



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : CRL.A(J)/27/2023

Ram Kr. Gaur
S/o Shri Duwaru Gaur, Village Karipathar, Nepali Basti, PO/PS Helem District
Biswanath, Assam, presently Loding at District Jail Jolly, Itanagar

VERSUS

The State of AP and Anr.
represented by the PP of AP 2:Taw Tado (Informant)
Age: 0
Occupation :
Resident of P-Sector Nirjuli
PO/PS Nirjuli
District Papum Pare
A

Advocate for the Petitioner : Legal Aid Counsel

Advocate for the Respondent : P P of AP

:: PRESENT ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

For the Appellant : Ms. N. Danggen,
Legal Aid Counsel.

For the Respondent(s): Ms. T. Jini,
Addl. Public Prosecutor,
State of Arunachal
Pradesh.

Date of Hearing : 11.03.2024.

Date of Judgment : 14.03.2024.

JUDGMENT AND ORDER (CAV)

(P.J. Saikia, J)

Heard Ms. N. Danggen, learned Legal Aid Counsel appearing for the appellant. Also heard Ms. T. Jini, learned Addl. Public Prosecutor, representing the State of Arunachal Pradesh.

2. This is an appeal under Section 374(2) of the Code of Criminal Procedure (CrPC), 1973 challenging the conviction and sentence of the appellant Ram Kr. Gaur in Sessions Case No.12/2020 arising out of Nirjuli P.S. Case No.15/2020, registered under Section 302 of the Indian Penal Code.

3. Ram Kr. Gaur originally belongs to Sonitpur District in the State of Assam. He was brought to the house of the informant by Biren Gaur, who is the father of victim late Sanjeev Gaur. Ram Kr. Gaur worked as a labourer in the house of the informant. The 12 years old deceased was the son of the brother of Ram Kr. Gaur. The deceased also lived in the house of the informant as a labourer. Both Ram Kr. Gaur and the deceased Sanjeev Gaur used to stay in a part of kitchen in the household of the informant.

4. On 16.04.2020 at about 1 A.M., the informant heard some sounds in the kitchen. He went there but found that the door was closed from inside. He managed to open the window of the kitchen and saw that the appellant was biting the neck and mouth of the deceased. Then, the son of the informant also came and both informant and his son managed to open the door of the kitchen. At that time also, they could not separate

the appellant Ram Kr. Gaur and the deceased. The informant immediately called police of Nirjuli Police Station. Police came and took away Ram Kr. Gaur and sent the dead body of the deceased for post-mortem examination.

5. Thereafter, the informant lodged a written FIR before police alleging that Ram Kr. Gaur had killed his brother's son Sanjeev Gaur.

6. The Post-Mortem Report goes as under:

EXTERNAL INJURIES

1. Lacerated wound on the face, extending from the bridge of the nose to 2 cm below the mandible with some tissue part missing with fracture of both mandible and maxilla bone, teeth, nose. The border of wounds are irregular measuring 14 x 9 cm.

2. Multiple lacerated wound on the anterior and lateral part of neck with laceration of neck structure. The wounds ranging from 8 x 5 cm to 1 x 0.1 cm. Total 18 wounds in numbers. Measuring over an area of 17 x 9 cm.

3. Multiple incised wound on the upper part of the face and forehead extending from bridge of the nose to scalp hair line, wound was in multiple direction and ranging from 4 x 1 cm to 0.8 x 0.3 cm, measuring over an area of 10 x 5 cm.

4. Multiple small contused laceration on the anterior and upper part of the chest and shoulder (both shoulder) measuring over an area of 27 x 11 cm.

5. Lacerated wound on the right iliac fossa, situated 2 cm right to midline and 2 cm above the iliac crest, measuring 1.5 x 1 cm.

6. Contusion on the posterior aspect of the right elbow, measuring 3 x 4 cm.

7. The doctor opined that the death of the deceased was due to shock and haemorrhage resulting from blunt force injury in the face and

neck. The doctor also opined that the injuries were homicidal in nature and the injuries were ante-mortem.

8. Finally, the police filed the *charge sheet* against Ram Kr. Gaur.

9. In the trial court, the charge under Section 302 of the I.P.C. was framed against the appellant Ram Kr. Gaur. He pleaded not guilty when the charge was read over to him. During the trial, the prosecution side examined 6(six) witnesses including the doctor who had conducted the post-mortem examination upon the dead body of the deceased and the police investigating officer.

