

**(2015) 01 SC CK 0073**  
**In the Supreme Court Of India**  
**Case No : Criminal Appeal No. 108 of 2008**

|                    |    |            |
|--------------------|----|------------|
| Ratan Lal          | Vs | APPELLANT  |
| State of Rajasthan |    | RESPONDENT |

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**Date of Decision :** 28-01-2015

**Acts Referred:**

Constitution of India, 1950 — Section 142  
Penal Code, 1860 (IPC) — Section 302, 34, 394

**Citation :** (2015) 3 RCR(Criminal) 88 : (2015) 2 SCALE 107

**Hon'ble Judges :** Uday Umesh Lalit, J.; Madan B. Lokur, J.

**Bench :** Division Bench

**Final Decision :** Dismissed

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## Judgement

1. This appeal has been preferred by the Appellant - Ratan Lal who has been convicted by the Additional Sessions Judge (Fast Track), Bhilwara, Rajasthan for having murdered Nandu - wife of Juwara. The conviction by learned Sessions Judge has been affirmed by the Rajasthan High Court. The case of the prosecution was that on 18.06.1999, the Up-Sarpanch of Suwana village was informed that the dead body of a lady was lying in the field of Golaiyon. On receiving this information, the Up-Sarpanch (PW-1) took some persons with him and reached the field near Haled village and found the dead body of the female. Both the legs of the dead body were severed and blood was lying on the earth. The Up-Sarpanch (PW-1) then made a written report and on that basis, an F.I.R. was registered and subsequently a charge-sheet was filed against Ratan Lal and Smt. Prem Devi for an offence punishable Under Section 302 of the Indian Penal Code (for short "Indian Penal Code").

2. After recording the evidence, learned Trial Judge convicted both Ratan Lal and Smt. Prem Devi for having caused the murder of Nandu and they were accordingly convicted and sentenced for imprisonment for life punishable Under Section 302 read with Section 34 of the Indian Penal Code. They were also convicted and sentenced for an offence punishable Under Section 394 read with

Section 34 of the Indian Penal Code.

3. Both of them filed appeals before the Rajasthan High Court where they were represented by learned Amicus Curiae. It was pointed out by the Amicus that the case was one of circumstantial evidence and that the Trial Court had considered six circumstances for convicting Ratan Lal and Smt. Prem Devi. These six circumstances are as follows:

i) Deceased being taken away by accused Ratan Lal in the morning of 17.06.1999 and last seen in the forest of village Haled in the company of accused persons.

ii) Recovery of knife from accused Ratan Lal.

iii) Tallying of the group of blood found in the stains on the shirt and pant worn by accused at the time of incident with the blood found on the sari of the deceased, clothes of Mst. Prem Devi and the sample soil smeared with blood.

iv) Recovery of ornaments of deceased from accused Prem Devi.

v) Tallying of blood group found on Odhani and Lehanga of accused Prem Devi, which she was wearing at the time of incident, with the blood group of the deceased, Sari and the sample taken of blood smeared soil.

vi) Motive.

4. The High Court found that there was enough evidence to suggest that Nandu was last seen with Ratan Lal on the morning of 17.06.1999. Reference was made to the testimony of Laxmi (PW-6) who stated that at about 8.00 or 8.30 on the morning of 17.06.1999, one person had come to the house of Nandu and when Laxmi asked him who he was, Nandu replied it was her brother in law and that he had come to have some tea. Laxmi stated that she did not actually see the face of the person who had come to meet Nandu. The High Court also referred to the testimony of Devi Lal (PW-8 and father of Laxmi) and Ramkanya (PW-14 and mother of Laxmi). However, both these persons were not present when Ratan Lal is said to have visited Nandu.

5. The next important witness in this regard was Nand Lal (PW-3) who testified that he heard the conversation between Laxmi and Nandu. According to this witness, Ratan Lal stayed in the house of Nandu for about half an hour and later, when Nand Lal went to his shop (which was about 50-60 feet away from the house of Nandu), he saw Nandu sitting on the rear of the bicycle which Ratan Lal was riding. This was at 8.30 in the morning.

6. On 18.06.1999 Chittar (PW-9) informed Nand Lal that Nandu had run away from home. In response to this, Nand Lal informed Chittar that he had seen Nandu on a bicycle with some person on the previous day.

7. Later in the evening, the brothers of Juwara (PW-15 and husband of Nandu) inquired of Devi Lal (PW-8 and landlord of Juwara) of the whereabouts of Nandu.

They then went to Nand Lal and from there to the house of Ratan Lal and asked him whether he had taken Nandu on his bicycle. Ratan Lal answered in the negative whereupon Nand Lal affirmed that Ratan Lal had taken Nandu on his bicycle.

