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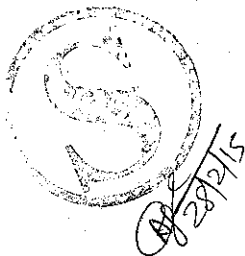
IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL APPEAL NO. 982/2011

APPELLANT :-- Purusottam Verma S/o Kartik Ram
(Convicted Accused) Verma aged 18 years R/o Babadeep
(In Jail) Nagar, Behind Atal Nivas , Jhoppad
Patti, Vaishali Nagar ,Bhilai , Thana
Supela, Tehsil & District Durg.

VERSUS

RESPONDENT :-- State of Chhattisgarh
Through : District Magistrate Durg
(C.G).



HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.982 of 2011

APPELLANT/:
(Convicted accused)
(In Jail)

Purusottam Verma

Versus

RESPONDENT:

State of Chhattisgarh

{Criminal appeal under Section 374 of the Code of Criminal Procedure, 1973}

Present:

Mr. B.N. Nande, counsel for the appellant.

Mr. Mahesh Mishra, Panel Lawyer for the State/respondent.

Division Bench: -

Hon'ble Mr. T.P. Sharma and
Hon'ble Mr. I.S. Uboweja, JJ

JUDGMENT
(26-2-2015)

T.P. Sharma, J: -

1. Challenge in this appeal is to the judgment of conviction & order of sentence dated 27-7-2011 passed by the 1st Additional Sessions Judge, Durg in Sessions Trial No.189/2009, whereby & whereunder learned Additional Sessions Judge after holding the appellant guilty for causing homicidal death amounting to murder of Savita Bai, convicted the appellant under Section 302 of the IPC and sentenced him to undergo imprisonment of life & pay fine of Rs.2,000/-, in default of payment of fine to further undergo RI for six months.
2. Conviction is impugned on the ground that without there being an iota of evidence, the trial Court has convicted and sentenced the appellant and thereby committed an illegality.
3. As per case of the prosecution, the appellant was close to the family of deceased Savita Bai and her husband Shesh Kumar Verma, he used to visit frequently to the house of the deceased and was working with husband of the deceased. On 27-8-2009, the appellant and husband of the deceased Shesh Kumar Verma were moving together for considerable time, thereafter, Shesh Kumar Verma (PW-8), husband of the deceased, went to Raipur. On second day morning i.e. 28-8-2009, neighbours noticed the incident and informed to Shesh Kumar Verma (PW-8) who immediately came back to his house, noticed the incident and then went to the police

station and lodged morgue vide Ex.P-7. The investigating officer left for the scene of occurrence and after summoning the witnesses vide Ex.P-9, prepared inquest over the dead body of the deceased vide Ex.P-1. Shesh Kumar Verma (PW-8) suspected upon the appellant along with two other persons. The matter was closely investigated. Steel thali, lota, katori, glass, one glass, blood and towel were seized from the spot vide Ex.P-10. Spot map was prepared vide Ex.P-12.

4. Dead body of the deceased was sent for autopsy to District Hospital, Durg vide Ex.P-5. Team of doctors consisting Dr. Akhilesh Yadav (PW-11) conducted autopsy vide Ex.P-28 and found following injuries: -

1. Incised wound at the outer aspect of neck below equid cartilage horizontally placed with bloodstain and cloth, 15½ c.m. x 6½ c.m. x 2 c.m.
2. Incised wound over right chest wall above the right nipple, 2 c.m. x 1 c.m.
3. Incised wound over left side of neck below injury No.1, ½ c.m. x ¼ c.m.
4. Abrasion below injury No.1 brownish, ½ c.m. x ½ c.m.
5. Abrasion on right side below mandible, 2 c.m. x 1 c.m.

Mode of death was haemorrhage on account of injury upon neck. Finally, FIR was lodged vide Ex.P-8. Clothes of the deceased were sealed and seized vide Ex.P-6. During the course of investigation, the appellant was taken into custody, he made disclosure statement of bloodstained clothes vide Ex.P-3 and same were recovered at his instance vide Ex.P-4.

5. One glass seized from the spot was stained with finger prints which was preserved. Finger prints of the appellant were taken, same were sent for examination to the finger print expert and vide Ex.P-13, the finger print expert has conclusively opined that the finger prints found upon the glass were the finger prints of appellant Purushottam Verma.
6. Seized articles were sent for chemical examination to the FSL vide Ex.P-25 and presence of blood upon the clothes of the appellant has been affirmed vide Ex.P-27. Statements of the witnesses were recorded under Section 161 of the CrPC.
7. After completion of investigation, charge sheet was filed before the Court of Judicial Magistrate First Class, Durg, who committed the case to the Court

of Sessions, Durg from where the 1st Additional Sessions Judge, Durg received the case on transfer for trial.

