
(2006) 03 JH CK 0036

In the Jharkhand High Court

Case No : Criminal Appeal No. 283 of 1990P

Tekan Pandit and Jhaliya Devi

APPELLANT

Vs

The State of Bihar (now Jharkhand)

RESPONDENT

Date of Decision : 28-03-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Penal Code, 1860 (IPC) — Section 201, 302, 34

Citation : (2006) 03 JH CK 0036

Hon'ble Judges : N. Dhinakar, C.J.; Rakesh Ranjan Prasad, J

Bench : Division Bench

Advocate : Pravin Kumar Pandey, Amicus Curaie, for the Appellant; I.N. Gupta, APP., for the Respondent

Final Decision : Allowed

Judgement

1. The appellants, two in number, were arrayed as A-1 and A-2, and stood charged under Sections 302/34 and 201 of the Indian Penal Code. The allegation against them is that they committed the murder of their daughter-in-law, Gita Devi, and threw the body into the well to screen the offence.

2. The trial judge, on the evidence adduced, both oral and documentary, finding the appellants guilty, sentenced each one of them to imprisonment for life and also imposed a sentence of three years rigorous imprisonment for the offence u/s 302/34 of the Indian Penal Code and 201 of the Indian Penal Code respectively with the direction that the sentence of imprisonment will run concurrently. The present appeal, by the appellants, challenges the said conviction and sentence.

3. PW-1, Ashia Devi is the mother of the deceased, Gita Devi, and PW-4, Rupan Pandit, is the father of the deceased. PW-2, Pasia Devi, is the aunt of the deceased. The 1st appellant is the father-in-law and 2nd appellant is the mother-in-law of the deceased. The deceased was given in marriage to the son of the appellants and she was living in her in-laws' house after the marriage. There used to be quarrels between the in-laws and the deceased, Gita Devi. It is the

case of the prosecution that on 13.2.1987, the appellants went to the house of PW-4 and as PW-4 was not in his house, they informed PW-1, the mother of the deceased, to take back their daughter. Thereafter, the appellants left the house of PW-4. PW-4, on returning home, was informed of the said fact by his wife. PW-4 went to the village where his daughter was residing with her in-laws and was informed by his son-in-law that the deceased after quarreling with the appellants, over a Saree, left the house. On 14.2.1987, PW-4 gave a written report regarding the missing of his daughter to Deoghar Police Station, which stands marked as Ext. 9. PW-4 tried in vain to trace his daughter, Gita Devi. In the meantime, the body was found floating in the well. It was taken out on 21.2.1987. Thereafter, Fardbayan was registered as a crime and the formal FIR stands marked as Ext. 8. Investigation was taken up by PW-8, Police Officer, who conducted inquest and later sent the dead body for post mortem.

4. On receipt of the requisition and the dead body, Dr. Narendra Kumar Singh, PW-5, conducted post mortem and he found the following injuries:

1. The skin of chest, neck, face and most part of the body was blackish, sodden and at decomposing stage and as such no ligature mark visible on neck.
2. Fracture of lower Jaw.
3. Abrasion- leftside of waist 3" ? 2"
4. Posteriorly vagine wall was lacerated 1 " ? ?".

The doctor issued Ext. 2, the post mortem certificate, with his opinion that the death could be on account of injuries suffered by the deceased.

5. After the completion of investigation, final report was filed. The appellants denied all the incriminating circumstances, when they were put to them u/s 313 of the Code of Criminal Procedure.

6. The learned Counsel appearing for the appellants submits that the prosecution having relied upon circumstantial evidence, to prove the case against the appellants, ought to have established all the links in the chain of circumstances and could not have relied upon the evidence of two witnesses, who only stated that there used to be quarrels between the appellants and the deceased for securing conviction of the two appellants. The learned Counsel further submits that in view of the answer given by the doctor, PW-5, who conducted autopsy on the dead body of the deceased, Gita Devi, the possibility of the deceased committing suicide or falling into the well by accident is not ruled out and in fact the very statement of PW-4 at the earliest point of time when he gave a report to the police indicates that the deceased could have committed suicide as she might have been frustrated on account of the friction between her and her in-laws.

7. On the above contention, we heard Mr. I.N. Gupta, appearing for the State.

8. Dr. Narendra Kumar Sinha, PW-5, gave evidence and stated that he found injuries on the dead body. He has also marked Ext. 2, the post mortem

certificate, in which we find the injuries, which he noticed on the dead body. According to the doctor, the deceased could have suffered those injuries on account of accidental fall also. The evidence of PW-5, therefore, does not conclusively show that the deceased died on account of homicidal violence, since the ante mortem injuries which were found on the dead body, could have also been on account of an accidental fall into the well.

9. In the above backdrop of the evidence of the doctor, when we look at the evidence of PWs-2 and 4, we find that on 13.2.1987, the appellants went to the house of PW-4 and finding PW-4 not present in the house, informed PW-1 that the deceased Gita Devi must be taken back by them. Later, PW-1 informed her husband as to what the appellants told her. PW-4, therefore, went to the village where his daughter was residing with her in-laws and there he was only informed by the husband of the deceased that the deceased had left the house in a huff after quarreling with the appellants over a Saree. According to PW-4, he gave a missing report, Ext. 7, and after the dead body was traced, according to the prosecution, the case was registered and that the body was subjected to the post mortem. The above evidence let in by the prosecution does not conclusively show that the deceased was beaten to death and her body was thrown into a well by the appellants. It is no doubt true that two of the witnesses, who were examined as PW-6 and 7, in their evidence, stated that there used to be quarrels between the appellants and the deceased, but they did not say as to when the deceased was beaten in such fashion and in the absence of any proximity to the date of the death and alleged beating by the appellants, this Court cannot come to the conclusion that the deceased was beaten to death on the date of incident and the body was thrown into the well. In fact, though the prosecution came out with a version that there was also a Panchayati in the village regarding the quarrels between the deceased and the appellants, the prosecution did not chose to examine any witness to prove the fact of Panchayati. The evidence of PW-4, that his son-in-law informed him, that the deceased left the house in a huff after quarreling with her in-laws, coupled with the evidence of the doctor that the deceased could have suffered such injuries on account of fall, do not conclusively establish a case of murder. But, on the contrary it creates doubt in the mind of the Court that the deceased, Gita Devi, could have also committed suicide by jumping into the well.

10. In the absence of any definite evidence, which will unerringly point to the guilt of the appellants, we find it unsafe to uphold the conviction and, therefore, acquit the appellants.

11. The appeal is allowed and judgment of conviction and order of sentence is set aside. It is reported that the appellants are on bail; they are discharged from the liability of their bail bonds.