
(2017) 10 MP CK 0021
In the Madhya Pradesh High Court
Case No : 1844 of 2008

Prem Bhuwan Singh

APPELLANT

Vs

The State of M.P.

RESPONDENT

Date of Decision : 13-10-2017

Acts Referred:

[Indian Penal Code, 1860](#), [Section 302](#),
[Section 304](#), [Section 148](#), [Section 149](#) - Punishment for murder - Punishment for culpable homicide not amounting to

Citation : (2017) 10 MP CK 0021

Hon'ble Judges : S.K.Palo, Nandita Dubey

Bench : Division Bench

Advocate : Saroj Deharia, Hitendra Golhani, Surendra Tiwari

Final Decision : Dismissed

Judgement

1. This appeal has been filed by the appellants being aggrieved by the judgment dated 09.07.2008,

passed by learned Ist Addl. Sessions Judge, Sidhi in Sessions Trial No. 103/2006, whereby the appellants have been found guilty for the offence punishable under Section 148, 302 / 149 of IPC, and have been sentenced to undergo two years" R.I. with fine of Rs.500/- each, and life imprisonment with fine of Rs.500/-each respectively, with default stipulations.

2. The prosecution case, in brief, is that on 27.03.2006 Tarawati (PW.2) who had gone to fill water

at the handpump at around 7 AM in the morning saw her father-in-law deceased Ramsujan going for work, when he reached near the handpump, accused persons, namely, Kamta, Nichua, Rambahor, Chhaviraj and Kailash surrounded and attacked the deceased with Tangi and Lathis. On hearing her shouts, Tersi (PW.1) wife of the deceased, came running and attempted to save the deceased, but the accused persons came after her, so she ran away. The accused persons, then dragged the deceased to the house of Budhsen and assaulted and killed him. According to the prosecution, the incident took place on account of previous enmity between the deceased and the accused persons on account of the fact that accused Nichua had run away with the daughter of deceased Ramsujan who had thereafter filed a report against the accused Nichua. The report (Ex.P/1), in respect of the incident, was lodged by Tersi (PW.1) at PS-Rampur Naikin, on the basis of which criminal law was set in motion. Gopal Singh (PW.12) Head Constable and Vikramaditya (PW.11) Constable recovered the injured Ramsujan from the house of Budhsen in presence of Srinivas (PW.3), Ramakant (PW.7) and others, and sent him to Rampur Naikin Hospital for treatment. However, enroute the hospital Ramsujan succumbed to the injuries. Spot map (Ex.P/3) was made and body of the deceased was then sent for autopsy. Dr.Sandeep Bhagat (PW.4) who conducted the postmortem found 17 injuries all over the body of the deceased. In the opinion of the doctor, death was

caused due to extensive haemorrhage and shock caused by multiple fracture of the bones. According to the doctor, all the injuries were antemortam and homicidal in nature and caused within 12 hours of the postmortem. The appellants/accused persons were arrested except accused Nichua who absconded and the offending weapons were seized on their directions. As per the FSL report (Ex.P/32) human blood was found on Tangi and Lathis.

3. The Trial Court recorded a finding of guilt against the accused persons and convicted them as aforementioned, relying on the statements of Tersi (PW.1) and Tarawati (PW.2), the medical evidence and FSL report on record.

4. Learned counsel appearing for the appellants submitted that the present case falls under Section 304 Part II of IPC. Inviting our attention to the medical evidence and also the weapon used, it is argued that no deadly weapon has been used by the appellants. Appellant Nichua though said to have carried Ballam ,but no injury by Ballam was found on the body of the deceased . They have further submitted that as there is no injury on the vital part of the body of the deceased, the conviction under Section 302 / 149 of IPC in the facts and circumstances of the case, cannot be sustained. In support of their submissions, the learned counsel have relied upon the decisions of the Supreme Court rendered in the cases of Raja Ram and others vs. State of M.P .(1994) 2 SCC 568, State of Punjab vs. Balkar Singh and

others 1998 SCC (Cri.) 399 and Badal Murmu and others vs. State of West Bengal (2014) 3 SCC 366.

