
(2012) 03 J&K CK 0007
In the Jammu And Kashmir High Court
Case No : Cr Acq Appeal No. 33 of 2011

State of Jammu & Kashmir	Vs	APPELLANT
Mst. Lal Begum and ors		RESPONDENT

Date of Decision : 02-03-2012

Acts Referred:

Ranbir Penal Code, 1989 — Section 302, 307, 34

Citation : (2012) 03 J&K CK 0007

Hon'ble Judges : Mohammad Yaqoob Mir, J;Jai Pal Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

J.P. Singh, J.—Accused of having poured kerosene on Nahida Qamar and set her on fire on 21.08.2004 at about 11 A.M, Mst. Lal

Begum, Mushtaq Ahmed and Ajaz Ahmed-respondents were tried for offences contrary to Sections 302/34 RPC. In her Statement to Police

which led to lodging of FIR No. 120/2004 at Police Station Thannamandi u/s 307 RPC, Nahida Qamar had indicated that after having quarreled,

her family members, poured kerosene and thereafter put her on fire. To prove the Charge, the prosecution examined PWs-Altat Hussain Head

Constable, who had recorded Nahida Qamar's statement, Tanvir Hussain, Tahir Mirza, Mohd. Afzal, Liaqat Ali, Zaffer Iqbal, Mohd. Farooq,

Mohd. Tariq, Mehmood Ahmed, Dr. Iqbal Malik, Mohd. Iqbal Malik Patwari and Javid Akhtar.

2. PWs-Mohd Tariq and Mehmood Ahmed who were indicated in the Final Police Report to have witnessed the occurrence, did not support the

prosecution case. According to PW-Altat Hussain, he had recorded Nahida Qamar's statement in presence of Dr. Iqbal Malik in the Hospital. Dr.

Iqbal Malik did not, however, support the prosecution, saying that Nahida Qamar would speak in a very feeble tone and on being enquired, had

stated that no body had burnt her. He denied the suggestion that Nahida Qamar had made statement saying that her mother-in-law had poured

kerosene and thereafter set her on fire. According to him, he had certified the statement under pressure. No other prosecution witness supported

the prosecution case.

3. Thus, finding the prosecution to have miserably failed to prove its case against the respondents, the learned Sessions Judge acquitted them vide

his Judgment and Order dated 14.12.2010.

4. The State of Jammu and Kashmir has appealed to this Court seeking setting aside of the respondents' acquittal.

5. Heard learned counsel for the parties and perused the statements of the witnesses produced by the prosecution to support its Charge against the

respondents.

6. The eye witnesses to the occurrence having failed to support the prosecution case and in view of the categorical statement of Dr. Iqbal Malik that

Nahida Qamar had told him that no body had burnt her, it may not be possible for this Court to take a view different from the one taken by the

learned Sessions Judge in disbelieving PW-Altaf Hussain, who was stated to have recorded the statement of Nahida Qamar, giving cogent reasons

in support thereof. The view taken by the learned Sessions Judge is certainly a view which was warranted in the facts and circumstances of the

case and in this view of the matter we do not find any ground to interfere with the respondents' acquittal, which decision of the learned Sessions

Judge is well merited. This Criminal Acquittal Appeal is, therefore, found bereft of substance, hence dismissed.