
(2019) 07 JH CK 0022

In the Jharkhand High Court

Case No : Criminal Appeal (DB) No. 645 Of 2011

Gono Kunkal

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 15-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 302

Citation : (2019) 07 JH CK 0022

Hon'ble Judges : Chandrashekhar, J; Ratnaker Bhengra, J

Bench : Division Bench

Advocate : R.P. Gupta, Sudha Gupta, H.P. Singh

Final Decision : Dismissed

Judgement

Chandrashekhar, J

1. The sole appellant has challenged the judgment of conviction under section 302 IPC dated 11.02.2009 and the order of sentence for R.I for life and

fine of Rs.10,000/-dated 18.02.2009 passed by the Additional District & Sessions Judge-II, Chaibasa in Sessions Trial Case No. 266 of 2006.

2. The appellant has faced trial on the charge of committing murder of his own 3 minor children. His wife namely, Anita Kunkal is the informant who

has given her fardbeyan on 17. 07.2006 to the police on the basis of which Manjhari P.S. Case No.22 of 2006 has been registered under section 302

IPC against the appellant. The informant has stated that on 16.07.2006 her husband namely, Gono Kunkal, the appellant, had gone to village Bidri

where Charika Kui had died and in the night he came back home and asked for Haria. When the informant refused to serve Haria and instead served

meal, the appellant became enraged and started assaulting her. She has stated that she escaped alongwith her infant child, but her husband killed their

children who were sleeping in the house. Next day, she informed Dinesh Chandra Tomsoy and Maran Singh Tomsoy who have searched for her

husband, however, somehow he escaped.

3. After the investigation, a charge-sheet was submitted under section 302 IPC and the appellant was sent-up for trial on the aforesaid charge. During

the trial the police has examined altogether 12 witnesses; P.W.11 and P.W.12 are the investigating officers and Dr. S.K. Singh- P.W.10 has

conducted post-mortem examination over the dead body of the Badula Kunkal, Suresh Kunkal and Kodma Kunkal, children of the informant.

4. Dr. S.K. Singh- P.W.10 has found the following injuries on dead body of Badula Kunkal:

(i) sharp wound 3X1/2X1/2" lung deep over interior aspect of neck. Cutting right juglar vein and right carotiral artilary trachea.

(ii) sharp wound 1/2X1/4" bone deep over interior aspect of neck cutting trachea 1" below wound.

(iii) sharp cutting 1"X1/2" bone deep over interior aspect of right shoulder with fracture of lateral end of right clavicle.

5. Dr. S.K. Singh- P.W.10 has found the following injuries on dead body of Suresh Kunkal:

(i) sharp wound 1"X1/2" interior aspect deep over left parital area with fracture of left parital bone.

(ii) sharp wound 2"X1/2" bone deep over back of neck.

(iii) sharp wound 1/2"X1/2" bone deep over left preanricular with fracture of left temporal bone.

6. Dr. S.K. Singh- P.W.10 has found the following injuries on dead body of Kodma Kunkal:

(i) sharp wound 1"X1/2" bone deep over interior aspect of neck cutting right irregular vein right trachea.

(ii) sharp wound 2"X1/2" bone deep over posterior aspect of right shoulder with fracture of upper humorous.

(iii) sharp wound 2"X1/2" bone deep over right side of frontal and right parietal area with fracture of frontal bone.

(iv) sharp wound 1"X1/4" bone deep over right parietal area with fracture of parietal bone 1" posterior to wound no.3.

7. The doctor has opined that the death of these three children had occurred

within 12 to 36 hours and the injuries found on their body were caused by sharp-cutting weapon.

8. During the trial in S.T. Case No.266 of 2006, the prosecution has produced Dinesh Chandra Tomsoy-P.W.1, Manki of the village and Guru Charan

Birua- P.W.4, Dakua of the village, on the point of death of three children of the informant and information by the informant to them about the

occurrence. Other witnesses examined by the prosecution are hearsay witnesses. The only eye-witness in this case is Anita Kunkal, wife of the

appellant. She has reiterated the story narrated by her in her fardbeyan. Through her evidence, the prosecution has established presence of the

appellant in his house in the fateful night. In her cross-examination she may have stated that she has not seen her husband killing their children, but

then, on such statement of a lady who with the help of an interpreter has given her evidence in the court it cannot be said that the appellant was not

involved in the crime. During the investigation, the blood-stained soil and a blood-stained kulhari were recovered. The blood-stained kulhari was sent-

up for serological examination and it has been found that the blood on the kulhari was human blood- Group AB. During cross-examination of the

prosecution witnesses; all of them are co-villagers, nothing material could be elicited by the defence and these witnesses, particularly the informant-

P.W.5, have remained unshaken during their cross-examination. The number of injuries on the children; total 10 injuries, establishes intention of the

appellant. The evidences laid by the prosecution during the trial in S.T. Case No.266 of 2006, in our opinion, conclusively prove the charge under

section 302 IPC against the appellant.

9. We find no error in the judgment dated 11.02.2009 in Sessions Trial Case No.266 of 2006 and, accordingly, Criminal Appeal (D.B.) No.645 of 2011

is dismissed.

10. Let the lower-court records be transmitted to the court concerned, forthwith.