

State of W.B.

Vs

Vindu Lachmandas Sakhrani alias Deru

Criminal Appeal No. 260 of 1979

(Kuldip Singh, Dr. A. S. Anand JJ)

07.01.1992

JUDGMENT

1. Vindu Lachmandas, the respondent before us, was charged under Ss. 364 and 302/34 of the Indian Penal Code for the kidnapping and murder of six years old child named Nita. Her husband Lachmandas was also charged under S. 302/34, IPC. The trial Court acquitted the husband but convicted the respondent under S. 302 and sentenced her to life imprisonment. She was also convicted under S. 364, IPC and sentenced to 7 years rigorous imprisonment. Two appeals were filed before the High Court. The State appealed against the acquittal of the husband whereas the wife filed appeal against her conviction and sentence. The High Court dismissed the State appeal. The appeal filed by the respondent was allowed and she was acquitted of both the charges. This is State appeal against acquittal of the wife.
2. We have heard learned counsel for the parties. There is no direct evidence in this case. The prosecution relied upon various circumstances to prove the involvement of the respondent as well as her husband in the case. The High Court has examined each of the circumstances in detail and has come to the conclusion that the case against the respondent was not proved beyond reasonable doubt. We see no ground to differ with the reasoning and the conclusions reached by the High Court.
3. Learned counsel for the respondent has raised a further point for our consideration. According to him there was no independent charge under Section 302, Indian Penal Code either against the husband or against the wife. Both were charged under S. 302 read with S. 34, Indian Penal Code. He states that the element of sharing the common intention by husband and the wife was the core of the charge. The husband having been acquitted and there being no independent charge u/S. 302, IPC against the wife, she cannot be convicted for the said offence.
4. We see force in the argument advanced by the learned counsel. Both husband and wife were charged with an offence u/S. 302 read with S. 34, IPC. The charge which was based on the common intention of the two failed with the acquittal of the husband and there being no charge u/S. 302 simpliciter against the wife she could not be convicted. In any case there is no evidence on the record to show that she independently committed the offence.
5. We, therefore, dismiss the appeal. Appeal dismissed.

</html