

# SUPREME COURT OF INDIA

Dinesh Prajapati

Vs.

State of M.P.

Crl.A.No.104 of 2007

(Asok Kumar Ganguly and Deepak Verma JJ.)

23.05.2011

## ORDER

1. The Appellant herein stands convicted under Section 302 of Indian Penal Code (IPC for short) by the court of IVth Additional Sessions Judge, Indore in S.T. No. 666/2000 decided on 21.5.2002 and has been awarded life imprisonment with fine of Rs. 500/- and in default of payment of fine, to further undergo R.I. For two months. Feeling aggrieved by the said judgment and order of conviction recorded by the trial court, he was constrained to file Criminal Appeal No. 934/2002 in the High Court of Madhya Pradesh, Bench at Indore assailing the same. The High Court also, after considering the material evidence available on record came to the conclusion that no case for interference was made out and ultimately affirmed the conviction and sentence awarded to him by the trial court. It is against these concurrent findings of fact, appeal has been preferred by the accused/Appellant.

2. The brief facts are as under:

The Appellant was living with deceased Ashabai for last about 8 to 10 years. Prior to living with the Appellant, Ashabai was already married to another person, but on account of the fact that her husband was a drunkard, she had to leave him and thereafter she started living with the Appellant.

The Appellant had some doubt on the character of Ashabai and suspected infidelity. This fact was disclosed by the Appellant to Santosh (PW-7), who was a regular visitor to their house. An Agreement was also entered into between Appellant and deceased Ashabai, to which PW-7 was a witness.

3. On 11.6.2000 at 5.45 p.m., while Ashabai and her son, Manoj (PW-9) were taking their meal, Appellant came and stabbed Ashabai's ribs with knife. At that time, Santosh (PW-7) was also present in the said room. Thus, the incident was witnessed by Santosh (PW-7) and Manoj (PW-9), son of the deceased. After causing the injury to the deceased, Appellant tried to fled away from the scene of occurrence. He was apprehended by Santosh (PW-7), but was able to escape successfully from there. Salim (PW-3) is running his tea-stall from nearby place and on hearing the commotion, came to know about the said incident. He, therefore, went to the Police Station to lodge the FIR. On the basis of the said FIR, the criminal machinery was set into motion and offence was registered against the Appellant. In the meanwhile, Santosh (PW-7), looking to the injury sustained by deceased, took her to M.Y. Hospital, Indore. Doctor attending her declared brought dead. Another intimation from M.Y. Hospital, Indore was also sent to the police about the incident. It was recorded in the general diary at serial No. 928. The body was thereafter sent for post mortem, which was performed by Dr. N.M. Unda (PW-14). His post moretm report is Ex. P/22. On the strength of the evidence of Dr. Unda (PW-14) and his post mortem report, it cannot be disputed before us that deceased Ashabai had met with the homicidal death.

4. After completion of the investigation, charge-sheet was filed against the Appellant for commission of the aforesaid offence. The Appellant denied commission of the said offence and submitted that he has falsely been implicated in the case and prayed for trial.

5. Prosecution examined 14 witnesses on its behalf to bring home the charge against the Appellant. The Appellant did not examine anyone in defence. On appreciation of evidence, as mentioned hereinabove, the trial court found that charge against the Appellant has been established beyond any shadow of doubt and accordingly convicted him and awarded sentence of life imprisonment with fine of Rs. 500/-.

6. The learned Counsel appearing for the Appellant as Amicus Curiae contended that except for the evidence of PW-7, there is nothing on record to show that it was Appellant who had caused the murder of Ashabai. It was also contended that evidence of PW-7 is not of sterling quality, on the strength of which the Appellant could have been convicted. On the other hand, learned Counsel appearing for the Respondent State submitted that against the findings as recorded by the two courts, no case for interference is made out. Learned Counsel for the Respondent State

also submitted that evidence of PW-7 stands corroborated from the evidence of Manoj (PW-9), son of the deceased as also from the medical evidence of Dr. Unda (PW-14). In the light of the rival contentions we have heard them at length and perused the record.

7. No doubt, it is true that star witness in the case is Santosh (PW-7), who had taken the deceased to the hospital. In the hospital records it has been mentioned that deceased was brought by Santosh (PW-7) and assailant was shown as Dinesh. PW-7 has given the vivid description and the manner in which the incident had taken place and then the injury was caused by the Appellant. The said injury stands fully corroborated from the evidence of PW-14, Dr. Unda.

8. Apart from the above, the evidence of Manoj (PW-9), son of the deceased, also inspires confidence. There is no reason why Manoj (PW-9) would tell a lie against his own mother. He also gave the reason as to why deceased had left her first husband Ashok as he was an alcoholic and used to beat his mother, deceased Ashabai. The said witness, Manoj (PW-9) was aged about 14 years at the time, his evidence was recorded. He was also working in a Saree shop. Thus, he was capable of understanding and was in a position to depose before the Court and from the testimony of the child witness also, the statement of PW-7, stands fully corroborated. He has fully supported the version of PW-7. Even after their long cross-examination, nothing could be elicited to dislodge the prosecution story.

9. In the light of the aforesaid oral evidence and documents, we are of the considered opinion that no illegality, irregularity or perversity could be pointed out from the impugned judgment and order passed by the courts below. Appellant has rightly been found guilty of offence under Section 302 of the IPC. Thus, there is no scope for any interference in the said appeal.

10. The appeal being devoid of any merits, is thus dismissed.