
(2010) 03 RAJ CK 0111
In the Rajasthan High Court

Raju Ram

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 29-03-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 307, 324, 498A

Citation : (2010) 03 RAJ CK 0111

Hon'ble Judges : Govind Mathur, J;C.M. Totla, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Govind Mathur, J.—By judgment dated 28.6.2003 learned Additional Sessions Judge (Fast Track), Jodhpur convicted the accused appellant for commission of offences punishable under Sections 498A, 302 and 307 Indian Penal Code. For the offences aforesaid the accused was sentenced as under:

2. Section 498A IPC: Three years rigorous imprisonment with a fine of Rs. 200/- and further to undergo seven days rigorous imprisonment in event of default in payment of fine;

3. Section 307 IPC: Ten years rigorous imprisonment with a fine of Rs. 500/- and further to undergo one month's rigorous imprisonment in event of default in payment of fine; and

4. Section 302 IPC: Life imprisonment with a fine of Rs. 2000/- and further to undergo three months rigorous imprisonment in event of default in payment of fine.

5. The case of the prosecution is that on 5.10.2002 statements of PW-3 Smt. Champa was recorded at Mahatma Gandhi Hospital, Jodhpur wherein she stated that at about ten years earlier she got married with Raju who was in habit of consuming liquor. She also stated that her husband Raju used to torture her and was always demanding money from her and her brother Harish. Raju was also in

habit of beating his children. As per statements given, because of day to day quarrels she was mentally perturbed and left for her brother's home on 4.10.2002. On 5.10.2002 at about 03:00 AM her husband Raju came there and threw acid on her as well as on their daughters Puja and Hadbu.

6. On basis of the statements aforesaid a case was registered for commission of offences punishable under Sections 498A and 324 IPC at Mahila Police Station, Jodhpur City. On 7.10.2002 daughter of Champa viz. Hadbu died, thus, investigation was also initiated for an offence punishable u/s 302 IPC.

7. After regular investigation charge sheet was filed, case was committed to the court of Sessions and charges were framed for the offences punishable under Sections 498A, 302 and 307 IPC. On denial of the charges the accused appellant was tried.

8. The prosecution supported its case with the aid of 21 witnesses (PW-1 to PW-21), 31 documents (Ex.P/1 to Ex.P/31) and articles (Ex.A/1 to Ex.A/5). An opportunity was given to the accused to explain the circumstances available against him in the evidence wherein he either plead ignorance or denied whatever stated by the witnesses in evidence.

9. Learned trial court, after considering the entire material available on record, recorded conviction and while challenging the same, it is contended by learned amicus curiae Shri Kailash Trivedi that on objective appreciation of evidence a reasonable doubt exists in giving finding of guilty against the appellant. It is urged that as a matter of fact PW-3 Champa and PW-6 Raju who are termed as eye witnesses have not at all witnessed the incident as narrated by them.

10. We have considered the arguments advanced and also scrutinised the entire record.

11. PW-14 Dr. M.P. Joshi conducted autopsy on the body of deceased Hadbu aged about 9-10 months and proved the postmortem report Ex.P/18. As per Ex.P/18 the cause of death of baby Hadbu was shock due to extensive corrosive burns.

12. PW-15 Dr. N.S. Kothari examined the injuries received by baby Puja aged 6-7 years and Smt. Champa and, thus, proved the injury reports Ex.P/19 and Ex.P/21 respectively. As per injury report Ex.P/19, baby Puja had following injuries:

(1) Corrosive acid burn (blackish with healing stage) over right face, forehead and part of left cheek.

(2) Corrosive acid burn (black) with healing and falling of scab right shoulder and arm 12.0 x 5.0 postero centrally.

(3) Corrosive burn (acid) with healing and falling scab 8.0 x 5.0 right elbow and forearm postero laterally.

13. Smt. Champa, as per Ex.P/21, had following seven injuries:

(1) Corrosive acid burn (blackish colour with healing stage) over face including forehead and left ear.

