
(2004) 07 JH CK 0047

In the Jharkhand High Court

Case No : Criminal Appeal (DB) No. 455 of 2002

Mohan Manjhi

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 05-07-2004

Acts Referred:

Penal Code, 1860 (IPC) — Section 302

Citation : (2005) CriLJ 1545 : (2004) 3 JCR 413

Hon'ble Judges : S.J. Mukhopadhaya, J;Lakshman Uraon, J

Bench : Division Bench

Advocate : H.K. Mahto, for the Appellant; T.N. Verma, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—The sole appellant Mohan Manjhi has challenged the judgment and order of conviction and sentence dated 16th December, 1998, passed by Sri Krishna Murari, learned 1st Additional Sessions Judge, Jamshedpur, in Sessions Trial No. 447 of 1994/42 of 1998, whereby and whereunder he has been convicted for the offence u/s 302 of the Indian Penal Code and sentenced to undergo imprisonment for life.

2. The accused-appellant was charged u/s 302 of the Indian Penal Code for committing murder of his two daughters and one son. His wife Smt. Kalomi Manjhi (PW 1) lodged a fardbeyan (Ext. 3) against the appellant (husband of the informant), who later on was declared hostile by the prosecution. The learned Court below convicted the appellant on the basis of the evidence of single eye-witness, namely, Rohara Murmu (PW 3), as corroborated by some other witnesses, namely, Ratan Murmu (PW 4), Dhansi Murmu (PW 5), Lambodar Murmu (PW 6) and Sugda Murmu @ Sukhdeo Murmu (PW 7).

3. The case of the prosecution, as per the fardbeyan of Smt. Kalomi Manjhi (PW 1), recorded on 31st October, 1992, is that in the last night i.e. 30th October, 1992 (Friday), all her sons and daughters, four in number, had gone to sleep

after taking meals. Appellant Mohan Manjhi asked her to hand over the iron bangles, which she was wearing in her hand. The appellant further asked her to go to her parent's house, as he was not willing to keep her with him. When the informant refused to hand over her iron bangles to the appellant, he started assaulting the informant. When the informant started crying, the appellant snatched the one year old baby Durgamani from her lap and caused injury on the head of the baby by bansula, a sharp cutting heavy weapon. Thereafter, the appellant committed the murder of his son Mansa Ram Manjhi (5 years old) and daughter Jadori (9 years old) by hitting on their heads by the same bansula. The appellant wanted to kill his another son, namely, Konda Manjhi but in the meantime, sister's son of the informant, namely, Rohara Murmu (PW 3) arrived at the place of occurrence, hearing the cry of the informant, and fled away from the place of occurrence after lifting Konda Manjhi. The accused, thereafter, fled away from the place of occurrence but returned there after sometime. The informant apprehended that the accused may commit her murder as well as the murder of her remaining child.

4. In course of trial, the prosecution examined altogether eleven witnesses. As stated above, the informant Kalomi Manjhi (PW 1) was declared hostile by the prosecution. PW 8 Haripada Murmu has been tendered. PW 2 Dr. A.K. Choudhary, a Tutor in Forensic Medicine Department, M.G.M. Medical College, Jamshedpur, conducted post-mortem examination on the dead bodies of all three deceased. PW 11 Suresh Prasad Paswan (S.I.) was the Investigating Officer.

5. PW 3 Rohara Murmu is the eyewitness of the occurrence; PW 4 Ratan Murmu is a witness of fardbeyan; PW 5 Dhansi Murmu and PW 6 Lambodar Murmu are the witnesses, who have seen part of the occurrence; PW 7 Sugda Murmu @ Sukhdeo Murmu had seen the appellant in the room with the deceased whereas PW 9 Anil Singh and PW 10 Gopal Murmu are the witnesses of inquest reports.

6. PW 3 Rohara Murmu, whose name appears as eye-witnesses of the occurrence, as stated by the informant in her fardbeyan that on the day of occurrence he arrived at the place of occurrence, having heard the cry of the informant and fled away with Konda, another son of the informant, has stated that the occurrence took place about four years back in the night. He was in his house. When he heard cry of his mousi (informant), he went to the house of his mousi where he saw his mousa (appellant) committing murder of Jadori, Mansa Ram Manjha and Durgamani by bansula. He immediately lifted Konda, another son of his mousi, and fled away from the place of occurrence, in order to save his life. He gave the name of his mousa as Mohan Manjhi and identified the appellant while standing in the dock. This witness stood to his evidence even during the lengthy cross-examination and no contradiction could be brought in his statement. In his cross-examination he gave location of the place of occurrence and that of his house. He has stated that his house is located in front of the house of his mousa (appellant). He has further stated that when he was sleeping, his mother told him that some quarrel has taken place in the house of

his mousi and he should go there to pacify the matter, he not only denied the suggestion that on the date of occurrence Mohan Manjhi had gone out of his village, but specifically stated that he had seen his mousa (appellant) in his house. Earlier when he had gone for walk, after taking meal, he had seen his mousa standing in his house and at that time no quarrel had taken place. His mousi was also in the house.

