Oyami Ayatu vs The State Of Madhya Pradesh on 20 August, 1973

Equivalent citations: AIR1974SC216, 1974CRILJ305, (1974)3SCC299, 1973(5)UJ802(SC), AIR 1974 SUPREME COURT 216, (1974) 3 SCC 299, 1975 MADLJ(CRI) 130, 1974 2 SCJ 357, 1974 SCC(CRI) 194, 1974 3 SCC 664, 1975 (1) SCJ 265, 1973 SCC(CRI) 925

Bench: A. Alagiriswami, H.R. Khanna

JUDGMENT

Khanna, J.

1. This is an appeal by special leave by Gyani Ayatu against the judgment of the High Court of Madhya Pradesh, affirming on appeal and reference the conviction of the appellant under Section 303 Indian Penal Code and sentence of death.

2. The case for the prosecution is that the appellant was convicted on November 11, 1967 under Section 302 Indian Penal Code by the Additional Sessions Judge Durg and was sentenced to undergo imprisonment for life. The appellant was undergoing during the days of the present occurrence the sentence of imprisonment in the Central Jail Raipur. On January 31, 1972 at about 1.50 p.m., it is stated, Durbal deceased who too was undergoing sentence of imprisonment in the Central Jail Raipur went to the urinal in the niwar-making shed of the jail. While proceeding to the urinal, Durbal's foot touched the bamboo sticks which had been spread by the accused. When Durbal sat down to urinate, the accused attacked him with a knife. Durbal then ran away from the urinal, but was chased by the accused and was given a large number of knife blows. The occurrence was witnessed by Radheylal (P.W. 4), Jageshwar Singh (P.W. 5), Nindma (P.W. 6), Rai (P.W. 9), Tilakram (P.W. 10) and Bagarsai (P.W. 11) besides the other prisoners working in the niwar-making shed. Alarm was raised and the jail authorities arrived at the spot. Durbal died soon after the attack. Report about the occurrence was lodged by the Superintendent of the jail. Post-mortem examination on the body of Durbal was performed by Dr. M.L. Sharma on the following day. As many as eighteen stab wounds were found on the body of Durbal deceased. Death, in the opinion of the doctor, was due to shock and haemorrhage as a result of multiple injuries to the vital organs like lungs, liver and spine. The injuries were sufficient in the ordinary course of nature to cause death.

3. At the trial, the appellant made a clean breast of the matter and admitted that he had caused knife injuries to Durbal deceased in the circumstance alleged by the prosecution. The trial court accepted the evidence of the eye-witnesses as well as the plea of guilt of the accused-appellant and accordingly convicted and sentenced him as above. On appeal and reference, the High Court

affirmed the judgment of the trial court.

4. We have heard Mr. Goswami on behalf of the appellant and Mr. Shroff on behalf of the State and are of the opinion that no case has been made for interference with the judgment of the High Court. The prosecution in order to establish that it was the appellant who had caused the injuries to Durbal, examined Radeylal, Jageshwar Singh, Nindma, Rai, Tilakram and Bagarsai as eye-witnesses of the occurrence , and they have all deposed about their having seen the appellant giving knife blows to Durbal deceased. There appears to be no cogent ground to disbelieve the evidence of the aforesaid witnesses. The appellant, as mentioned earlier, also admits having caused the death of Durbal deceased by giving him knife blows.

5. It has been urged by Mr. Goswami that the circumstance of the case show that the appellant is not a sane person. Reference in this context is made to the fact that the appellant in answer to the various questions which were put to him by the committing magistrate as well as by the sessions Judge at the trial, admitted all the allegations. The fact that the appellant made a clean breast of the matter and admitted the various allegations of the prosecution would not, in our opinion, go to show that the appellant was of unsound mind. The further fact that the appellant caused the death of the deceased over a trifling matter would also not warrant a conclusion that the appellant was not a sane person. No plea was taken on behalf of the appellant at the trial that he was not a sane person. No other material was also brought on the record from which an inference of insanity of the appellant might be drawn. An argument was advanced for the first time before the High Court that the appellant was not a sane person. The High Court rejected this argument after referring to the fact that there was no history of insanity of the appellant. There was also nothing, it was observed, to show that the conduct or the behavior of the appellant either before or after the occurrence was not of a normal person.

6. According to Section 84 Indian Penal Code, nothing is an offence which has been done by a person who at the time of doing it by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law. While dealing with this provision, this Court observed in the case of Dahyabhai Chhanbhai Thakker v. The State of Gujarat that there is rebuttable presumption that the accused was not insane when he committed the crime in the sense laid down by Section 84 Indian Penal Code. The accused may rebut it by placing before the court all the relevant evidence, oral documentary or circumstantial, but the burden of proof upon him is no highest than that which rests upon a party to civil proceedings. In the case of Bhikari v. The State of Uttar Pradesh this Court held that the burden of proving the intention of the accused person, where intention is an ingredient of the offence is on the prosecution and this burden never shifts. But intention can sometimes be only proved from circumstances and therefore it is sufficient for the prosecution to prove the acts of the accused and the circumstances in which they were committed. If from these an inference of the requisite intention can be reasonably drawn, the prosecution must be deemed to have discharged its burden. Dealing with Section 84 Indian Penal Code, this Court observed that the aforesaid section could be invoked by a person for nullifying the evidence adduced by prosecution by establishing that he was at the relevant time incapable of knowing the nature of the act of that what he was doing was wrong or contrary to law, because these are matters of presumption. Every one is presumed to know the natural consequences of his Act.

Similarly everyone is presumed to know the law. It is for this reason that Section 105 Indian Evidence Act places upon the accused person the burden of proving the exception on which he relies.

7. Coming to the facts of the present case, we find that as many as eighteen stab injuries were caused by the appellant to Durbal deceased. A number of those injuries were on vital parts of the body and resulted in the death of the deceased. It can, therefore, be presumed that the assailants intended to cause the death of the deceased. As regards the argument that the appellant was an insane person, we find that no case of insanity of the appellant was set up at the trial nor was any evidence or other material brought on record to show that he was not a sane person at the time of the commission of the offence. The burden, though not as heavy as upon the prosecution in a criminal case, was upon the accused to prove the offence and as such, incapable of knowing the nature of his act or that he was doing, what was either wrong or contrary to law. In the absence of any evidence or material to discharge that burden, there is no escape from the conclusion that the conviction of the accused appellant is well-founded. He accordingly maintain the conviction of the accused appellant and dismiss the appeal.