

SUPREME COURT OF INDIA

Ram Khilari

Vs.

State of Rajasthan

(G Nanavati and M S Hegde JJ.)

03.02.1999

ORDER

NANAVATI, J.

1. The appellant has been convicted for the offence punishable under Section 302 IPC. The conviction is based upon the extra judicial confession made before P.W. 5 - Ram Krishan. The trial court and the High Court have believed the said extra-judicial confession as nothing could be said against the evidence of Ram Krishan.
2. What was urged by the learned Counsel for the appellant is that P.W. 5 - Ram Krishan had not disclosed the fact that the appellant having made extra judicial confession immediately but he did so after 20 days and therefore the courts below should not have relied upon his evidence P.W. 5 is a close relative of the appellant. The appellant happens to be the brother-in-law of his son as the sister of the appellant has married the son of this witness. There is no material on the basis of the which it can be said that he had any reason to falsely involve the appellant in commission of such a grave offence. After going through his evidence, we find that his evidence is quite reliable.
3. It was also submitted that it was not probable that the appellant would have gone to Ram Krishan and made such a confessional statement. Ram Krishan's son being his brother-in-law, it is quite probable that the appellant thought that he would get shelter in his house. His informing Ram Krishan what had happened was therefore not improbable. It was also submitted that the explanation that this witness was not available for recording his statement for 20 days cannot be believed. The Investigating Officer has explained that he had summoned this witness but as he was not found his statement could not be recorded before 19.10.78. There is no material to infer that he had not gone to the police station even though he was informed. Evidence of P.W. 5 - Ram Krishan suffers from

no infirmity and we see no reason to interfere with the findings recorded by the courts below that his evidence is reliable and truthful. His evidence is sufficient to establish the guilt of the appellant.

4. As we are of the opinion that the courts below rightly accepted the extra-judicial confession made by the appellant his conviction has to be regarded as proper. Therefore, this appeal is dismissed.