

Krishna Ram and Others

Vs

State of Rajasthan

Criminal Appeal Nos. 147-150 of 1985

(G. N. Ray, K. Jayachandra Reddy JJ)

04.09.1992

JUDGMENT

K. JAYACHANDRA REDDY, J. –

1. On November 28, 1979 at about 9.30 p.m. an occurrence took place in Village Chadwas within the limits of Chhapar Police Station, Churu District in Rajasthan, in the course of which one Mohan Ram was killed and PW 6 Jiwan received an injury. In relation to this occurrence six persons were tried for offences punishable under Sections 147, 148, 302/149, 323 and 364/149 IPC. The trial court acquitted one Keshra Ram and convicted the remaining five persons under Sections 302/149 and sentenced each of them to death. They were also convicted for other offences and sentenced to various terms of imprisonment ranging from three months to six months. A reference was made to the High Court for confirmation of the death sentence. The five convicted accused also filed jail appeals. The High Court converted the sentence of death to one of imprisonment for life and the appeals were dismissed in all other respects. The Court entertained special leave petitions filed by them but it was dismissed in respect of Moola Ram, A-1 and leave was granted in respect of the other appellants namely A-2 to A-5. Hence these appeals. The prosecution case is as follows.

2. One Mangu Ram, husband of Smt Pinchu (PW 3) and the father of Jiwan (PW 6) and the brother of Moola Ram (A-1) died about ten years back. The deceased Mohan Ram used to visit the house of PW 3 and A-1 had suspicion about their relations and he did not relish the deceased coming to the house of PW 3 or having any relation with her. The deceased Mohan Ram arranged the marriage of PW 6 in the village in which his own son was married. This also enraged Moola Ram (A-1) and his sons and they did not even attend the marriage. On November 28, 1979 at about 8 p.m. the deceased Mohan Ram had gone to ease himself. While returning he went to the house of Jiwan (PW 6) and asked him to accompany him to work at the grass cutting machine. Then he went towards his house. At about 9 or 9.30 p.m. Bhagu Ram (PW 1) son of the deceased and Smt Gayani (PW 2) his mother were inside the house. The door of the house was closed but the window was open. When the deceased was entering his house through the window Moola Ram (A-1) caught hold of the bush-shirt of the deceased and pulled him out and gave a lathi blow on the head of the deceased. The lathi got broken. Then the remaining accused gave lathi blows to the deceased who raised a cry. PWs 1 and 2 came out of the house and tried to intervene but A-1 warned them of dire consequences. On hearing the cries PW 6 also rushed there and questioned the accused. On that A-4 and A-6 ran after PW 6 and A-1 gave a lathi blow on his hand. The cries attracted PW 11 Bhanwara, another witness and PW 10 Mala Ram, a neighbour. They saw the assailants taking the injured deceased to the house of A-1. Having taken him there they tied him with string to a nail and gave lathi blows and kicks to him. PWs 10 and 11 also reached there. PW 3 and PW 6 asked the accused not to beat the deceased but they were also warned with dire consequences. The other witnesses then went to the house of A

1. There they found the deceased unconscious. PW 1 and others went in a tractor to the Police Station, Chhappar and a report Ex. P-1 was lodged by PW 1. The S.H.O., PW 15 with his staff reached the village and went to the house of A-1 and he found the deceased tied and in unconscious condition. He was bleeding. The S.H.O. untied the rope and prepared a memo. Some blood-stained articles were seized. The deceased was sent for medical examination at Chadwas. PW 6 who had an injury was also sent to Chadwas. The doctor examined him. Another doctor B. K. Narula examined the injured deceased and noted 19 injuries on his person. The deceased died at about 9.15 p.m. on November 29, 1979. The post-mortem was conducted by PW 7 Dr. Madhu Sudan Sharma. On external examination he found 19 injuries. Most of them were lacerated wounds and bruises all over the body and on dissection he found fracture of right parietal bone, fracture of skull along fronto parietal and brain membranes were congested and blood was present in left side of cavity outside the brain, clotted and liquid both. The doctor noted fracture of skull along fronto parietal joint extending up to front of left ear. He also found fracture of 6th to 9th ribs on the left side and on back. The doctor opined that the deceased died due to shock of head injury and lung injury. The accused were arrested and A-1 was examined for some simple injuries like abrasions on him. The doctor opined that these injuries would have been caused by friction against a hard substance. After completion of the investigation charge-sheet was laid. The prosecution relied on the evidence of the eyewitnesses PWs 1, 2, 3, 6, 10, and 11. When examined under Section 313 the accused denied the offence. A-1 Moola Ram, however, stated that the deceased used to visit the house of PW 3 which was not liked by PW 6 also and on the day of occurrence there was a quarrel between PW 6 and the deceased and there was a scuffle and the deceased fell on a nail and that he (A-1) gave a fist blow and with the help of PW 6 tied the deceased. He himself went to the police station but he was told that the S.H.O. was not there. He wanted to give a report but the same was not recorded. Two DWs were examined. The trial court accepted the evidence of the eyewitnesses. It however acquitted A-6 Keshra Ram since his name was not mentioned by any one of the eyewitnesses. The High Court in a detailed judgment agreed with the findings arrived at by the trial court and confirmed the convictions as stated above.

3. In these appeals, the learned counsel for the appellants submitted that many of the details were not mentioned in the earliest report and the witnesses are all interested and they have improved their version considerably and that their version itself is artificial. Learned counsel also submitted that according to the prosecution case A-1 caught hold of the deceased when he was entering his own house through a window and dealt a lathi blow as a result of which lathi was broken and if that be so, there is nothing to show as to how later he could deal blows with the lathi. Learned counsel also submitted that having acquitted A-6 and rejected the evidence to that extent, the courts below ought to have acquitted the other appellants also.

4. We have gone through the evidence of the eyewitnesses. No doubt PWs 1, 2, 3, and 6 are kith and kin of the deceased but they have given a truthful version of the whole occurrence. Even in Ex. P 1 all the material particulars are mentioned particularly the fact that the deceased was dragged to the house of A-1 and that there he was tied and beaten. As noted already even A-1 admitted that the deceased was tied in his house but added that because of the scuffle between PW 6 and the deceased, latter was tied. Immediately after registering the crime, the S.H.O. went to the house of A-1 and found the deceased tied and he was having bleeding injuries. Thus the time, place of occurrence and the cause of death are established beyond doubt. So far as the presence and participation of the appellants are concerned there are statements of the eyewitnesses consistently to this effect. Both the courts below have given cogent and convincing reasons for accepting the evidence of the eyewitnesses. The evidence adduced in defence is not at all material and the courts below have rightly rejected the same. The trial court acquitted Keshra Ram (A-6) giving the benefit

of doubt. In our view the same in any manner does not affect the evidence of the eyewitnesses who are the most natural witnesses. We see absolutely no merits in these appeals. The appeals are dismissed accordingly.

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