State (Delhi Administration) vs Shri Gulzari Lal Tandon on 3 April, 1979

Equivalent citations: AIR1979SC1382, 1979CRILJ1057, (1979)3SCC316

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Bench: A.D. Koshal, S. Murtaza Fazal Ali

JUDGMENT

S. Murtaza Fazal Ali, J.

1. This Appeal by special leave is directed against the judgment of the Delhi High Court acquitting the respondent Gulzari Lal Tandon of the charge under Section 302 I.P.C. for causing the murder of his newly married wife, Meena Tandon. We have heard learned Counsel for the parties at great length and have gone through the judgment of the High Court and that of the Sessions Judge. A detailed narrative of the prosecution case is reproduced in the judgment of the High Court and that of the Sessions Judge and it is not necessary for us to repeat the same all over again. It appears that the deceased was married to the respondent on the 8th June, 1969 but was unfortunately found dead at the house of the respondent on the morning of 14th June, 1969. The first person who attended her and found her dead was the respondent. He called his parents and tried to resuscitate the deceased by massaging her but to no avail. Thereafter, the parents of the deceased were informed but as they suspected some foul play, they lodged an F.I.R. at the Lahori Gate Police Station at 6.25 AM. After Police investigation, the matter was handed over to the C.B. I, which after, making a thorough investigation, submitted a charge sheet against the respondent who was then committed to the Court of Session and tried by the Sessions Judge who convicted the respondent under Section 302 I.P.C. and sentenced hi to imprisonment for life. Thereafter the respondent filed an appeal before the High Court which was allowed and the respondent was acquitted. The State, then, came up in appeal after obtaining special leave from this Court which is now being heard by us. We have gone through, the important portions of the evidence led by the prosecution and after perusal of the same we are not satisfied that this is a fit case which requires our interference against the order of acquittal passed by the High Court. In spite of the most powerful and persuasive argument of Mr. Lalit, we are unable to agree with the counsel for the appellant, that this is a case where the evidence fully proves the case of the prosecution. To begin with, the entire prosecution case rests on purely circumstantial evidence, and on the question of motive, both the trial Court and the High Court have clearly held that no sufficient motive for the murder h ad been proved. We might also mention that in cases where the case of the prosecution rests purely on circumstantial evidence, motive undoubtedly plays an important part in order to tilt the scale against the accused. It is also well settled that the accused can be convicted on (sic) evidence only if every other reasonable hypothesis of guilt is completely excluded and the circumstances are wholly inconsistent

with; the innocence of the accused. In the instant case, the prosecution has clearly fallen short of proving this fact as rightly found by the High Court.

2. Mr. Lalit submitted that the main ground taken by the respondent was that the deceased died of epilepsy. It was submitted that the theory of epilepsy seems to have been imported by the accused in order to shield his guilt. We, however, find that a number of Doctors have been examined on the side of the prosecution viz. Dr. Bhushan Rao and Dr. Bishnu Kumar who have endeavoured to prove that in the instant case, epilepsy is ruled out. On the side of the defence, Dr. Sarin, Dr. Tandon, Dr. Khanna and Dr. Harbans Singh have been examined to prove that there was a strong possibility of the deceased having died of a sudden attack of epilepsy. Thus the evidence on both sides is more or less equally balanced and that being the position, the benefit of doubt must go to the accused. The High Court has discussed the evidence threadbare and has also relied on the medical authorities on the various symptoms and other aspects of epilepsy and has held that the possibility of epilepsy cannot be ruled out in this case. Once this possibility is there, it will be impossible for us to interfere with the order of acquittal passed by the High Court.

3. Mr. Lalit vehemently contended that there is one important (sic) to show that the theory of epilepsy is a pure myth. He submitted that the accused in his statement under Section 342 has clearly admitted that when he saw the deceased lying embedded on the pillows, he saw her trembling and thereafter he called his parents and they started massaging the body of the deceased. The learned Counsel argued that the deceased had not died until the time that the parents of the accused had arrived at the scene. This argument is based merely on the impression of the respondent which may or may not have been correct. It is possible that in the split of a second, he may have seen his wife and thought she was trembling but the next moment by the time the parents of the accused arrived, she was already dead, and the attempts made to revive the deceased were an acrimonious exercise in futility. The circumstances relied upon by the prosecution do not appear to be conclusive at all, and in the absence of any strong motive for the respondent to murder his newly married wife, we are unable to reverse the order of acquittal passed by the High Court. It was submitted by Mr. Lalit that the accused may have illicit relations with a neighbour who may have impelled him to commit murder. In the first place, this seems to be a very weak motive for the respondent to kill his wife whom he married very recently. Indeed1, if this was so, there was no earthly reason for the respondent to marry at all and to make preparation to go out for a honeymoon trip.

4. After having considered all the comprehensive aspects of the matter, we are satisfied that the High Court was fully justified in holding that the prosecution case had not been proved beyond reasonable doubt. There can be no doubt that the circumstances raise a serious suspicion against the respondent but suspicion however grave it may be, cannot take the place of proof. For the reasons given above, this appeal is without any merit and is accordingly dismissed. The respondent will now be discharged of his bail bonds.