

15.03.2023
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SB
Ct. No.236

CRR 1070 of 2005

In the matter of : Sukla Chakraborty

Mr. Himangshu De,
Mr. Navanil De
Mr. Rajeswar Chakraborty
Mr. Srinjan Ghosh
Mr. Subhrajit Dey
Ms. Monami Mukherjee ... for the petitioner

Mr. N.P. Agarwala
Mr. P. Bose ... for the State

This criminal revision challenges the order passed by the learned Additional District and Sessions Judge, Fast Track, 3rd Court, Midnapore, in S.T. Case No. XXXII / January 2004, corresponding to G.R. Case No. 223 of 2003. By the impugned judgement, learned Trial Court recorded an order of acquittal against Smt. Mitali Dasgupta who was arraigned as accused for committing offence under Section 304 of the Indian Penal Code.

Briefly stated, on 06.02.2003 at about 18-15 hours Smt. Sukla Chakraborty informed the Officer-in-Charge, Kotowali Police Station, Midnapore that her sister-in-law Mitali who used to treat her parents with cruelty since after marriage, set her mother Smt. Durga Dasgupta ablaze on 05.2.2003 in the morning. It was stated that on the fateful day the informant came to know that her mother was burnt, she along with her son went to Rangamati, the place of abode of her mother. After travelling some distance the informant saw that her mother was being taken to hospital. Her mother told her that Mitali did not allow her to live and she set her ablaze.

Subsequently, the lady died in the hospital. As the information disclosed offence cognizable in nature Kotowali P.S. Case No. 32/2003 was registered on 06.02.2003 under Section 304 of the Indian Penal Code. Police took up investigation and submitted charge sheet against Mitali Dasgupta. Mitali Dasgupta stood the trial pleading her innocence. To bring home charges prosecution examined sixteen witnesses and on behalf of the accused persons Dr. Dipak Chowdhury, Bhaktipada Mahapatra and Smt. Mousumi Ganguli adduced evidence as D.Ws. 1, 2 and 3. It is this specific case of the prosecution and the de facto complainant as P.W. 1 unerringly stated that the victim Durga Dasgupta told her on her way to hospital that it was Mitali who set her ablaze. Such information was received by P.W. 1 when Mitali was very much present by her side as stated by D.W. 1 in her oral testimony. Though in her written information P.W. 1 gave different narrative for the time being, we may ignore such discrepancies.

P.W. 1 despite having been informed by the victim as to her cause of injury, did not take any step. She did not go to the police, nor did she challenge the alleged perpetrator. She swung into action more than twenty four hours after the death of her mother. However, there is no explanation for such delay.

P.W. 2 also claimed to have heard the victim indicating that the accused person Mitali did not let her live. P.W. 2 also did not think it necessary to inform the police.

Incidentally, from the oral testimony of P.W. 1, it appears that P.Ws 2, 3 & 4 all are acquainted with P.W. 1. P.W. 2 and other

three witnesses are not natural but chance witnesses and their testimony did not inspire confidence in the Trial Court.

Dr. Dipak Chowdhury, Medical Officer, as D.W. 1 stated that Durga Dasgupta was under his treatment and those documents tendered by the witnesses were admitted as Exhibits E & F series. According to Dr. Chowdhury, Durga Dasgupta had several physical and mental disorders and she was under sedatives. She did not take care of herself.

D.W.2 is the Ward Master of the hospital who stated that on 05.2.2003 Mitali Dasgupta was on duty at the hospital from 7.30 AM. At About 9/9.30 AM D.W. 2 received an information over phone that mother –in-law of Mitali, who was working for gain as nurse in the said hospital sustained burn injury. He informed this to sister Mitali, who then was attending her duty at the female septic surgical ward, and also sister-in-charge Mousumi. Thereafter, Mitali Dasgupta made an application for ambulance.

D.W. 3 Mousumi Ganguly parroted the testimony of D.W.2.

This evidence of D.Ws 2 and 3 are sufficient to raise a presumption that at the relevant point of time the accused person was not in her home and she by no stretch of imagination could be held responsible for such injury sustained by Durga Dasgupta.

Learned Trial Court was absolutely justified under such circumstances to extend the benefit of doubt to the accused person while recording an order of acquittal.

I do not find any reason to interfere with the impugned judgement. The criminal revision is devoid of merit and is dismissed without any order as to costs.

Let a copy of the order along with lower court record be sent
to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)