The evidence of PW 3 Rohara Murmu is quite consistent with the case of the prosecution, as stated in the fardbeyan, wherein, his name figures as an eye-witness of the occurrence.

7. PW 4 Ratan Manjhi has stated that he reached the place of occurrence after hearing the cry of the informant and saw the dead bodies of all the three children. The informant disclosed before him that Mohan (appellant) had committed murder of all the three children by bansula. According to him, the occurrence took place about four years ago in the night. The wife of the appellant (informant) had also gone to his house and told that her husband had committed murders of the children.

PW 4 Ratan Murmu is an independent witness and there is no evidence that he had any enmity with the appellant. There appears no reason as to why this witness will give a false statement against the appellant.

8. PW 6 Lambodar Murmu has also stated that he rushed to the house of Mohan Manjhi (appellant) after hearing the cry of appellant's wife (informant). She (informant) told him that her children have been killed. When he reached at the door of the house of the appellant Mohan Manjhi, the (appellant) shouted that whoever will enter in his house would be killed. This witness has specifically deposed that he saw Mohan Manjhi (appellant) armed with bansula but he could not enter into the house of the appellant. The next morning he went to the house of the chowkidar and brought him. By that time some people had tied Mohan Manjhi with the help of rope inside the house. He (PW 6) saw the dead bodies of two daughters and one son of the informant and the appellant. This witness was also put to test at length by the defence, during the cross-examination. He has stated that his house is located at a distance of about 100 ft. from the house of Mohan Manjhi, intervened by only one house of Ratan Murmu. He heard the cry Of the informant (wife of appellant Mohan Manjhi). When he reached at the place of occurrence, he had seen there Ratan Murmu (PW 4), Haripada Murmu (PW 8), Sugda Murmu (PW 7), Dhansi Murmu (PW 5), Rohara Murmu (PW 3) and some other persons. His further evidence is that he alongwith others had accompanied the dead bodies of the three children to the post- mortem house. He has also stated that during the night of occurrence, all the aforesaid persons remained sitting outside the house of Mohan Manjhi and he had no conversation with the wife of the appellant during that night.

The evidence of PW 6 is consistent with the case of the prosecution, which also corroborates the statement of the eye- witness Rohara Murmu (PW 3).

9. PW 7 Sugda Murmu alias Sukhdeo Murmu in his deposition has stated that when he went to the house of the appellant, he found the door closed from inside. He pushed the door but could not open. Other people of the village also reached at the place of occurrence but nobody dared to get the door opened. He has further stated that the wife of the appellant i.e. the informant disclosed that Mohan (appellant) was inside with the arm. Later on, the door of the house of appellant was got opened by the chowkidar on the next day morning. Thereafter, they went inside the house and tied Mohan (appellant) with the help of rope. He further stated that he saw the dead bodies of all the three children lying on a cot inside the house.

10. Though the informant Kalomi Manjhi (PW 1), who is the wife of the appellant, has been declared hostile but from the evidence of the other witnesses, including the eye-witness (PW 3), it is clear that the appellant has committed murders of his two daughters, namely, Jadori and Durgamani and one son, namely, Mansa Ram Manjhi. PW 3, an eye-witness, was the person, who reached the place of occurrence after hearing the cries of the informant, saw the occurrence and fled away with the another son of the informant, namely, Konda Manjhi.

11. PW 2 Dr. A.K. Choudhary, who held autopsy on the dead bodies of Jadori, Durgamani and Mansa Ram Manjhi, on 1st November, 1992, has found the following ante-mortem injuries on their persons : Jadori Kumari

(a) Sharp-cut injuries.--(i) Over right side of forehead, obliquely placed between right upper eye-brow and hairline, 2 cm x 1 cm x cranial cavity with cut fracture of underlying frontal bone.

(ii) Anterio-posteriorly placed sharp-cut over centre of anterior scalp, 3 cm x 1 cm x cranial cavity with cut fracture of underlying parietal bone : brain tissue peeping outside the wound and lacerated; both parietal and frontal bones having commuted fracture.

Mansa Ram Manjhi

(a) Abrasions.--(i) Over medial aspect of lower third of right leg, 3 cm x 3 cm.

(ii) Over medial aspect of right knee, 2 cm x 1 cm.

(b) Internal injuries.--Whole of subcutaneous layer of scalp contused; both parietal and frontal bones having displaced fracture; extra-dural blood-clot over brain; sub-dural and sub-arachnoids blood-clot over both halves of brain with contusion of brain tissue.

