

Ajay Kumar Pal

v.

S State Of Jharkhand

(Supreme Court Of India)

HON'BLE DR. JUSTICE M.K. SHARMA HON'BLE MR. JUSTICE H.L. DATTU

Ajay Kumar Pal v. S State Of Jharkhand

Criminal Appeal No. 1295-96 Of 2007 | 16-03-2010

1. The present appeals are directed against the judgment and order dated 28-8-2007 passed by the Jharkhand High Court in Death Reference No. 3 of 2007, whereby the High Court has confirmed the conviction and sentence of death passed by the trial and dismissed the appeals filed by the present appellant.

2. These appeals have been filed by the appellant from jail. An amicus curiae was appointed to argue the case on behalf of the appellant, who is present today and who has argued the appeals before us. The appellant has been sentenced to be hanged till death for causing death of five persons. His conviction has been ordered under Section 302 IPC by the trial court and the said order of conviction and sentence has been upheld by the High Court.

3. The appellant was the servant in the house of Shri Dharendra Kumar, a serving Indian Forest Officer. It has also come on record that the appellant was brought to the said house when he was only about 15 years of age and he was a servant in that house for about 10 years. On the fateful day, Shri Dharendra Kumar had gone to Bangalore whereupon the allegation is that the appellant laced the food with pesticides and thereafter assaulted the five inmates of the house and even thereafter burnt them and in the process the entire house was damaged by fire.

4. On receipt of the FIR, the police started investigation and during the course of investigation the appellant was arrested. A charge-sheet was filed against the appellant upon which he was tried and on completion of the trial, he was convicted under Section 302 IPC and sentenced to be hanged till death for causing death of the aforesaid five persons. Being aggrieved by the said order of conviction and sentence, the appellant filed an appeal before the High Court of Jharkhand. After hearing the appeal, the High Court dismissed the same and confirmed the death sentence in the death reference. Hence, these appeals have been filed before this Court.

5. The learned amicus curiae appearing for the appellant has drawn our attention to various facets and facts of the appeal. On going through the evidence on record, we find that the prosecution has been able to bring home the charge and was able to place sufficient evidence to prove and establish that the appellant has committed an offence which has been against him.

6. A number of circumstances have been brought on record by the prosecution to indicate that the appellant had laced the food items of the household with pesticides and then assaulted the said persons, which is apparent from the fact that the ante-mortem injuries caused by a hard and blunt substance were found on all the five dead bodies. The appellant, thereafter, set the house on fire. The circumstances which are referred to and relied upon by the courts below, in our considered opinion, sufficiently prove and establish that it is the appellant who had committed the offence alleged. Therefore, the prosecution has succeeded in establishing the guilt of the accused.

7. The amicus curiae having found himself into the aforesaid situation and position, then submitted that so far as the sentence awarded to the appellant is concerned, he has a strong case. He has submitted that there are a number of mitigating circumstances, which not only absolve the appellant from getting a death sentence but would show to the Court that if at all a case exists against the appellant, it exists only under Section 304 IPC. He has submitted before us that the mitigating circumstances, like the fact that he was working in the same household for about 10 years and that there was provocation from the landlady of the house before the occurrence, would make out a case for showing leniency so far as death sentence is concerned. He forcefully submitted that in the circumstances of the case it would be appropriate to sentence the appellant to life imprisonment and therefore the death sentence be converted to life sentence.

8. We have considered the facts of the present case and the findings recorded in the judgment of the courts below in the light of the submissions made,. In this connection, we feel appropriate to extract para 31 of the judgment of the high Court wherein the High Court has considered all the circumstances which were argued:

“31. Learned amicus curiae has submitted that the appellant out of disgust and anguish may have committed the offence as he was being scolded regularly and was refused the advance amount by the landlady. We do not find ourselves in agreement with the submission advanced. The appellant was the only adult male member serving the family for the last ten years. The occurrence could not have taken place on the spur of the moment on being denied the advance amount as well as on being scolded for preparing bad food on the night of 1-6-2003. The appellant planned and designed for committing the crime, laced the food prepared by him with themed and served all the five inmates the said poisoned food. He took all precautions that the deceased persons did not escape from the design of crime by making them senseless or dead before putting the house on fire. He further got the house locked from front side including the boundary gate when the crime was being committed. He further ensured that the deceased, Harshit and Kittu did not get out in injured condition to disclose the offence to others as they were assaulted with the iron sabal resulting in fracture on various parts before they succumbed to the injuries. Their dead bodies were found in the dining hall while the blood spread all over the bed of deceased Harshit shows that they were assaulted inside the bedroom and then further outside the bedroom in the dining hall. All the five dead bodies were found having severe burn injuries, which were set on fire intentionally so burn specific object. All these activities must have taken sufficient time after they were killed. The house was found set on fire and filled up with smoke noticed by mohalla people. At that time the appellant was hiding himself inside the well with the lower portion of his full pants burnt partly. As such we have no hesitation in holding that the dastardly crime was committed after making full preparation.

It further rules out any chance of having committed the crime in sudden feat of anger and passion for being scolded by the landlady. The appellant may not have any grievance against the remaining three persons, two guests and one co-servant Kittu.”

9. Further, considering all these factors and submissions made by the amicus curiae, the High Court held in Para 32 that the manner in which the offence was committed by the appellant was inhumane and the same was committed in an extremely brutal and dastardly manner. It also appears to us that multiple murders were committed in this case and thereby practically the entire family was wiped out except for the husband and such act is nothing but brutal and merciless. The High Court appreciated all the circumstances argued before it but despite the same it held that the case in hand squarely falls in the category of the rarest of the rare case where the death sentence awarded would be confirmed.

10. The High Court has clearly held that the appellant has committed a diabolical crime after making a full preparation for commission of such offence. The High Court also ruled out that he said crime was committed in a fit of anger and passion after being scolded by the landlady. The preparation made for executing the criminal design and the manner of its actual execution by the appellant leave no manner of doubt in our mind that it is a case which falls in the category of the rarest of rare cases. We find no justification to interfere with the judgment recorded by the High Court.

11. We, therefore, dismiss this appeal. The records may be sent back immediately.

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