

SUPREME COURT OF INDIA

Jaladhar Mondal

Vs.

State of West Bengal

CrI.A.No.1081 of 2006

(Asok Kumar Ganguly and Deepak Verma,JJ.,)

25.05.2011

JUDGMENT

Asok Kumar Ganguly, J.,

1. Heard the learned Amicus Curiae in the matter as also the learned counsel for the State.
2. This appeal is at the instance of the sole surviving appellant against the judgment and order of conviction by the Additional Sessions Judge, Bankura, which was affirmed by the High Court.
3. Initially, there were three accused persons, namely, the appellant Jaladhar Mondal, Meghnath Mondal and Smt. Rasibala Mondal. Jaladhar Mondal is the husband of the deceased Rina Mondal and Meghnath Mondal and Smt. Rasibala Mondal respectively are father-in-law and mother-in-law of the deceased Rina, who was married in the family of Mondals with the appellant-accused Jaladhar. The death of Rina Mondal took place within one year of her marriage.
4. Initially, the accused persons were charged under Section 302/201 I.P.C. alternatively under Sections 304B/398A I.P.C.
5. The trial court after a full-fledged trial, convicted the accused persons under Section 302/201 I.P.C. and sentenced them to suffer imprisonment for life under Section 302 and further ordered rigorous imprisonment for three years u/s 201 IPC and to pay a fine of Rs.1000/- each, in default to undergo further imprisonment for three months and the sentences were to run concurrently. All the accused persons were acquitted of the charges u/s. 498A and 304-B IPC.
6. After their conviction, an appeal was taken to the High Court by the accused persons. During the pendency of the appeal, Meghnath Mondal and Smt. Rasibala Mondal expired. However, the present appellant, Jaladhar Mondal was convicted by the High Court and the present appeal is at his instance only.

7. The incident which had taken place and led to the death of the deceased, Rina Mondal, have been very graphically noted with all the details in the judgment of the learned Trial Judge. So, these facts are not repeated here.

8. In this case, the information was lodged by PW-4 on receiving information on 25.3.88 about the death of the deceased, Rina Mondal, allegedly by catching fire at the matrimonial house. On receiving the said information, PW-4 came to the village of the appellant and after getting the information from the local people, lodged the complaint at the local police station alleging foul play. On receipt of such complaint, the local police started a specific case and thereafter getting the post mortem report from Doctor, which confirmed homicidal death of Rina Mondal, submitted charge-sheet against the appellant.

9. In all, 12 witnesses were examined of which PW-1 is the brother of Meghnath Mondal (since deceased), PW-2 and PW-3 are the neighbors of the appellant, PW-4 is the cousin of the deceased girl and PW-6 is the father of the deceased, PW-7 is Dr. J.N. Dey, who conducted the post mortem, PW-8 is the mother of the deceased girl and PW-11 is the other neighbor of the appellant and PW-12 is the Investigating Officer.

10. Both the courts - trial court and the High Court, after detailed consideration of the evidence available on record, came to the concurrent finding that there is no direct evidence in the case. The evidence on the basis of which both the Courts have proceeded was the circumstantial evidence and also the medical evidence of PW-7. Medical evidence of PW-7 has figured very prominently in the case and relying on the medical evidence of PW-7, both the Trial Judge and the High Court negated the defence case that Rina Mondal died out of accidental fire in the house. The learned Trial Judge upon very detailed consideration of the medical evidence and by referring to various authorities of the medical jurisprudence have come to notice the nature of injuries, which have been sustained by Rina Mondal, particularly the fracture of cornua of hyoid bone of both sides, fracture of first and second ribs on the left side and fracture of first rib on right side. The trial court held, and rightly so, that these injuries cannot be caused by accidental fire but was the result of manual strangulation by more than one persons.

11. The evidence of PW-7, the post mortem Doctor, is relevant in this connection. PW-7 is a Professor and Head of the Department of Forensic and State Medicine at B.S.M.C. & Hospital and is obviously an independent witness. PW-7 deposed that in the case of Rina Mondal, soot was absent in the larynx and trachea column and that led the post mortem Doctor to opine that the burn injuries were post-mortem in nature. On the basis of this evidence, the learned Trial Judge came to the conclusion that the death of Rina Mondal initially was caused by physical strangulation and thereafter her body was thrown to the flames to destroy evidence of strangulation and the upper portion of the body was allowed to suffer third degree burn.

12. Both the trial court and the High Court found it very strange that in a case of accidental fire, nobody other than Rina Mondal suffered burn injuries and none of the three inmates of

the house suffered a scratch of an injury, even though the defence case was that everybody was in the house at the time of accidental fire when the house caught fire. There is no evidence that any one of the inmates of the house even tried to save Rina from fire and in the process got injured. Both the courts have also found it very strange that in such a fire the adjoining house, which was also covered by thatched roof and which belonged to PW-1, brother of Megnath, did not catch fire at all. All these facts were very correctly appreciated by the trial court and also by the High Court to come to the concurrent finding that death of Rina was caused by physical strangulation and then to cause disappearance of evidence of strangulation of Rina Mondal, her body was thrown in the flames, which was not accidental but was caused for the aforesaid purpose.

13. Sitting in jurisdiction under Article 136 of the Constitution of India, it is difficult for us to interfere with such concurrent findings based on cogent reasoning and proper appreciation of the materials on record and the evidence of the case. It may also be noted that the appellant, who is the husband of the deceased, did not suffer any injury and made no attempt to save the unfortunate girl.

14. The appeal is, therefore, dismissed.