

SUPREME COURT OF INDIA

Natraj Chinnappa Nair

Vs

State of Maharashtra

Criminal Appeal No.1002 of 2008(Arising out of SLP (Crl.) No. 7253 of 2007)

(DR. Arijit Pasayat and P. Sathasivam)

7/07/2008

JUDGMENT

Dr. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in this appeal is to the judgment of a Division Bench of the Bombay High Court dismissing the appeal filed by the appellant questioning the correctness of the judgment of a learned Additional Sessions Judge, Greater Mumbai in the SC Case No. 1098 of 1998. He was convicted for offence punishable under Section 302 of the Indian Penal Code, 1860 (in short the 'IPC').

3. Prosecution case in a nutshell is as follows:

PSI Balwant Patil was working as a Station House Officer in Tilak Nagar Police Station from 8 AM to 6 PM. At about 4.30 p.m. one taxi halted in front of the police station. A lady named Tulsibai Chinnappa got down from the said taxi and came to the police station and informed the Station House officer Patil that her son Natraj has consumed Tik-20 Poison and he has been brought in the taxi. The Station House Officer rushed towards the taxi. He is alleged to have made inquiry from the person who was said to have consumed Tik 20 poison. The said person purportedly stated before him that he assaulted his wife in a fit of anger and he himself consumed the Tik 20 poison. Nivas Ayyer and Prakash Muthkar were the other two persons sitting in the taxi. The person who was said to have consumed the Tik 20 poison became restless and serious and thus he was sent to Rajawadi Hospital with P.C. No. 5437. PSI Patil along with PI Shirole went to the spot Panchsheel Nagar. Several people were found to have gathered in front of one Kuchha road. They entered the room and found that one woman lying in an injured condition in the room. On inquiry, PSI Patil came to know from one Laxmi Surya the sister of Natraj that the injured woman is the wife of his brother Natraj Nair. The injured woman who was in a serious condition was sent to Rajawadi Hospital. Before her admission in the hospital, she was declared dead by the doctor on duty. PSI Patil filed complaint on behalf of the State against the accused. The offence under Section 302 IPC was registered at Tilak Nagar Police Station at Crime No. 143-98.

PSI Patil drew the inquest panchanama on the dead body of Surya Natraj the dead. Further investigation was carried by PI Shirole. He recorded the statements of the witnesses. On 26.7.1998 he seized the clothes of the accused and drew the panchanama. On 1.8.1998 he seized the chopper and blouse at the instance of the accused Natraj under memorandum discovery panchnama. Accused was arrested on 29.7.1998 when he was discharged from the hospital. The attached properties were sent to the C.A. along with the covering letter under signature of the Sr. PI Shirole on 10.8.1998.

Since accused abjured with guilt, eleven witnesses were examined to substantiate the prosecution version. The trial court found that though the case rested on circumstantial evidence and the chain of circumstances was complete and, therefore, he must be punished for offence punishable under Section 302 IPC. Life imprisonment was imposed. Before the High Court the stand taken was that the circumstances highlighted by the prosecution do not make out a case of conviction of the accused. The prosecution on the other hand submitted that the circumstances clearly establish the offence by the accused.

4. In support of the appeal learned counsel for the appellant submitted that having regards to the circumstances of the case, no case for conviction is made out.

5. Learned counsel for the State on the other hand supported the order. Circumstances highlighted by the trial court and the High Court to find the accused guilty are the evidence of Anil Das-PW 3 who had dropped the accused and his wife to their house in his rickshaw and narrated about hurling of abuses by the accused to his wife. After the assault he consumed poison and was taken to the police station by his mother and thereafter to the hospital where he was treated by a doctor. The

deceased died as a result of several incised injury on her body which were caused by a chopper. Recovery of the choker and the blouse at the instance of the accused are other circumstances which conclusively established that the accused was in the room and removed the blouse of his wife and thereafter assaulted her with chopper.

6. In these circumstances, we find no merit in this appeal and the same is accordingly dismissed.