

Ved Prakash

Vs

State (Delhi Administration)

Criminal Appeal No. 200 of 1984

(S.R. Pandian, K. Jayachandra Reddy JJ)

07.11.1990

ORDER

1. This appeal is directed against the judgment made in Criminal Appeal No. 23 of 1982 on the High Court of Delhi. The appellant took his trial on the accusation that January 13, 1979 at about 8.30 a.m. at House No. 717, Gali No. 28, Jafrabad within the limits of the police station of Seelampur he committed murder of his wife Laxmi by sprinkling kerosene and setting her on fire. The trial court for the reasons assigned in its judgment convicted the appellant under Section 302 IPC and sentenced him to imprisonment for life which judgment of the trial court has been confirmed by the High Court. Both the courts have mainly relied upon the evidence of PWs 3, 4, 5, 6 and 11 as well the dying declaration (Ex. PW 1/A) recorded by Dr. Jain and proved by PW 1. Learned counsel appearing on behalf of the appellant took much pain to impress upon us that the deceased bolted her room from inside and set herself on fire and that she came after her husband broke open the door and that this circumstance is indicative of the fact that the deceased had committed suicide and she was not murdered by her husband as the prosecution was put forth. To fortify this argument, he placed reliance on some pieces of evidence whereunder PW 1 is said to have admitted in his statement recorded by the police during investigation that the deceased came out of the room after the door was broken by her husband. He also relied upon one more circumstance that it was her husband who took the victim to the hospital with the burn injuries.

2. We deeply examined the entire documents placed before us as well the submission made by the learned counsel. We are unable to accept that contention. PWs 4, 5, 6 and 11 are independent and disinterested witnesses. They all speak consistently that the deceased came forward even at the earliest point of time with a specific statement that it was her husband who sprinkled kerosene on her body and set her on fire. We see no reason to discard the testimony of any of these witnesses. The unassailable and unimpeachable documentary evidence is that of the dying declaration of the deceased which is said to have been recorded by Dr. Jain at about 9.50 a.m. - that is to say within 1 1/2 hours from the time of the occurrence. In this dying declaration, the deceased has specifically mentioned that it was her husband who set her on fire. Thus we find there is oral and documentary evidence coupled with impelling circumstances which lead us only to one irresistible conclusion that it was the appellant and appellant alone who was responsible for causing the death of the deceased. Under these circumstances, we see no reason to take a contrary view to that of the High Court and to discard that finding.

3. In the result, we are in full agreement with the view taken by the High Court and the appeal is dismissed.

</html