(2) Corrosive acid burns, neck cororps (antaor and postariorly) with blakish discoloration and healing.

(3) Corrosive acid burns both supradavials region and both shoulder.

(4) Corrosive acid burn over left upper part chest antenors near shoulder with streaking over both breast and abdomen.

(5) Corrosive burn upper 2/3 part right arm and streaking on left forearm and hand.

(6) Corrosive acid burn on the back of chest and right part of lumber region.

(7) Corrosive acid burn 12.0 x 9.0 over right thigh posterio laterally.

14. As per Forensic Science Laboratory report Ex.P/31, the bottle recovered from accused Raju was containing concentrated sulphuric acid. A finding was also given regarding stains of concentrated sulphuric acid in the plastic vessel recovered from the accused.

15. PW-18 Shambhu Singh being Station House Officer of the Police Station concerned investigated the matter and he narrated about various steps taken during the course of investigation. He also proved recovery memo Ex.P/6 wherein recovery of a bottle containing acid and a plastic vessel is shown at the instance of accused as per disclosure information given by him under Ex.P/23.

16. PW-3 Smt. Champa wife of the accused stated that since her marriage i.e. about 10-12 years earlier, her husband Raju was in habit to torture her and beat her. He was always demanding money from his brother Harish for consuming liquor. She also stated that Raju was not doing anything except gambelling and consuming liquor. She further stated that about 10-15 days earlier to the day of occurrence an amount of Rs. 50,000/- as loan was advanced to his brother Harish who is in employment of Municipal Corporation. On knowing about such advancement Raju, the accused, was insisting to borrow Rs. 5,000/- from Harish. On the day of occurrence at about 10:00 PM in night accused gave beating to her and, therefore, she proceeded to her brother's house. At about 03:00 AM she felt etching on her face because of falling of some hot material and she also found that her daughters were crying. On awakening, she found that her husband Raju was standing there and he threw acid on her daughters as well as on herself from a plastic round vessel. On crying PW-20 Indra (mother of Champa), PW-2 Sarla (maternal aunt of Champa) and PW-5 Harish (brother of Champa) who were sleeping in the house came out and they too saw Raju there. PW-3 Smt. Champa in specific terms stated that due to availability of road light she was absolutely capable to see and recognise her husband. This witness also stated that her husband was intending to kill her and her daughters.

17. PW-2 Smt. Sarla, who is maternal aunt of PW3 Champa, corroborated

whatever stated by Smt. Champa.

18. PW-6 Raju, a neighbor of PW-5 Harish, stated that at about 04:00 AM awake to drink water and at that time he heard crying of baby Hadbu and Puja and also saw Raju throwing acid on Champa and her daughters.

19. PW-5 Harish and PW-20 Smt. Indra also supported the prosecution case.

20. From the examination of entire prosecution evidence, the factual position emerges out is that accused Raju was a drunkard, unemployed and was in habit of torturing his wife and children. Definite evidence is available on record for making often demand of money from parental family of PW-3 Smt. Champa. ON 4.10.2002 accused Raju gave beating to his wife and children at about 10:00 PM, consequent thereto they proceeded to the house of PW-5 Harish and in early morning Raju came there and threw acid on PW3 Champa, baby Puja and deceased Hadbu, consequent thereto baby Hadbu aged 9-10 months died on 7.10.2002. The coming of Raju in night hours with concentrated sulphuric acid and throwing of that on Champa and minor girls in such a quantity that ultimately caused death of Hadbu, is sufficient to establish the intention of killing Hadbu. The evidence available on record is also adequate to prove commission of an offence punishable u/s 498A IPC.

21. On objective appreciation of evidence and scrutiny of record, we are convinced with learned Public Prosecution that the trial court did not commit any wrong in accepting the prosecution story.

22. Accordingly, the appeal is having no merit and, therefore, the same is dismissed.