

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRA No. 1904 of 2019

1. Gouri Ram Routiya S/o Bignu Ram Aged About 40 Years
Occupation Agriculturist R/o Village Kudukela, Police Station
Narayanpur, District Jashpur, Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh Through Station House Officer, Police
Station Narayanpur, District Jashpur, Chhattisgarh.

---- Respondent

For Appellant Mr. Gurudev I. Sharan, Advocate

For Respondent/State Mr. Chitendra Singh, Panel Lawyer

Hon'ble Shri Prashant Kumar Mishra, J.

Hon'ble Shri Gautam Chourdiya, J.

Judgment on Board

By

Prashant Kumar Mishra, J.

4-3-2020

1. Appellant would call in question the legality and validity of the impugned judgment dated 12-10-2006 rendered in ST No.55 of 2006 whereby the Sessions Judge, Jashpur, has convicted the appellant for committing offence under Sections 302, 307 & 324 of the Indian Penal Code (for short 'the IPC') for committing murder of Shahin Parvin (since deceased); attempting to commit murder of Mohammad Maqsud (PW-4); as also causing grievous injury to Mohammad Ashik (PW-2)

and has been sentenced him to undergo imprisonment for life; RI for 07 years; and RI for 02 years, respectively with fine amount and default stipulations.

2. As per the prosecution case at about 5.15 pm on 31-12-2005 the deceased Shahin Parvin, daughter of Mukim Khan (PW-1), was going from her house to Halditongri. At this time, the appellant, who was drunk, gave one axe blow on the person of Shahin Parvin, which was informed by Surfraj to Mukim Khan (PW-1). The accused also threatened and chased Upsarpanch of the village Mohammad Maqsud (PW-4) and caused injuries over his left leg below knee and over ribs of both the sides. He had sustained fracture of his leg. Mohammad Ashik (PW-2) also sustained injuries over his left arm. The incident was witnessed by Ishrar, Asnool, Abrar, Budhnath, Amravati, etc. Due to darkness the dehati nalsi (Ex.P/1), First Information Report (FIR) (Ex.P/21) & merg intimation (Ex.P/2) could be lodged on the next morning on 1-1-2006.
3. The investigation team reached the spot and prepared the dead body inquest (Ex.P/7) and the postmortem was carried out by Dr. (Smt.) K. Kujur (PW-9), who submitted the postmortem report (Ex.P/17) opining that cause of death is hemorrhagic shock due to incised cut wounds over neck. Nature of death is homicidal; and death within 14-20 hours from the time of conducting the postmortem.
4. During investigation clothes of the deceased were recovered vide Ex.P/23 and the spot map was prepared vide Ex.P/20. Plain soil & bloodstained soil were recovered vide Ex.P/8 & Ex.P/9. Bloodstained axe was recovered from Asrar, son of

Mohammad Maqsud (PW-4) vide Ex.P/4, which was identified to be belonging to the accused by Devsharan & Dil Mohammad vide Ex.P/5. Bloodstained shirt of the accused was recovered vide Ex.P/22. Treatment papers of Mohammad Maqsud (PW-4) have been recovered vide Ex.P/6 from Jashpur, Kunkuri & Ranchi (Jharkhand). Other treatment papers were recovered vide Ex.P/11 to Ex.P/16. Mohammad Maqsud (PW-4) was treated by Dr. Usha Lakda (PW-6), Holy Cross Hospital, Kunkuri and Dr. J.K. Bhutani (PW-8), Government Hospital, Ambikapur. The injury sustained by Mohammad Maqsud (PW-4) over his left leg developed gangrene for which his left leg was amputated at Seventh Day Adventist Hospital, Bariatu Road, Ranchi (Jharkhand).

5. After completing necessary investigation including recording the diary statements of the witnesses; charge sheet was filed; and the appellant was charged for committing offence under Sections 302, 307 & 324 of the IPC.
6. In course of trial the prosecution examined 10 witnesses to bring home the charges. The appellant abjured the guilt and pleaded false implication, but did not examine any defence witness. Upon appreciation of evidence, the trial Court convicted & sentenced the appellant as mentioned above.
7. Learned counsel appearing for the appellant would submit that the prosecution case is full of material contradictions and omissions. The eyewitnesses were not present on the spot and they have been framed for seeking conviction of the appellant. Learned counsel would submit that the case against the appellant has not been proved beyond reasonable doubt.

