



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPEAL NO.650 OF 2019

Laxminarayan S/o Shrawanji Kinkar
Aged about 49 years, Occ: Labour,
R/o Lavkushnagar, Manewada Ring Road,
Plot No.31, Nagpur, P.S. Hudkeshwar.

...APPELLANT

...V E R S U S...

State of Maharashtra,
Through Police Station Officer,
Police Station Kotwali, Dist. Nagpur.

...RESPONDENT

Ms Preeti Rane, Advocate (appointed) for appellant.
Shri A.B. Badar, APP for respondent/State.

CORAM :-SMT. M.S. JAWALKAR & M.W. CHANDWANI, JJ.
DATE :- 29/11/2024

ORAL JUDGMENT: (*Per Smt. M.S. Jawalkar, J.*)

. The present appeal is filed being aggrieved by the judgment and order dated 25.07.2018 passed by the learned Additional Sessions Judge-III, Nagpur in Sessions Case No.59/2014 by which the accused-appellant is convicted for the offence punishable under Section 302 of the Indian Penal Code (for short “**IPC**”) and sentenced to suffer rigorous imprisonment for life and to pay fine of Rs.5,000/- and in default to suffer further simple imprisonment for six months.

2. It is the contention of the appellant that the learned

trial Court has not appreciated the evidence on record in its proper perspective. It is contended that the prosecution failed to establish which knife is actually used in the crime. It is also contended that there are discrepancies in mentioning the time of the incident, position of the accused in test identification parade etc. It is thus argued that in the evidence of PW2-Ajay Burande, who is alleged to be an eye witness, during the cross-examination on suggestion by the defence, he answered in affirmative that the accused was running away from the spot of incident and he was holding the knife in his hand. However, he volunteered that the knife fell down from his hand near the spot of incident itself when the accused fell down there. Thus, it is the contention that though it was admitted that the accused was holding the knife it was denied by voluntary statement and deposed that knife fell down from his hand.

3. It is the contention of Ms Preeti Rane, learned counsel (appointed) for the appellant that the prosecution witnesses are not trustworthy and there is no cogent evidence on record. On this ground the appellant seeks setting aside the judgment and prayed for acquittal.

4. Mr. A.B. Badar, learned Additional Public Prosecutor for respondent/State, submitted that it is the case of direct evidence. There are four eye witnesses who deposed consistently about the offence committed by the accused. The accused committed murder of his ex-wife Ms. Ruchita D/o Uttam Gidhade alias Mrs. Ruchita W/o Laxminarayan Kinkar. Prosecution's case is that victim Ruchita got divorce from the accused Laxminarayan thereafter also accused used to harass her and therefore, the victim lodged report against accused time to time. This fact is factually established by the PW8-father of the victim. He placed on record the copies of NC and also complaint in handwriting of deceased Ruchita made to Police Superintendent. On the day of incident, the deceased Ruchita was passing through the place Jagnade Chowk to Mangalmurti Chowk of Nagpur; near Laxmi Apartment by her moped. The accused caught her hair and so, she fell down from her moped. Then the victim tried to run away by passing over the divider but the accused chased her and gave blows of knife to her. The persons present there pelted chappal (footwear) and stones towards him. Then, accused tried to ran away but other persons who were present there apprehended him. One of them made a phone call to the police who soon reached

there. Meanwhile, the victim was carried to hospital. The report was lodged by one Chandu Wakodkar, who witnessed the incident. It is submitted by the learned APP that after considering the evidence of the eye witnesses alongwith medical reports and fact that accused was apprehended on the spot itself so also CA report all these aspects are duly considered by the learned trial Court while holding the accused is the only author of the crime.