8. To further substantiate that Nandu was last seen in the company of Ratan Lal and Smt. Prem Devi, reference was made to the testimony of Rameshwar (PW-4) and Bhanwar (PW-5). These witnesses had seen Nandu with Ratan Lal and Smt. Prem Devi after midnight on 17/18.06.1999 near the forest in Haled village. On 18.06.1999, the dead body of Nandu was discovered.

9. After midnight on 17/18.06.1999 near the forest in Haled village, Rameshwar and Bhanwar had seen one man and two women near the field. These persons informed Rameshwar and Bhanwar that they had lost their way and wanted to go to Haled village. Thereupon, they were given a lift in the tractor belonging to Bhanwar and it is only when they get down from the tractor that they were able to see the face of the man and the two women in the light of the tractor. On this basis, Rameshwar and Bhanwar stated that the man was Ratan Lal and the other two ladies were the deceased - Nandu and Smt. Prem Devi.

10. We have been taken through the evidence on record with the assistance of learned Amicus Curiae and learned Counsel for the State. There are a lot of questions that are unanswered. In the first instance, it is not clear what the relationship was between Ratan Lal and Nandu and whether Ratan Lal had actually gone to the house of Nandu. Laxmi had seen some person entering the house of Nandu, but whether it was Ratan Lal or somebody else is not clear. It is true that Nand Lal had stated that he overheard the conversation between Laxmi and Nandu but it is not clear whether the "brother in law" was Ratan Lal or somebody else. However, Nand Lal did say that about half an hour later he saw Nandu on a bicycle with Ratan Lal. This was at about 8.30 on the morning of 17.06.1999.

11. On the basis of the evidence on record, we are not sure about the presence of Ratan Lal in the house of Nandu on the morning of 17.06.1999 except to the extent that he and Nandu were together on a bicycle as stated by Nand Lal. Their whereabouts for the rest of the day are not known and no investigation in this regard was carried out. Even assuming that Nandu and Ratan Lal were together on the morning of 17.06.1999 the time gap between then and the murder of Nandu on 18.06.1999 is too large a gap to invoke the last seen theory. Rameshwar and Bhanwar are said to have seen Nandu along with Ratan Lal and Smt. Prem Devi after midnight on 17/18.06.1999. It is, thereafter, that the dead body of Nandu was found.

12. We have seen the nature of injuries on the person of Nandu which include severe violence to her body apart from the severance of both her legs. The High Court has assumed that perhaps there was some sort of a triangular love affair or possibly robbery was the motive of the crime. Given the nature of injuries, it is

difficult to imagine that the motive for the crime was robbery or the consequence of a triangular love affair. We also find from the testimony of the doctor who conducted the post-mortem examination that the alleged weapon of offence was not put to him and no information was sought from him in this regard.

13. According to the prosecution, Ratan Lal had used a knife in committing the crime. Given the nature of injuries, the question whether the injuries on Nandu could have been inflicted by a knife ought to have been put to the doctor but was not. Rameshwar and Bhanwar give no indication that Ratan Lal was carrying a knife or any other weapon of offence. Implicating Ratan Lal and Smt. Prem Devi for the murder of Nandu on the thin evidence of Rameshwar and Bhanwar is not justified.

14. Conviction based on circumstantial evidence must be such that only one hypothesis is possible, namely, that Ratan Lal and Smt. Prem Devi committed the murder of Nandu. As indicated above, there are many gaps in the case of the prosecution and there is a strong possibility that the murder of Nandu was committed by someone other than Ratan Lal and Smt. Prem Devi.

15. We have been informed that Smt. Prem Devi has not filed any petition or appeal in this Court. The evidence against her is extremely thin and relates only to her presence in the forest near Haled village on the midnight of 17/18.06.1999. If there is a possibility that the prime accused Ratan Lal might not be the culprit, there is even a lesser possibility of Smt. Prem Devi having been involved in the murder of Nandu. Smt. Prem Devi is equally entitled to the benefit of doubt as Ratan Lal. We give the benefit of doubt to Smt. Prem Devi even though she has not preferred any petition or appeal in this Court. In exercise of powers Under Section 142 of the Constitution of India, we deem it appropriate to acquit her also of the charges against her.

16. Under the circumstances, the appeal filed by Ratan Lal is allowed and it is directed that Ratan Lal and Smt. Prem Devi are set free unless required in some other case. We may mention here that we have received considerable assistance from learned Amicus Curiae who painstakingly took us through the entire case and learned Counsel for the State who very fairly pointed out some ambiguities in the evidence of prosecution witnesses. This degree of fairness is precisely what is expected from an Amicus and the State counsel.