
(2012) 03 JH CK 0089

In the Jharkhand High Court

Case No : Criminal Appeal (DB) No. 259 of 2002

Soyana Sardar @ Soyna Sardar

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 29-03-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 302

Citation : (2012) 03 JH CK 0089

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

Bench : Division Bench

Advocate : Nagmani Tiwari, for the Appellant; Shashank Shekhar Prasad, Addl. P.P., for the Respondent

Final Decision : Allowed

Judgement

1. This appeal arises out of judgment and order of conviction and sentence dated 19.4.2002 and 22.4.2002 respectively passed by Sri P.N. Lal, 1st Addl. Sessions Judge, Seraikella, in Sessions Trial No. 248 of 1999 whereby the appellant has been convicted u/s 302/201 IPC and sentenced to undergo rigorous imprisonment for life u/s 302 IPC and to undergo rigorous imprisonment for three years u/s 201 IPC. However, both the sentences were directed to run concurrently. Prosecution case, in short, is that Namsi Sardarin (PW6) gave fard beyan on 25.1.1999 at about 12.00 noon that on 17.1.1999 at about 2.00 p.m. the appellant, on threat to assault, took Lota Sardarin (deceased), towards the jungle and thereafter she did not return. Then the informant (PW6) informed her uncle Rawan Sardar who told about the occurrence to the villagers. After that day, the appellant also did not return to his house. On search, he was found in the house of her maternal uncle. Panchayati was held but he did not disclose anything. There was an illicit relation going on between the appellant and the deceased. Thereafter, it was alleged that the appellant had taken her with an intention to kill her and had made her disappear.

2. As per the prosecution, after the dead body of the Lota Sardarin was

recovered on the confession of the appellant, Seraikella PS case no. 6 of 1999 was registered u/s 302/201IPC. After investigation, charge sheet was submitted against the appellant who faced the trial and was convicted as aforesaid.

3. Mr. Nagmani Tiwari, learned counsel for the appellant assailed the impugned judgment and submitted that the chain of circumstances is not complete and the dead body was not recovered on the confession of the appellant and that except that the appellant was last seen with the deceased, there is nothing against him. It was submitted that the appellant has remained in jail for more than 12 years.

4. On the other hand, learned counsel appearing on behalf of the State, supported the impugned judgment.

5. The prosecution has examined 13 witnesses. Namsi Sardrin (PW6) informant has turned hostile. PW8 Jodeya Hansda said that the dead body was recovered at the instance of a Wood Cutter. Therefore, it appears that the dead body was not recovered on the basis of the confession of the appellant. The statement of the investigating officer (PW12) regarding recovery of the dead body on the confession of the appellant does not inspire confidence. The doctor (PW13) who had conducted post mortem on the dead body of the deceased had found two lacerated wounds caused by hard and blunt substance on the head of the deceased to be the cause of the death of the deceased.

6. After hearing the counsel for the parties at length and carefully going through the materials on record, in our opinion, the prosecution has not been able to prove its case against the appellant beyond all reasonable doubts. The chain of circumstances is not complete and therefore the appellant deserves the benefit of doubt. For the reasons aforesaid, this appeal is allowed and the impugned judgment and order of conviction of the appellant by the trial court in Sessions Trial No. 248 of 1999 u/s 302/201 is hereby set aside. The appellant is in jail. He is directed to be released forthwith, if not wanted in connection with any other case(s).