Pattu Lal

Vs

State of Punjab

Criminal Appeal No. 165 of 1985

(G. N. Ray, S. B. Majmudar JJ)

27.03.1996

JUDGEMENT

G. N. RAY, J.

1.This is an appeal under section 14(1) of the Terrorists Affected Areas (Special Courts) Act, 1984. This appeal is directed against the order dated November 28, 1984, passed by the learned Judge, Special Court, Ferozpur, in trial No. 27 of 1984, arising out of F. I. R. No. 141 of 1984 of the Police station, Abohar, under Section 302 of the Indian Penal Code and was sentenced to suffer imprisonment for life.

2. The prosecution case in short is that the appellate had strained relation with his wife Chameli Devi, having illicit relation with one Kirpal Singh. On May 8, 1984, P. W. 1 Bishan Dial, his brother Tej Ram and the wife of Bishan Dial, Dropati went to the house of the appellant Pattul Lal to get the dispute between the deceased and Pattul Lal settled. The deceased threatened to get divorce and marry Kirpal Singh. On the night of May 24 and 25, of 1984, P.W.1. Bishan Dial said Tej Ram and Dropati slept at the house of Pattu Lal and at about 6.00 a.m. on May 28, 1984, Bishan Dial got up on hearing alarm and saw Pattu Lal giving injuries to Chameli Devi with toka and Chameli Devi died at the spot. P. W. 1 Bishan Dial took his father with his blood stained clothes and the said toka Ex. M/G/1 to the police station, Abohar, where he lodged the FIR Ex. P. W.1. at about 7.00 a. m. On the basis of said FIR a case under section 302 of the India Penal Code was registered. P. W. 3 Shri Thakur Singh, Additional Station House Officer, took up the investigation who placed Pattu Lal under arrest and the blood stained toka and also blood stained clothes produced before him were seized. Thereafter, the said investigation Officer (P. W. 3 ) proceeded to the spot and collected blood stained earth under memo of seizure Ex. P. 7 and also seized the blanket and chadar of the deceased by seizure Memo effects Ex. P.8. Autopsy of the dead body of Chameli Devi was performed by Dr. Dalip Kumar on May 25, 1984, at about 3.30 p. m. In the opinion of the doctor, the death was caused due to shock and haemorrhage due to injury No. 1 which was sufficient in the ordinary course of nature to cause death. The prosecution examined Bishan Dial P. W. 1, the son of the accused and also the doctor holding the post mortem examination (P. W. 2 Dr. Dalip Kumar), the said Investigation Officer P. W. 3, and other formal witnesses P. W. 1, Bishan Dial was, however, declared hostile and he was cross-examined by the learned Public Prosecutor. It appears from the deposition of P. W. 1 that his father and the mother were living together and Bishan with his wife and brother Tej Ram had been living separately in a different house. The said witness also admitted that at the police station he had given a thumb mark under the FIR. He also admitted that his brother Tej Ram also accompanied him to the police station. No plausible reason has been indicated by the said witness which might have prompted the said Investigating Officer to fabricate the said FIR on making false allegations. The investigating Officer specifically stated in his deposition that the

accused was produced at about 7.00 a.m. at the police station by P. W. 1 Bhishan Dial himself and the blood stained clothes and the 'toka' with which murder had been committed were also produced by the said Bishan Dial. It may be stated here that the blood stained clothes and the toka with which the murder is alleged to have been committed had been sent for forensic test and the report is to the effect that the said clothes and the toka contained human blood.

3. The learned counsel for the appellant has very strongly contended before us at the hearing of this appeal that in the instant case, the prosecution wanted to prove the charge of murder by examining Bishan Dial, who was stated to be an eye witness. But the said Bishan Dial has denied in his deposition that he had seen the occurrence and he has also denied that he lodged the FIR with the police station. He has specifically stated that in the police station, a thumb impression was taken from him. The learned counsel has submitted that such thumb impression has since been utilised in FIR and no reliance should be placed on such FIR. The learned counsel for the appellant has also contended that the prosecution has not come up with a case of murder to be established by circumstantial evidences. On the contrary, the positive case of the prosecution was that the case of murder was witnessed by the son of the deceased. But the prosecution has failed to establish such cases because of the denial about the said case of murder by the son, Bishan Dial. The learned counsel for the appellant has submitted that simply on the basis of the deposition of the Investigation Officer, the case against the appellant cannot be accepted in the absence of any convincing evidence by way of corroboration. He has, therefore, submitted that the prosecution case must fail by holding that it was a case of blind murder not proved by any convincing and clinching evidence.

