

Ram Avtar vs The State (Delhi Administration) on 8 August, 1985

Equivalent citations: 1985 AIR 1692, 1985 SCR SUPL. (2) 508, AIR 1985 SUPREME COURT 1692, 1985 SCC(CRI) 415 (1985) SC CR R 352, (1985) SC CR R 352

Author: Syed Murtaza Fazalali

Bench: Syed Murtaza Fazalali, A. Varadarajan

PETITIONER:

RAM AVTAR

Vs.

RESPONDENT:

THE STATE (DELHI ADMINISTRATION)

DATE OF JUDGMENT 08/08/1985

BENCH:

FAZALALI, SYED MURTAZA

BENCH:

FAZALALI, SYED MURTAZA

VARADARAJAN, A. (J)

CITATION:

1985 AIR 1692 1985 SCR Supl. (2) 508

1985 SCC Supl. 410 1985 SCALE (2) 285

CITATOR INFO :

F 1992 SC 2045 (20)

ACT:

Indian Penal Code 1860 Section 302

Accused charged with killing wife by strangulation
Circumstantial evidence alone available appreciation of -
Court to take cumulative effect of entire evidence.

Criminal Trial

Circumstantial evidence - Chain of continuous
circumstances linked with one another - Necessity of
cumulative effect of entire evidence to be considered.

HEADNOTE:

The prosecution alleged that the appellant had killed his wife by strangulation. The marriage of the appellant and the deceased took place about a year before the date of occurrence. After about six months of the marriage the

relations between the two spouses started becoming strained. The accused neglected the deceased, abused her, teased her, waxed her, and even beat her. All these were reported to the relatives of both sides as result of which a panchayat had to be called to bring the two parties together which also was of no avail.

The Sessions Court after considering the evidence WAS of the opinion that the prosecution case was not proved beyond reasonable doubt and accordingly acquitted the appellant of the charges framed against him under Section 302 IPC.

The State filed an appeal before the High Court which reversed the aforesaid decision and came to the conclusion that the appellant had killed his wife by strangulation.

Dismissing this appellant's Appeal to this Court

^

HELD: 1. The view taken by the High Court is correct and there is no reason to interfere with the same. The trial court has gone wrong, and has made a fundamentally wrong approach. The

509

judgment of the trial court is not only legally erroneous but A absolutely perverse. In view of the circumstances of the case and the admissions of the witnesses, the case against the accused has been proved beyond reasonable doubt. This is not a case where two views are possible. [516 G,D-E]

2. Circumstantial evidence must be complete and conclusive before an accused can be convicted thereon. This, however, does not mean that there is any particular or special method of proof of circumstantial evidence. One must, however, guard against the danger of not considering circumstantial evidence in its proper perspective, e.g. where there is a chain of circumstances linked up with one another, it is not possible for the court to truncate and break the chain of circumstances. In other words, where a series of circumstances are dependent on one another they should be read as one integrated whole and not considered separately, otherwise the very concept of proof of circumstantial evidence would be defeated. [510 G-511 A]

3. Where circumstantial evidence consists of a chain of continuous circumstances linked up with one another, the court has to take the cumulative effect of the entire evidence before acquitting or convicting an accused. [516 F]

In the instant case, the Sessions Judge had committed an error. Instead of taking all the circumstance . together which are undoubtedly circumstantial and closely linked up with one another, he has completely misdirected himself by separately dealing with each circumstance thereby making a wrong approach while appreciating the circumstantial evidence produced in the case. Some letters written by the deceased show the callous and cruel nature of the accused and his treatment. He appears to have been completely indifferent. The deceased prayed to her parents for taking her with them immediately. Despite the conduct of the

appellant, the parents-in-law of the deceased were very kind to her, but the appellant was made of such a stern nature that he would not listen to anybody. The recovery of certain broken bangles and one pair of cufflinks show that during the course of strangulation, the deceased put up stiff resistance. The medical evidence also supports that the deceased had died of manual strangulation. A number of prosecution witnesses PWs 5,6,7,8 & 9 deposed that the appellant had been ill-treating the deceased and their relations were extremely strained, and that the relatives of the two sides tried their best to bring harmony in the relations of the accused and the deceased. Another circumstance

