
(2012) 05 JH CK 0013

In the Jharkhand High Court

Case No : Criminal Appeal No. 1567 of 2003 (D.B.)

Krishna Mandal

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 14-05-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 302

Citation : (2012) 05 JH CK 0013

Hon'ble Judges : R.K. Merathia, J;Dhrub Narayan Upadhyay, J

Bench : Division Bench

Judgement

1. Neither anybody appears on behalf of the appellant nor appears on behalf of respondent. This appeal has been filed against the judgment dated 27.08.2003 passed by Shri R.D.Yadav, Additional Sessions Judge, F.T.C.-III, Dhanbad in S.T.No.72 of 2002 convicting the appellant u/s 302 I.P.C. and sentencing him to undergo R.I. for life.

2. The prosecution case in short is that PW. 3 (Darshan Mandal) lodged a Fard Bayan on 23.04.2001 at about 12.45 hours before the police that her daughter Museri Mandalian (since deceased) was married with one Gopi Mandal about five years back. Gopi became mad for last two years, therefore, she started living in her parental house. About six months back, the appellant forcibly kept her. The appellant did not provide food and used to commit "Marpit" with Museri. When the informant wanted to take her back, the appellant used to threaten him. Masuri did not want to live there but she was kept forcefully. At about 4 a.m. in the morning PW. 6 (Aroni Mandal) informed him that Museri has been killed by administering poison by the appellant. When he went to the house of the appellant, he found Masuri dead on "Khatia". Froth was coming from her nose. Nobody was there in the house.

3. Prosecution examined eight witnesses. The Doctor found that it was a case of throatling. There is no eye-witness to the alleged occurrence. P.W. 6 (Aroni Mandal) who happens to be the relative of the informant told that he did not

inform the informant about the death of Masuri, as narrated by the informant in his Fard Bayan. P.W. 5 mother of Masuri also said that Aroni Mandal told her about the occurrence. Aroni Mandal, inter alia, said that Masuri was not mentally sound. He is not eye-witness in this case.

4. According to the prosecution case, as Masuri was living in the house of the informant, it can be presumed that the appellant has killed her by throatling. There is nothing to show that whether the appellant was living in his house alone or other persons were also living with him.

5. After carefully going through the records, we are inclined to give benefit of doubt to the appellant.

6. Accordingly, the impugned judgment is set aside. The appellant appears to be in jail for about 11 years, is directed to be released forthwith, if not wanted in any other case.