

Baby Kandayanathil vs State Of Kerala on 8 April, 1993

Equivalent citations: AIR1992SC2275, 1993CRILJ2605, 1993SUPP(3)SCC667, AIR 1993 SUPREME COURT 2275, 1993 AIR SCW 2192, 1993 (3) SCC(SUPP) 667, 1993 SCC(CRI) 1084, 1993 JT (SUPP) 517

Author: N.P. Singh

Bench: N.P. Singh

JUDGMENT

1. The appellant was the first accused before the trial court. He along with three others was tried for offences punishable under Sections 302 and 201/34, Indian Penal Code. The appellant was also charged with under Section 25(1)(a) of the Indian Arms Act. The deceased Mathew Manjooran was the husband of A-4. It is alleged that the accused used to visit the house of the deceased and was friendly with A-4. The deceased did not like it. The accused also used to take liquor in the company of A-4 in the house of the deceased. On the day of occurrence, i.e. on 8-12-79, A-1 along with PW-1 went to the house of A-4 and the deceased was not in the house at that time. He then wanted to take liquor and since it was not available A-4 began to distil illicit liquor. Just then the deceased came to the house and abused A-1. A-1 brought the gun with him, which is M.O. 3, and it had been placed in the kitchen of the house. The appellant took the gun and shot the deceased dead. Thereafter the dead body after severing the head was secreted. On 11-12-79, A-3 gave a report to the effect that he heard the sound and went to the house of the deceased and found the deceased falling down and he mentioned to him that the appellant had shot him. So saying, he died. Thereupon, the dead body was removed and secreted. A-4 washed the floor with cow-dung to wipe out the blood stains. The two children of the deceased and A-4 aged about eight and seven years figured as the eye-witnesses. It was on 12-12-79 that the investigating officer came to know regarding the whereabouts of the two children. Meanwhile, the dead body was recovered and inquest was held. The medical evidence supports that the deceased died of gun shot injuries. The investigating officer also effected the recovery of the gun. After completion of the investigation the charge-sheet was laid.

2. On examination under Section 313, Cr.P.C., the accused pleaded not guilty. The trial court convicted the appellant under Section 302, Indian Penal Code since he caused the death of the deceased by shooting. A-2 and A-3 were acquitted since they did not participate in the occurrence. So far as A-4 was concerned, the trial court held that she committed an offence under Section 201, Indian Penal Code inasmuch as she tried to cause the disappearance of the evidence and she was sentenced to rigorous imprisonment for three years. A-1 was sentenced to imprisonment for life. He preferred an appeal and the same was dismissed by the High Court.

3. In this appeal, pursuant to special leave granted, the learned Counsel submits that the evidence of PWs 2 and 3 the child witnesses is artificial and their evidence is of suspicious nature.

4. The learned trial Judge has put preliminary questions to each of the witnesses and satisfying that they were answering questions intelligently without any fear whatsoever, proceeded to record the evidence. In the chief examination, each of the witnesses has given all the details of the occurrence. There has been a searching cross-examination and the witnesses withstood the same. We have also gone through the evidence and we do not see any reason to doubt their evidence. They are the most natural witnesses who had been present in the house at the night time. Both the courts have accepted their evidence and we see no ground to interfere. There are no merits in this appeal and the same is dismissed. The appellant who is on bail shall surrender and serve out the sentence and the bail bond stands cancelled.