8. In order to prove the guilt of the accused/appellant, the prosecution has examined as many as 11 witnesses. The accused was examined under Section 313 of the CrPC in which he denied the circumstances appearing against him, pleaded innocence and false implication in the crime in question. He has taken specific defence that his finger prints have been taken by the police at police station.
9. After providing opportunity of hearing to the parties, learned Additional Sessions Judge, convicted & sentenced the appellant as aforementioned.
10. We have heard learned counsel for the parties, perused the judgment and records of the Courts below.
11. Learned counsel for the appellant vehemently argued that evidence of Prayag Jaiswal (PW-1), Sumeri Ram (PW-2), Rohit Karmakar (PW-3) and Shesh Kumar Verma (PW-8) are not sufficient for drawing any inference that the appellant has caused homicidal death of the deceased. The trial Court has convicted the appellant only on the basis of evidence of S.K. Jain (PW-9), finger print expert, whose evidence alone is not sufficient for proving the guilt of the appellant. There may be several causes for presence of finger prints upon the glass or articles owned and possessed by the deceased and her husband, because the appellant and the deceased family were close to each other and the appellant was regular visitor of the deceased house.
12. On the other hand, learned State counsel opposed the appeal and submitted that evidence of S.K. Jain (PW-9) alone is sufficient for proving the guilt of the appellant. One glass stained with finger prints was lying near the dead body of the deceased which was preserved and compared with the finger prints of the appellant by S.K. Jain (PW-9), finger print expert, who has given conclusive opinion that the finger prints found on the glass were the finger prints of the present appellant. The appellant has tried to explain the presence of finger prints while answering question No.51 in his examination under Section 313 of the CrPC, but such explanation did not find support from other evidence. Therefore, by convicting and sentencing the appellant, the trial Court has not committed any illegality.
13. In order to appreciate the arguments advanced on behalf of the parties, we have to examine the evidence adduced on behalf of the prosecution.

14. In the present case, homicidal death as a result of fatal injuries found over the body of deceased Savita Bai has not been substantially disputed on behalf of the appellant. On the other hand, it is also established by evidence of Prayag Jaiswal (PW-1), Sumeri Ram (PW-2), Rohit Karmakar (PW-3), Shesh Kumar Verma (PW-8), FIR Ex.P-8, morgue Ex.P-7, evidence of Dr. Akhilesh Yadav (PW-11) and autopsy report Ex.P-28 that death of deceased Savita Bai was homicidal in nature.
15. As regards complicity of the appellant in the crime in question, conviction of the appellant is substantially based on circumstantial evidence.
16. As per evidence of Vinay Singh (PW-10), investigating officer, he has seized the pots from the spot vide Ex.P-10 and has noticed finger prints upon one glass which was preserved. In para 17 of his evidence, he has deposed that the Constable has obtained finger prints of the appellant. The appellant himself has not disputed the presence of his finger prints upon the pot i.e. glass, but has tried to explain that the police has obtained the same forcefully which facts have been denied by Vinay Singh (PW-10), investigating officer, in para 17 of his cross-examination.
17. S.K. Jain (PW-9) has deposed in detail that he has examined the disputed finger prints on glass with the admitted finger prints Ex.P-14 and as per the report Ex.P-13, finger prints found upon the glass were similar to the fingers prints of the present appellant. Detail report Ex.P-13 clearly reveals that the finger prints found upon the glass were the finger prints of the appellant and the glass was found near the dead body which has been seized vide Ex.P-10 on 28-8-2009, ten days prior to the disclosure statement of the appellant.
18. Shesh Kumar Verma (PW-8), husband of the deceased, has also deposed in para 3 of his evidence that the appellant had asked his whereabouts by telephone which was replied by him because as per the appellant, wife of this witness i.e. the deceased, was asking him and this witness has replied to the appellant that he has informed his wife that he will go to Raipur that too before him. This shows that the appellant has visited the house of the deceased in absence of husband of the deceased.
19. If aforesaid two circumstances are considered together then the only inference would be possible that the appellant was present in the house of the deceased in absence of husband of the deceased and he has touched the glass which was lying near the dead body. The appellant has not offered any explanation that why he has visited the house of the deceased



in absence of husband of the deceased and why he has touched the glass, inter alia, he has tried to explain that finger prints were obtained by the police at police station which does not find support from any other piece of evidence. Aforesaid circumstances are sufficient to establish the guilt of the appellant that only the appellant was author of the crime and none else. Aforesaid evidence are sufficient to exclude the possibility of innocence of the appellant.

20. After appreciating the evidence available on record, the trial Court has convicted and sentenced the appellant. On close scrutiny of evidence, we do not find any illegality or infirmity in the judgment of conviction and order of sentence.

21. Consequently, the appeal being devoid of merit is liable to be dismissed and is hereby dismissed.

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**Sd/-
T.P. Sharma
Judge**

**Sd/-
Inder Singh Uboweja
Judge**

