

Ram Singh

Vs

State of Uttar Pradesh

Criminal Appeal No. 89 of 1961

(S. K. Das, K. Subha Rao, Raghubar Dayal JJ)

19.12.1961

JUDGMENT

RAGUHBAR DAYAL, J. –

Ram Singh appeals, by special leave, against the order of the Allahabad High Court dismissing his appeal and confirming his conviction and sentence of death, under s. 302, I.P.C., by the Session Judge, Etawah.

The prosecution case, in brief, is that due to enmity, the appellant caused injuries to Sheo Sahai, who was sleeping in his cattle shed in village Bhadurpur Ghar, with a sword at about mid-night on the night between June 14-15, 1960. Sheo Sahai died of the injuries received. The appellant thereafter proceeded to the Canal Distributory at some distance from the village and had a bath there. Later on, he went to the Police Station, Ekdil, nine miles away and lodged a report. He delivered the sword which has been found by the Serologist to be stained with human blood. The appellant was taken in custody and as a result of the investigation was sent up for trial.

The appellant denied the allegation that he had caused the death of Sheo Sahai and alleged that he was falsely accused of the offence. He also denied the other allegations for the prosecution. He alleged that one Paley Singh informed him about the murder of Sheo Sahai and asked him to go to the Police Station, Ekdil, and to inform the Station Officer orally about the murder. He did accordingly. He was detained at the Police Station till 11 a.m., the next day and was then put up in the lock up. The Sub-Inspector took his thumb impression forcibly on three papers, but did not tell him the reason. The appellant adduced no evidence in support of his statement. The Courts below rightly did not accept his version.

The evidence led by the prosecution consisted of the evidence relating to motive, to his extra-judicial confession to one Ujagar Singh when he was having a bath in the Canal, to his purchasing the sword and to his delivering it at the police Station after he had dictated the report. Both the Courts below rightly believed the evidence about the motive and purchase of the sword by the appellant. The learned Sessions Judge believed Ujagar Singh and acted on the extra-judicial confession made by the appellant to him. The High Court, however, did not rely on this extra-judicial confession. It relied on certain statements made by the appellant in his report dictated at the Police Station and considered those facts together with the motive and the evidence about the purchase of the sword sufficient to confirm the appellant's conviction and sentence.

The learned counsel for the appellant has argued that the entire report dictated by the appellant was inadmissible in evidence as its contents amounted to a confession of the offence by the appellant

made to a Police Officer and that the evidence relied upon by the High Court was insufficient to establish that the appellant had murdered Sheo Sahai. On the other hand, learned Counsel for the respondent urged that the High Court was wrong in rejecting the statement of Ujagar Singh about the appellant's extra-judicial confession and that the extra-judicial confession together with the circumstances relied on by the High Court, fully make out the prosecution case against the appellant. He also urges that such portions of the report which did not amount to a direct admission of the appellant's striking Sheo Sahai with a sword and thereby causing his death were admissible in evidence.

We do not consider it necessary to decide whether any portion of the report dictated by the appellant at the Police Station is admissible or not in evidence, as there is good independent evidence with respect to the four matters mentioned in the report and relied on by the High Court in considering the case against the appellant. These admissions of the appellant are (i) that he purchased a cycle from the deceased; (ii) that there was a quarrel in a play of cards; (iii) that he purchased a sword; and (iv) that he deposited the sword at the Police Station.

Ajit Singh, P.W. 5 deposed about the purchase of the cycle and about a dispute taking place between Sheo Sahai and the appellant on account of the latter's demanding the return of Rs. 10/- which had been paid towards the sale price as the balance of the sale price had not been paid and the deal was cancelled by Sheo Sahai in accordance with the oral contract. Ajit Singh bears no enmity with the appellant. In fact, none of the prosecution witnesses is alleged to bear enmity with the appellant.

Paley Singh, P.W. 2, and Baij Nath P.W. 4, depose about the dispute during the game of cards played on June 12, 1960.

Kehar Singh P.W. 3, deposed about the selling of a sword to the appellant on June 13, 1960. A receipt about the sale was found on the person of the appellant when he was searched after his arrest.

The appellant's depositing the sword at the Police Station is deposed by Madho Ram P.W. 12, and by Sri Kishan Singh, Station Officer, Ekdil, (P.W. 16), in whose presence the appellant had dictated the report.

It is therefore not necessary to rely on the admissions of the appellant in the report with respect to these facts deposed to by the various witnesses whose testimony has been rightly accepted.

We need also consider whether the facts that the accused had a motive to harm Sheo Sahai and that he had purchased a sword a day before the incident and deposited it stained with human blood at the Police Station on the night of the murder are sufficient to establish that it must be the appellant who committed the murder of Sheo Sahai or not, as we are of opinion that the High Court erred in rejecting the statement of Ujagar Singh about the appellant's confessing to him that he had murdered Sheo Sahai.

