
(2000) 04 P&H CK 0041

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 299-DB of 1995 (Against order of Amar Dutt, Sessions Judge, Amritsar, D/- 15-6-1994.)

Raju Alias Kadoo

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 25-04-2000

Acts Referred:

Penal Code, 1860 (IPC) — Section 300, 375

Citation : (2000) CriLJ 3143

Hon'ble Judges : Mehtab S. Gill, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : D.S. Pheruman, for the Appellant; Randhir Singh, DAG, for the Respondent

Judgement

Mehtab S. Gill, J.—This is an appeal against the judgment/order of the Sessions Judge, Amritsar dated June 15, 1994 convicting accused-Raju alias Kadoo and sentencing him to undergo rigorous imprisonment for life and to pay a fine of Rs. 2000/- or in default of payment of fine to further undergo rigorous imprisonment for six months under S. 302/34 of the Indian Penal Code.

2. The story of the prosecution is unfolded by Vishwa Mitter son of Prabh Dial, Brahman, resident of Gali Brahman Sabha, Ramdas. His statement as given to Gurbax Singh, Assistant Sub-Inspector (P.W. 10) is that he used to live in Gali Brahman Sabha in the town of Ramdas. He has one son and two daughters. His younger daughter Shalu was aged about 4 1/2 years. In the year 1992, when the occurrence took place, she was studying in Nursery Class in Convent School at Ramdas. On May 21, 1992 at about 5.30 p.m. she had gone out of the house for playing. The complainant along with his wife Raman was present in the house. His daughter Shalu did not return after sunset. The complainant and his wife searched for her in the locality and the bazar, but could not find her. He suspected that his daughter might have drowned in the tank of the Gurdwara, but after searching the tank, nothing came out. At about 10.00 p.m. he along

with his wife came back to their house. On the morning of May 22, 1992, during the course of search, he and his wife reached the shop of Rajinder Kumar Nayyar, who told them that on the evening of May 21, 1992, he had seen their daughter with Dilbagh Singh alias Bagga son of Thakar Dass Mahasha and Kadoo alias Raju son of Puran Chand Mahasha, both residents of Ramdas. Both the above persons were taking Shalu with them by holding her hand. The complainant along with his wife went to the houses of Dilbagh Singh alias Bagga and Kadoo alias Raju, but they were not found present there. The complainant and his wife then started searching for their daughter and when they reached near the shop of Amar Nath, Halwai, Parmeshwar Saroop (P.W. 9) son of Salig Ram, Brahman, met them. He also stated that on the evening of May 21, 1992 at about 6.00 p.m. he had seen Dilbagh Singh alias Bagga and Kadoo alias Raju along with Shalu entering the High School, Baba Budha Sahib. The complainant and his wife along with one Vir Versal son of Salig Ram, Brahman, went to the Government High School Baba Budha Sahib and after searching the school premises, they saw the dead body of their daughter Shalu in the ladies bathroom. She had injuries on her head and a lot of blood had oozed out. The complainant then went to Police Station, Ramdas and gave his statement to Assistant Sub-Inspector Gurbux Singh expressing his suspicion that accused-Dilbagh Singh alias Bagga and Kadoo alias Raju, had taken his daughter Shalu with the intention of committing rape, and on getting afraid that their misdeeds might not become public, they committed the murder of his daughter.

3. The doctor did not come into the witness-box as the accused did not deny the post-mortem report which is Exhibit PX/1. The injuries on the person of deceased-Shalu are reproduced as under :-

1. Lacerated wound 2 x 1 cm. present on the back of right side of head, 9 cms. above posterior hair line. Clotted blood was present.
2. Lacerated wound 1.5 x 1 cm. present on the left side of forehead, 5 cms. above middle of eyebrow. Clotted blood was present.
3. Reddish brown abrasion 3 x 0.5 cm. was present on the front of pinna of left ear.
4. Reddish brown abrasion 2 x 1 cm. was present on the front of pinna of right ear.
5. Reddish brown abrasion 2 in number was present on the right cheek, 2 x 1 cm. and 1.5 x 1 cm. in size.
6. Reddish brown abrasions 2 in number were present on the left cheek, 2 cms. x 0.5 cm. and 1 x 0.75 cm. in size.
7. Reddish brown abrasion 1 x 0.5 cm. was present on the bridge of nose.
8. Multiple abrasions 9 in number were present on the front and back of right upper limb. Size varied from 3 x 1 cm. to 1.5 x 1 cm.

9. Multiple abrasions 12 in number were present on the front and back of left upper limb. Size varied from 2.5 x 1.5 cms. to 1.5 x 1 cm.

10. Reddish bruise two in number were present on the outer aspect of left upper arm in its middle. Size varied from 3 x 2 cms. to 2.5 x 2 cms.

11. Reddish brown abrasions 7 in number were present on the back of trunk. Size varied from 2 x 1.5 cms. to 1.5 x 0.75 cm.

