

Rajendra Prasad vs The State Of Uttarakhand on 14 January, 2020

Bench: N.V. Ramana, Sanjiv Khanna, Krishna Murari

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No. 2239 OF 2010

RAJENDRA PRASAD

... APPELLANT(S)

VERSUS

THE STATE

THROUGH CHIEF SECRETARY

...RESPONDENT(S)

ORDER

1. This appeal by way of Special Leave has been directed by the appellant¹ accused against the judgment and order dated 25.11.2009 passed by the High Court of Uttarakhand in Criminal Jail Appeal No. 167 of 2006 whereby the High Court dismissed the appeal filed by the appellant¹ accused and confirmed the order of conviction and sentence passed by the trial court, convicting the appellant¹ accused for the offences punishable under Sections 328 and 302 of the Indian Penal Code, 1860 (hereinafter referred to as “the IPC”) and sentencing him to undergo two years’ rigorous imprisonment with fine Date: 2020.02.06 17:38:57 IST Reason:

of Rs. 2000/² for the offence punishable under Section 328 of the IPC and to undergo life imprisonment and to pay fine of Rs. 5000/³ for the offence punishable under Section 302 of the IPC.

2. The facts in brief as per prosecution, which are necessary for the disposal of the appeal at hand are that both the appellant¹ accused and the deceased were having Goshalas situated adjacent to each other. On the day of occurrence, i.e., 28.05.2005, when the deceased had gone to graze his cattle in the nearby forest as usual, the appellant¹ accused entered the Goshala of the deceased in his absence and administered poison in the food and drinking water of the deceased. The deceased

after returning from the forest, consumed the poisonous food and water, and immediately feeling uneasy came out screaming from the Goshala. Hearing the screams of the deceased, PW2, PW4 and PW6 came to the spot. The deceased told them that appellant accused abused him and also threatened to kill him in the morning and has, therefore, administered poison in his food and drink. Thereafter, the deceased fell unconscious and the aforesaid prosecution witnesses took the deceased to the village, where the deceased again informed about the occurrence to his family members, including the complainant (PW1) and other villagers present there, in a state of semi-consciousness. After some time, the deceased died, and the appellant accused absconded from the place of occurrence. On the same day, some villagers went to call the doctor and to lodge the report of the incident to the Patwari Chowki. However, neither the doctor nor the Patwari was found and therefore the complaint was lodged by the nephew of the deceased, PW1 on the following day.

Inquest and postmortem was conducted on the body of the deceased. The Investigating Officer recovered an empty bottle of poison and one small plastic bottle containing poison from the Goshala of the appellant accused. The Investigating Officer also recovered a bottle containing poisoned water and a plastic box containing poisoned food from the Goshala of the deceased. As the cause of death could not be ascertained in the postmortem, viscera of the deceased was preserved and sent for chemical analysis.

3. The appellant accused was arrested on 30.05.2005 and on the basis of the investigation conducted and the statement of witnesses recorded, the Investigating Officer submitted charge sheet against the appellant accused. The trial court charged the appellant accused for the offences punishable under Sections 328 and 302 of the IPC and convicted and sentenced him vide judgment and order dated 13.06.2006 in the manner indicated hereinabove.

4. We have heard the rival submissions advanced by the learned counsel for the appellant accused and the learned counsel for the respondent State and have also carefully scrutinized the material placed before us.

5. It has been contended on behalf of the appellant accused that there is no direct evidence against him and none of the prosecution witnesses has deposed to have seen him administering poison in the food and water of the deceased. Learned counsel has also contended that the Courts below have heavily relied upon the statement allegedly made by the deceased before the prosecution witnesses in convicting the appellant accused. It is further contended that the present case is a case of circumstantial evidence, which required the prosecution to establish a chain of circumstances which would permit no conclusion other than the guilt of the accused.

6. It is an undisputed fact that the appellant accused and the deceased were having a subsisting enmity over a partition dispute. PW11 has deposed that due to the partition dispute, quarrel used to take place between the appellant accused and the deceased, wherein the appellant accused used to threaten the deceased. PW5 in his testimony before the trial court has deposed that on the day of occurrence also, a quarrel took place between the appellant accused and the deceased, wherein the

appellant accused threatened to kill the deceased.

