

Dr. V. K. Saxena

Vs

State of Uttar Pradesh

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Vs

Dr. V. K. Saxena and Others

Special Leave Petitions (Criminal) Nos. 3372 of 1980 and 581-82 of 1981

(CJI Y. V. Chandrachud, A. N. Sen, Ranganath Misra JJ)

29.08.1983

ORDER

1. These three special leave petitions arise out of a prosecution in which one Dr. V. K. Saxena and a nurse, Bhagwati Singh were charged, inter alia, for the murder of Sudha, the wife of Dr. Saxena. The learned Sessions Judge, Hardoi, convicted Dr. Saxena under Sections 120-B, 302 and 201 of the Penal Code and awarded the sentence of death for the offence of murder. Bhagwati Singh was convicted under section 120-B and was sentenced to life imprisonment.
2. The appeals filed by the two accused and the confirmation proceedings came up for hearing in the Allahabad High Court before Hari Swarup and M. Murtaza Husain, JJ. Hari Swarup, J. agreed that the box in which the dead body of Sudha was packed was thrown by the accused Dr. V. K. Saxena from a running train between Lucknow and Kanpur. However, according to the learned Judge, that was not enough to sustain the charges because, the possibility that Sudha died as a result of suicidal hanging could not be excluded and if a person destroys evidence of suicide committed by another, he commits no offence. Murtaza Husain J. differed from Hari Swarup, J. and held that Dr. Saxena had committed the murder of his wife, put her dead body in a box and threw that box from a running train. Unfortunately for Dr. Saxena and fortunately for the cause of justice, the massive and merciful pillars of bridge over the Ganges intercepted the box as a result of which the box fell on the railway track and not into the Ganges. By reason of the difference of views between the two learned Judges, the proceedings were placed before S. Malik, J., who agreed with Murtaza Hussain, J. By an order dated October 30, 1980 the High Court upheld the conviction of Dr. V. K. Saxena under Sections 302 and 201 of the Penal Code but reduced the sentence of death to life imprisonment. The nurse, Bhagwati Singh, was acquitted by the High Court of the charge of conspiracy.
3. Dr. Saxena has filed Special Leave Petition No. 3372 of 1980 challenging the order of conviction and sentence. Special Leave Petition No. 581 of 1981 is filed by the State of U.P., contending that Dr. Saxena must be sentenced to death. Special Leave Petition No. 582 of 1981 is filed by the State of U.P., against the order of acquittal passed by the High Court in favour of Bhagwati Singh.
4. There is no merit whatsoever in the special leave petition filed by Dr. Saxena. We have heard Shri R. K. Garg for over an hour but we are unable to see even the semblance of a point in favour of his

client. With respect, we are somewhat surprised that having held that Dr. Saxena had thrown the box containing the body of his deceased wife from a running train, Hari Swarup, J., should have persuaded himself to take the view that Sudha may have committed suicide by hanging herself. It is plain logic that if she had committed suicide, there was no reason for her husband to pack her dead body in a box and throw that box from a running train into a river. Dr. Saxena travelled with that box from Hardoi to Lucknow by the Sialdah Express, took another train from Lucknow to Kanpur and threw the box on way. It is also impossible to understand how, when Dr. Saxena was himself present in the house, Sudha could hang herself by a rope in that very house, with a two year old child near her. No rope was found in the house and the medical evidence does not show that Sudha hanged herself. The conduct of Dr. Saxena in buying a box, packing the dead body of his wife into that box and throwing it from a running train leaves no doubt that he committed her murder. There is clearest evidence of motive on the record of the case. Dr. Saxena had an illicit affair with the nurse due to which he used to harass, pressurise, threaten and assault Sudha. Not only did he tell Sudha's father and his own father falsely that Sudha had run away but he lodged false and misleading reports that she had run away. Little did he realise that the Ganges had refused to accept the box, which contained tell-tale evidence of the dastardly murder of a defenceless woman. Special Leave Petition No. 3372 of 1980 must therefore be dismissed.

5. Insofar as Special Leave Petition No. 581 of 1981 is concerned, if only Hari Swarup, J., had taken a more pragmatic view of the facts, he would not have persuaded himself to the view that Sudha might have committed suicide by hanging herself. Presumably, the death sentence so justifiably imposed by the learned Sessions Judge on Dr. Saxena was reduced to life imprisonment for the reason that the two learned Judges differed on the question as to the guilt of Dr. Saxena. If the High Court were to uphold the sentence of death, we would not have interfered with that sentence. But we are faced with a situation in which the High Court has reduced the sentence of death to imprisonment for life. We do not feel called upon to restore the sentence of death.

6. In so far as Special Leave Petition No. 582 of 1981 is concerned, there is not the slightest doubt that Bhagwati Singh is the root cause of the murder of Sudha, wife of her paramour Dr. Saxena. We have also no doubt that Sudha's murder was a consummation which Bhagwati Singh must have devoutly wished for. But there is neither evidence of conspiracy between her and Dr. Saxena to commit the murder of Sudha nor any evidence that she was present at or about the time of Sudha's murder. We therefore, dismiss the special leave petition through not without expressing our severe resentment against the overall conduct of Bhagwati Singh. She, like Dr. Saxena, has disgraced a noble profession. Together, they are responsible for the murder of an innocent woman - one morally and the other legally.

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