5. Per contra, learned Panel Lawyer appearing for the State had supported the judgment passed by the trial Court. He has submitted that statements of Tersi (PW.1) and Tarawati (PW.2) are consistent and stand corroborated with the medical evidence which shows that excessive haemorrhage has been caused due to multiple fracture of the body parts, and have been rightly relied upon by the trial Court.

6. We have heard the learned counsel for the parties at length and meticulously perused the record.

7. It is an admitted fact that the accused persons are all related and there exist previous enmity on account of the fact that accused Nichua had earlier run away with the daughter of deceased Ramsujan.

8. It is also evident from the record that body of deceased Ramsujan was recovered from the house of Budhsen. Srinivas (PW.3) and Rajneesh Singh (PW.5) have proved and established that body of deceased Ramsujan was recovered from the house of Budhsen where he was lying unconscious in a pool of blood. There were injuries all over his body, chest, leg and hands. He was taken to the hospital, when enroute, he succumbed to the injuries. It is evident from the medical report that there were multiple fractures on all over the body starting from parietal region up to the fibula and the death occurred due to shock caused by excessive haemorrhage due to multiple fractures.

9. Tersi (PW.1) and Tarawati (PW.2) are absolutely

consistent on material particulars and have clearly stated the fact that Budhsen and Kamta caught hold the hands of Ramsujan and accused Rambahor, Nichua, Kailash and Chhaviraj who were armed with Tangi (axe), Barchhi and Lathis respectively, initially assaulted Ramsujan at the handpump and then dragged him to the house of Budhsen and assaulted him in his courtyard. Both the witnesses have stated that the incident was witnessed by Ramraj Vishwakarma and Ramakant Tiwari who came to the spot after hearing their screams. Srinivas (PW.3) has stated that hearing the shouts and commotion, he came to the spot and saw Chhaviraj, Kailash and Rambahor assaulting Ramsujan in the courtyard of Budhsen. He has further stated that Ramsujan was lying in Budhsen's courtyard and there was lot of blood and number of injuries on his body. Despite their extensive cross-examination, these witnesses have remained consistent and unshakeable in their testimony.

10. From the testimony of Dr.Sandeep Bhagat (PW.4), it is clear that deceased Ramsujan sustained seventeen injuries all over his body. There were multiple fractures in both the legs and hands, four injuries on the back side, and two bone deep lacerated wound on frontal and occipital region of the head. It is also clear from the statements of Tersi (PW.1), Tarawati (PW.2) and Srinivas (PW.3) that Ramsujan succumbed to the injuries inflicted upon his person. From the statement of R.C.Mishra (PW.13)

Investigating Officer, it is proved and established that the offending weapon i.e. Tangi (axe), and Lathis were recovered vide Ex.P/5, P/7, P/9, P/27 and P/28 from the possession of the appellants on their direction. As per the FSL report (Ex.P/32), human blood was found on the axe recovered from Rambahor and Lathis recovered from Kailash and Chhaviraj.

11. In the facts and circumstances which have been properly appreciated and considered by the trial Court, it is apparent that commission of offence by the appellants is clearly established beyond reasonable doubt, and the trial Court has rightly analyzed and considered the statements of eye-witnesses and other facts on record in finding the guilt against the appellants.

12. In the aforesaid facts and circumstances of the case, the reliance placed by the appellants on the decision of Supreme Court in cases of Raja Ram and others vs. State of M.P. (supra), State of Punjab vs. Balkar Singh and others (supra) and Badal Murmu and others vs. State of West Bengal (supra) has no applicability as the facts of the case before the Supreme Court were totally different from the facts that are existing in the present case.

13. In the circumstances, the conviction of the appellants under Section 302 / 149, 148 IPC on account of having committed murder of Ramsujan is affirmed and upheld, and the sentence imposed upon the appellants by the trial Court is also confirmed.

14. In view of aforesaid, the appeal filed by the

appellants being meritless is, accordingly, dismissed.

It is informed by learned counsel for the appellants that appellants no. 4 and 5, namely, Kamta Loniya and Budhsen Loniya are on bail. Their bail bonds shall stand cancelled and they are directed to surrender forthwith to undergo the remaining part of jail sentence. The appellants who are in jail shall remain incarcerated to undergo remaining part of sentence imposed upon them.