

Krishna Ram And Others vs State Of Rajasthan on 4 September, 1992

Equivalent citations: AIR1993SC1386, 1993CRILJ1056, JT1992(5)SC332, 1992(2)SCALE709, 1993SUPP(2)SCC575, 1992(2)UJ705(SC), AIR 1993 SUPREME COURT 1386, 1993 AIR SCW 506, 1993 AIR SCW 490, 1993 SCC(CRI) 387, 1993 SC CRIR 203, 1993 CRIAPPR(SC) 5, 1993 SCC (SUPP) 2 575, 1992 CRILR(SC MAH GUJ) 633, 1992 (4) SCR 924, 1992 (2) UJ (SC) 705, 1992 (6) JT 1, 1992 UJ(SC) 2 705, (1992) 5 JT 332 (SC), (1993) SC CR R 195, (1992) 2 CRICJ 631, (1993) 2 CHANDCRIC 85, (1993) 1 RECCRIR 188, (1992) 3 SCJ 470, (1992) 3 CURCRIR 386, (1992) 3 ALLCRILR 694, (1992) 3 CRIMES 630, (1992) 3 ALLCRILR 485

Author: G.N. Ray

Bench: G.N. Ray

ORDER

K. Jayachandra Reddy, J.

1. On 28.11.1979 at about 9.30 P.M. an occurrence took place in Village Chadwas within the limits of Chhapar Police Station, Churu District in Rajasthan, in the course of which one Mohan Ram was killed on P.W. 6 Jiwan received an injury. In relation to this occurrence six persons were tried for offences punishable under Sections 147, 148, 302/149, 323 and 364/149 I.P.C. The trial court acquitted one Keshra Ram and convicted the remaining five persons under Section 302/149 and sentenced each of them to death. They were also convicted for other offences and sentenced to various terms of imprisonment ranging from three months to six months. A reference was made to the High Court for confirmation of the death sentence. Five convicted accused also filed jail appeals. The High Court converted the sentence of death to one of imprisonment for life and the appeals were dismissed in all other respects. This Court entertained special leave petitions filed by them but it was dismissed in respect of Moola Ram, A-1 and leave was granted in respect of the other appellants namely A-2 to A-5. Hence these appeals. The prosecution case is as follows.

One Mangu Ram, husband of Smt. Pinchu (P.W. 3) and the father of Jiwan (P.W. 6) and the brother of Moola Ram (A-1) died about ten years back. The deceased Mohan Ram used to visit the house of P.W. 3 and A-1 had suspicion about their relations and he did not relish the deceased coming to the

