

SUPREME COURT OF INDIA

Prakash Chandra Pathak

Vs.

State of U.P.

Crl.A.No.110 of 1957

(B. P. Sinha, S. J. Imam and J. L. Kapur, JJ.)

10.07.1957

JUDGEMENT

SINHA, J.:

1. This appeal by special leave is directed against the concurrent judgments and orders of the courts below convicting the appellant for the double murder of his mother Mst. Reoti Devi, aged about 65 years, and his infant son Sudhir, aged about 4 1/2 years, and sentencing him to death under S. 302, Indian Penal Code. There is also a conviction under S. 380 of the Indian Penal Code for the theft of his mother's jewelry and a sentence of two years rigorous imprisonment thereunder.

2. The facts of the case lie within a narrow compass and have been stated in great detail in the judgments below. It is only necessary to state for the purposes of this appeal that the appellant is the youngest of the three sons of a retired Deputy Collector who was so dissatisfied with his extravagant living that in his life-time he gave away the bulk of his valuable properties to his wife and his two elder sons, as also to the aforesaid infant son, Sudhir, of the appellant, thus excluding him from his patrimony. After his father's death, the mother appears to have had a great weakness for her erring son and in spite of the fact that he used to pester her with his continual demands for money, she used to stay in that portion of the family house which was occupied by the appellant and his family, the other part of the house being occupied by the eldest brother Harish Chander P. W. 22. The two portions of the family house appear to have a common separating wall with rooms on either side and a communicating door which used to be locked on both sides. In order to continue his riotous living, the appellant appears to have been extorting money from his mother by cajolery or threats. On the evening of the date of the occurrence leading upto the trial and conviction of the appellant, the appellant appears to have made his last demand for money from his mother who was either unable or unwilling to accommodate him, with the result that, as is the prosecution case, some time between 9 and 10 p. m., while his mother was lying on one cot and his infant son was sleeping on another cot, the appellant so much lost his head over his mother's refusal any more to part with her money and jewelry that he battered his mother and son aforesaid to death and decamped with all her jewellery on which he could lay his hands. He was so much in a hurry to leave the town of Meerut where the family used to reside that he made an unsuccessful attempt to catch the bus at the Harpur Motor Stand, and failing to get the bus, he hastened on to the railway station and left for Moradabad by rail. Early next morning, the diabolical crime of double murder was discovered by the family maidservant who informed the appellant's eldest brother Harish Chander who got into touch with the police on the phone. The police alerted the police of various towns to look for the appellant who was suspected to be the culprit, and the appellant was arrested at about-9-45 a. m., the next morning

- August 2, 1955, at a certain restaurant in Moradabad. After the arrest, the police made a thorough search of the appellant's person, and jewellery, subsequently identified and admitted by the appellant himself to be his mother's property (Exhibits III to VIII) was found on his possession. The police also discovered the evidence that the appellant had been attempting to sell the stolen jewellery early in the morning of August 2, 1955, at about 7 a. m., through Rup Kishore (P. W. 8) who runs a tea stall, on the representation that his mother had died and he wanted to sell the jewellery in order to pay off his debts.

3. It is convenient here to state the circumstances in which the appellant found himself in urgent need of money and his movements in the evening just before his departure at about 10 p. m., according to the prosecution and at about 8-45 p. m. according to the appellant himself, on the night of 1-8-1955, on which date the occurrence took place. Mahendra Singh P. W. 21, who is the manager of a hotel in Meerut, known as 'Brothers Hotel, appears to have lent him the use of clothes, bedding and hold-all, etc., (Exhibits XII to XXVIII), for going to Moradabad. It appears further that at Moradabad, the appellant stayed at the Grand Hotel and had not money enough to pay hotel bills. He had, therefore, to leave those articles at the hotel by way of security for the payment of the outstanding dues against him. On the evening of the date of the occurrence in question, Mahendra Singh aforesaid made insistent demands for the return of those articles, so much so that he himself came to appellant's residence and the appellant told him off saying that his mother was lying asleep. At about 10 a. m., Mahendra Singh sent Prem Balbh P. W. 23 to get those articles, but at that time the appellant was leaving his house and naturally said he was much too busy otherwise to keep his promise of returning those articles to the owner. It would, thus, appear that the appellant was urgently in need of money to pay his debts to the Grand Hotel, and to redeem the articles belonging to Mahendra Singh. Having failed by his usual methods to extort any more money from his old mother, he appears to have gone into a frenzy by any means to obtain funds to pay his creditors and to continue his extravagant living. Those are the circumstances in which the appellant placed himself and which impelled him, according to the prosecution, to commit the diabolical crime of murdering his mother and his infant son.

4. The prosecution led a large volume of oral evidence all circumstantial to prove the case against the appellant. During the police investigation, articles claimed by Mahendra Singh to have belonged to him and which had been borrowed by the appellant for his journey to Moradabad, as aforesaid, were found in the Grand Hotel. The appellant denied that those articles belonged to Mahendra Singh or that he had left them at the hotel by way of security for the payment of his dues to the hotel or that he owed any money to the hotel. The courts below have preferred to rely upon the large volume of oral evidence led on behalf of the prosecution. As both the courts below have accepted that evidence which according to them completely establishes the charge of double murder against the accused, we need not examine that evidence in detail except to find out whether the circumstances brought out in the evidence leave no reasonable doubt in our mind that the appellant must have been the perpetrator of the dastardly crimes charged against him.

