SUPREME COURT OF INDIA

Raja Gounder

Vs.

State of T.N.

Crl.A.No.632 of 2005

(Harjit Singh Bedi and R.M. Lodha JJ.)

28.09.2010

ORDER

1. We have heard learned counsel for the parties in extenso.

2. We find that two Courts have found against the appellants more particularly that PW.1 the first informant, the wife of the deceased, is also the sister-in-law of the appellants as the deceased and the appellants were brothers. It has also come in evidence that the relations between the parties were strained on account of a land dispute and this was the motive for the murder.

3. It has been contended by Mrs. K. Sarada Devi, the learned counsel for the appellants, that there were several suspicious circumstances in the prosecution evidence in as much that the FIR had been lodged after 13 hours and there was no explanation forthcoming to explain the delay and this delay has been utilized by the prosecution to evolve a false story and that PW.2 the sister of the deceased and the appellants who had been cited as witness had not been -2- produced as a witness. In addition, it has been argued that in the FIR, PW.1 had referred to two injuries caused to the deceased but eight injuries had been detected during the post-mortem.

4. We find that all these issues have been examined by the Courts below and it has been found that the delay in the lodging the FIR had been explained as the incident had happened at 10.00 p.m. at a little distance from the house of the deceased, and PW.1, a young woman, would have been in a great distress and had first sent information to her parents in their village some distance away and had thereafter left for the police station to lodge the report. We find that the conduct of PW.1 was perfectly compatible with the behaviour of a young widow who had seen a brutal attack on her husband. It is true that no independent witness has been examined but in the background that a dispute existed within the family, independent witnesses would not ordinarily be available. We thus have absolutely no reason to doubt the evidence of PW.1 as she would be the last person to involve the appellants in a false case leaving out the real assailants. We are not surprised that the mother of the deceased

and the appellants who had been cited as a PW but had instead appeared in Court as a defence witness, as this is a common tendency in fratricides, and particularly where -3- parents are involved as witnesses in as much that after tempers cool and there is time for reflection they find that while one child has been murdered and the other faces the prospect of serving a long sentence on their evidence which will, without a doubt, be believed, invariably makes their resile from their police statements. We also find no discrepancy vis.-a-vis. the ocular and medical evidence. We notice that the incident happened in the dead night and it would not have been possible for the PW.1 to see all the blows striking the deceased and to identify every blow given by the appellants in the darkness, would have smacked of tutoring of the witness. Two courts have found against the appellants on a minute appreciation of the evidence on this aspect as well. We are thus not inclined to interfere in this appeal.

Dismissed.