
(2012) 07 JH CK 0090

In the Jharkhand High Court

Case No : Criminal Appeal (DB) No. 984 of 2003

Shridhar Khandait

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 30-07-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 304

Citation : (2012) 3 JCR 571 : (2012) 4 JLJR 494

Hon'ble Judges : R.K. Merathia, J;Dhrub Narayan Upadhyay, J

Bench : Division Bench

Advocate : J.K. Mazumdar, for the Appellant;

Final Decision : Dismissed

Judgement

1. This appeal is directed against the judgment of conviction and order of sentence dated 12.06.2003 passed by the Learned 2nd Additional Sessions Judge, Chaibasa in Sessions Trial No. 117 of 2002, convicting the appellant under sections 302, IPC and sentencing him to undergo R.I. for life. The prosecution case in short is that the informant-Subni Khandait (PW 2) lodged a fardbeyan on 12.03.2002 at about 9.00 a.m. before the police that in the previous night at about 2.00 a.m., the appellant in intoxicated condition, was hurling abuses, to which her husband-Sonu Khandait (deceased) asked him not to do so, on which the appellant assaulted him by lathi due to which he sustained injuries and died.

2. Learned Counsel for the appellant assailed the impugned judgment on various grounds and submitted that admittedly, occurrence took place in spur of moment and therefore, it cannot be said that the appellant had any intention to kill the deceased and no other motive or reason has come except that the deceased forbade the appellant not to hurl abuses. It is further submitted that the appellant was admittedly in intoxicated condition and the parties are relatives. He lastly submitted that at best, this case falls u/s 304 Part-II IPC and the appellant is in jail for about ten years.

3. On the other hand, counsel for the Stated supported the impugned judgment.
4. PW 1 is the doctor who conducted postmortem on the deceased and found following ante-mortem injuries on the dead body of the deceased.
 - I. Lacerated injury of 1"x 3/4 "x 1" on chin with fracture of mandible.
 - II. Lacerated wound on upper ribs of 2" x 1/2" fully depth associated with fracture of two teeth.
 - III. Lacerated wound of right eyebrow with fracture of skull bone 3" x 1/2" bone deep.
 - IV. Lacerated wound on right cheek 2"x1"" x 3/4".
 - V. Lacerated wound on left cheek 2"x 3/4" x 1/2".
 - VI. Lacerated wound over left knee 3" x 1" bone deep associated with fracture of knee joint.
 - VII. Lacerated wound on the right knee.

On dissection, he found the following injuries.

- I. Fracture of frontal bone of scalp, rupture of memberance, laceration of frontal cortex and fracture of maxilla were found.
- II. Fracture of right side of ribs from 5th to 10th ribs.
- III. Fracture of left side of ribs 1 to 6th.
- IV. Fracture of body of sternum.
- V. Pleura was ruptured and blood in thoracic cavity was present,
- VI. Both sides of lungs were lacerated.

As per the doctor, Injuries were caused by hard and blunt substance such as lathi.

5. PW 2 is the informant and she is an eyewitness of this case.
6. PW 3 is the mukhia of the village who translated the statement made by the informant (PW 2) before the police. He is the witness to the FIR also.
7. PW 4 is the seizure list witness and also the witness to the FIR.
8. PW 5 is the Investigating Officer of this case.
9. PWs 6 & 7 are the daughters of the deceased and are natural eyewitnesses of this case.
10. So far as the manner of occurrence Is concerned, prosecution has proved the same beyond all reasonable doubts. The question is whether the appellant had intention to kill the deceased or not? It is true that as per the prosecution case, the appellant was hurling abuses in the night in intoxication condition on which

the deceased warned him and then the appellant assaulted him by lathi. But the intention is to be gathered from the injuries caused on the various parts of the body. It appears that indiscriminate lathi blows were made by the appellant on the vital parts of the body of the deceased i.e. three on the head (causing fracture of mandible, skull bone), ribs of both sides etc. The deceased died at the spot. Therefore, it is not possible to accept the submission of the counsel for the appellant that the appellant had no intention to kill the deceased. It appears that the alleged occurrence took place in the dead night when only the informant, the deceased and his daughters (PWs 6 & 7) were present in the house.

11. After carefully going through the records and hearing the parties at length, we do not find any reason to interfere with the impugned judgment of conviction and sentence passed by the trial Court against the appellant. In the result, this appeal is dismissed.