

**High Court of Judicature at Allahabad  
(Lucknow)**

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**Neutral Citation No. - 2023:AHC-LKO:82525-DB**

**Judgment Reserved on 19.09.2023**

**Judgment Delivered on 15.12.2023**

**Court No. - 9**

**Case :-** JAIL APPEAL No. - 230 of 2017

**Appellant :-** Chandrapal

**Respondent :-** State of U.P.

**Counsel for Appellant :-** Jail Appeal, Amit Chaudhary, Chandra Shekhar Pandey, Chandra Sekhar Pandey

**Counsel for Respondent :-** Govt. Advocate

**Hon'ble Rajan Roy, J.**

**Hon'ble Ajai Kumar Srivastava-I, J.**

**(Per : Ajai Kumar Srivastava-I, J.)**

**1.** Heard Sri Chandra Shekhar Pandey, learned Amicus for the appellant, Sri Rajdeep Singh, learned A.G.A.-I for the State and perused the entire record.

**2.** Under challenge in this jail appeal is the impugned judgment and order dated 11.01.2017 passed by the learned Sessions Judge, Sitapur in Sessions Trial No.806 of 2010 titled as State vs. Chandra Pal and another arising out of Case Crime No.72 of 2010, under Sections 302/34 of the Indian Penal Code<sup>1</sup>, Police Station Sandana, District Sitapur whereby the appellant,

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<sup>1</sup> hereinafter referred to as "I.P.C."

Chandra Pal has been convicted and sentenced to undergo life imprisonment with a fine of Rs.20,000/- for the offence under Section 302 I.P.C. and in default of payment of fine, he has further been directed to undergo three years' additional imprisonment.

**3.** The case of the prosecution, in nutshell, is that the first informant, Ramdayal and his daughter Ram Devi aged about 35 years were living in house of their in-law's which is situated in village Dhanvarpara district Sitapur. On 14-03-2010 at about 6:00 P.M, the first informant received an information that her daughter died in her in-law's house. Upon getting this information, the first informant went to her daughter's house where he found that her daughter's dead-body was lying on the ground under a thatch. When the first informant inspected the place of occurrence, he found that her daughter had been brutally beaten to death and hanged, but, it was shown by her in-laws as an incident of suicide. According to the first informant, her daughter was beaten to death and hanged by the appellant, her husband, Chandrapal and her brother-in-law, Jagdish.

**4.** The inquest proceeding started on 14.03.2010 at 11:00 P.M. and got concluded on 15.03.2010 at 9:30 P.M. The inquest report has been duly proved by P.W.-9, Inspector, Swabhav Varma as Ext. Ka.2.

**5.** On the basis of aforesaid written report, Ex. Ka-1 submitted by the first informant, Ram Dayal, the first information report, Ext. Ka-15 came to be lodged

against the appellant and one other co-accused, Jagdish under Section 302 I.P.C.

**6.** According to the Post-Mortem report of the deceased, Ex. Ka-6 which has been proved by P.W.-5, Dr. A.K Aarya, the cause of death of the deceased is reported to be asphyxia as a result of strangulation.

**7.** The Investigating Officer recorded the statements of the witnesses under Section 161 Cr.P.C. He visited the place of occurrence and prepared a site plan thereof Ext. Ka-9.

**8.** Upon conclusion of investigation, the Investigating Officer submitted a charge sheet, Ext. Ka-7 against the present accused/ appellant, Chandra Pal and one other co-accused, Jagdish.

**9.** Charge for the offence under Section 302/34 I.P.C. was framed against the present accused/ appellant and one other co-accused, Jagdish, who denied the charge and claimed to be tried.

**10.** In order to bring home guilt of the appellant, the prosecution has examined Ram Dayal, complainant as PW-1, Pankaj as PW-2, Jai Ram as PW-3, Head Moharrir, Ramesh Kumar Sonkar as PW-4, Dr. A. K. Aarya as PW-5, Shyam Lal as P.W.-6, Investigating Officer, Jitendra Mohan Saroj as PW-7, Satish Kumar, first Investigating Officer as PW-8 and Inspector, Swabhav Varma as PW-9.

**11.** The appellant, in his statement recorded under Section 313 Cr.P.C., has stated the prosecution story to be false. He has also stated to have been falsely implicated in this case and he claimed to be innocent.

**12.** No evidence in defence was adduced by the accused/ appellant before the learned trial court.

**13.** The learned trial court, after appreciating the evidence available on record and sentenced as aforesaid, passed the impugned judgment and order dated 11.01.2017 whereby the appellant came to be convicted for the offence under Section 302 I.P.C. However, the co-accused, Jagdish has been acquitted of charge under Section 302/34 I.P.C.

**14.** Aggrieved by the aforesaid impugned judgment and order dated 11.01.2017, the accused/ appellant has preferred the instant jail appeal.

**15.** Learned counsel for the appellant has submitted that the finding of guilt of the appellant arrived at by the learned trial court is perverse and contrary to the evidence available on record, therefore, it deserves to be set aside.

**16.** His further submission is that learned trial Court erred in placing reliance on the testimonies of P.W.-1, Ram Dayal, P.W.-2, Pankaj and P.W.-3, Jai Ram for convicting the accused/ appellant.

**17.** He has also submitted that learned trial Court has wrongly relied on testimonies of alleged witnesses whose testimonies suffer from gross infirmities and full of contradictions.

