

Pyare Lal

Vs

State of Madhya Pradesh

Criminal Appeal No. 229 of 1976

(Syed M. Fazal Ali, P.S. Kailasam JJ )

17.01.1977

JUDGMENT

FAZAL ALI, J. –

1. The appellant has been convicted under Section 303 of the Indian Penal Code for causing the murders of Kuhrami and Suresh Chandra, both of whom were convict warders along with the appellant of Bilaspur jail. It appears that between the night of June 23/24, 1974, the accused was sleeping with the two deceased persons and nearabout dawn he is alleged to have murdered both of them by assaulting them with handle of a handpump. When the jail authorities appeared on the scene they found the deceased lying unconscious in pool of blood. The accused had in the meantime climbed the tower and proclaimed from there that he had committed the murders and that he was not coming down. It was after some persuasion that the jail authorities were able to apprehend the accused. Thereafter, F.I.R. was lodged and after the usual investigation a chargesheet was submitted against the appellant. The appellant is also stated to have made extra-judicial confession before the Assistant Jailor, PW 1 Mr. Saxena, which was followed up by judicial confession before a Magistrate.

2. The two courts below have carefully analysed the evidence against the appellant and have found that although the case of the appellant rests wholly on circumstantial evidence, the evidence is absolutely conclusive and excludes every other hypothesis except the guilt of the accused. The High Court has catalogued the circumstances against the appellant at page 114 of the paperbook, which are as follows :

(a) When Arjun (PW 16) left the barrack early in the morning to answer the call of nature the appellant was the only person with the two deceased in that barrack. When Arjun (PW 16) returned back, the appellant was absent from there and the two deceased were lying injured.

(b) The conduct of the appellant inasmuch is that he had climbed on the tile roof of the Octagon Office and in spite of persuasions refused to come down till about 8.30 a.m.

(c) The statement made by the appellant that since he had committed the murder hence he would not come down.

(d) The clothes of the appellant which were seized from his body were found to be stained with human blood.

(e) The discovery of the handle of a pump on an information given by the appellant which was found to be stained with blood. However the origin could not be determined by the Serologist, as the stains had disintegrated.

(f) Confession made by the appellant before a Judicial Magistrate.

(g) Motive

3. Mr. Krishan Pal Singh appearing for the appellant submitted in the first instance that judicial confession is inadmissible as the Magistrate who recorded the same, has not been examined to prove the confession, or the voluntary nature of the same. It appears that the Magistrate was not examined before the trial Court but both the courts have relied on the confession and have held that it was voluntary. Even if we exclude the judicial confession from consideration, there is sufficient circumstantial evidence to connect the appellant with the crime. The circumstantial evidence, namely, the fact that the accused was last seen with the deceased, before he climbed up the tower of the jail and proclaimed that he committed the murder, that after being apprehended, he made an extra-judicial confession before Mr. Saxena, Assistant Jailor, that at his instance the murder weapon, the handle, was recovered and the fact that his bloodstained clothes were recovered from his person, lead unmistakably to the only irresistible conclusion that the appellant himself had committed the murder of the two deceased.

4. Having gone through the evidence and the judgments of the courts below we are satisfied that the prosecution has been able to prove its case beyond reasonable doubt against the appellant. Unfortunately, for the offence of murder under Section 303 no other sentence except death can be imposed. The appellant had brutally murdered two persons while himself undergoing sentence of imprisonment for life, and, therefore, Section 303 clearly applies to the present case. We are extremely thankful to Mr. Krishan Pal Singh who has appeared amicus curiae in this case and has been of great assistance to us. The appeal fails and is accordingly dismissed.

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