Durgamani Kumari

(a) Sharp-cut.--(i) Over centre of scalp, anteriorly 3 cm x 3 cm x cranial cavity; brain tissue peeping out through the wound; a piece of fronto-parietal, bone was missing over an area corresponding to the wound; brain lacerated.

(b) Whole of subcutaneous layer of scalp contused with blood-clot, all bones of

scalp fractured and displaced. In the opinion of the doctor (PW 2), the above-mentioned sharp-cut injuries were possible by the sharp edged portion of a bansula (an iron tool used by carpenters to slash the wooden surface) and the other injuries were possible by the (back) blunt portion of bansula.

12. The evidence of PW 3 fully supports the case of the prosecution. From the aforesaid medical evidence it will be evident that Jadori Kumari and Durgamani Kumari were murdered by sharp cutting weapon whereas Mansa Ram Manjhi was murdered by the heard and blunt substance. The Court below has noticed the possibility of using the blunt portion of bansula by the appellant for killing his son Mansa Ram Manjhi. The evidence of the doctor (PW 2) that he found undigested rice and pulse in the stomach of all the three deceased, corroborates the evidence of the witnesses, including the fardbeyan of the informant. PW 9, though a witness to the inquest reports (Exts. 2, 2/a and 2/b), has deposed that in his presence the Sub Inspector of Police seized one bansula, containing blood stains, earth containing blood and one blood stained stone from the place of occurrence. He has given the place of occurrence as the house of the appellant Mohan Manjhi of Village - Laylom Tola - Chhardungri. He saw the dead bodies lying in the house of the appellant Mohan Manjhi.

PW 10 is the witness of inquest reports, seizure lists regarding blood stained bansula and other articles from the place of occurrence. He has identified his signature.

13. PW 11, the Investigating Officer, in his evidence has stated that having got information on 31st October, 1992 at about 8.30 a.m. that one person had committed the murder of his three children, he went to the village Laylom, Tola - Chhardurigri at about 9.30 hours. He recorded the statement of the informant Kalomi Manjhi (PW 1), which was read over and explained to her. The informant gave her thumb impression on her statement. He (Investigating Officer) described the place of occurrence as the house of the informant and appellant. According to the Investigating Officer, the place of occurrence is the angan of the house of the appellant, located at Village Laylon Tola - Chhardungri. The Tola consists of only 6 to 7 houses. The Investigating Officer has further stated that he saw the dead bodies of all the three children lying on a cot in the angan of the appellant. He has also stated that he seized the bansula, blood stained earth and one stone from the place of occurrence and prepared seizure list in presence of Anil Singh (PW 9) and Gopal Murmu (PW 10). The dead bodies were sent for post-mortem examination to M.G.M. Medical College & Hospital, Jamshedpur.

14. PW 11, the Investigating Officer, has further stated that the people of the village had caught the appellant and he took the appellant under his control and brought him to the police station. The evidence of the Investigating Officer also supported the case of the prosecution that the dead bodies of all the three children were found in the angan of the informant and the appellant. He found the mark of violence on the dead bodies of all the three children and seized the bansula, the weapon which was used to assault all the three children, from the

place of occurrence. His statement also corroborates the depositions of the some of the witnesses, who have deposed that the appellant was caught by the chowkidar and kept tied with the help of a rope.

15. From the evidence, as discussed above, it is clear that the prosecution witness PW 3 has supported the case of the prosecution that it is the appellant Mohan Manjhi, who has committed murder of his three children, namely, Mansa Ram Manjhi (son), Jadori Kumari (daughter) and Durgamani Kumari (daughter). The statements of other witnesses, such as, PW 4, PW 5, PW 6 and PW 7, who reached at the place of occurrence on hearing the cries of the informant, also corroborate the statement of PW 3. The aforesaid witnesses have supported that they saw the dead bodies of all three children lying in the angan of the accused, apart from the evidence of PW 6, who has deposed that he saw the appellant armed with bansula, soon after the occurrence. PW 7 has also deposed that the chowkidar came and got the door opened and the appellant was caught and kept tied.

16. The evidence of PW 3 is also supported by the medical evidence of PW 2, who found sharp-cut injuries on the persons of Jadori and Durgamani and the injuries caused by hard and blunt substance on the person of Mansa Ram Manjhi.

17. As the aforesaid evidences clearly prove, beyond all shadow of reasonable doubts, that the appellant Mohan Manjhi did commit the murder of his three children, namely, Jadori Kumari, Durgamani Kumari and Mansa Ram Manjhi, on 30th October, 1992, the question of interference with the impugned judgment does not arise. This Criminal Appeal is, accordingly, dismissed, being devoid of any merit. Appeal dismissed.