IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (DB) No. 389 of 2003

[Against the Judgment of conviction and order of sentence both dated 20.02.2003, passed by learned Additional Sessions Judge, Fast Track Court No. 2, Deoghar, in Sessions Case No. 209 of 2001 (arising out of Jasidih P.S. Case No. 71 of 2001 & G.R. Case No.265 of 2001)].

Rajesh Kumar Kapri, Son of Sachin Kapri, R/o Village- Ramaldih, Sahri, Police Station-Jasidih, District-Deoghar. …. Appellant

Versus

The State of Jharkhand. ….. Respondent

P R E S E N T

SRI ANANDA SEN, J.
SRI GAUTAM KUMAR CHOUDHARY, J.

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For the Appellant : Ms. Sadhna Kumar, Advocate
For the State : Mr. Vineet Kumar Vashistha, SPP
For the Informant : Mr. Arvind Kr. Choudhary, Advocate

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Dated 05.12.2024. JUDGMENT

By Court:- Heard learned counsel for the appellant and learned counsel for the State as well as learned counsel for the informant.

1. This Criminal appeal is directed against the judgment of conviction and order of sentence both dated 20.02.2003, passed by learned Additional Sessions Judge, Fast Track Court No. 2, Deoghar, in Sessions Case No. 209 of 2001 (arising out of Jasidih P.S. Case No.71 of 2001 & G.R. Case No.265 of 2001 whereby and whereunder the appellant has been convicted under Sections 302/201 IPC.

2. Informant is the father of the deceased. As per the FIR while he was returning home from school where he was teaching, he came to know that his second son Niranjan Kumar has been murdered and his dead body was lying at Dharwadih Jungle. He along with family members went and identified the dead body and discovered that his son was brutally murdered and there were several marks of injury on the dead body. His son had gone to the market to purchase fruits and books and on his way back through Dharwadih Jungle, the deceased was done to death by this appellant and his friends. Genesis of the offence has been stated that the deceased had managed to get some love letters of one Kiran Kumari, who was having an affair with this appellant. It is alleged that the love letters were shown to the mother of Kiran Kumari, as a result of which the deceased who was a good friend to this appellant turned into an enemy and had committed murder of the deceased.

3. On the basis of the fardbeyan of the informant, the Police instituted First Information Report being Jasidih P.S. Case No. 71 of 2001 under Sections 302/201/34 IPC against the appellant/accused. The Police after investigation submitted charge-sheet and cognizance was taken and the appellant/accused was put on trial for the offence under Section 302/201 IPC.

4. In order to prove the case, altogether sixteen witnesses have been examined by the prosecution and relevant documents have been adduced into evidence and marked as Exhibits.

5. Learned APP for the State assisted by learned counsel for the informant has defended the impugned judgment of conviction and sentence.

6. We have gone through the evidence of the witnesses. Admittedly, there is no eye-witness to the said occurrence. The entire case rests upon circumstantial evidence. One of the circumstances is that PW-3 (Bishnu Prasad Manjhi) had stated that at the time of Holi festival, this appellant had threatened the deceased. Another circumstance is recovery of a slipper near the dead body of the deceased to which the prosecution claims that slipper belongs to the appellant. Save and except that claim and that too by the family member(s) of the deceased, there is nothing on record to relate the said slipper with this appellant.

7. Another circumstance is the motive. It has come in evidence that the love letters were found in the possession of the appellant as the appellant was having affair with Kiran Kumari.

8. Be it noted that Kiran Kumari has not been examined in this case. Thus, so far as the story of love affair between Kiran Kumari and deceased is concerned, but in absence of evidence of Kiran Kumari, we cannot come to the conclusion that the letters were written by Kiran Kumari.

9. PW-14 (Jugnu Kumari) is a childhood friend of the Kiran Kumari and she has exhibited the aforesaid letter. The best person to exhibit and admit the aforesaid letters was Kiran Kumari and for the reasons best known to the prosecution, she has been withheld by the prosecution and has not been produced. These circumstances do not form a complete chain to prove the charge against the appellant. These circumstances are absolutely very weak circumstances to convict this appellant. On the basis of these circumstances,

no accused person can be convicted. Thus, in absence of any legal evidence to convict this appellant, we allow this appeal.

10. As such, the impugned judgment of conviction and order of sentence is set aside. Since the appellant is on bail, as such, the appellant as well as his sureties are discharged from the liability of their bail bonds.

11. Accordingly, the Cr. Appeal (DB) stands allowed.

12. Pending I.A., if any, stands disposed of.

13. Let T.C.R. along with a copy of this judgment be sent to the court concerned at once.

(Ananda Sen, J.)

(Gautam Kumar Choudhary, J.)

Jharkhand High Court, Ranchi
Dated 18.11.2024.
sandeep/pawan