house of P.W. 3 or having any relation with her. The deceased Mohan Ram arranged the marriage of P.W. 6 in the village in which his own son was married. This also enraged Moola Ram (A-1) and his sons and they did not even attend the marriage. On 28.11.79 at about 8 P.M. the deceased Mohan Ram had gone to ease himself. While returning he went to the house of Jiwan (P.W. 6) and asked him to accompany him to work at the grass cutting machine. Then he went towards his house. At about 9 or 9.30 P.M. Bhagu Ram (P.W. 1) son of the deceased and Smt. Gayani (P.W.2) his mother were inside the house. The door of the house was closed but the window was open. When the deceased was entering his house through the window Moola Ram (A-1) caught hold the bush-shirt of the deceased and pulled him out and gave a lathi blow on the head of the deceased. The lathi got broken. Then the remaining accused gave lathi blows to the deceased who raised a cry. P.Ws 1 and 2 came out of the house and tried to intervene but A-1 warned them of dire consequences. On hearing the cries P.W. 6 also rushed there and questioned the accused. On that A-4 and A-6 ran after P.W. 6 and A-1 gave a lathi blow on his hand. The cries attracted P.W. 11 Bhanwara, another witness and P.W. 10 Mala Ram, a neighbour. They saw the assailants taking the injured deceased to the house of A-1. Having taken him there they tied him with string to a nail and gave lathi blow and kicks to him. P.Ws. 10 and 11 also reached there. P.W.3 and P.W. 6 asked the accused not to beat the deceased but they were also warned with dire consequences. The other witnesses then went to the house of A-1. There they found the deceased unconscious. P.W. 1 and others went in a tractor to the Police Station, Chhaper and a report Ex.P.1 was lodged by P.W. 1 The S.H.O., P.W. 15 with his staff reached the village and went on the house of A-1 and he found the deceased tied and in unconscious condition. He was bleeding. The S.H. O. untied the rope and prepared a memo. Some blood-stained articles were seized. The deceased was sent for medical examination at Chadwas. P.W. 6 who had an injury was also sent to Chadwas. The Doctor examined him. Another Doctor B.K. Narula examined the injured deceased and noted 19 injuries on his person. The deceased died at about 9.15 p.m. on 29.11.79. The post-mortem was conducted by P.W. 7 Dr. Madhu Sudan Sharma. On external examination he found 19 injuries. Most of them were lacerated wounds and bruises all over the body and on dissection he found fracture of right parietal bone, fracture of skull along front parietal and brain membranes were congested and the blood was present in left side of cavity outside the brain clotted and liquid both. The Doctor noted fracture of skull along front parietal joint extending upto front of left ear. He also found fracture of 6th to 9th ribs on the left side and on back. The Doctor opined that the deceased died due to shock of head injury and lung injury. The accused were arrested and A-1 was examined for some simple injuries like abrasions on him. The Doctor opined that these injuries would have been caused by friction against hard substance. After completion of the investigation charge-sheet was laid. The prosecution relied on the evidence of the eye-witnesses P.Ws. 1, 2, 3, 6, 10 and 11. When examined under Section 313 the accused denied the offence. A-1 Moola Ram, however, stated that the deceased used to visit the house of P.W. 3 which was not liked by P.W. 6 also and on the day of occurrence there was a quarrel between P.W. 6 and the deceased and there was a scuffle and the deceased fell on a nail and that he (A-1) gave a fist blow and with the help of P.W. 6 tied the deceased. He himself went to the police station but he was told that the S.H.O was not there. He wanted to give a report but the same was not recorded. Two D.Ws were examined. The trial court accepted the evidence of the eye-witnesses. It however acquitted A-6 Keshra Ram since his name was not mentioned by any one of the eye-witnesses. The High Court in a detailed judgment agreed with the findings arrived at by the trial court and confirmed the convictions as stated above.

2. In these appeals, the learned Counsel for the appellants submitted that many of the details were not mentioned in the earlier report and the witnesses are all interested and they have improved their version considerably and that their version itself is artificial. Learned Counsel also submitted that according to the prosecution case A-1 caught hold of the deceased when he was entering his own house through a window and dealt a lathi blow as a result of which lathi was broken and if that be so, there is nothing to show as to how later he could deal blow with the lathi. Learned Counsel also submitted that having acquitted A-6 and rejected the evidence to that extent, the courts below ought to have acquitted the other appellants also.

3. We have gone through the evidence of the eye-witnesses. No doubt P.Ws 1, 2, 3 and 6 are kith and kin of the deceased but they have given a truthful version of the whole occurrence. Even in Ex.P. 1 and the material particulars are mentioned particularly the fact that the deceased was dragged to the house of A-1 and that there he was tied and beaten. As noted already even A-1 admitted that the deceased was tied in his house but added that because of the scuffle between P.W. 6 and the deceased, latter was tied. Immediately after registering the crime, the S.H.O. went to the house of A-1 and found the deceased tied and he was having bleeding injuries. Thus the time, place of occurrence and the cause of death are established beyond doubt. So far as the presence and participation of the appellants are concerned there are statements of the eye-witnesses consistently to this effect. Both the courts below have given cogent and convincing reasons for accepting the evidence of the eye-witnesses. The evidence adduced in defence is not at all materials and the courts below have rightly rejected the same. The trial court acquitted Keshram Ram (A-6) giving the benefit of doubt. In our view the same in any manner does not affect the evidence of the eye-witnesses who are the most natural witnesses. We see absolutely no merits in these appeals. The appeals are dismissed accordingly.