

Beti Padia

Vs

State of Orissa

Criminal Appeal No. 374 of 1975

(O. Chinnappa Reddy, Baharul Islam JJ)

20.02.1981

JUDGMENT

ISLAM, J. –

1. This appeal by special leave is directed against the judgment of the Orissa High Court convicting the appellant under Section 302 and sentencing her to undergo imprisonment for life. The co-accused Kunja Ulla was acquitted. The acquittal of Kunja Ulla was maintained by the High Court.

2. The material facts are that on September 28, 1970 at about 7.00 p.m., the appellant and the co-accused Kunja Ulla came to the residence of Beti Adama (deceased) and committed assault on her with a pirah. Beti Adama died instantaneously. Her brother PW 4 lodged the first information report on September 30, 1970 at about 6.00 p.m. at Motu Police Station at a distance of about 45 kilometres from the place of occurrence. Police registered a case and after investigation submitted charge-sheet against the appellant and Kunja Ulla.

3. In support of the case, the prosecution examined nine witnesses including the medical officer who held post-mortem examination, PW 8, a constable and PW 9 the investigating officer. Amongst them PWs 1 and 2 were said to be the eyewitnesses. In addition to their evidence, the prosecution relied on the extrajudicial confessions alleged to have been made by the appellant before PWs 1, 4, 6 and 7 and the circumstantial evidence afforded by the seizure of blood-stained material objects I to IV. PW 8 who held the post-mortem examination on the dead body of Beti Adama found the following injuries :

(i) One punctured wound almost circular in nature measuring 2 1/2 inches x 1 1/2 inches on the right side of the face touching the right angle of the eye with everted irregular and lacerated edges exposing the fractured right zygomatic bone.

(ii) A round green swelling (bruise) over the back of the head almost in the middle of occipital region, measuring 2 inches x 1 1/2 inches.

(iii) Five abrasions dark brown in colour on the right side of the abdomen.

He further deposed :

On dissection of injury (i) bleeding of the underlying tissues and fracture of the right maxillary bone and dislocation of the right upper two premolar and canine teeth were noticed. The doctor also found that there was crushing off of the parotid gland with

its embedded right external carotid maxillary and temporal arteries were torn and mouth was seen jammed up with blood clots and broken pieces of bones. On further dissection, a transverse crack of 1 1/2 inches length was noticed over the squamous part of the right temporal bone. Internal examination of injury (ii) revealed severed effusion of blood into the underlying tissues. On opening of the vault the brain substance along with its membranes were found liquefied. In the doctor's opinion, the injuries were antemortem in nature and the death was due to shock and profuse haemorrhage resulting from external injury (i) with the corresponding internal injuries.

4. In his opinion injury (i) was fatal and death was instantaneous. He also opined that injury (i) might have been caused by a wooden seat like material object III and injuries (ii) and (iii) might have been caused by hard wooden substance like material objects I and II.
5. The learned Sessions Judge acquitted the appellant on a benefit of doubt and acquitted Kunja Ullas, according to him, there was no evidence against him. The State of Orissa preferred an appeal before the High Court which set aside the judgment and order of acquittal as against the appellant, and convicted and sentenced him as aforesaid.
6. The High Court has carefully considered the direct evidence of PW 1 and PW 2. In addition it has also considered the extrajudicial confession made by the appellant before PWs 1, 4, 6 and 7 and the circumstantial evidence afforded by the material objects seized by the investigating officer. The High Court has not accepted the evidence of PW 2 as it found that PW 2 was called to the place of occurrence by her mother (PW 1) after the assault. It has accepted, in our opinion for valid reasons, the evidence of PW 1. The material object III was found lying near the dead body wherefrom it was seized by the police. On Chemical examination blood was detected on it although the amount of blood was not considered sufficient for serological test. The material object IV which was a blood-stained napkin was seized from the house of respondent 1. On chemical examination and serological test human blood was detected on it. The appellant did not furnish any explanation as to how his napkin was found with human blood. He did not deny the seizure of material object IV from his house. Material object IV has also been proved by PWs 5 and 9 to have been seized from the house of the appellant. It was stained with blood at the time of seizure. There was no explanation from the appellant about incriminating circumstances appearing against him.
7. Learned counsel appearing for the appellant has pointed some discrepancies in the evidence of PW 1. In our opinion the discrepancies pointed out are minor and nominal. It may be remembered that PW 1 was an unsophisticated Adivasi woman. The High Court was justified in accepting her evidence. We do not find any valid reason to differ with the High Court.
8. This appeal has no force and is dismissed.

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