

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 29 of 2012

- Bhulau Verma S/o Sakha Verma , R/o Chouranga , P.S. Simga , District - Raipur C.G

---- Appellant

Versus

- State Of Chhattisgarh, through P.S.Simga, District Raipur (CG)

---- Respondent

For Appellant	: Shri S.Imtiyaz Ali, Advocate
For Respondent/State	: Shri Adil Minhaj, P.L.

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Sharad Kumar Gupta

Judgement on Board by Pritinker Diwaker,J.

07/04/2018

This appeal has been preferred against the judgment and order dated 27.08.11 passed by the Additional Sessions Judge, Bhatapara in Sessions Trial No. 09/2011 convicting the accused/appellant for the offence punishable under Section 302 IPC and sentencing him to undergo imprisonment for life with fine of Rs. 100/- plus default stipulation.

2. In the present case, name of the deceased is Rajia Bai. It is said that in the intervening night of 2-3.3.11, deceased was killed by the appellant. Her dead body was found near the village pond on 03.03.11 and immediately the news of death of deceased spread in the village. FIR Ex.P-2 was registered on 03.03.11 against unknown person under Section 302 IPC. Soon thereafter merg intimation

Ex. P-1 was registered at the instance of Ganesh Ram. Inquest was prepared vide Ex.P-3 and body was sent for postmortem examination which was conducted by Dr. P.L.Chandan (PW-12) vide Ex.P-15 and according to him, cause of death was shock due to excessive loss of blood and death was homicidal in nature. On the basis of memorandum of accused/appellant Ex.P-10, seizure of knife and half pant vide Ex.P-12 was made however there is no FSL report. After filing of the charge sheet, trial judge has framed charge against the accused/appellant under Section 302 IPC.

3. So as to hold the accused persons guilty, prosecution has examined 13 witnesses in support of its case. Statement of the accused was also recorded under section 313 of the Code of Criminal Procedure in which he denied the charge levelled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties the trial Court has convicted and sentenced the accused/appellant for the offence as mentioned above. Hence the present appeal.

5. Contention of counsel for the appellant is that present is a case of no evidence but yet the appellant has been convicted. On the memorandum of accused/appellant Ex.P-10 seizure of knife and half pant vide Ex.P-11 and P-12 was made but there is no FSL report.

6. On the other hand, supporting the impugned judgment it has been argued by the State counsel that the conviction of the appellant is in accordance with law.

7. Heard counsel for the parties and perused the material available on

record.

8. Ganesh Ram (PW-1) is the lodger of First Information Report and merged intimation. He is also a witness to inquest. This witness has not stated anything against the appellant. Prahlad Sahu (PW-2) Rama Shankar (PW-3), Bhuvaneshwar (PW-4) and Ferha (PW-5) are the villagers who came to know about the death of the deceased and went to the spot and saw the dead body. None of these witnesses have stated anything against the appellant. Janabai (PW-6) mother of the deceased has stated that there used to be some quarrel between the appellant and the deceased however she has not stated anything against the appellant in respect of murder of the deceased. Dasru Gond (PW-7) is the witness of last seen has not stated anything against the appellant and has turned hostile. Ramesh Kumar Sahu (PW-9) and Kanhaiya Vaishnav (PW-11) are the witnesses to memorandum Ex. P-10 and seizure Ex.P-11 and 12 have turned hostile. Shanti Sinha (PW-10) is the patwari who prepared spot map. Dr. P.L. Chandan (PW-12) is the medical officer who has conducted postmortem examination on the body of deceased and he opined that cause of death was shock due to excessive loss of blood and death was homicidal in nature. B.N.Verma (PW-13) is the Investigating Officer who has done the investigation.

9. Close scrutiny of the evidence makes it clear that there is absolutely no legally admissible evidence showing the involvement of the appellant in commission of the offence. Though on the memorandum of accused/appellant seizure Ex.P-11 and 12 of certain articles were made but there is no FSL or serological report. The witnesses to last seen have also turned hostile. The statement of the witnesses of last seen relied upon by the trial court appears to be a weak evidence. Furthermore, though on the basis of memorandum of appellant Ex. P-710 seizure Ex.P11 & 12 of knife and half pant were made however there is no FSL or

Serological report. Thus, after taking all the facts and circumstances in consideration we do not find ourselves in conformity with the findings arrived at by the Learned trial court.

10. Accordingly, the appeal is allowed. Impugned judgment convicting and sentencing the accused/appellant as mentioned above is set aside. He is acquitted of the charges levelled against him. Accused/appellant is reported to be on bail. His bail bonds stand discharged.

Sd/-

(Pritinker Diwaker)
Judge

Sd/-

(Sharad Kumar Gupta)
Judge