
(2019) 07 JH CK 0139

In the Jharkhand High Court

Case No : Criminal Appeal (DB) No. 228 Of 2014

Sonaram Laguri

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 08-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 302

Citation : (2019) 07 JH CK 0139

Hon'ble Judges : Shree Chandrashekhar, J;Ratnaker Bhengra, J

Bench : Division Bench

Advocate : Mahadeo Thakur, Gouri S. Prasad

Final Decision : Allowed

Judgement

Shree Chandrashekhar, J

1. Mr. Gouri S. Prasad, the learned A.P.P has tendered a copy of the custody report received from the Jail Superintendent, Divisional Jail, Chaibasa.

2. Taken on record.

3. Mr. Gouri S. Prasad, the learned A.P.P states that the appellant has undergone imprisonment of more than 14 years and 6 months.

4. The sole appellant has challenged the judgment of conviction under section 302 I.P.C dated 23.09.2006 and the order of sentence of R.I for life dated 26.09.2006 passed by the Additional District and Sessions Judge, Fast Track Court-I at Chaibasa in Sessions Trial Case No. 118 of 2005.

5. On the basis of the fardbeyan of Jaypal Laguri recorded at about 7.30 a.m on 13.12.2004, Gua P.S. Case No. 47 of 2004 was registered under section 302 I.P.C against the accused-appellant. The appellant has faced trial on the allegation that he has killed his mother smashing her head with stone and lathi. During the trial, the prosecution has examined altogether 7 witnesses; the informant is P.W.3 and co-villagers namely, Mangal Laguri, Padeya Laguri and Mangal Singh

Laguri have been examined as P.W.1, P.W. 2 and P.W. 4 respectively. Cousin of the accused-Sonaram Laguri has been examined as P.W.5.

6. Dr. S. K. Singh-P.W.6 who has conducted the autopsy over the dead-body has found the following injuries on Tulsi Kui:

"External

(i) Scalp is compressed from side to side with fracture of both parietal bone and occipital bones.

(ii) Lacerated wound ½' dia. over right side of frontal one

(iii) Blood from right ear."

7. On dissection, he has found the whole brain water was lacerated and Mandible was fractured. P.W.6 has opined that the aforesaid injuries were caused by heavy, hard and blunt object. He has admitted in the cross-examination that injuries found on Tulsi Kui can be caused from a fall on a stone/rock.

8. On the basis of the evidences laid before him, the learned Additional District and Sessions Judge, Fast Track Court-I at Chaibasa has held that the prosecution has proved the involvement and participation of the accused beyond all reasonable doubts.

9. The learned Judge has further held that all the circumstances prove the guilt of the accused person.

10. At the outset, we intend to record that the aforesaid two findings recorded by the learned Judge are contradictory.

11. The prosecution has projected Padeya Laguri-P.W.2 as an eye-witness. The learned Judge has also found him as an eye-witness. Still, the learned Judge has ventured to record that the circumstances brought on record complete the chain of circumstances and, thus, guilt of the accused is conclusively proved. The aforesaid findings recorded by the learned Judge is perverse. Secondly, in the entire judgment, the learned Judge has failed to record the so-called circumstances, incriminating circumstances, which according to him would prove the guilt of the accused.

12. Besides the above, we find that there is no eye-witness to the occurrence. The so-called eye-witness namely, Padeya Laguri is not an eye-witness. He says that he was standing at a nearby place when the appellant was assaulting his mother, however, he has failed to specify the place where he was standing. P.W. 3 who is the informant says that dead-body of Tulsi Kui was found in the backyard of her house (Angan). The investigating officer, however, says that dead-body of Tulsi Kui was found in her field and he has seized blood-stained stone from the place of occurrence. If that is so, it is highly improbable that P.W. 2 would have seen the appellant assaulting his mother. P.W. 4 says that the appellant was arrested from his house in the evening where he was kept

confined, however, the investigating officer says that he has arrested the appellant in the forest with the help of the villagers.

13. The blood-stained stone, if seized by the investigating officer, is not one of the material objects produced in the court.

14. On such evidence, we hold that the prosecution has failed to establish the place of occurrence.

15. In his fardbeyan, Jaypal Laguri has stated that on enquiry from Munda of the village and other co-villagers he came to know that two children of the village informed them that someone was assaulting a woman with stone. Who were these two children is not known; none of the witnesses examined by the prosecution has named them. However, it appears that the defence has named Renso and Birsa Laguri as those who have seen the actual occurrence and in this connection a question was put to the investigating officer to which he has replied that he has not made Renso and Birsa Laguri as witnesses in the case. It is the prosecution's case that at about 10 a.m on 12.12.2004 the alleged incident has taken place, however, a report in this regard was sent to the police station the next day.

Who has informed the police has not been disclosed by the prosecution and the station diary entry has not been produced in the court.

16. On such evidence, we find that the prosecution has failed to establish that it was the appellant who has killed his mother. Accordingly, the judgment of conviction under section 302 I.P.C dated 23.09.2006 and the order of sentence of R.I for life dated 26.09.2006 passed in Sessions Trial Case No. 118 of 2005 are set-aside.

17. The appellant namely, Sonaram Laguri shall be released forthwith, if not required in connection with any other case.

18. In the result, Criminal Appeal (DB) No. 228 of 2014 is allowed.

19. Let a copy of the Judgment be transmitted to the court concerned through FAX.

20. Let the lower-court records be sent to the court concerned, forthwith.