

Virender Singh S/o Khachhero

Vs

State (Delhi Administration)

Criminal Appeal No. 10 of 1981

(R. C. Pathak, K. Jayachandra Reddy JJ)

13.05.1992

JUDGMENT

K. JAYACHANDRA REDDY, J. –

1. Appellant Virender Singh along with Smt Rewa, wife of Hari Singh, deceased were convicted under Section 302 read with Section 34 IPC and each of them was sentenced to imprisonment for life by the trial court. Both of them preferred an appeal and the High Court acquitted Smt Rewa of the offence punishable under Section 302 IPC but confirmed her conviction under Section 201 read with Section 34 IPC. The High Court, however, convicted the appellant under Section 302 IPC and confirmed the sentence of imprisonment for life. His conviction under Section 201 and the sentence of seven years' rigorous imprisonment were also confirmed. Hence the present appeal.

2. The appellant is the younger brother of the deceased Hari Singh and Smt Rewa is the wife of the deceased. The deceased was a Sepoy in the Indian Army and during the month of March, 1973 he came to the village on leave and wanted to take Smt Rewa with him to his unit as he was suspecting that the appellant was having illicit relations with her. The appellant was opposed to the deceased taking Smt Rewa with him. It is alleged that on the night of March 23, 1973 both the accused killed the deceased and threw the dead body in a well. On March 26, 1973 the dead body lying in the well was noticed. The villagers went and reported the matter in the Police Station, Alipur. A case was registered. A.S.I. went to the well and got the dead body taken out of the well which was found wrapped in a bedsheet. Inquest was held and some other recoveries were effected. The doctor, who conducted the post-mortem, found the dead body in a decomposed state. He however noticed several incised wounds all over the body and opined that the death was due to shock and haemorrhage. The police interrogated the appellant and at his instance a blood-stained knife was recovered. As the appellant also had some injuries he was got examined on March 27, 1973 by the doctor who found 15 injuries on him which were four to five days old. After completion of the investigation the charge-sheet was laid. There are no eyewitnesses to the occurrence but there is evidence to show that on that night cries emanating from the house were heard. The main circumstance being that on the fateful night both the accused and the deceased were in the house and the appellant has no explanation as to how the deceased met his death. Relying on this circumstantial evidence the High Court confirmed the conviction of the appellant.

3. We have gone through the entire record and on the aspect of motive several witnesses have given evidence and there was the statement of the deceased also regarding the objection raised by the appellant for Smt Rewa being taken by the deceased to his unit. The medical evidence establishes that the deceased was brutally done to death. In his statement under Section 342 CrPC the appellant denied the offence but stated that he was living in a different house on that night. He also stated that

he received injuries from lathi blows at the hands of one Dharam Singh. He denied the recoveries. Both the courts below on an examination of the evidence of independent witnesses concluded that on the fateful night the appellant was also in the same house and some cries also were heard. Both the courts below have given cogent and convincing reasons in accepting the prosecution case against the appellant. After a careful consideration of the entire evidence on record we see on grounds to disagree with the findings of fact concurrently arrived at by both the courts below. There are no merits in this appeal. It is therefore dismissed.

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