

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 1256 of 2014**

- Ramdhar Bhaskar S/o Mangu Bhaskar Aged About 30 Years R/o Kundenar, Barsapara, P.S. Faraspal, Civil And Revenue District South Bastar Dantewada C.G.

---- Appellant

Versus

- State Of Chhattisgarh Through Station House Officer, P.S. Faraspal, Civil And Revenue District South Bastar Dantewada C.G.

---- Respondent

For Appellant : Shri Nasimuddin Ansari, Advocate.

For Respondent : Shri Avinash Choubey, Panel Lawyer.

**Hon'ble Shri Prashant Kumar Mishra &
Hon'ble Shri Gautam Chourdiya, JJ**

Judgment On Board By Prashant Kumar Mishra, J**10/02/2020 :**

1. The appellant would call in question the legality and validity of his conviction under Section 302 of the IPC and sentence of imprisonment for life along with fine amount of Rs.200/- with usual default stipulation imposed by the Additional Sessions Judge, South Bastar, Dantewada in ST No. 92/2014.
2. The appellant has allegedly committed murder of his wife Jamli

Bai. As per the prosecution case, the appellant and his wife had gone to weekly market Geedam on the date of the incident i.e. 25.5.2014. When the appellant returned alone to his house at about 7-8 pm, his elder brother Laxman Bhaskar (PW-1) enquired about deceased Jamli Bai, upon which the appellant informed him that they consumed liquor at weekly market Geedam and were returning back, but mid way she started abusing him, therefore, he became enraged and assaulted her by kicks and fists and twisted her neck. When she died, he threw the dead body in the Mudga Gufa forest. Informant Laxman Bhaskar (PW-1), Jogaram Vatti (PW-2), Lachchu Vatti (PW-3), Pindo Bhaskar (PW-4), Sitaram Vatti (PW-6), Tulsi Bai (PW-7) and Ramobai Bhaskar (PW-8) went to the forest and found the dead body at the place indicated by the appellant.

3. Merg intimation was recorded on the information of Laxman Bhaskar (PW-1) vide Ex.-P/7 and immediately thereafter FIR (Ex.-P/8) was registered. Appellant's memorandum statement was recorded vide Ex.-P/11 pursuant to which blood stained Lungi was recovered from his house vide seizure memo Ex.-P/12.
4. In the postmortem report (Ex.-P/16), Dr. Desh Deepak (PW-5) mentioned that the deceased was found to have died due to haemorrhagic shock, due to excessive internal bleeding with

injuries to vital organs, homicidal in nature. The deceased was found to have sustained 6 external injuries which were lacerated wounds, contusions and multiple abrasions. In the FSL report (Ex.-P/25A), blood stains were found over Lungi recovered from the appellant. However, there is no serological report available on record.

5. After completing investigation, charge sheet was filed. In course of trial, the prosecution examined 9 witnesses to bring home the charges. The appellant abjured the guilt and pleaded innocence, however, he did not examine any defence witness.
6. Learned counsel for the appellant has argued that there being no eyewitness to the crime and witnesses to the extra judicial confession having turned hostile, there is absolutely no material to sustain the conviction. Therefore, the appeal deserves to be allowed.
7. On the other hand, learned State Counsel would support the impugned judgment.
8. Case of the prosecution rests on the evidence of witnesses to the extra judicial confession to whom the appellant allegedly confessed his guilt. However, informant Laxman Bhaskar (PW-1) and other witnesses namely, Jogaram Vatti (PW-2), Sitaram Vatti

(PW-6), Tulsi Bai (PW-7) and Ramobhai Bhaskar (PW-8) have turned hostile without supporting the prosecution at any stage of their examination. Lachchu Vatti (PW-3), who was witness to the memorandum statement (Ex.-P/11) and seizure memo (Ex.-P/12) has also turned hostile. Thus there is no evidence of the appellant making extra judicial confession to any of the witnesses.

9. The trial Court has convicted the appellant mainly on the basis of evidence of presence of blood over appellant's Lungi which was recovered vide Ex.-P/12 pursuant to his memorandum statement (Ex.-P/11). In the FSL report (Ex.-P/25A), blood was found over Lungi, however, origin of the blood is not mentioned in the FSL report. Moreover, the article was sent for serological examination vide Ex.-P/25, but there is no report of the serologist. Thus finding of blood without stating the origin of blood is of no assistance to the prosecution and is not conclusive in nature. In any case, merely because blood was found over Lungi recovered from the appellant, conviction cannot be sustained on this evidence alone.
10. In view of the above, we are of the considered view that there is absolutely no evidence connecting the appellant with the murder of deceased Jamli Bai.

11. Therefore, conviction and sentence imposed upon the appellant under Section 302 of the IPC are set aside and he is acquitted of the said charge. The appellant be set at liberty forthwith unless required to be detained in any other case on his furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court. The bail bond shall remain in operation for a period of 6 months as required under Section 437-A of the CrPC. The appellant shall appear before the higher Court as and when directed.

12. The Appeal is accordingly allowed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

Barve