510

of great importance is that after the incident, the accused went to Muzaffar Nagar stayed in his sister's house came back the same evening, stayed in a Hotel under a false and assumed name written in the hotel register in his own hand. This shows the guilty conscience of the accused. another intrinsic evidence which proves the case against the accused consists of two letters(Ext. PW 12-A and B) written by the deceased to her parents wherein she had requested her father to take her away as her husband was ill-treating her. The statement of the S.I., PW 18 reveals that from the personal search of the accused, Rs.5.50 one ticket from Meerut to Delhi were recovered and that the banian of the accused had blood stains. [511 B,G, 515 A,C-D, 516 A-B]

JUDGMENT:

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No.106 of 1980.

From the Judgment and Order dated 8.1.1980 of the Delhi High Court in Crl. A. No. 137 of 1978.

Ms. Neeraja Mehra and I.K. Wadera for the Appellants. Anil Dev Singh, R.N. Poddar and G.D. Gupta for the Respondent .

The Judgment of the Court was delivered by FAZAL ALI, J. The appellant in this case was convicted under s. 302 IPC and sentenced to imprisonment for life by the High Court. The case depends purely on circumstantial evidence and the trial court after considering the evidence was of the opinion that the prosecution case was not proved beyond reasonable doubt and accordingly acquitted the appellant of the charges framed against him. The State filed an appeal before the High Court which reversed the decision of the trial court and came to the conclusion that the appellant had killed his wife by strangulation. Hence, this appeal before this Court under s. 379 of the Code of Criminal Procedure. 1973.

At the very outset we might mention that circumstantial evidence must be complete and conclusive

before an accused can be convicted thereon. This, however, does not mean that there is any particular or special method of proof of circumstantial evidence. We must, however, guard against the danger of not considering circumstantial evidence in its proper perspective, e.g., where there is a chain of circumstances linked up with one another, It is not possible for the court to truncate and break the chain of circumstances. In other words where a series of circumstances are dependent on one another they should be read as one integrated whole and not considered separately, otherwise the very concept of proof of circumstantial evidence would be defeated. The learned Sessions Judge seems to have fallen into this very error. In the instant case, instead of taking all the circumstances together, which are undoubtedly circumstantial and closely linked up with one another, the learned Sessions Judge has completely misdirected himself by separately dealing with each circumstance thereby making a wrong approach while appreciating the circumstantial evidence produced in the case.

Let us now recount the circumstances relied upon by the appellant by giving first a brief summary of the same. The marriage of the accused and the deceased took place on December 6, 1975, i.e., hardly a year before the date of the occurrence. After about six months of the marriage, the relations between the two spouses started becoming strained. The evidence clearly shows that the accused neglected the deceased, abused her, teased her, waxed her and even beat her. All these things were reported to the relatives of both sides as a result of which a panchayat had to be called to bring the two parties together which also was of no avail. There is further evidence to show that on the night of the occurrence, i.e., between the night of 16th and 17th November 1976, the accused was last seen by some of the witnesses whose evidence we shall refer hereafter. Secondly, it is also proved that the accused left his house in the morning of 17th November 1976 and went to Muzaffar Nagar and stayed at his sister's house there and came back to Delhi in the evening of 17th November 1976 but instead of staying in his own house he stayed in Venus Hotel in Paharganj in Delhi under a false and assumed name of Vinod Kumar which, according to the evidence, was written by him while making the entries in the Hotel register.

Furthermore, it appears that there are some letters written by the deceased which show the callous and cruel nature of the accused and his treatment towards her. He appears to have been completely indifferent towards her and the deceased prayed to her parents for taking her with them immediately. It is true that despite the conduct of the appellant, the parents-in-law of the deceased were very kind to her and tried their best to save the situation but the appellant was made of such a stern stuff and stubborn nature that he would not listen to anyone.

Moreover, the evidence further shows that certain broken bangles and one pair of cufflinks were recovered from the room where the deceased was strangled. The medical evidence also supports that the deceased had died of manual strangulation. There are some other circumstances which show the role played by the accused and if we take the circumstances together the irresistible inference is that the prosecution has completely proved its case.

