

# SUPREME COURT OF INDIA

Vimla

Vs.

State of Rajasthan

Crl.A.No.853 of 1997

(N. Santosh Hegde and B. P. Singh JJ.)

11.02.2004

## JUDGMENT

The Order of the Court is as follows

1. The appellant herein along with her husband, Puran Singh were charged for the offences punishable under Sections 302, 120B, 380 and 460 IPC for having committed the murder of one Sohana their landlady and for having stolen her ornaments. The learned Additional Sessions Judge, Ajmer accepting the prosecution case found both the accused persons guilty of the offences charged against them and sentenced them for varying period of imprisonment maximum of which life imprisonment for an offence punishable under Section 302 IPC. The appeal filed by the said accused persons before the High Court of Judicature for Rajasthan, Jaipur Bench, Jaipur came to be dismissed and in this appeal the wife Vimla, sole appellant is before us. We are informed that the conviction and sentence of her husband, Puran Singh has become final and as a matter of fact he has already served out the said sentence, while the appellant was enlarged on bail by this Court during the pendency of this appeal.

2. The prosecution case stated briefly is that on 15th of September, 1979, Puran Singh, the husband of the appellant took a portion of the house occupied by the deceased Smt. Sohana on rent by giving a fictitious name of one Manohar Singh Sharma. In the said rented house the said Puran Singh, the appellant and their small child were residing. In the portion of the house occupied by Smt. Sohana, her son, Jeevraj, PW 1 and her daughter-in-law, Kamla, PW-3 were residing. It is the prosecution case that on 8th of October, 1979 PW-1, Jeevraj received a postcard informing him of the serious illness of his father-in-law and asking him to go to his father-in-law's place because of which the prosecution states that Jeevraj, PW-1 and Kamla, PW-3 left the house of the deceased to go PW-1 ]'s father-in-law's house. On 9th of October, 1979, PW-5, Dwarka Prasad, the officer in-charge of the Police Station received an information at about 10.30 a.m. that Smt. Sohana was found dead and her tenants that is accused Puran Singh and the appellant were missing. On 23rd of September, 1980, the appellant and her husband, Puran Singh were arrested by the police and on information given by Puran Singh certain jewellers belonging to the deceased were recovered. On completion of the Investigation the appellant and her husband were charged for the offences as stated

above. The trial court after completion of the trial found both of them guilty of the offences and charged and sentenced them as stated above. The appeal filed by the appellant and her husband having been dismissed by the High Court, the appellant is now before us in this case.

3. Learned Counsel appearing for the appellant contended that the present is a case of circumstantial evidence and there is no direct evidence and circumstances relied upon by the courts below does not implicate the appellant. She contended that at the most those circumstances may involve the appellant's husband who has been convicted by the two courts below and who has served out the sentence. She submitted that mere company of the husband will not be sufficient evidence to come to the conclusion that either the appellant was aware of the crime or took part in the said crime, nor she can be guilty of being a co-conspirator to the said crime.

4. We have perused the judgments of the two courts below as also the evidence produced in this appeal. We note that the prosecution has relied upon the following circumstances to establish the guilt of the appellant:

“(1) taking of the house on rent from the deceased by giving a false name;

(2) writing of a postcard by Puran Singh falsely intimating illness of father-in-law of PW-1 and asking him to go to his house;

(3) recovery of some jewellery belonging to the deceased at the instance of Puran Singh and

(4) the two accused being last seen together with the deceased.

From the evidence produced by the prosecution in support of these circumstances we note that none of these circumstances implicate the appellant herein. It is prosecution case itself that Puran Singh gave a false name of Manohar Singh Sharma while taking the house on rent. It is also noted that the prosecution has not produce any material to show that this was done at the instance or in connivance with the appellant. The second circumstance relied upon by the prosecution namely the writing of the postcard is also attributed by the prosecution witnesses to Puran Singh only and there is no material that this was written at the instance of the appellant. The third circumstance of recovery of jewellery of the deceased is also at the instance of the appellant's husband only and there is no material to show that the same was at the instance of the appellant also. The last circumstance namely this appellant and her husband, Puran Singh were last seen together with the deceased is a neutral circumstance and cannot be held to implicate any one of the accused because it is but natural that the appellant and her husband who occupied a portion of the house belonging to the deceased could be found in her company.”

5. In our considered opinion none of these circumstances would implicate the appellant in the

crime alleged in any manner. Learned counsel appearing for the State, however, contended that the fact that the appellant rented the house along with her husband, the fact that both of them were missing and were arrested together would indicate the complicity of the appellant. We think these circumstances cannot be held to be the circumstances which would lead to an irresistible inference of the appellant's involvement in the crime which was committed by her husband. Both the courts below have failed to take into consideration these vital factors which are in favour of the appellant.

6. For the reasons stated above, we are of the view that the courts below have committed an error in coming to the conclusion that the prosecution has proved its case against the appellant. Therefore, this appeal succeeds and the same is allowed. We are informed that the appellant is on bail, her bail bounds shall stand discharged and she is acquitted of all the charges.

7. We place on record our appreciation for the assistance rendered by the learned amicus curiae. A fee of Rs. 750/- be paid to the learned amicus curiae. J