

Mahavir Prasad

Vs

State of Rajasthan

Criminal Appeal No. 669 of 1979

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

08.11.1990

JUDGMENT

1. The appellant, Mahavir Prasad, who stands convicted under Section 302 IPC and sentenced to undergo life imprisonment has preferred this criminal appeal challenging the correctness of the judgment made in Criminal Appeal No. 801 of 1971 on the file of the Rajasthan High Court at Jaipur Bench. The deceased, Prem Bai, was married to one Durga Prasad who was arrayed as an accused along with the appellant, but acquitted by the Trial Court itself. It seems that there was some misunderstanding between the deceased and her husband, Durga Prasad, as the latter had entertained some suspicion about the character of the deceased. In connection with the marriage of the brother of the deceased, the deceased had gone to her parents' house at Nawalgarh in May, 1970. Some letters were exchanged between Durga Prasad and Ram Gopal, the brother of the deceased. In one of the letters dated 10-6-70, Durga Prasad even went to the extent of suggesting Ram Gopal to put an end to her life in order to save the honour of the family. Subsequently he expressed regrets and offered reconciliation. Then he wrote a letter to Ram Gopal that he would be sending Shankar Lal his brother to bring the deceased back. However, instead of Shankar Lal, the appellant who is the younger brother of Durga Prasad was sent to Nawalgarh to bring the deceased back to the house of Durga Prasad.

2. The appellant reached Nawalgarh on 2-10-1970 and left the village with the deceased on 4-10-1970 but the deceased did not reach the village. On 14-10-70, Ram Gopal received a letter purported to have been written by one Mali Ram stating that Prem Bai had developed some pain in the abdomen during the course of her train journey and that on her way to Jaipur for treatment she met her death and had been cremated at Jaipur. Ram Gopal went to Bharu-ki-Dhani and asked the appellant about the contents of the letter; but the appellant pleaded ignorance. Not being satisfied with the version given by the appellant, Ram Gopal submitted a complaint before the Superintendent of Police on 16-10-70 which report was endorsed to the Station House Officer, Neem-ka-Thana for taking appropriate proceedings. On the complaint of Ram Gopal, the law was set on motion.

3. According to the prosecution, the dead body of Prem Bai had been recovered from a well situated near Sarson Wali Dhani on 5-10-70 and the body was not identified by anyone. An inquest was held on the dead body and thereafter the body had been disposed of. After completion of the investigation, the chargesheet was laid against the appellant and two others, namely, Durga Prasad and Ram Narain. The Trial Court discharged Ram Narain and acquitted Durga Prasad. Nonetheless the appellant was convicted and sentenced as aforementioned which conviction has been confirmed

by the High Court. Hence this appeal.

4. Admittedly, there is no direct evidence to connect the appellant with the crime in question. The prosecution rests its case only on circumstantial evidence to prove its case, they being (1) Durga Prasad wrote the letters exs. P- 16 & 17 to the brother of the deceased Ram Gopal; (2) the appellant left the village Nawalgarh on 4-10-70 in the company of the deceased; and (3) the appellant alone returned to the village Bharu-ki-Dhani. Even assuming these circumstances create some suspicion against the appellant, they cannot take the place of evidence and establish the charge of murder. According to the medical evidence the probable cause of death was asphyxia due to drowning.

5. The appellant comes with an explanation stating that the deceased left his company with a broken heart while both of them were at the Railway Station; that he did not know as to what had happened afterwards; that he stayed overnight in a Dharamshala and then returned back and informed his brother and that, thereafter, coming to know that a dead body was in the hospital, he went there and saw the dead body of the deceased, but after having become panicky returned to the village. Whether this explanation is totally acceptable or not, it cannot be completely ruled out from consideration. However, the prosecution case, in our view, suffers for want of adequate and sufficient evidence to substantiate the charge of murder.

6. In the result, we set aside the conviction and sentence recorded by the Courts below and acquit the accused. The appeal is accordingly allowed. The bail bonds are discharged.

Appeal allowed.

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