

Mahadeo Dnyanu Jadhav

Vs

State of Maharashtra

Criminal Appeal No. 67 of 1975

(V. R. Krishna Iyer, A. C. Gupta, Y. V. Chandrachud JJ)

19.11.1975

JUDGMENT

CHANDRACHUD, J. -

1. This appeal by special leave arises out of a judgment dated September 9, 1974 of the High Court of Bombay confirming the judgment of the Additional Sessions Judge, Sangli convicting the appellant under Section 302 of the Penal Code and sentencing him to death. The appellant was also convicted under Section 201 and was sentenced to imprisonment for 5 years for that offence.
2. Dnyanu, the father of the appellant, and the deceased Prahlad Jadhav were real brothers. They had partitioned their joint family properties long before the date of the incident but it appears that in spite of the partition there were disputes between the brothers regarding certain properties. On the morning of November 9, 1973 Prahlad Jadhav went to his field with his wives Dhondubai and Yashodabai and his infant daughter Malan. At about 2 p.m., a neighbour called Babu Govinda Jadhav heard cries coming from Prahlad's land and he therefore ran in that direction. While standing on a bandh, he saw the appellant dealing an axe blow to Yashodabai. Prahlad, who was grazing his sheep in the northern corner of his field, tried to go to the rescue of Yashodabai but the appellant delivered an axe blow to him also. As a part of the same incident, the appellant also committed the murders of Dhondubai and Malan. He thereafter dragged the deadbodies to the foot of a hill and set them on fire.
3. Finding that neither the appellant, nor Prahlad and the members of his family, had returned home in the evening Dnyanu, the appellant's father, grew suspicious. He therefore contacted the Police Patil, Ramchandra Hari, Ramchandra in turn contacted the Sarpanch and the two of them went to Prahlad's field with a group of 40 or 50 villagers. They saw blood marks at various places in the field and following the trail of blood they found the half-burnt four bodies in a heap of ash. Dnyanu identified the deadbodies as those of Prahlad, his two wives and his daughter Malan.
4. The Police Patil then went with Dnyanu to the Vita police station which is about 10 miles from Ghoti-Budruk where the incident took place. They reached the police station at about 3 a.m. when Dnyanu lodged his firm information expressing his suspicion that his son, the appellant, had committed the four murders. P.S.I. Shinde registered the offence, went to the scene of offence, drew the panchamas and seized various articles including a blood-stained chaddi and banian. He looked out for the appellant but was unable to trace him. He made inquiries regarding the whereabouts of the appellant at various places and ultimately succeeded in arresting the appellant from the house of his father-in-law. During the interrogation, the appellant produced an axe which was found to be stained with human blood. The chaddi and banian were also found stained with human blood.

5. The appellant stated that he prosecution case was false, that he was on inimical terms with the eyewitnesses and that on the date of the incident he had gone to a temple near Kolhapur.

6. Miss Kailash Mehta who appears amicus for the appellant has said everything that could reasonably be said in favour of the appellant. We are, however, unable to accept any of her submissions in support of her contention that he prosecution has failed to establish its case beyond a reasonable doubt. There is, in our opinion, the clearest evidence to hold that the four murders were committed by the appellant.

7. The evidence of Babu Govinda Jadhav (PW 6) seems to us unassailable. Prahlad's land lies between Babu's land and the appellant's land. His presence in his own field is natural and it does not seem to have been seriously disputed that he and his wife Akkatai had gone to the land for harvesting the save crop. Babu's attention was drawn to the incident when he heard the cries of Yashodabai, and while he was standing on the bandh between the lands of Prahlad and the appellant, he saw the appellant causing axe injuries first to Yashodabai and then to Prahlad. The evidence of Ramrao Vithoba Jadhav (PW 7) corroborates in every material respect the evidence of Babu. The evidence of these two witnesses which has been carefully weighed by the Sessions Court and the High Court leaves no manner of doubt that the appellant committed the murders and threw the deadbodies in the fire. We might mention that the evidence of Babu that a scuffle took place between the appellant and Prahlad is corroborated by the discovery of an incised injury on the appellant's foot, as deposed to by Dr. Patil (PW 17).

8. It is urged by the learned Counsel for the appellant that, at best, Babu could have seen the appellant committing the murders of Yashodabai and Prahlad only and yet he told all those who collected at the scene of offence that the appellant had committed the murders of Dhondubai and Malan also. A witness who could make a false claim to have been two murders cannot, according to the learned Counsel, be believed when he makes a claim that he had seen two other murders. This contention does not impress us because even assuming that Babu had not seen the appellant committing the murders of Dhondubai and Malan there can be no doubt that four murders were committed at about the same time, as a part of the same transaction and by one and the same person. The similarity of injuries which were noticed on the four bodies, the quick succession in which Yashodabai and Prahlad were murdered and the manner in which the four bodies were found in the fire disclose a common design. We also see no substance in the contention of the appellant's Counsel that the doctor who performed the post mortem examination could not have seen the injuries as the bodies were charred. The evidence of Dr. Akole (PW 18) shows that though some parts of the bodies were completely charred it was possible to see and measure the incised injuries on the bodies. The inquest panchnamas (Exs. 7, 8 and 9) show that even the panchas were able to see the incised injuries on the bodies of the adult victims.

9. It is highly unlikely that if the appellant was innocent, his own father Dnyanu would go to the police station and lodge information that the appellant had committed the murder. In fact, Dnyanu seems to have gone to the Police Patil, Ramchandra, on the evening of the date of the incident, not because he grew suspicious as his son had not returned home, but in all probability because he had come to know by that time from Babu, Ramaro and others that the appellant had committed the murders. There is also evidence showing that the appellant went from place to place asking for a change of clothes as his chaddi and banian were blood-stained. The axe which was discovered in pursuance of the statement made by him was also certified by the Chemical Analyser to be stained with human blood. Finally, the appellant, at the time of his arrest, was found to have a fresh incised injury on his left foot.

10. The High Court was therefore justified in confirming the conviction and the sentence of the appellant. Accordingly, we dismiss the appeal from confirm the judgment of the High Court.

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