was noticed in vagina. The doctor gave his report Ex. P-10. According to the doctor, the death of Kuntibai was homicidal and the injuries caused to her were sufficient in the ordinary course of nature to cause her death. Post-mortem report Ex. P-18 was given by the doctor. The doctor also gave his opinion Ex. P-19. In further investigation, P.W. 8 Head Constable Ramjas Tiwari seized broken pieces of bangle under memorandum Ex. P- 11 from the spot and recorded Dehati Nalishi (village report) Ex. P-13, which was sent by him to the Police Station where F.I.R. was recorded and crime was registered. According to the prosecution, the appellant Bandhan, after committing murder of his wife, hanged the dead body by means of rope to make it appear as if the deceased had committed suicide and with a view to screen the offence, the appellant Heera made a false report that the deceased had committed suicide. The prosecution alleged that after hanging the dead body in the roof, the accused made a small aperture in the wall to enable them to bolt the door from inside with a view to create a simulation that the deceased, after bolting the door from inside, had committed suicide, while, in fact, she had been murdered by the accused and her body was hanged and the door was locked by the accused themselves.

4. The appellant Bandhan denied the charges and pleaded that he had gone to Jungle to graze buffaloes and had returned at about 8.00 p.m. when he had noticed that the door had been bolted from inside. He, therefore, made a small aperture (hole) in the wall to find access to the door latch and open the door and

found his wife hanging to a rope. Appellant Heerasai pleaded that he was living in a separate room and Kuntibai was living with accused Bandhan and had committed suicide.

5. Prosecution relied on following circumstances in support of its case that the accused persons first murdered Kuntibai and then hanged her body and closed the door from inside by creating breach in the wall to find access to the door latch: (1) That the relations of the accused Bandhan with his wife were not cordial as his wife could not conceive and they were issue-less; (2) According to medical evidence, the death of Kuntibai was homicidal and caused on account of injuries found on her body; (3) That there was swelling in uterus and blood in vagina, which indicated that the accused had caused injury enraged by non-functioning of genetic organs; (4) the dead body was found in the room of the accused Bandhan, which the deceased had occupied alongwith the accused Bandhan only; (5) No ligature marks were noticed, which indicated that the deceased had not committed suicide but that she had been murdered and her body was hanged to create verisimilitude of suicide; (6) That small hole was made in the wall of the room and the room was latched from inside to create an impression that the deceased had locked herself in and had committed suicide, while in reality she had been murdered; (7) The accused Bandhan did not make any report himself to the Police Station and false report was made by the accused Heera; (8) Broken bangles were recovered from the spot, which indicated struggle; (9) A Sabbal was seized from the accused Bandhan, which indicated that accused Bandhan had made hole in the wall near the door.

6. With reference to the case of the prosecution that accused Bandhan was ill-treating his wife deceased Kuntibai, P.W. 2 Sarju Yadav has been examined, who has deposed that because the deceased could not conceive despite two years since her marriage, the accused Bandhan was ill-treating her and threatening to turn her out from his house. This witness has also referred to an incident about six months prior to the date of the offence. The injuries found on intra-clavicular region and uterus, as deposed to by P.W. 10 Dr. S.S. Singh, are quite eloquent of the fact that greatly enraged on account of incapacity of the deceased to conceive children, the accused had caused injuries. One cannot be oblivious of the fact that in villages, people expect their marriages to be promptly blessed with children and failure is viewed with great disfavour and contempt. Coupled with the injuries found in private parts of the deceased and injuries in the region of neck, which proved fatal, there is no room for doubt that the death of the deceased was not homicidal. It is clearly borne out from record that the deceased Kuntibai had met a homicidal death and after causing her death, her body was hanged to create an impression that she had committed suicide. P.W. 7 Vijay Bahadur Singh, Patwari of Circle No. 10 of the village, had prepared spot map Ex. P-5, in which he had found the height of the room to be about seven to eight feet. Nothing was noticed in the room, from which it could be inferred that the deceased had climbed on some thing to reach rafter, tied a knot and committed suicide. All this indicates that the prosecution has succeeded in

establishing that death of Kuntibai was homicidal.

7. It is an admitted position that the room, in which the dead body was found, and which was found, according to the appellants, latched from inside, was occupied by the appellant Bandhan and his wife deceased Kuntibai. The appellant Bandhan has admitted that he had made the hole in the wall on finding the door closed from inside to open the latch, which shows that her death could not have been caused by any outsider because in that event, he could not have closed the door from inside after leaving the room. It is also an admitted position that access to the room was only through the door which was locked. The prosecution has fully established that the death of the deceased was homicidal and not on account of her having committed suicide. Under these circumstances, it is impossible to believe the theory propounded by the appellants that hole was made afterwards with a view to find access to the inside latch of the door to open it. It is, thus, clear that after committing murder of the deceased, the appellant Bandhan made an aperture in the wall to latch the door from inside with a view to show that the deceased had herself locked the room and committed suicide but his act stood exposed by the un-impeachable medical evidence to the effect that her death was homicidal. Under the circumstances, the prosecution has fully established that the death of Kuntibai was caused by the appellant Bandhan and after having caused her death, the appellant Bandhan hanged her body, made aperture in the wall and locked the door from inside to create the semblance of suicide and to screen the offence committed by him. The appellant Bandhan has, therefore, been rightly convicted and sentenced for offence punishable under Sections 302 and 201 of the Indian Penal Code.

8. As regards accused appellant Heera, the learned Trial Court has found that he could not be connected with the murder of the deceased Kuntibai but he having made a false report Ex. P-9 was guilty of offence u/s 201, I.P.C. It is evident from record that hole in the wall was not caused afterwards but had been caused only at the time of putting latch from inside the door. Heera was, therefore, fully aware that he was making a false report with a view to screen the offence committed by his brother accused Bandhan. Under these circumstances, he has rightly been held guilty of offence u/s 201, I.P.C. 9. Learned Counsel for the appellants has argued that the prosecution has not been able to rule out the possibility of an outside invasion in commission of the crime. It has been admitted by Bandhan that there was no hole in the wall when he reached his house in the evening at about 8.00 p.m. This completely rules out that any third person had committed murder of the deceased Kuntibai, as in that case, the door would have been found open, he having no access to close the latch from inside.

10. In the result, we find no merit in these appeals. The appeals are, accordingly, dismissed.