

SUPREME COURT OF INDIA

Murari Lal

Vs.

State of M.P.

Crl.A.No.111 of 1973

(S. Murtaza Fazl Ali and A. D. Koshal, JJ.)

28.03.1979

JUDGEMENT

FAZAL ALI, J.:-

1. In this appeal under the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act the appellant has been convicted by the High Court under Section 302 read with Section 34 of the Indian Penal Code and has been sentenced to imprisonment for life and has also been convicted under Sections 392/34 and 201/34 sentenced to seven years R. I. and fine of Rs. 1000/-, sentences were ordered to run concurrently. The case was originally tried by the Sessions judge who after considering the evidence acquitted the appellant on the charge under Section 302/34 and Section 201/34 and Section 392, I. P. C. but convicted the appellant only under Section 411, I. P. C. and sentenced him to two years R. I. Thereafter the State preferred an appeal to the High Court against the order of acquittal of the appellant by the Sessions judge which was allowed by the High Court and the appellant was convicted as indicated above. Before the High Court the appellant had also filed an appeal against his conviction under Section 411.

2. We have heard counsel for the parties at great length and have gone through the judgment of the Sessions Court and that of the High Court and are clearly of the opinion that the High Court has given cogent reasons for coming to the conclusion that the case of the appellant has been proved beyond reasonable doubt. The case of the appellant rests mainly on pure circumstantial evidence and the learned Judge after full and complete consideration of the evidence has categorised the following circumstances which have been proved against the appellant :-

"As a result of the discussion aforesaid, we are of the opinion that the following facts and circumstances are fully proved, namely :-

1. The deceased Laltibai was an old woman, aged about 65 years, who had become lame as a result of a paralytic attack on account of which she was unable to walk along distance;

2. On 28-1-1971, at about 11 or 11.30, the deceased, having left her house sometime before that, was seen standing near the house of accused Murari Chaurasia and that was the last time she was seen alive;

3. Then the deceased left home, she was wearing ornaments, namely, gold Hasli (Article 1). gold Mohar (article 8), Silver Toddas (article 9) and gold nosering (article 10) which she was wearing when last seen alive;

4. The deceased was fond of chewing Pan which she always bought from accused Murarilal Chaurasia, whose house is quite close to that of the deceased;

5. The deceased had left home, to get Pan having taken her meals some time earlier as no Pan was available at home;

6. Accused Darbarilal was a servant of accused Murarilal at that time and was present in the latter's house;

7. On the evening of 28-1-1971, accused Murarilal sold the Hasli (Article 2) which the deceased was seen wearing earlier the same day when she was last seen alive, in the shop of P. W. 8 Murarilal Sibarey at Mandla, a distance of about 9 kilometers from the village;

8. A sum of Rs. 1,485/- was concealed by accused Murarilal in the embankment of a field belonging to another person near about that time;

9. Accused Darbarilal was in possession of the gold Mohar (article 8), the silver Toddas (article 9) and the old nose-ring (article 10), worn by the deceased when last seen alive and had concealed them in the embankment of a field from which place they were recovered on 5-2,1971;

10. The dead body of Laltibai was found in a well on the outskirts of the village, sewn in a gunny bag which was also filled with some bricks so as to keep it under water;

11. The deceased Laltibai was killed 'within a few hours of her leaving home on 28-1-1971 itself, which must have been during the day time;

12. A half chewn pan was found in the mouth of the deceased indicating that she had taken Pan shortly before she was killed;

13. Since the killing was done during day time and inside a house in the village, that house must have been one inside which she voluntarily went and took pan; and

14. No explanation has been offered by either of the two accused for their possession of the aforesaid ornaments, belonging to the deceased and worn by her when last seen alive, and also for their immediate disposal or concealment as already indicated;

We have been taken through the evidence which proves the existence of these circumstances and we are satisfied that these circumstances are fully inconsistent with the innocence of the accused and cannot be explained on any other reasonable hypothesis except the guilt of the appellant.

Mr. Gambhir appearing for the appellant vehemently contended that there is no evidence to show that the appellant was last seen with the deceased Laltibai. The High Court has rightly pointed out that there is overwhelming evidence to show that the deceased was in the habit of chewing Pan and she used to buy the pan only from the shop of the appellant Murarilal Chaurasia. The house of Murarilal is situated only at a distance of 150 to 200 paces from the house of Laltibai as proved by the evidence of P.W.5. It has also been proved beyond reasonable doubt that after taking her meals sometimes in the morning, Lalti Bai left for the house of Murarilal to get her pan. That she had

taken a pan is demonstrated by the fact that when the dead body was recovered, a half chewed pan was found in the mouth of the deceased. From this circumstance an irresistible inference and an inescapable compulsion arises that the deceased had taken pan from Murarilal with whom she was last seen. Thereafter, the deceased disappeared and the evidence of P. Ws. 2 and 3 further show that on the very day i. e. 28-1-1971, the appellant went to the shop of P. W. 2 and sold a Hasli. This is proved by the fact that fact of the sale of Hasli is mentioned in the Account Book of these witnesses and were produced before the Police, but the police did not think it proper to seize it. The Account Books were proved and marked Exhibits at the trial. The High Court has believed all these witnesses and we have no reason to disbelieve them. Secondly, from the recoveries made at the instance of the appellant, which is proved by P. Ws. 3, 6 and 12 apart from the Police Officers, it is absolutely clear that the appellant after having sold the ornaments and pocketing the sale proceeds, concealed the same in the field and got it recovered as a result of his disclosure statement before the Police. All these circumstances are, therefore, absolutely incompatible with the innocence of the appellant. It was contended by Mr. Gambhir that there is nothing to show that the deceased was killed in the house of Murarilal and therefore, the very fabric of the prosecution story falls. It is not the prosecution case that the deceased was killed in the house of Murarilal only. It was merely a theory advanced by the counsel for the prosecution. As the circumstances are absolutely conclusive and clinching, it was not necessary for the prosecution to prove the exact spot where the deceased was killed. There can be no doubt that the deceased was killed and her body was recovered from a well close to the house of the accused, Murarilal. All these circumstances are a clear pointer to the fact that none else but Murarilal with the help of Dulare must have killed the deceased for the purpose of taking away her ornaments.

3. Lastly, Mr. Gambhir submitted that if the intention of the accused was to remove the ornaments after killing the deceased, the fact that some of the ornaments were still recovered from her body when it was taken out of the well, militates against this theory. There is no doubt that a large part of the ornaments was taken away by the appellant and it may be, that while the appellant was in the process of doing so, somebody may be passing that way or he may be having some apprehension that he might be caught, he did not choose to take the risk of taking all the ornaments and threw the deceased in the well before he could be detected. This clearly meets the argument raised by Mr. Gambhir which itself is based on speculation.

4. The High Court in its reasoned judgment has completely displaced all the reasons given by the learned Sessions Judge and has pointed out that the prosecution has adduced convincing evidence in this case to prove the charge against the appellant. We are in complete agreement with the view taken by the High Court. This is not a case where any other reasonable view was possible on the evidence, but it is a case where the only inference which could be drawn from the circumstances proved, is that the appellant along with Darbarilal committed the murder of the deceased. For these reasons, therefore, we find no merit in this appeal which is accordingly dismissed.

Appeal dismissed.

