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HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 225 of 2007**

- Tejuram Chakresh S/o Maheshram Chakresh, aged about 33 years, Occupation Teacher, R/o Katangkhar, Post Deori, Police Station Kansabel, District Jashpur (C.G.)

---- Appellant**Versus**

- State Of Chhattisgarh Through : District Magistrate, Jashpur (Chhattisgarh)

---- Respondent

For Appellant.	:	Ms. Minu Banerjee, Advocate.
For Respondent.	:	Smt. Madhunisha Singh, P.L.

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Rajendra Chandra Singh Samant

Judgment On Board**By Pritinker Diwaker, J****25/04/2017**

This appeal arises out of the judgment of conviction and order of sentence dated 27.01.2007 passed by the Sessions Judge, Jashpur, in S.T. No.96/2006 convicting the accused/appellant for committing murder of his wife Holika and sister-in-law Yashoda under Section 302 IPC (on two counts) & and sentencing him to undergo imprisonment for life.

02. As per the prosecution case, the accused/appellant used to suspect fidelity of his wife Holika and on 24.06.2006 at about 1.00 AM, he first killed his wife Holika by causing several injuries to her by an axe and thereafter he also killed his sister-in-law Yashoda who was

sleeping along with his wife. After committing two murders, the accused/appellant immediately went to the house of Bajru Ram (PW/1)-village Kotwar and informed him that he has killed his wife and sister-in-law. PW/1 took the accused/appellant along with him to police station where at 3.15 AM mere intimation (Ex.P/19) was recorded and at 3.20 AM FIR (Ex.P/1) was registered against the accused/appellant under Section 302 IPC. Further case of the prosecution is that after committing murder of deceased persons the accused/appellant locked the room from outside, his brother Sanjay (PW/4) took the said key from the appellant and in presence of police & villagers the room was opened where two dead bodies were found and panchanama thereof was prepared vide Ex.P/2. On 24.06.2006, inquests on the body of Holika (wife of accused/appellant) and Yashoda (sister-in-law of accused/appellant) were conducted vide Ex.P/6 and Ex.P/7 respectively. On same day, bodies of Holika and Yashoda were sent for postmortem to Community Health Center, Kansabel vide Ex.P/20 and P/21 respectively, where postmortem examination on the body of Holika was conducted by Dr. S. Tirkey who gave his report Ex.P/28 and found following injuries:-

- i. Antemortem incised wound in the size of 13.4 cm x 3 cm x cutting of spinal cord. It was multiple assault at neck cutting the vessels, trachea, esophagus and spinal cord.
- ii. Antemortem incised wound in the size of 5 cm x 1 cm x bone deep present over upper sternum.
- iii. Incised wound in the size of 4 cm x 2 cm x bone deep present over right upper to left nostril, maxilla bone was cut through.

The autopsy surgeon opined the cause of death to be hemorrhagic shock (syncope) and it was homicidal in nature.

03. Postmortem examination on the body of deceased Yashoda was conducted by Dr. S. Tirkey who gave his report Ex.P/29 and found following injuries

- (i) Antemortem incised wound in the size of 9 cm x 4 cm over lap having multiple injury crossing spinal cord and neck was only attached with skin.
- (ii) Antemortem incised wound over left cheek in the size of 8 cm x 2 cm cutting left mandible.
- (iii) Antemortem incised wound in the size of 7 cm x 2 cm x bone deep over left cheek just above the injury No.2.
- (iv) Antemortem incised wound in the size of 6 cm x 1.5 cm x bone deep over left cheek just above the injury No.3.
- (v) Antemortem lacerated wound over left forehead in the size of 6 cm x 3 cm x skull bone depressed.

The autopsy surgeon opined the cause of death to be hemorrhagic shock (syncope) and it was homicidal in nature.

04. After investigation, charge sheet was filed against the accused/appellant under Section 302 IPC and accordingly charge was framed against him by the trial Court.

05. So as to hold the accused/appellant guilty, the prosecution examined as many as 07 witnesses. Statement of the accused/appellant was also recorded under Section 313 of Cr.P.C. in which he denied the circumstances appearing against him in the prosecution case, pleaded innocence and false implication.

06. The trial Court after hearing counsel for the respective parties and considering the material available on record has convicted and sentenced the accused/appellant as mentioned in para-1 of this judgment. Hence, this appeal.

07. Learned counsel for the appellant submits as under :

- (i) That the accused/appellant has been convicted on the basis of circumstantial evidence but the nature of circumstantial evidence is not as such which can be made basis for his conviction;
- (ii) That the chain of circumstantial evidence has not been proved by the prosecution as required under the law;
- (iii) That merely on the basis of suspicion he has been made accused, however, the same is not permissible in the eye of law. She placed reliance on the decision in the matter of **Ram Prasad V. State of U.P. and another**¹

08. On the other hand, supporting the impugned judgment it has been argued by learned counsel for the State :-

- (i) That the accused/appellant, after committing murder of his wife Holika and sister-in-law Yashoda, had voluntarily gone to Bajru Ram (PW/1)-village Kotwar and confessed before him that has committed two murders. The accused/appellant along with PW/1 had gone to police station as well and informed the police about commission of offence;
- (ii) That present is a case of house murder; the accused/appellant, after committing murder of his wife and sister-in-law, locked the room from outside; gave the key of lock to his brother Sanjay (PW/4); went to Bajru Ram (PW/1) who took him to police station & in presence of police and villagers the room was opened and dead bodies were found inside the house. Thereafter, panchanama (Ex.P/2) thereof was prepared which has been duly proved by PW/4. She has further stated that the accused/appellant was residing with his wife and sister-in-law in the

1 2003 (1) CCSC 164

house in question and being an inmate he was under obligation to offer plausible and probable explanation but no such explanation has been offered by him in his statement recorded under Section 313 Cr.P.C. as to how deceased died.

