
(2005) 12 BOM CK 0094
In the Bombay High Court
Case No : Criminal Appeal No. 204 of 2001

Prakash Premanand Lad

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 14-12-2005

Acts Referred:

Penal Code, 1860 (IPC) — Section 302

Citation : (2005) 12 BOM CK 0094

Hon'ble Judges : V.M. Kanade, J;D.G. Deshpande, J

Bench : Division Bench

Advocate : Manoj Bhatt, for the Appellant; A.M. Shringarpure, APP, for the Respondent

Final Decision : Dismissed

Judgement

V.M. Kanade, J.—The appellant is challenging the Judgment and order of the Sessions Judge, Ratnagiri, in Sessions Case No. 23/2000. By the said Judgment and Order dated 30th December, 2000, the Sessions Judge convicted the accused for the offence punishable u/s 302 of the Indian Penal Code and sentenced him to suffer R.I. for life.

2. The prosecution case in brief is that One Nilesh Narayan Bayeeng was returning home on 9th July, 1999 at about 1.00 p.m. after visiting his friend's house in the Polytechnic Government Colony. At that time, he saw one person holding blood stained knife in his hand in front of Annapurna Nivas. He, therefore, inquired with the person what had happened and he was informed by that person that he had murdered his wife. He also informed him his name as Prakash Lad and he was residing in a room as a tenant in the said building. The said person Nilesh went inside the room and saw dead body of one lady. He also saw that a one end of her saree was wrapped tightly around her neck and there was also a injury on her stomach. Prakash Lad informed that he had killed his wife because her character was not good. At about the same time, Mrs. Vandana Chavan, neighbour also came there. She stated that she had heard shouts and

therefore, she came there and saw that Prakash Lad was throttling his wife. A complaint was lodged by Nilesh in the City Police Station, Ratnagiri and FIR was registered at 1.30 p.m. The Investigating Officer made inquest panchanama, recovered the knife, broken bangle pieces, one ear-ring from the spot. He arrested the accused and the dead body of his wife was sent for post mortem. The statements of witnesses were taken. The Muddemal property was sent to the Chemical Analyser. Chargesheet was filed against the accused. The accused pleaded not guilty to the said charge. The trial Court convicted the accused on the basis of the evidence adduced by the prosecution.

3. We have heard the learned Counsel appearing on behalf of the appellant and the learned APP appearing on behalf of the state at length. We have perused the Judgment and Order of the trial Court as also the evidence adduced by the prosecution. Learned Counsel appearing on behalf of the appellant submitted that the conduct of Nilesh-complainant and the entry of Vandana Chavan was unnatural. He submitted that a person who had seen the accused with a blood stained knife would not venture to come into the house. He also submitted that from the evidence of Mrs. Chavan it can be seen has stated that she has seen the accused throttling his wife, her subsequent conduct is unnatural because after going home she did not inform her husband which would have been the most natural conduct, however, after some time, she claims to have come back to see what had happened. He, therefore, submitted that both these eye witnesses were got up witnesses and no reliance can be placed on them. He invited our attention to the post mortem note and the evidence of the doctor. He submitted that the fracture of the mastoid bone and the hyoid bone could be caused by hanging and not by strangulation. He submitted that from medical evidence it was clear that the wife had committed suicide and thereafter the husband had given a knife injury which was clear from the medical evidence. He, therefore, submitted that the Judgment of the trial Court was liable to be set aside.

4. In our view, the submission of the learned Advocate for the appellant cannot be accepted. Both the complainant and the neighbour narrated the circumstances in which they found the accused holding blood stained knife in his hand. The accused had also made extra judicial confession to the complainant-Nilesh that he had killed his wife. PW 1 has stated that he went inside the house and noticed that the wife of the accused was lying dead and one end of her saree was wrapped around her neck and her tongue had come out of her mouth. He also noticed one injury on her stomach. He has also stated that Vandana Chavan stepped into the house of the accused and that she had told him that she had seen the accused killing his wife. Since all the women staying in the neighbour were afraid, he lodged the complaint with the police station. The offence has taken place in the afternoon between 12.30 a.m. to 1.00 p.m. PW 2 - Vandana Chavan has stated that the accused had not gone to work for 2-3 days and was drinking continuously and there was frequent quarrels between the husband and wife. She had seen the accused throttling his wife and she had went near the

room when she heard the loud noise of Jyoti. She has stated that she had also seen the accused putting knife on the stomach of the wife. This evidence is corroborated by the medical evidence. The Doctor who performed the post mortem has stated that the deceased died as a result of asphyxia due to strangulation and there was incised wound on her stomach.

He has stated that the injuries which are caused to the deceased indicate that the accused had given a knife blow and thereafter strangled her. This is further corroborated by the Chemical Analyser's report. The blood group of the deceased was "AB" and blood which was found on the knife, underwear of the accused, saree and blouse was "AB". Thus, in our view, the submission on record would indicate that the accused had murdered his wife. There is no reason to interfere with the findings recorded by the trial Court. The Judgement and Order passed by the trial Court is confirmed.

5. The appeal is dismissed.