5. We have heard both parties at length. So far as homicidal death is concerned, the victim sustained 18 injuries on her person, which were on vital organs. As such there is no error in recording the finding in the affirmation against point no.1. There is prompt lodging of report. The police arrived on the spot immediately on phone call of PW4- Ajay Lambat. Apart from this occurrence of incident, PW1- Chandu Wakodkar, who is also informant, deposed that he went for morning walk and on the phone call of his mother at around 7.00 am, when he was returning back to his house, he heard shout near Mangalmurti square and saw that the accused caught hold hair of one lady on a moped and made her fell down. Then, that lady tried to run away by crossing the divider but the accused chased her and gave blows of knife to her near ear, neck and abdomen. This witness then

threw footwear towards the accused and other persons also pelted stones towards the accused. Then the accused threw knife and tried to ran away but he was caught hold by chasing. After arrival of police, he went to police station and lodged FIR.

6. The second eye witness, PW2-Ajay Burande has also deposed on the similar line. One suggestion was put to this witness that when the accused was running away from the spot of incident he was holding a knife in his hand. He admitted that this fact however volunteered the statement that knife fell down from his hand near the spot of the incident itself when the accused fell down. This suggestion by the defence witness clearly goes to show that PW2 has seen the occurrence of incident. The third eye witness, PW3-Avinash Bawankar has also deposed on the same line as of PW1 and PW2. The fourth eye witness PW4-Ajay Lambat deposed similar to that of PW1 to PW3 and narrated that he immediately made a phone call to the police by dialing number 100.

7. Nothing adverse to the prosecution surfaced from the cross-examination of these witnesses. They all are independent witnesses. They are either resident of that locality or they went for morning walk. Their testimonies at any rate cannot be disbelieved.

In the deposition of PW4 Ajay Lambat, it is clear that the blood stained knife, one broken mangalsutra, broken pieces of glass bangles, one broken ladies goggle, one moped and one motorcycle etc. were seized from the spot of incident. It has come in the personal search of the accused that one knife was recovered from the accused. This witness specifically deposed that apart from blood stained knife there was another knife, which was seized by the police from the pant pocket of the accused, which is duly exhibited at Exh.38. The clothes of the accused were also seized on that day. PW10-Govind Aajankar, who is panch witness, deposed that clothes of the accused were seized and sealed by the police by recording seizure panchanama. He further deposed that on the same day clothes of victim seized and sealed in paper wrapper by the police. The clothes of accused as well as victim were stained with blood. He was also panch witness of seizure panchanama of samples of blood of accused and his nail clippings.

8. The deposition of this witness alongwith CA report are placed on record. These report show that blood group of victim is of Group B while blood group of accused is of AB. C.A. report also shows that all the clothes of victim and blood sample seized from the spot of incident are stained with blood Group B. These reports

show that knife sized from the spot of incident, clothes of accused and nail clipping of accused, all were stained with blood group B. No explanation whatsoever was given by the accused. All these evidence clearly establishes that the accused is the author of the crime and none other.

9. In addition to this, the father of victim PW8-Uttam deposed that accused used to drink liquor and used to play gambling and did not use to provide money to his family. The accused used to beat Ruchita and therefore she was residing separately and then obtained divorce from the accused from the Family Court. Even after divorce, the accused was insisting Ruchita for cohabitation. The report lodged by the deceased Ruchita are placed on record as Exhibits 68 to 74. It is noteworthy to mention here that in complaint Exh.74 made by victim Ruchita to Police Superintendent she has expressed her apprehension that there is threats and danger to her life from the accused and ultimately due to 18 injuries inflicted by the accused she succumbed to death. The accused with the intention to kill her inflicted 18 injuries by knife. As such in view of this direct evidence and other supporting medical evidence, C.A. reports and evidence of other witnesses, there is no any error or illegality in

the judgment passed by the learned trial Court convicting accused for the offence for which he was charged with. The learned trial Court has duly considered the evidence on record. We do not see any reason to interfere in the judgment and order passed by the learned trial Court. As such, appeal fails and accordingly, it is dismissed.

10. The professional fees of learned counsel appointed for the appellant be quantified and paid, as per Rules.

(M.W. CHANDWANI, J.)

(SMT. M.S. JAWALKAR, J.)

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