09. We have heard learned counsel for the parties and perused the material available on record.

10. Bajru Ram (PW/1) is a village Kotwar who lodged the merger intimation Ex.P/19 and F.I.R. (Ex.P/1). He has stated that the accused/appellant along with his wife and daughter were residing near his (this witness) house. On 24.06.2006 at about 2.30 in the mid night, the accused/appellant came to his house and informed that he has killed his wife and sister-in-law. He also requested to accompany him to go to police station and accordingly he had gone to police station and lodged merger intimation and FIR. He is also a witness to panchanama made under Ex.P/2 and has duly supported the prosecution case. This witness, in para 10, has further clarified that the house in question, where the accused/appellant was residing, has three rooms and that there is door in only one room.

11. Lakhan Ram (PW/2) is father of deceased persons. He has stated that the marriage of his daughter Holika (deceased) was solemnized with the accused/appellant in the year 2000 and they were living happily but 8-10 months prior to the date of incident the accused/appellant had beaten the deceased Holika. On being informed, he had gone to the appellant's house and made him understand. He has further stated that on or about the date of incident his another daughter Yashoda (deceased) stayed in the house of appellant when she was returning

from the house of her another sister Kunti.

12. Dubraj Ram (PW/3) is witness to memorandum (Ex.P/9) of the accused/appellant and seizure memo Ex.P/10 by which an axe was seized. He is also witness to inquest Ex.P/6, P/7, seizure Ex.P/11, P/12, P/13 and P/14. Sanjay Ram (PW/4) - brother of accused/appellant is witness to panchanama (Ex.P/2) by which the lock of door was opened after obtaining key from the accused/appellant. Though this witness, in the examination-in-chief, supports the preparation of the said panchanama (Ex.P/2) but in cross-examination he has stated that he did not open the lock, however, same was opened by the police. He is not aware as to from where the key was brought by the police. Thus, this witness has partially supported the prosecution case. Karam Singh Sidar (PW/6) is Patwari who prepared spot map vide Ex.P/18. R.C. Nishad (PW/7) is Investigating Officer who has duly supported the prosecution case.

13. Close scrutiny of the evidence makes it clear that two dead bodies one of Holika and another of Yashoda were found inside the room where the accused/appellant was residing along with his wife deceased Holika. The undisputed fact is that after committing murder of deceased persons, the accused/appellant locked the door from outside, gone to the house of Bajar Ram (PW/1) and informed him that he has committed murder of his wife Holika and sister-in-law Yashoda. It is also not in dispute that the accused/appellant accompanied PW/1 to the police station. According to postmortem report (Ex.P/28 & P/21), injuries present on the bodies of deceased were ante-mortem in nature and death of deceased was due to hemorrhagic shock (syncope) and it was

homicidal in nature. As per panchanama made under Ex.P/2, room was opened in presence of police and villagers and two dead bodies were found inside the room where, undisputedly, the accused/appellant was residing along with his wife and this fact has duly been proved by Bajru Ram (PW/1). Further, extra-judicial confession was made by the accused/appellant before PW/1 who has duly supported the prosecution case. True that merely on the basis of extra-judicial confession by the appellant, he cannot be held guilty but present is a case where apart from the extra-judicial confession being made by the appellant, two dead bodies have been recovered from the room where accused/appellant was residing along with his wife deceased Holika.

14. Thus from the material collected by the prosecution it is proved that the death of the deceased was homicidal in nature and the dead bodies were recovered from the house of accused/appellant in presence of police, Bajru Ram (PW/1) and Dubraj Ram (PW/3). Undisputedly, the house of the accused/appellant was in the occupation of the two only (deceased Holika and the accused) but still no reasonably convincing explanation has been offered by him in his 313 Cr.P.C. statement as to how the dead bodies of deceased were found inside his house. In the cases involving house murder, it has time and again been held by the Apex Court that it is the inmate(s) of the house who has to offer satisfactory explanation as to how the death occurred but in this case the accused/appellant remained silent.

15. For the reasons set out above, this Court is of the considered opinion that the findings of the Court below are strictly in conformity with the material available on record and the Court below has not committed

any error in passing the judgment impugned. The appeal thus has no substance and it is liable to be dismissed. Dismissal recorded accordingly. Appellant is reported to be in jail and therefore no further order regarding his arrest etc. is required.

Sd/-
(Pritinker Diwaker)
JUDGE

Sd/-
(R.C.S. Samant)
JUDGE