In this connection, the High Court simply said :

"A perusal of the statement of Ujagar Singh would show that it is very likely that this may have happened. To us, it seems that in the middle of June when the chari and sugar-cane crop would not have been very high, it seems improbable that Ujagar Singh would have been sleeping in his field or that he should have met the appellant in the manner alleged. We do not feel sure of the extra judicial confession said to

have been made by the appellant to Ujagar Singh, and consequently we do not place any reliance on his statement, though it has been relied upon by the court below."

With respect to the learned Judges, these observations are not very consistent. If Ujagar Singh's statement made it very likely that what he stated did happen, there could not have appeared any improbability in Ujagar Singh's sleeping in his field and meeting the appellant in the manner alleged, especially when the learned Judges believed, and there was evidence about it, that the fields had chari and sugar-cane crop at the time. The learned Judges have not stated those considerations, if any, in addition to the improbability of Ujagar Singh's presence in his field on account of the crops being not very high, which made them doubt the appellant's confessing to Ujagar Singh. It may be mentioned that Ujagar Singh was on the field, according to his statement, for protecting the crop from the deprivations of neel gais. They damage the leaves of the plants and have no partiality for tall plants alone. In fact, the smaller the plants, the easier it must be to graze.

The learned Sessions Judge has discussed the criticism urged before him against the acceptance of the statement of Ujagar Singh and considered it, for reasons given, not to justify the rejection of Ujagar Singh's statement. We agree with those reasons. There is no enmity between Ujagar Singh and the appellant and therefore no goods reasons existed for Ujagar Singh to state falsely. Extra-judicial confessions are not usually considered with favour but that does not mean that such a confession coming from a person who has no reason to state falsely and to whom it is made in circumstances which tend to support his statement, should not be believed.

The murder was committed in the month of June. Both on account of the temperature and on account of the culprit's desire to wash of blood marks on his person, the appellant's bathing in the Canal at that hour of the night cannot be said to be improbable. It is not stated by sub-Inspector Kishan Singh, nor it is alleged that the appellant had on his person or on his clothes blood stains when he presented himself at the Police Station. This tends to support Ujagar Singh's statement that the appellant had a bath in the Canal at that hour. Of course, this consideration springs out of the supposition that the appellant did commit the murder. The fact that he had the word which was stained with human blood, leads to such a supposition, even if the mere possession of a sword so stained by not sufficient to establish conclusively that the person who possessed it so shortly after the murder of a person with whom he had enmity, had committed the murder.

The Canal runs beside Ujagar Singh's field. Ujagar Singh was on the field for the purpose of watching it against the neel gais trespassing and grazing the crop. It is not therefore a matter of surprise that he wakes up and proceeds to the spot from where the splashing sound which, is supposed to be due to the wading of the neel gais, came. On reaching the Canal bank, he observes the person bathing and naturally asks him what led him to have a bath at that hour at night. Taken by surprise, it is not unlikely that the appellant should have made a statement that he had committed the murder of Sheo Sahai and was, thereafter, having a bath. There is no reason to think that the appellant would not make such a statement when the appellant himself proceeds to the Police Station and hands over the blood stained sword. It is no doubt unusual, as urged for the appellant, that a person who commits a murder in pursuance of an enmity arising out of minor disputes, would be feeling so justified in his conduct as to openly admit it to the first person he met and to go to the Police Station and report about it. It is always difficult to find reasons for a persons' acting in a certain manner. It may be that having blurted out the truth to Ujagar Singh, when taken by surprise, the appellant thought the best thing to be to proceed to the Police Station and report the matter there.

It is true that Ujagar Singh did not rush to the village at once and convey the news of the murder of

Sheo Sahai. The learned Sessions Judge has considered the criticism against such a conduct and has held that there were good reasons for Ujagar Singh's not leaving his field whose crops he was watching against the neel gais. We agree with the view of the learned Sessions Judge and do not consider Ujagar Singh's conduct of continuing to remain on his field during the night to be so improbable as to affect his veracity. Ujagar Singh went to the village at about 5 a.m., and then told the people of what he had been told by the appellant. This statement of his, is supported impliedly by Paley Singh, P.W. 2, who states that the Sub-Inspector was not present when Ujagar Singh related to them the fact which had taken place at night and by Bishram Singh, P.W. 13, who deposed that Ujagar Singh stated that Ram Singh was taking his bath at night in the Canal Distributory and had said that he had come after committing the murder of Sheo Sahai and that the appellant had then proceeded towards the police station.

We are therefore of opinion that Ujagar Singh's statement about the appellant's confessing to him that he had murdered Sheo Sahai has been erroneously rejected by the High Court. The extra-judicial confession of the appellant to Ujagar Singh finds ample support from the facts that the appellant did purchase a sword a day before, that that very sword was found to be stained with human blood shortly after the murder and that that sword was handed over by the appellant himself to the Police Officer at the Police Station.

The evidence of the appellant's having enmity with Sheo Sahai, the appellant's conduct in purchasing a sword and delivering it stained with human blood to the Police and the appellant's confession to Ujagar Singh, fully establish that the appellant did commit the murder of Sheo Sahai. We are therefore of opinion that he has been rightly convicted of the offence under s. 302, I.P.C., and has been awarded the proper sentence.

We therefore dismiss the appeal.

Appeal dismissed.

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