
(1969) 09 SC CK 0088

In the Supreme Court Of India

Case No : Criminal Appeal No. 92 Of 1968

Pritam Singh

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 19-09-1969

Acts Referred:

Citation : (1969) 3 SCC 884 : (1969) WLN 46

Hon'ble Judges : Vishishtha Bhargava, J; K. S. Hegde, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

K.S. HEGDE, J.-This appeal by special leave is directed against the judgment of the High Court of Rajasthan in criminal appeal No. 202 of 1965 on its file, wherein the High Court allowed the appeal filed by the State and set aside the order of acquittal made by the trial court and convicted the appellant under Section 302 IPC and sentenced him to suffer, imprisonment for life.

2. The prosecution case is that the appellant cut and killed his wife Dalip Kaur on the night of 22nd/23rd of December, 1963. It is brought out in the evidence that on the night in question the appellant and his wife were sleeping inside their room. The father of the deceased, who was sleeping outside, heard shrieks in the middle of the night and thereafter he saw the appellant rushing out of the room. He questioned him as to what had happened. Then he told him that he had killed his wife and that if he came in the way he would also meet the same fate. So saying, he left the place and went away. Inder Singh, the father of the deceased, informed the brothers of the appellant as well as the Sarpanch of the village as to what had happened. Several villagers gathered at the scene of the occurrence. The appellant returned to his house in the early morning of the 23rd. Meanwhile information had been sent to the morning of the 23rd along with Dr Kamal Nayan. At that time, the doctor found on the dead body of the deceased as many as eight injuries. The appellant had also two injuries on his person. After investigation, the appellant was charged with the murder of his wife.

3. During the trial of the case, the appellant took the plea of self-defence. According to him, while he was sleeping on his cot on the night in question, at about midnight, the deceased gave a blow to him with a Nihani. Then he got up. His wife again gave a blow with the Nihani, on his neck. At that stage he gave a push to her. She fell down on the cot. She again stood up. Then he picked up an axe which was lying there and pushed her again as a result of which she fell down on the cot. While she was lying on the cot, he gave her two or three blows with the axe as a result of which she died. Thereafter he placed her dead body on the cot and covered the same with a quilt. After that he left the axe there and started for the police station. When he covered about 3/4 Murabbas, he fell down. He regained consciousness in the morning and then returned to his house.

4. From the prosecution evidence as well as the statement of the appellant made under Section 342, CrPC, it is clear that the appellant was responsible for causing the injuries found on the person of the deceased which resulted in her death. Thereafter, the only question that arises for decision is whether the appellant has satisfactorily established his plea of self-defence, the burden of establishing that being on him.

5. The following circumstances are extremely important in determining the plea taken by the appellant: It must be noticed that the body of the deceased was found in a sleeping position on a cot and the same was covered with a quilt. The explanation of the appellant as seen earlier is that after causing injuries to her he put her on the cot and covered her body with a quilt. It has to be seen whether such a conduct is consistent with the plea taken by him. If the appellant had caused injuries to the deceased in the exercise of his right of self-defence, it is most unlikely that he would have thereafter put the body of the deceased on the cot and covered the same with a quilt. The condition in which the dead body was found is consistent with the prosecution case rather than with the plea taken by the appellant.

6. According to the appellant, he had given the deceased just two or three blows with an axe. The medical evidence shows that on the person of the deceased there were as many as eight injuries. Those injuries are described in the post-mortem certificate thus:

"1. Incised wound 4? ? 1? ? 2? on the right side of neck.

2. Lobule of right ear is cut to the depth of 1? at its middle.

3. Incised wound 2 1/2? ? .8? ? 1 1/2? on right temple.

4. Incised wound 1.2? ? .4? ? 1/2? only 1? lateral to the right chin.

5. Incised wound 1.2? ? .2? ? 3/4? on the right side of neck at its middle.

6. Incised wound 1.1? ? .1? ? .1? on ulnar side of the upper part of right index finger.

7. Incised wound 1.5? ? .3? X .5? on the dorsum of right hand, continuous with a

lenier out 2? towards the thumb.

8. One haematoma 2? circular on occipital region of scalp.

According to Dr Kamal Nayan, who conducted the autopsy, the injuries found on the deceased are sufficient to cause death in the ordinary course of nature. In fact, she was hacked to death. The injuries found on the deceased are not compatible with the plea taken by the appellant. As mentioned earlier, he says that he had given her two or three blows with an axe. On an examination of the injuries it is quite clear that at least six or seven blows must have been given to the deceased by the appellant.

