

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Criminal Appeal No. 1003 of 2012

Sanjay Beck, S/o. Gaurishankar Beck, aged about 25 years, Resident of Village Ganjhadand, Police Station Ambikapur, District Surguja, Chhattisgarh

---- Appellant

Versus

State Of Chhattisgarh, Through Police Station Ambikapur, District Surguja, Chhattisgarh

---Respondent

For Appellant	:	Mr. Akhil Agrawal, Advocate
For Respondent/State	:	Ms. Madhunisha Singh, Panel Lawyer

Hon'ble Shri Justice P. Diwaker

Hon'ble Shri Justice P. Sam Koshy

Judgment on Board by Justice P.Diwaker

25/11/2017

1. This appeal arises out of the impugned judgment and order dated 19.09.2012, passed by the learned First Additional Sessions Judge, Ambikapur, District Surguja, Chhattisgarh, in Sessions Trial No. 321/2010, convicting the appellant under Section 302 of I.P.C. sentencing him to undergo imprisonment for life and a fine of Rs.1000/-, in default of payment of fine further rigorous imprisonment for four months.
2. As per the prosecution case, on 03.03.2010, the appellant committed murder of his mother-Moharmati by causing ex-injury on her neck. The Dehati Merg (Exhibit P/13) was recorded on 03.03.2010 and thereafter Dehati Nalsy (Exhibit P/11) was registered. Thereafter, the Merg (Exhibit P/21) was also recorded and an F.I.R. (Exhibit P/22) was registered against the appellant under Section 302 of I.P.C. Inquest on the dead body was conducted vide Exhibit P/18, the body was sent for

the postmortem which was conducted on 03.03.2010 by PW/7-Dr. Shailendra Gupta, who noticed following injuries :-

1. Multiple injuries over vessels,
2. RLI side of the neck
3. Vital structure lead to cardiopulmonary.

According to Autopsy Surgeon, the cause of death is shock due to extensive injury to the vessel, RLI side of the neck and vital structure lead to cardiopulmonary are homicidal in nature.

3. So as to hold the conviction of the appellant, prosecution has examined 12 witnesses. The statement of the accused/appellant was also recorded under Section 313 of Cr.P.C. in which he pleaded innocent to false implication. Vide the impugned judgment the trial Judge has convicted the appellant. Hence this appeal.
4. The learned counsel for the appellant submits that present is a case of no evidence and merely on the suspicion raised by the PW/8-Vikas Beck, the appellant has been convicted.
5. On the other hand, supporting the impugned judgment, State counsel has argued that the conviction of the appellant is in accordance with law.
6. We have heard the parties and perused the record. PW/1 to 5 namely Ramdhani, Fuleshwari Bai, Ratiyo @ Fuleshwari, Mahadeva and Bandhan respectively have turned hostile. PW/6-Rahul Singh (Patwari) who prepared the spot map (Exhibit P/7), PW/7-Dr. Shailendra Gupta conducted the postmortem on the body of the deceased and found following injuries:

1. Incised wound present RH side of neck extend from angle of mandible to posterior occipital region- size 10cmx4cmxbone deep. Cut all muscles faciesied. Anterior vein nopue at bone site. Blood clot present.
 2. Incised wound present over RH sub-mental region 5cmx4cm (LH side bone deep)
 3. Incised wound present (LH sub-mandibular region 3cmx1cmx10cm).
 4. Incised wound present (RH side occipital region 4cmx10cmx bone deep).
 5. Incised wound (LH Anterior Upper 1/3rd of Arm, Muscle on exploration deep 3cmx05cm)
 - (i) Oerophagus cut at 1/3rd.
 - (ii) Thyroid cartilage come fractured, Both side Thyroid gland and Trachea cut at cricoid level, origin pall, stomach cantaw undigest food like material (LH chamber of heart eply, white side of heart cut.
7. Cause of death is shock due to extensive injury to the vessel, RH side of the neck and vital structure lead to cardiopulmonary are homicidal in nature. PW/8-Vikas Beck is a brother of the deceased and the lodger of the F.I.R. has also turned hostile. He has merely stated that as the appellant was missing after the murder of his mother, he suspected him to be the accused. PW/9-Mahan Kujur, hostile, PW/10-Kendu, hostile, PW-11-Nihali Ram (Police Constable) assisted in the investigation and PW/12-K.K. Nag is an Investigating Officer.
8. Closed scrutiny of the evidence makes it clear that there is no illegally admissible evidence showing the involvement of the appellant in commission of murder of the deceased. PW/8-Vikas Beck has merely shown suspicion on the appellant as the appellant was missing after the murder of the deceased. However, based on the statement of PW/8-Vikas Beck, the appellant could not have been convicted. All the important witnesses of the prosecution have turned hostile and as such, the present is a case of no evidence against the appellant. The trial

Court has erred in law in convicting the appellant under Section 302 of I.P.C.

9. Considering the case, the impugned judgment stands set-aside and the appeal is allowed.
10. Appellant is already on bail and therefore no further order is required.

**Sd/-
(P. Diwaker)
JUDGE**

**Sd/-
(P. Sam Koshy)
JUDGE**