7. In this connection, the testimony of PW6 assumes significance. PW6 in his testimony has categorically stated that on the day of occurrence, he saw the appellant accused going inside the Goshala of the deceased in his absence with a small box in his hand. He has further stated that he also saw appellant accused taking out water from the box and before the return of the deceased, the appellant accused went back to his own Goshala. PW6 has also stated in his evidence that the deceased returned from the forest and went inside his Goshala and after sometime he came out screaming from the Goshala. Hearing the screams of the deceased, this witness, i.e., PW6 along with PW2 & PW4 reached the spot and they were told by the deceased that after eating the food and drinking water, he was feeling uneasiness. The deceased further told them that he had a quarrel with the appellant accused in the morning and the appellant accused had threatened to kill him and in consequence thereof, he has administered poison in his food and water. PW2 and PW4 have fully corroborated the testimony of PW6.

8. PW1, nephew of the deceased and complainant in the case, has also stated in his testimony that PWs. 2, 3, 4 and 6 brought his uncle to his house, where also the deceased in the presence of several villagers informed that the appellant accused had administered poison in his food. His testimony also finds corroboration from the testimony of other prosecution witnesses.

9. It is not disputed that the deceased died before doctor could be called or report of the occurrence could be lodged. In the said circumstances, his statement could not be recorded by the Investigating Officer or other authorized authority. However, he made consistent statements before the witnesses examined by the prosecution, firstly, at his Goshala, i.e., the spot of occurrence and secondly, in the village at the house of the complainant (PW1) that it was the appellant accused who administered poison in his food and water, and the deceased consumed the poisoned food and water, which resulted in his death. In our considered opinion, the Courts below have rightly appreciated the settled position of law in relying upon the consistent and reliable testimonies of the prosecution witnesses.

10. It is on record that an empty bottle of poison and a plastic bottle containing poison were recovered from the Goshala of the appellant accused. It is also on record that a bottle containing poisoned water and a plastic box containing poisoned food was recovered from the Goshala of the deceased. The records also reveal that when the cause of the death of the deceased could not be ascertained in the postmortem, his viscera was preserved and sent for chemical analysis. The prosecution has placed on record the chemical analysis report, which shows presence of the same Chlorpyrifos poison in the viscera of the deceased, bottle recovered from the Goshala of the appellant accused and food and water recovered from the Goshala of the deceased. This chemical analysis report lends credence to the evidence of the prosecution witnesses.

11. The appellant accused, in our considered opinion, has miserably failed to rebut the prosecution evidence. Rather, we find that the appellant accused by his conduct of absconding from the scene of occurrence, has himself proved his involvement in the crime.

12. In view of the above discussion, we have no hesitation to hold that the prosecution has placed on record overwhelming evidence in the form of medical and testimonial evidence to show the culpability of the appellant accused in the alleged crime and has been able to establish a complete chain of circumstantial evidence capable of supporting the case of the prosecution that the appellant accused is guilty of the crime with which he is charged. Therefore, it cannot be said that the prosecution was not able to prove their case beyond all reasonable doubt.

13. Accordingly, the criminal appeal stands dismissed.

14. Needless to say, the interim order dated 27.02.2017 passed by this Court, enlarging the appellant on bail during the pendency of this appeal, stands vacated. The appellant accused is directed to surrender before the appropriate Court within a period of six weeks from today for serving the remaining period of sentence, failing which the concerned Police authorities shall take him into custody for the said purpose.

.....J. (N.V. RAMANA)J. (SANJIV KHANNA)J.
(KRISHNA MURARI) NEW DELHI;

14TH JANUARY, 2020.

ITEM NO.110

COURT NO.2

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No.2239/2010

RAJENDRA PRASAD

Appellant(s)

VERSUS

THE STATE THROUGH CHIEF SECRETARY

Respondent(s)

Date : 14-01-2020 This appeal was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE KRISHNA MURARI For Appellant(s) Mr. Balraj Dewan,
AOR(A.C.) For Respondent(s) Mr. Jatinder Kumar Bhatia, AOR UPON hearing the
counsel the Court made the following O R D E R The criminal appeal stands
dismissed in terms of the signed order.

Needless to say, the interim order dated 27.02.2017 passed by this Court, enlarging
the appellant on bail during the pendency of this appeal, stands vacated. The
appellant-accused is directed to surrender before the appropriate Court within a
period of six weeks from today for serving the remaining period of sentence, failing

which the concerned Police authorities shall take him into custody for the said purpose.

(SATISH KUMAR YADAV)
AR-CUM-PS

(RAJ RANI NEGI)
ASSISTANT REGISTRAR

(Signed order is placed on the file)