
(2011) 11 JH CK 0037

In the Jharkhand High Court

Case No : Criminal Appeal (DB) No. 366 of 2001

Praduman Kumar Pradhan, Pramod Pradhan and Prakash Pradhan

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 22-11-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Penal Code, 1860 (IPC) — Section 120, 120B, 307, 320, 34

Citation : (2012) 1 JLJR 143

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

Bench : Division Bench

Advocate : Zaid Ahmad in Cr. Appeal No. 366 and 287/2001 and Mr. D.K. Chakravorty in Cr. Appeal No. 317/2001, for the Appellant; Ravi Prakash, APP for State, for the Respondent

Judgement

1. All these appeals were heard together and are being disposed of by this common judgement.

2. These appeals arise out of judgment of conviction and order of sentence dated 26.06.2001 and 28.6.2011 respectively, passed by Shree P.N. Lal, 1st Additional Sessions Judge, Saraikella, in Sessions Trial No. 238/ 1999, convicting the appellants namely Praduman Kumar Pradhan, Pramod Pradhan, Prakash Pradhan (in Cr. Appeal No. 366/2001) and Ketaki Pradhan (In Cr. Appeal No. 287/2001) for the offence u/s 302/34 of the Indian Penal Code and appellant Antarjami Pradhan (in Cr. Appeal No. 317/2001) has been convicted for the offence u/s 302/120 of the Indian Penal Code. Pramod Pradhan has also been convicted u/s 307 of the Indian Penal Code and sentencing them to undergo R.I. for life and appellant Pramod Pradhan has also been sentenced to undergo R.I. for ten years u/s 307 of the Indian Penal Code.

However the sentences were to run concurrently.

3. The prosecution case in short is that P.W-11-Jitendra Pradhan lodged a

fardebayan on 2.5.1999 at about 11.30 a.m. along with his cousin- P.W-10- Rama Kant Pradhan and other villagers that at about 10.15 A.M. he along with his cousin-Kartikeshwar Pradhan (deceased) were going towards the middle school of village on motorcycle. As soon as they reached near the house of the appellant-Pramod Pradhan, he and his brother Prakash Pradhan having swords in their hands tried to stop them. The informant tried to escape but could not. In the meantime, Pramod, Prakash and Pradhan came running and started assaulting the deceased by swords indiscriminately. When the informant tried to escape, Pramod assaulted on his head by sword causing injury. It has been further alleged that the deceased also tried to escape but Prakash and his wife Ketaki Pradhan (appellant) restrained him. The matter was reported to the elder brother of the deceased Surat Pradhan (P.W-10), who ran to save the deceased but Praduman chased him with sword, on which P.W-10 ran from there. Kartikeshwar was dead. It has been further alleged in the FIR that about six months back, somebody fired at appellant-Praduman, due to which the appellants were having grudge on the suspicion that deceased had caused such firing.

4. Learned counsel for the appellants assailed the impugned judgement on various grounds.

5. They submitted that there are major contradictions in the prosecution case and the prosecution has not been able to prove its case beyond all reasonable doubts. They also submitted that appellants Ketaki Pradhan and Antanjami Pradhan have also been falsely implicated in this case. They also submitted that the statements u/s 313 Cr. P.C. is stereotype, and the recovery of swords was not indicated therein.

6. On the other hand, learned counsel for the State supported the impugned judgement.

7. The prosecution has examined 13 witnesses apart from exhibiting the documents. P.W-1-Sujan Kumar Pradhan (relative of the deceased), P.W-3-Parbati Devi (mother of the deceased), P.W-10-Rama Kant Pradhan (brother of the deceased) and P.W-11-Jitendra Pradhan (cousin of the deceased) are the eye witnesses to the occurrence and they have fully supported the prosecution case.

P.W-2-Tapas Kumar Pradhan (maternal uncle of the deceased) is an inquest witness. He has also seen Praduman, Prakash and Pramod fleeing away with blood stained cloths and swords. P.Ws-4 and 5-Mangla Pradhan and Moti Lal Pradhan are the seizure witnesses of blood stained soil. P.W-6-Goutam Pradhan is a witness who saw Pramod and Prakash fleeing away with swords. P.W-7-Dr. Bijay Kumar Singh is the doctor who held postmortem on the deceased. He found six incised wounds on the body of the deceased and neck was found chopped off. In his opinion, the injuries were caused by sharp cutting weapon such as sword, which were the cause of death. P.W-8-Bhola Nath Pradhan is a hearsay witness. P.W-9-Surat Pradhan is the brother of the deceased. He saw Prakash and Pramod

hiding the swords and he is a witness to the seizure of three swords. P.W-12-Dr. Md. Khalique is a doctor who found sharp cut injury on the informant. P.W-13 is the Investigating Officer.

8. Eye witnesses have fully supported the prosecution case, which find corroboration from the medical evidence of both doctors.

9. Learned counsel for the appellants submitted that due to enmity, the appellants have been falsely implicated.

10. Enmity cuts both ways. According to the prosecution, the appellants had suspicion that deceased had fired on Praduman about six months back. There is nothing to disbelieve the ocular and medical evidence that Pramod, Prakash and Pradhan stopped the informant and the deceased; caused indiscriminate sword injuries on the deceased and when Informant tried to run away, he was also assaulted by sword, due to which he sustained injury. Even if no question was put u/s 313 Cr. P.C. with regard to recovery of swords, in the totality of the circumstances the rest part of the statements with regard to commission of crime, cannot be brushed aside.

11. However, so far as appellant-Ketaki Pradhan is concerned, the only allegation against her is that when the deceased wanted to save his life by fleeing away, she also tried to stop him. This aspect of the prosecution case has not been supported by the witnesses. P.W-10-Rama Kant Pradhan reached the place of occurrence when assault was going on, whereas P.W-3-Parbati Devi said that Ketaki was simply standing.

The prosecution has not been able to prove its case beyond all reasonable doubts so far as appellant-Ketaki Pradhan is concerned.

The prosecution has also not been able to prove its case beyond all reasonable doubts against appellant-Antarjami Pradhan u/s 302 and 120B of the Indian Penal Code. The prosecution has tried to develop a story that he was one of the members involved in conspiracy to kill the deceased. The materials brought on record against him are vague and general.

12. In our opinion, these two appellants deserve benefit of doubt.

13. in the result, Criminal Appeal No. 366 of 2001 is dismissed and conviction and sentence of accused Praduman Kumar Pradhan, Pramod Pradhan and Prakash Pradhan is confirmed.

14. However, Cr. Appeal No. 317 of 2001 filed by Antarjami Pradhan and Cr. Appeal No. 287 of 2001 filed by Kartik Pradhan are allowed and their conviction and sentence is set aside. As they are on bail, they are discharged from their bail bonds.

These three appeals are disposed of accordingly.