**18.** He has also contended that the medical evidence is inconsistent with the witnesses' account, therefore, the prosecution failed to prove its case beyond reasonable doubt.

**19.** Learned counsel for the appellant has, thus, prayed to set aside the impugned judgment and order dated 11.01.2017 and to acquit the appellant accordingly.

**20.** Per contra, learned A.G.A. for the State has submitted that the accused/ appellant rightly came to be convicted vide impugned judgment and order dated 11.01.2017, which is well discussed and reasoned. The appellant was named in the first information report. The prosecution has proved its case beyond reasonable doubt on the basis of cogent and reliable testimonies of prosecution witnesses. Therefore, interference by this Court is neither warranted nor is justified. He, accordingly, prays for dismissal of the instant criminal appeal.

**21.** Having heard the learned counsel for the appellant, learned A.G.A. for the State and upon perusal of record, it transpires that according to prosecution story, the deceased was married to the appellant. On

14.03.2010 at about 6:00 P.M., P.W.-1, Ram Dayal, the first informant got an information that his daughter, the deceased had died. After receiving this information, the first informant went to the appellant's house and found the deceased dead and whose dead body was hanging from the roof of a thatch. P.W.-2, Pankaj is brother of the deceased. He is stated to have gone to the appellant's house along with his father, the first informant, P.W.-1, Ram Dayal on 14.03.2010 after receiving information of death of the deceased. He has also stated in his testimony that the dead body of the deceased was hanging from the roof of the thatch. According to this witness, there were various marks of injuries on the person of the deceased.

**22.** Before proceeding further, it is pertinent to mention that the first informant, P.W.-1, Ram Dayal is father of the deceased. He has proved written report, Ext.-Ka-1. P.W.-5, Dr. A. K. Aarya had conducted post-mortem on the cadaver of the deceased on 15.03.2010 and he has, thus, proved the post-mortem report, Ext. Ka-6. P.W.-4, Ramesh Kumar Sonkar, Head Moharrir has proved Chik FIR, Ext. Ka-3 and G.D., Ext. Ka-4. P.W.-8, Satish Kumar, the first Investigating Officer of this case has proved site plan, Ext. Ka-9 whereas the other Investigating Officer, P.W.-7, Jitendra Mohan Saroj has proved the charge sheet, Ext. Ka-7.

**23.** It is borne out from the record that when the first informant, P.W.-1, Ram Dayal, who is father of the

deceased and P.W.-2, Pankaj, brother of the deceased reached the house of the appellant, they saw dead body of the deceased hanging from the roof of the thatch. The legs of the deceased were touching the floor of the thatch. P.W.-3, Jai Ram is son of the appellant. The deceased, Ram Devi was mother of this witness. It has come in his testimony that the appellant did not do any work to earn livelihood, rather he used to smoke weed (*ganja*) and also used to indulge in gambling. In order to accomplish his aforesaid addiction he had sold two and a half bigha of land prior to this incident. He used to demand money from the deceased and whenever the deceased refused to give him money, she was beaten by the appellant. According to this witness, on the date of incident an altercation had taken place between the deceased and his father, the appellant herein. He has stated that in the afternoon, the appellant had sent this witness and her sister for fetching grass. When they came back at about 6:00 P.M., they found the front door locked from inside. This witness went inside the house by jumping over the broken wall and saw his mother's dead body hanging from the roof of the thatch. This witness has also stated that the legs of the deceased were touching the floor. This witness is son of the appellant. There is nothing on record to show that he bore any grudge against his father so as to falsely depose against him. His testimony appears to be quite natural and reliable.

**24.** Upon a survey of testimonies of P.W.-1, Ram Dayal, father of the deceased, P.W.-2, Pankaj, brother of the deceased and P.W.-3, Jai Ram, we find a consistent narration of fact that the dead body of the deceased was found in the house of the appellant. Her dead body was hanging from the roof of the thatch while her legs were touching the floor.

**25.** We also notice that besides ligature mark, there were two contusions on the neck of the deceased. Her hyoid bone was broken. The cause of death of the deceased, according to Dr. A. K. Aarya, P.W.-5, is asphyxia due to strangulation. We find testimonies of P.W.-1, Ram Dayal, father of the deceased, P.W.-2, Pankaj, brother of the deceased and P.W.-3, Jai Ram consistent and reliable. The unnatural death of deceased had occurred in the house of the appellant, who in view of reliable testimony of P.W.-3, Jai Ram, his own son, had a motive to kill the deceased. The appellant was unable to offer any acceptable explanation as to how and in what circumstances, the deceased was murdered in his house. Therefore, the conviction of the appellant under Section 302 I.P.C. in absence of any acceptable explanation in order to rebutt the presumption as envisaged under Section 106 of Indian Evidence Act appears to us to be based on proper appreciation of evidence available on record which does not suffer from any infirmity.

**26.** For all aforesaid reasons, we do not find any merit in the instant appeal, which deserves to be dismissed and is, accordingly, **dismissed**.

**27.** The appellant is in jail, who shall serve out the remaining sentence awarded to him.

**28.** Let the lower Court record along with a copy of this judgment be transmitted forthwith to the learned trial Court for information and necessary compliance.

**29.** Learned Amicus, Sri Chandra Shekhar Pandey shall be entitled to Rs.21,000/- (Rupees Twenty One Thousand Only) from the High Court as fee for his services.

**(Ajai Kumar Srivastava-I, J.) (Rajan Roy, J.)**

**Order Date :- 15.12.2023**  
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