8. Learned counsel appearing for the State, *per contra*, would support the impugned judgment.
9. The prosecution case rests on the evidence of eyewitnesses and the medical evidence, therefore, the evidence shall be discussed and appreciated seriatim.
10. Mukim Khan (PW-1) is the father of the deceased. At the time of occurrence he was working in his agricultural field. He was informed by one boy on which he reached to his house, which is situated at a distance of about 50-60 steps. He found his daughter lying injured in a pool of blood on the road. He informs that after committing murder of his daughter the appellant also caused injuries to Mohammad Ashik (PW-2) and Mohammad Maqsud (PW-4), therefore, the villagers had caught hold of the accused and handed over to the police. This witness lodged dehati nalsi (Ex.P/1), First Information Report (FIR) (Ex.P/21) & merg intimation (Ex.P/2).
11. Mohammad Ashik (PW-2) is the injured eyewitness. He reached the place of occurrence immediately after the first assault made by the appellant over the person of the deceased. Appellant also inflicted blows over the person of the deceased after reaching of this witness, who tried to dissuade the appellant for committing the crime on which he was chased by the appellant and when he reached near the house of Budhnath the appellant tried to cause injuries by axe over his neck, which he saved by raising his left hand and sustained injuries over his left arm. When one Hasnul tried to protect this witness, the appellant chased Hasnul for causing injuries, but having found Mohammad Maqsud (PW-4) on the way he

caused injuries over the person of Mohammad Maqsud (PW-4). This witness (Mohammad Ashik {PW-2}) received treatment at Holy Cross Hospital, Kunkuri whereas Mohammad Maqsud (PW-4) obtained treatment at Kunkuri, Ambikapur & Ranchi (Jharkhand). Mohammad Asrar (PW-3) is also a eyewitness, who had snatched the axe from the appellant.

12. Mohammad Maqsud (PW-4) is an injured eyewitness, who sustained injuries over his left leg, which developed gangrene and was later on amputated by Seventh Day Adventist Hospital, Bariatu Road, Ranchi (Jharkhand). This witness has narrated the incident in the same manner in which Mohammad Ashik (PW-2) would narrate. He has proved the seizure of papers regarding his treatment vide Ex.P/6. Mohammad Liyakat is a witness to the dead body inquest (Ex.P/7).
13. Dr. Usha Lakda (PW-6) is the Medical Officer of Holy Cross Hospital, Kunkuri. She provided initial treatment to Mohammad Maqsud (PW-4). According to this witness the injury sustained by him was serious, which later on developed gangrene. Dr. J.K. Bhutani (PW-8) is the Medical Officer, Government Hospital, Ambikapur. He also treated Mohammad Maqsud (PW-4). He has proved the report Ex.P/14 finding injuries over his both the legs as also on right shoulder. He has proved the fracture over the left leg. Dr. (Smt.) K. Kujur (PW-9) has conducted postmortem over the dead body of the deceased. She has proved the postmortem report (Ex.P/17). J.S. Maravi (PW-10) is the Investigating Officer.

14. The above discussed evidence adduced by the prosecution makes it an open and shut case against the appellant. Mohammad Ashik (PW-2) and Mohammad Maqsud (PW-4) are the injured eyewitnesses, who have seen the appellant assaulting the deceased and causing assault to them also. Mohammad Maqsud (PW-4) sustained injuries on his left leg, which developed gangrene and was amputated at Seventh Day Adventist Hospital, Bariatu Road, Ranchi (Jharkhand). The injured has also sustained fractures. Similarly, Mohammad Ashik (PW-2) also sustained grievous injuries. There is nothing in the cross-examination of these witnesses, which would make their statements untrustworthy. There is no such material contradictions or omissions which makes the prosecution case unbelievable. The incident happened in broad daylight and there is no reason why the witnesses would falsely implicate the appellant. It is a case which has been fully proved by the prosecution beyond reasonable doubt against the appellant.
15. For the foregoing reasons, in our considered opinion, the appellant has rightly been convicted by the trial Court.
16. In the result, the appeal, *sans* merit, is liable to be and is hereby dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Gautam Chourdiya)
Judge

Gowri