7. We next come to the condition of the scene of occurrence as observed by the investigating officer as well as the Sarpanch in whose presence the relevant Vadasht was prepared, an axe stained with blood was found in the room. We have earlier seen that according to the appellant, he had cut the deceased with an axe. Thereafter, there is no difficulty in holding that the axe in question had been used by the appellant in causing the injuries in question. Next, we turn to the Nihani and the Randa. The investigating officer as well as the Sarpanch deposed that a bloodstained Nihani and Randa were found placed over a wooden box, and that box was near the bed of the appellant. If the deceased had used the Nihani as asserted by the appellant, then the Nihani should have been near the bed of the deceased. That apart, if, as mentioned by the appellant, the deceased had taken the Nihani from the tool box for causing injuries to the appellant then at that time there was no possibility of the box being stained with blood. The blood stains found on the tool box could have been caused only at the time when the Nihani was placed over that box. The deceased could not have placed the Nihani over the tool box after she sustained the injuries. Therefore, it is reasonably clear that the bloodstained Nihani should have been placed over the tool box only by the appellant. That circumstance militates against the version put forward by the appellant. It is further seen that blood had spurted all around the cot over which the deceased lay. That circumstance strongly indicates that she must have been attacked when she was sleeping. Practically all the injuries found on her body were on the right side which means that she must have been attacked when she was sleeping on one side viz. the left side.

8. Yet another important circumstance which militates against the story put forward by the appellant is that immediately after the occurrence, admittedly, he left the house and went away. He come back to his house several hours thereafter. There is no satisfactory explanation for this conduct of his. His plea that he wanted to go to the police station and report about the matter cannot be accepted, because he did not go to the police station nor did he disclose his version to the villagers who had gathered at the scene.

9. The main contention taken on behalf of the appellant is that the prosecution has not been able to prove that he had any motive to kill his wife. It is not always very easy to prove motive. Oftentimes, the motive is locked up in the

heart of the offender. It is seen from the evidence on record that the appellant was married to the deceased about three months prior to the occurrence. They had lived together only for about three days immediately after their marriage. Thereafter the appellant had taken her back to her parents and left her with them. She had been brought back just three days before the occurrence. The surrounding circumstances do indicate that all was not well between the husband and the wife. Nothing more can be said on the basis of the evidence on record. An attempt was made on behalf of the prosecution to show that the appellant was suspecting the conduct of his wife. For this suggestion, there is no real basis. In our opinion, in a case like this, the proof of motive does not play an important part. At this stage it is necessary to mention that the trial court has taken a strange view of the evidence relating to motive. The mother of the deceased had deposed that her daughter had on one occasion told her that it would have been better if she had not been married to the appellant. From this evidence, the trial court drew the inference that the deceased was a woman of loose character and that she did not want to live with the appellant and, therefore, it is likely that she had tried to murder her husband. This is a wholly unwarranted inference. The learned trial Judge had made many uncalled for assumptions while assessing the evidence on record. This is one such assumption.

10. It is true that on the person of the accused two injuries were found on the morning of the 23rd. Those injuries were:

"1. Incised wound 2.2? ? 5? on the left side of neck, right end being 1? upwards than the left end.

2. Incised wound 9? ? 1? on the right side of the neck, horizontal."

According to the appellant, these injuries were caused to him by the deceased. It is most unlikely that those could have been so caused. On the other hand, we agree with the High Court that these injuries were most likely to have been self-inflicted. The trial court has relied heavily on these injuries in coming to the conclusion that the appellant has made good his plea of self-defence. Dr Kamal Nayan, when questioned about those Injuries, deposed that those injuries could not have been self-inflicted. We fail to see why those injuries could not have been self-inflicted. We agree with Dr Bhati that those injuries could have been either self-inflicted or caused by others. It is true that the injury No. 1 is a serious injury, and it is not likely that the appellant would have self-inflicted that injury merely to support his plea of self-defence. But that does not rule out the possibility of an attempt on the part of the appellant to commit suicide after killing his wife. That was exactly the suggestion made on behalf of the prosecution. Even if we leave aside the oral evidence, the proved circumstances, in our opinion, are wholly incompatible with the plea taken by the accused.

11. The High Court has carefully analysed the evidence on record and has come to the conclusion that the prosecution case is fully made out and that the appellant has failed to establish his plea of self-defence. The trial court approach

to the evidence is wholly wrong. It has neither analysed the evidence on record nor correctly formulated the questions arising for decision. By giving undue attention to irrelevant details, it lost sight of the overall picture. It failed to note that the only question that fell for decision in this case is whether the appellant has satisfactorily established his plea of self-defence. Considerable inadmissible evidence has been allowed to be adduced. Many of the theories evolved by the learned Trial Judge are based on inadmissible evidence. The trial Judge was under an erroneous impression that statement made by an accused person to the investigating officer at the time of the investigation of the case was admissible in evidence. He obviously overlooked the fact that it was hit by Section 162 CrPC. He took hold of the statement of the deceased made to her mother, referred to earlier, not knowing that it is inadmissible in evidence. It is not one of those statements saved by Section 32 of the Evidence Act. On the whole, we are of the opinion that the learned Trial Judge perfunctorily examined the evidence on record and came to erroneous conclusions. We are in agreement with the High Court that the evidence of the father of the deceased as well as of the Sarpanch is acceptable. The reasons given by the learned Trial Judge for rejecting their testimony are wholly unsatisfactory. That evidence shows that the appellant had told them that he had killed his wife, and at that time he made no suggestion of any self-defence.

12. For the reasons mentioned above, this appeal fails and is dismissed.