12. Lacerated wound 1 cm. x 0.75 cm. x 0.5 cm. was present on the posterior wall of vagina, extending to the posterior end of vaginal opening. Clotted blood and infiltration (ecchymosis) of blood were present. Hymen shows multiple tears o/D of skull. On opening the scalp, extracranial haematoma was present all over the cranium. Depressed fracture 9 x 7 cms. was present on the left parietal region.

4. We have heard Mr. D. S. Pheruman, Advocate for the appellant and Mr. Randhir Singh, Deputy Advocate General for the State of Punjab.

5. The occurrence in this case has taken place on the night intervening May 21/22, 1992 in the Government High School Baba Budha Sahib in the town of Ramdas, which is about two furlongs from Police Station, Ramdas. The First Information Report was recorded on May 22, 1992 at 7.35/8.15 a.m. and the special report reached the Ilaqa Magistrate, Ajnala on May 22, 1992 at 10.05 a.m. The distance between Police Station, Ramdas and the Court of Sub-Divisional Judicial Magistrate, Ajnala is 20 kms. We have no hesitation in coming to the conclusion that there has been no delay in the lodging of the First Information Report.

6. Vishwa Mitter, the father of the illfated little girl, has given a very clear and categorical statement, when he came into the witness-box as P.W. 4. His statement inspires confidence and there is also a ring of truth in it. He could not have any ulterior motive to falsely implicate the two accused. Only Raju alias Kadoo son of Puran Chand is before us as the other accused-Dilbagh Singh alias Bagga was a juvenile at the time of commission of the offence and was tried by the Juvenile Justice Court.

7. P.W. 5 Rajinder Kumar and P.W. 9 Parmeshwar Saroop are two independent witnesses who have their shops in the locality. They knew the accused as they belonged to the same town, i.e., Ramdas. P.W. 5 Rajinder Kumar has further stated that accused-Dilbagh Singh worked in the shop of Vishwa Mitter complainant for some time. The shops of P.W. 5 Rajinder Kumar and the complainant are close to each other. P.W. 9 Parmeshwar Saroop has also corroborated the statement of P.W. 5 Rajinder Kumar qua the last seen evidence. Both the witnesses have stated that they saw the two accused taking deceased-Shalu with them. P.W. 9 Parmeshwar Saroop has further stated that he saw the accused taking deceased-Shalu to the Government High School Baba Budha Sahib, i.e., from where the body of the deceased was found.

8. The injuries on the person of deceased-Shalu are 12 in number, as mentioned in the postmortem report, Exhibit PX/ 1 and injury No. 12 which has been reproduced above is a lacerated wound on the posterior wall of the vagina which is extending to the posterior end of the vaginal opening, thus, showing that the story of rape which was put forward at the very outset by Vishwa Mitter complainant was absolutely correct. Further, on seeing the injuries on the person of the little girl, which are 12 in number, it is evident that the accused have inflicted injuries to the deceased in a merciless and brutal manner. The police took into possession brick, Exhibit P.W. 5/B, which was stained with blood, in the presence of independent witness, namely, Rajinder Kumar (P.W. 5), who has stated so.

9. The accused have made their extrajudicial confession before Sardari Lal (P.W. 6). Sardari Lal has stated that Raju and Dilbagh Singh alias Bagga came to his shop on May 22, 1992 when he was present. Raju accused told him that he and his friend Dilbagh Singh alias Bagga had committed a big mistake and he expressed his desire to make confession of his guilt before him as he had connections with the police. Raju accused further told him that on May 21, 1992 he and his coaccused-Dilbagh Singh alias Bagga had taken away Shalu to Baba Budha High School on the pretext of giving her toffees and after taking her to the ladies toilet had committed rape on her. As deceased-Shalu was raising a hue and cry so apprehending that their misdeeds might not become public, they killed Shalu with a brick. On making enquiries from Dilbagh Singh alias Bagga, co-accused, the latter also repeated the same story as has been narrated by Raju alias Kadoo accused and also requested Sardari Lal (P.W. 6) to produce him before the police. He has further stated that when he was taking the accused towards the police station, he found Assistant Sub-Inspector Gurbux Singh on the way and produced the accused before him. P.W. 6 Sardari Lal is an ex-Municipal Commissioner of the Municipal Committee of Ramdas town. He is a respectable person of the area and had no enmity with the accused/appellant to give a false statement. It is believable that political persons, like him, do have connections with the police so that they could help the persons who come to them. He has also categorically stated that he knew the parents of accused-Dilbagh Singh and Raju. He has also stated that Raju was working as a labourer and Dilbagh Singh was working with Halwais. He has further stated that Dilbagh Singh had worked with complainant Vishwa Mitter in his shop and had seen him there for many months. It is clear that on the conscience of the accused pricking them, they made confession to Sardari Lal voluntarily and with a free mind. We, therefore, place full reliance on the statement of Sardari Lal, P.W. 6.

10. With the above observations and the conclusions arrived at by us, we find no force in the appeal of the accused/appellant. It is dismissed.

11. Appeal dismissed.