

# SUPREME COURT OF INDIA

Nisa Stree

Vs.

State of Orissa

Crl.A.No.39 of 1953

(Mehr Chand Mahajan, S. R. Das and N. H. Bhagwati, JJ.)

24.09.1953

## JUDGEMENT

**S. R. DAS, J. :**

The appellant before us --- a young woman of 20 years of age --- was convicted on the 18th April 1953 by the Additional Sessions Judge of Cuttack under Section 302 of the Indian Penal Code for having murdered one Panchali, a girl of 7 years of age, and also under Section 379 of the Indian Penal Code for having dishonestly removed a pair of gold Naulis from the person of the deceased girl.

The Additional Sessions Judge made a reference to the High Court under Section 374 of the Criminal Procedure Code for the confirmation of the sentence of death passed by him for the offence under Section 302, Indian Penal Code. The appellant also appealed before the High Court against her conviction and sentence. By the judgment dated the 25th May 1953 the High Court upheld the conviction and sentence and accepted the referred and rejected the appeal. The High Court, however, gave leave to the appellant under Article 134 (1) (c) of the Constitution of India to appeal to this Court.

2. The prosecution case, briefly stated, was follows. The appellant and the deceased were both residents of Jahnpada, a small village containing about 60 houses and in fact they were front-door neighbours with the best of feeling and relationship between them. On the 27th November 1952 about an hour before sunset the deceased was found going in the company of the appellant towards Bhaludhar Nala which is situate at a distance of about three furlongs from the 'bastee' of the village to its north-east. That Nala is usually used as an easing ground for the females of the village. In the evening the appellant was found coming alone towards the village from the Nala in hurried steps with the wearing cloth lifted over her knees.

About one 'ghari' in the night the mother of the deceased started searching for her and made enquiries of many including the appellant. The appellant told the mother that the deceased would be somewhere nearby. Early next morning the relatives of the deceased discovered her dead body in the Nala and soon thereafter the first information report was lodged at the police station. On inquest were found a piece of a regular rugged stone bloodstained, the broken glass bangles and the torn necklace near the dead body. The ground underneath the dead body was soaked with blood and the wearing cloth of the deceased found nearby was also bloodstained.

The prosecution story further is that the two Naulis which were worn by the deceased during the evening of that day were discovered concealed in the thatch of the appellant and this discovery was made on the information given by the appellant herself. The cloth worn by the appellant was also taken charge of by the police and was found to be stained with human blood. On these allegations the appellant was sent up for trial.

3. The appellant pleaded not guilty to the charges and alleged that the witnesses had perjured against her out of enmity.

4. There is no direct evidence of any eye witnesses. The conviction of the appellant depends entirely on circumstantial evidence. The only question is whether the evidence on the record is consistent only with the guilt of the accused or is consistent with any other rational explanation.

The circumstances fully established against the appellant are that on the date of the occurrence about an hour before sunset she was seen by two ladies (P. Ws. 7 and 8) proceeding with the deceased in the direction of the scene of the occurrence; that the appellant came home without the deceased in her company in the evening of the same day in hurried steps and with her cloth lifted up; the cloth was, on examination, found to be stained with human blood and that the two Naulis of the deceased which were seen on her person up to her going towards the scene of the murder had been discovered at her instance from the thatch of her hut.

The learned trial Judge, for reasons stated by him, which we find to be cogent and convincing, came to the conclusion that the circumstances established against the appellant were not consistent with any rational hypothesis of innocence. All the four assessors agreed with this view of the matter and were unanimously of opinion that the appellant was guilty of both the offences with which she had been charged. The High Court also agreed with this view of the matter upheld the conviction and sentence passed on the appellant.

5. We find ourselves in agreement with the Courts below. We have heard nothing from learned counsel appearing as 'amicus curiae' for the appellant which throws any doubt as to the guilt of the appellant. He has not referred us to any fact which may conceivably be regarded as altering the nature of the circumstances proved against the appellant. In our opinion, the circumstantial evidence in the case is only consistent with the guilt of the appellant and we hold that she has been properly convicted. The murder undoubtedly was cold-blooded and committed out of pure greed. In this view of the matter this appeal is dismissed.

Appeal dismissed.

</html