10. In his examination under Section 313 of the CrPC, the appellant Ram Kr. Gaur has admitted that he and the deceased Sanjeev Gaur used to stay in the kitchen of the house of the informant. But he denied that he had killed Sanjeev Gaur.

11. The appellant Ram Kr. Gaur examined himself as a defence witness.

12. On the basis of the evidence on record, the trial court arrived at the impugned finding.

13. We have carefully gone through the evidence available in the record.

14. The first prosecution witness to be examined is Taw Tado, the informant (PW-1). He supported the prosecution story as narrated hereinabove. He proved the FIR as Exh.1 and his signature thereon as Exh.1(a).

15. In his cross-examination, the informant has stated that the relationship between the appellant and the deceased was good before the incident. According to the informant, the appellant sometimes used

to complain that the deceased used to eat all the pickles without sharing with him.

16. The second prosecution witness is Taw Para (PW-2), who is the wife of the informant Taw Tado. She also corroborated the evidence of the informant.

17. In her cross-examination, she has stated that there was no quarrel between the appellant Ram Kr. Gaur and the deceased and they both lived together happily. Taw Para stated during her cross-examination that she never noticed any abnormality in the personality of the appellant.

18. The third prosecution witness is Shri Tarh Kiba (PW-3). He has stated that on 16.04.2020 at about 2 A.M., he received a telephonic call from his mother-in-law who told him that Ram Kr. Gaur had killed a young boy who was with him at that time. This witness immediately rushed to the house of the mother-in-law and found that the appellant Ram Kr. Gaur was inside the house and the same was locked from outside. According to this witness, during the incident, police had arrived there and arrested the appellant Ram Kr. Gaur. Police had seized one hot-case lid and he stood as a witness to the seizure of that lid.

19. In his cross-examination, he stated that he has not seen the actual incident because he reached the place of occurrence after the incident had already occurred.

20. The fourth prosecution witness is Monosori Gaur (PW-4). She is the mother of the deceased Sanjeev Gaur. She used to work in the house of a person called Bomdo Sir at Sill Sango, Arunachal Pradesh. She has stated in her evidence that one day she received a telephonic call from her employer who asked her to come down Naharlagun. Accordingly,

this witness went to Naharlagun and she was taken to a hospital where she was told that her son Sanjeev Gaur was no more. The witness saw multiple injuries on the forehead and other parts of the body of the deceased.

This witness was not cross-examined by the defence counsel.

21. The fifth prosecution witness is Smti. O. Lego (PW-5). She was the Investigating Officer of this case. She spoke about the investigation. She has stated in her evidence that she suspected that the appellant might be suffering from some mental illness. According to this witness, the appellant denied having such problems.

22. The appellant Ram Kr. Gaur told this witness that the deceased used to irritate him and therefore he killed the deceased. According to the Investigating Officer, she took the appellant Ram Kr. Gaur to R.K. Mission Hospital for medical treatment and the doctor reportedly found him to be fit and fine.

23. The last prosecution witness to be examined is the Dr. Techhi Rekhi (PW-6) who performed the post-mortem examination upon the dead body of the deceased. He spoke about his findings. He proved the post-mortem report as Exh.5.

24. In his cross-examination, the doctor stated that all the injuries had corroborated to the death of the deceased.

25. In his evidence, the appellant Ram Kr. Gaur has stated that about 10 years ago, he got medical treatment for mental illness at Tezpur. Ram Kr. Gaur has further stated that he was totally cured of his mental illness and no longer takes any medicines for the purpose.

26. On a scrupulous perusal of the prosecution evidence as well as the

defence evidence, we find that Shri Taw Tado and his wife Taw Para are the two eye witnesses to the occurrence. They have seen the appellant Ram Kr. Gaur killing Sanjeev Gaur. Their evidences do not have any contradictions and discrepancies. The evidences of these two witnesses are corroborated by the medical evidence.

27. So far as the fact of unsoundness of mind of the appellant is concerned, he himself has stated in his evidence that he has fully recovered from his mental disorder and no longer suffers from any mental problem.

28. Apart from that, there is no other evidence to suggest that the appellant Ram Kr. Gaur was suffering from any mental illness.

29. Thus, we are of the opinion that the evidence available in the record is clear and cogent. We find that the offence of murder of Sanjeev Gaur has been proved beyond all reasonable doubt against the appellant Ram Kr. Gaur.

30. Now, we are constrained to hold that the learned trial court has correctly appreciated the prosecution evidence and arrived at a correct finding. The impugned judgment does not require any interference. That being so, the appeal is found to be devoid of merit, stands dismissed accordingly.

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JUDGE

JUDGE