We might observe there that the circumstances which have been narrated above are so interlinked in the chain of circumstantial evidence that It is difficult to truncate them and the learned Sessions Judge ought not to have rejected the circumstances one by one and then acquit the accused. It is

here that the learned Sessions Judge has committed a serious error of law. If we read the evidence as an integral whole, the inescapable conclusion is that excepting the appellant nobody else could have committed the murder.

With this preface, we now proceed to deal with the chain of circumstances relied upon by the High Court in reversing the judgment of the trial court and convicting the accused. To begin with, as we have said, within one year of her marriage the deceased died during the night of 16th and 17th November 1976. A number of prosecution witnesses (PWs 5,6,7,8 and 9) whose evidence has been fully considered by the High Court deposed that the appellant had been ill- treating the deceased and their relations were extremely strained. This is buttressed by the further circumstance that a panchayat had been called to resolve the differences between the two spouses. In this connection, the prosecution witnesses have spoken thus:-

The accused had always been maltreating Madhu and used to say that he will not like to keep Madhu with him. After about 6 months of the marriage a Panchayat was held in Bakhtamal Dharamshala, Delhi for bringing about conciliation. Before the panchayat the father of the accused had assured that he will ask the accused to behave better. But there was no change in the attitude of the accused towards the deceased and the accused was bent upon leaving the girl."

(PW 5, Ramesh Chand) About 5 or six months prior to the murder of Madhu, her father had complained to me that the accused used to beat her and wanted to leave her. After 2 or 3 days A of that, a panchayat was held in Bagtamal Dharamshala, Kucha Pati Ram..... Before the Panchayat, father of the accused had assured that he will make him under stand and see that the accused behaved properly in future with Madhu.

(PW 6, Ram Kishan Dalaya) Accused used to beat Madhu and we were receiving many complaints in this respect. Myself, Ramesh Chand, Ganga Prasad and Madan Lal had been coming to Delhi and requesting the accused not to do so. However, the behaviour of the accused towards Madhu did not change.

(PW 7, Chhanu Lal) She was married to Ram Avtar(accused) present in the court. Madan Lal had started saying after about 20 or 25 days after the marriage that the deceased was being beaten and ill-treated by the accused..... A panchayat was organised. Radhey Lal was also called and he attended the panchayat.

(PW 8, Ram Pal Singh) There were strained relations between them for a long time.

(PW 9, Gulab Chand) Right from the beginning, accused had been ill- treating my daughter. She had been writing letters to me from which I had come to know that she was not happy and so I came to Delhi...I beseeched the accused and with folded hands requested him to behave better with my daughter in the presence of his father. Both of them had assured that nothing will happen in future.

(PW 12, Madan Lal) I had gone to attend its conference at Lucknow from 5th to 7th Oct. 1976. There, Chhanu Lal, elder brother of Madan Lal had complained to me that Ram Avtar accused was ill-treating Madhu and that I should look into this matter....Then I told him that in that case Chhanu Lal would not have complained to me. Then he assured me that he will ask the accused to behave properly and there will be no complaint in future.

(PW 13, Sohan Lal Verma) The above extracts from the evidence of various prosecution witnesses show that the relatives of the two sides tried their best to bring harmony in the relations of the accused and the deceased and the father of the accused had been promised that his son will behave in future in a proper manner. One outstanding feature of this case is that while the deceased was fully satisfied with the treatment received by her from her parents-in-law, yet so adamant was the accused that he would hardly listen or pay any heed to the advice of his parents.

Another circumstance which almost conclusively proves the case of the prosecution is the evidence of PW 1, Shri Krishan Avtar, according to which, the accused was seen by him on the fateful night between 9 or 9.30 p.m. in his house and in this connection he says thus:

When I returned at about 9 or 9.30 p.m. I saw the accused in his house. He was alone in the house at that time. The room of the accused is situated on the ground floor while mine is situated on the first floor..... When I saw him he was coming down stairs from the first floor and entered his room on the ground floor..... Then I entered the room of the accused where he and his wife used to sleep together and saw the dead body of Madhu."

