
(2009) 02 OHC CK 0002
In the Orissa High Court
Case No : Criminal Appeal No. 144 of 1997

Nays @ Nabina Rana

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 13-02-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 302

Citation : (2009) CLT 753 (Suppl CrI)

Hon'ble Judges : Pradip Mohanty, J;L. Mohapatra, J

Bench : Division Bench

Advocate : A. Ch. Mohanty, J. Rout, N. Jena, B.N. Sarangi and G. Rout, for the Appellant;

Final Decision : Dismissed

Judgement

Pradip Mohanty, J.—This appeal is directed against the judgment and Order Dated 26.05.1997 passed by the 1 st Additional Sessions Judge, Cuttack in S.T. Case No. 274 of 1996 convicting the Appellant u/s 302, I.P.C. and sentencing him to undergo imprisonment for life.

2. The case of the prosecution, in brief is that on 18.02.1996 at about 5.00 P.M., the deceased was proceeding to irrigate his sugar cane field. On the way in front of Temple Goddess "Dakhina Kali", the Appellant suddenly rushed towards him and inflicted a knife blow on his chest, as a result of which the deceased fell down on the ground and the Appellant fled away with the knife. Thereafter, while the deceased was being removed to S.C.B. Medical College Hospital for treatment, he succumbed to the injury on the way.

3. The plea of the Appellant is one of complete denial. His specific case is that due to land dispute, this false case has been instituted against him. In order to prove its case, prosecution examined as many as 12 witnesses including the Doctor. Defence did not choose to examine any witness. After hearing the parties, the Learned 1 st Additional Sessions Judge, Cuttack convicted the

Appellant u/s 302, I.P.C. and sentenced him to undergo imprisonment for life with the finding that it was the present Appellant, who committed murder of the deceased by inflicting the fatal injury.

4. Mr. Mohanty, Learned Counsel for the Appellant assailed the impugned judgment on the following grounds;

(i) There is no direct evidence against the Appellant and the chain of circumstances relied on by the prosecution is not complete to point at the guilt of the Appellant.

(ii) None of the prosecution witnesses had seen the occurrence, i.e., the alleged assault caused by the present Appellant to the deceased.

(iii) The prosecution witnesses in their evidence, have contradicted each other and thus they have been proved as liars. Moreover, they are very much interested for the success of the prosecution and as such no reliance should have been placed on the evidence of such witnesses.

(iv) Omission of the injury in the F.I.R. and also in the statement given in Court is fatal to the prosecution.

Mr. Mohanty submitted that in view of the above, there is no material on record against the Appellant warranting his conviction.

5. Mr. Mohapatra, Learned Counsel for the State vehemently contended that in the present case the prosecution is not required to complete the chain of circumstances since there is direct evidence against the Appellant to prove the case. P.W. 1 is the eye-witness to the occurrence of giving knife blow by the Appellant on the chest of the deceased. After hearing the sound, he came to the spot where the deceased was lying injured. Thereafter P. Ws. 2 and 3 came there. The Appellant fled away from the spot and entered into the house of Rama Behera (P.W.7). P. Ws. 7 and 8, have also deposed to the above effect. Moreover, the Appellant was recovered from the house of the P.W. 7. P.W. 8, who is another independent witness, corroborated the evidence that after inflicting knife blow to the deceased, the accused ran away from the spot and entered into the house of P.W. 7. P.W. 10 the doctor also opined that injury found on the chest of the deceased can be possible by a knife. In view of such clear evidence, there is no illegality or infirmity in the judgment of the Trial Court convicting the Appellant u/s 302, I.P.C.

6. Perused the records, more particularly the statement of the witnesses. P.W. 1 has stated that he had seen the occurrence from 200 ft. After hearing the hulla, he went to the spot and saw the Appellant catching hold of the deceased. No body was there except the present Appellant. P. Ws. 2 and 3 in their deposition have also stated that they rushed to the spot where the deceased was lying injured. Thereafter, the deceased was shifted to the hospital. They also heard that after inflicting the injuries the Appellant had taken shelter in the house of P.W. 7-Rama Behera. P. Ws. 4 and 5 have also stated in the same manner. P.W. 7-

Rama Behera has stated that while he was working in the back-yard, he saw the villagers surrounding his house. He came to his house by closing the back door from inside. Thereafter the villagers brought the Appellant from his house. P.W. 8 has also stated in his evidence that he rushed to the spot and saw the Appellant running away. He along with other witnesses chased the Appellant, who entered into the house of Rama Behera, P.W. 7, wherefrom he was recovered by the villagers. P.W. 10 is the doctor who conducted autopsy and found 8 injuries on the person of the deceased including the stab injury on the chest. He opined that all the injuries were ante mortem in nature and the cause of death was massive haemorrhage due to direct stab injury on the heart.

7. In view of the above evidence, which is clear and clinching, we are of the opinion that the prosecution has established each of the circumstance and there is no missing link. There is consistency in the evidence of eye-witnesses that the Appellant stabbed the deceased on his chest. Their statement finds ample corroboration from the medical evidence inasmuch as the injury report reveals that there were stab wounds on the chest of the deceased. From the nature of the injuries sustained by the deceased, there can be hardly be any doubt that such injuries in ordinary course of nature, could cause death.

8. In view of the above, there is no illegality committed by the Trial Court convicting the Appellant u/s 302, I.P.C. The appeal has no merit, which is accordingly dismissed.

Appeal dismissed.