5. The appellant made an attempt to knock the bottom out of the prosecution case that the appellant left his home at about 10 p. m. after having committed the double murder, by adducing evidence of two defence witnesses to the effect that the appellant's mother was alive at 11-15 p. m., as deposed to by D. W. 1 - Mst. Saroj Pathak, wife of Satish Chander, second brother of the accused. Satish and his family live in the first floor of the house occupied by the appellant's family. The evidence of D. W. 2 - the boy-servant, is to the effect that he found the appellant's mother was alive at about 9-30 p. m. The evidence of both these witnesses has been rejected as wholly unreliable by the courts below and need not detain us any more.

6. The effect of the evidence accepted by the courts below is: that the accused was in chronic need of money to meet his extravagant expenses; that he used to be pampered by his mother who gave him money as and when demanded by him either willingly or as a result of threats; that on the evening of the date of occurrence, there was an insistent demand upon the appellant by Mahendra Singh for the return of his articles aforesaid which the appellant had borrowed for use at Moradabad; that the appellant had made a show of returning those articles to Mahendra Singh that night though as a matter of fact they were lying in the Grand Hotel at Moradabad by way of security for the re-payment of the appellant's dues to the hotel; that on the evening of the occurrence the appellant had made frantic efforts to extort money from his mother who was either unable or unwilling to pamper him any more; that there was a motive for the appellant for committing the crime and he had worked himself into frenzy for getting money to meet the urgent demands upon him; that he had the opportunity to commit the crimes since he was the only male member who was living in that part of the house, along with his mother and his infant son; that at about 10 p. m., he was in a very agitated state of mind and was bent upon leaving his home for no apparent good reason, and failing to catch the bus to Moradabad, he took the circuitous route to that place by the next available railway train; and that finally, and these are the most important and telling circumstances against him, that within a few hours of the discovery of the diabolical crimes, the police were able to arrest him at Moradabad in possession of the stolen properties which he was already busy trying to sell. His attempt to give an explanation as to how he came by those valuable articles, admittedly belonging to his mother, has miserably failed according to the findings of the courts below. In our opinion, the most damaging piece of circumstantial evidence against the appellant is furnished by the evidence of P. W. 8 - Rup Kishore a shop-keeper of Moradabad, to the effect that at about 7 a. m. on August 2, 1955, the accused approached the witness from the direction of the railway station, in dirty clothes and split shoes, apparently upset, and tried to seek his help to sell some jewellery saying that his mother was dead and that he wanted the money to pay off his debts. Either the appellant had the guilty knowledge that he was responsible for his mother's death or had been telling a deliberate lie after he had left his mother alive the previous night at Meerut. In either case, he had a guilty conscience.

7. It has been attempted to be shown on his behalf that he had a "plausible explanation" for the possession of his mother's jewellery. Counsel for the appellant realising that the most damaging piece of circumstantial evidence against the appellant was the possession in those circumstances, of his mother's valuable jewellery, tried to explain away that most important circumstance not by adhering to the case tried to be made out by the appellant himself in his statement before the court that his mother had gifted them to him "four or five days before when I had urgent need of money," but by trying to piece together the equivocal statements made by Harish Chander, the appellant's eldest brother. But that attempt must fail for more than one reason. Firstly, no such explanation was offered by the accused himself. He was the best person who could have offered a reasonable explanation for the possession of jewellery which admittedly belonged to his mother and which admittedly had been found on his person when he was arrested by the police a few hours after the discovery of the diabolical crimes. Secondly, the learned Sessions Judge put the question to the accused under S. 342 of the Code of Criminal Procedure whether he had asked his mother for money on the 1st August, 1955, and his answer was in the negative. Hence this belated attempt to explain away possession of the ornaments by way of gift on the eve of the occurrence must fail.

8. Learned counsel for the appellant cited before us a number of reported decisions of this Court bearing on the appreciation of circumstantial evidence. We need not refer to those authorities. It is enough to say that decisions even of the highest court on questions which are essentially questions of fact, cannot be cited as precedents governing the decision of other cases which must rest in the

ultimate analysis upon their own particular facts. The general principles governing appreciation of circumstantial evidence are well-established and beyond doubt or controversy. The more difficult question is one of applying those principles to the facts and circumstances of a particular case coming before the Court. That question has to be determined by the Court as and when it arises with reference to the particular facts and circumstances of that individual case. It is no use, therefore, appealing to precedents in such matters. No case on facts can be on all fours with those of another. Therefore, it will serve no useful purpose to decide this case with reference to the decisions of this Court in previous cases. We have to determine whether on the facts and circumstances disclosed in the evidence which has been accepted by the courts below, the crime charged against the appellant has been made out. We have carefully weighed the facts and circumstances pro and con forcefully brought to our notice by the learned counsel for the appellant and, in our opinion, no grounds have been made out for differing from the conclusions arrived at by the courts below. In our opinion, the facts and circumstances proved in this case establish the guilt of the appellant beyond all reasonable doubt. The appeal is accordingly dismissed.

Appeal dismissed.

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