PW 1 further testifies to the articles found from the scene of occurrence "Ex.P8 is the pair of cufflink....Ex.P-14 are the broken pieces of bangles collected from the floor of the room. F PW 2, Nathi Lal, another independent witness, says that at about 12.30 in the night while he was coming from Lal Darwaza to his house, he saw the accused passing that side and the accused told him that he had told the chowkidar that he (appellant) was going away and the door of his house was open. Another witness (PW 3) though declared hostile, yet so far as the relations between the spouses are concerned, categorically states that the relations between the spouses were extremely strained.

Another circumstance which is of great importance and which seems to have been ignored by the learned Sessions Judge is that after returning from Muzaffar Nagar in the evening of 17th November 1976, the accused instead of staying in his house, stayed in Venus Hotel in Paharganj, New Delhi under a false and assumed name of Vinod Kumar and made the entries in the Hotel register in his own hand. m is shows the guilty conscience of the accused. This is proved by Ex.PW 14/A where it has been stated thus:

The aforesaid register contains one entry against serial No.518 dated 18.11.76 recorded at 1.00 a.m. relating to Vinod Kumar, Indian 23/3, Sarafa Bazar, Muzaffar Nagar, for business Muzaffar Nagar, stated to have been made and initialled by accused Ram Avtar S/o Radhey Lal, r/o 2721, Chhatta Girdhar Lal, Gali Arya Samaj, Bazar Sita Ram, Delhi.

Another intrinsic evidence which proves the case against the accused consists of two letters (Ext.PW-12A and 12B) written by the deceased to her parents wherein she had requested her father to take her away as her husband was ill-treating her. In these letters she had written thus:

You (father) take me away from here..... (He) is not on speaking terms with me.

(Ext. PW 12A) There is always a quarrel in the house about me. Papa and Mummy have been trying to make him understand. (He) does not eat and drink anything from my hand and even does not speak to me. Whenever, I come across him, he scolds me. Today, he gave me beating and was about to turn me out of the house but Mummy and Pappa pacified him..... He further said 'I do not want to see the face of this mean girl. Furthermore that whatever Khurjawallas have done in my interest is good (Taunt). He says that when I become a widow then at least they (parents) will come to take me away..... He says that even if God comes, he will not agree and will not keep me with him at any cost..... You treat this letter as a telegram and please reach here immediately. I keep weeping here day and night and Mummy also continuous weeping. He would not keep me with him at any cost and I also do not want to live here any more..... I am weeping while writing this letter. Dear Pappa, please come as early as possible.

(Ex. PW 12-B) In addition to Ext. PW 12-A and 12-B, one more letter was found from the house where the murder took place but which she could not post.

In his statement PW 18, Kanshi Ram, S.I., stated that from the personal search of the accused, Rs. 5.50 one ticket from Meerut to Delhi were recovered and the accused was also made to put off his shirt and banian, and that he (PW 18) took into police custody the banian of the accused which had blood stains on the front side.

The last piece of evidence which is also important and which has been completely glossed over by the trial court is the recovery of broken bangles and a pair of cufflinks which show that during the course of strangulation the deceased must have put in stiff resistance.

In view of the circumstances discussed above, it cannot be said that the case against the accused has not been proved. It is not possible for us to consider the various chains of circumstances, mentioned above, in isolation by divorcing them from the other circumstances which are closely interlinked with them. This is where the trial court has gone wrong and has made a fundamentally wrong approach. Having regard to the circumstances mentioned above, we are clearly of the opinion that

the judgment of the trial court is not only legally erroneous but also absolutely perverse. In view of the circumstances and the admissions of the witnesses extracted, the case against the accused is proved beyond reasonable doubt and this is not a case where two views are reasonably Possible.

Before concluding we might observe that where circumstantial evidence consists of a chain of continuous circumstances linked up with one another, the court has to take the cumulative effect of the entire evidence led by the prosecution before acquitting or convicting an accused.

For the reasons given above, we find ourselves in complete agreement with the view taken by the High Court and we see no reason to interfere with the same. The appeal is accordingly dismissed. In case the appellant is on bail, he shall now surrender and be taken into custody and sent to prison to serve out the remaining part of the sentence.

N.V.K.

Appeal dismissed.