4. Mr. Ranbir Yadav, learned counsel for the State, has, however, submitted before us that in the instant case, the police did not arrest the accused on the basis of any information received from any other source. The accused was arrested at the time of lodging the FIR by Bishan Dial because the accused was produced by his son Bishan at the police station at the time of lodging FIR with the blood stained clothes of the appellant and the toka, the weapon with which the murder had been committed. The Investigating Officer has clearly deposed in this case that the said Bishan Dial lodged the said FIR and handed over his father along with blood stained clothes and the weapon. In view of evidence there is no difficulty in convincing the appellant for the said offence of murder and in the facts of the case, no interference by this Courts is called for.

5. We requested Mr. Natarajan, the learned Senior Advocate to assist the Court as amicus curaie and we place on record our deep appreciation for the valuable assistance given by Mr. Natarajan. Mr. Natarajan has submitted before us that although P.W.1 Bishan Dial has denied the factum of lodging the FIR and making the statement recorded in FIR and has also denied that he had witnessed the said occurrence of murder, but the contradiction in his deposition with the statement recorded in the FIR and also in the statements made by him under Section 161 of Crl. Procedure Code has been clearly established by the investigating Officer P.W.3 in his deposition. The statement of Bishambhar to the extent of contradiction in his statement in FIR and in the statement made before the police became substantive evidence. Mr. Natarajan has also submitted that apart from such evidence, the investigating officer has also deposed in this case by stating that the son of the deceased Bishan Dial lodged the FIR and also produced the accused at the time of lodging the FIR and blood stained clothes of the accused and the weapon with which the murder had been committed, had also deposited with the police by the said Bishan dial. There is no suggestion to the said investigating officer in cross examination that he had any reason to depose falsely against the accused in this case. From the deposition of the son of the deceased it has been established that the accused to stay with the deceased in the house where murder had been committed and no one else

used to stay in the said house. It has come out in the evidence of the investigating officer that shortly after the said incident of murder, the accused was presented in the police station with blood stained clothes and the toka, by the son of the deceased. It has been established from the serological report that the said clothes and the weapon contained human blood. Such evidences, even in the absence of direct evidence of murder, clearly establish the prosecution case beyond doubt. Accordingly, the conviction of the appellant for murder of his wife cannot be held to be bad or illegal.

6. After giving our anxious consideration to the facts and circumstances of the case and the evidences adduced in the case and submissions made by the learned counsel for the parties and also by Mr.Natarajan, learned amicus curaie, it appears to us that the factum of lodging the FIR by P.W.1 Bishan Dial and also the factum of producing the accused with blood stained clothes and the said toka with which the murder had been committed by Bishan Dial have been clearly established by the deposition of investigating officer. We do not find any reason to discard the evidence of the investigating officer to the above effect. No suggestion was given to the said investigating officer on behalf of the accused that he has any occasion to have animus against the accused for which there was likelihood of the fabricating false evidence by the said investigating officer against the accused. P. W. 1 Bishan Dial has deposed to the effect that he along with his brother had been to the police station. Although he has stated in his deposition that his thumb impression was taken on a paper in the police station put no attempt was made to support such contention by examining his own brother as a defence witness. It has also been clearly established from the evidence of the son of the deceased that the accused used to live with the deceased in the said house and nobody else used to live there. Shortly, after the incident the appellant was produced in the police station with his blood stained clothes and the toka. From the report of the serologist, it has been established that the said clothes and the toka contained human blood. No explanation has been giving as to how and under what circumstances, the clothes of the accused contained blood stains when he was apprehended shortly after the incident. The circumstances established by clear and clinching evidence only indicate that it was the appellant and no one else had committed that said murder. It will be appropriate to indicate here that corroboration is a rule of prudence. Evidentiary value of a deposition which is otherwise admissible is not just wiped out in the absence of corroboration. Even in the absence of corroboration, a deposition for its quality may be safely accepted to be correct. It will be unfortunate if on an account of over emphasis for corroboration, a crime goes unpunished by not giving due weight on uncorro-borated evidence when such evidence is otherwise reliable. We, therefore, find no reason to interfere with conviction and sentence passed against the appellant and the appeal is accordingly dismissed. The appellant has been released on bail during the pendency of this appeal. He should be arrested forthwith to serve out the sentence. Appeal dismissed.