

Supreme Court of India

Ramchandra Sao And Anr. vs State Of Bihar on 1 May, 1997

Equivalent citations: AIR 1999 SC 1574, (2000) 10 SCC 467

Bench: M Punchhi, S V Manohar

JUDGMENT

1. The conviction of the appellants who are son and father, under Section 302/34, I.P.C. is based on circumstantial evidence. The deceased, Asha Devi, was the wife of appellant No. 1 and the daughter-in-law of appellant No. 2.

2. The prosecution case is that Asha Devi, deceased, was married to Ramchandra Sao, appellant No. 1 in the year 1982 but she had gone to live with him in December, 1983.

3. Later on a day when her husband was not at home her father in law, Girija Sao, appellant No. 2 is said to have caught her by the arm with meaningful glances. On account of his undesirable advances she reported the matter to her husband and certain ladies in the neighbourhood. A Panchayat was convened where the incident was discussed and a decision was awarded that separate residence be set up for father and son Asha Devi and her husband would live separately and not in the house of her father-in-law. All the same the parties kept living together and two months went by. This part of the prosecution story remains unquestioned because admission in regard to the decision of the Panchayat has been made by the appellants in their statements under Section 313 of the CrPC at the trial. On 21-2-84, the first appellant went to village of his father-in-law, Babu Lal Sao (P.W. 5) and told him that his wife since the previous day was missing and thinking that she might have come to him, he had come to search for her. This caused anxiety to P.W. 5, who then came to the village of the appellant. The following day on 22-2-84 the body of Asha Devi on its own was found floating in the well. P.W. 5 thereafter went to the Police Station and informed the incident in the manner stated above. The police came and brought out the dead body. The appellants were arrested as suspects and were finally put up for trial before the Court of Session.

4. The Court of Session culled out the following six circumstances which the prosecution claimed to have been established against the appellants:

(i) the deceased was living in her-in-law house all along at the relevant time of the occurrence;

(ii) the relation between the deceased and her father-in-law Girja Sao was strained because he wanted to consume the deceased sexually;

(iii) the death of the deceased was homicidal;

(iv) after her murder, her dead body was dropped into a well with the help of a Jhaggar;

(v) some blood-stains were found inside the room of the accused and also one blood-stained shawl was recovered from there; and

(vi) no information with regard to the death of the deceased was reported by any of her in-laws.

5. The Court of Session considered the circumstances to be enough to convict the appellants for offence under Section 302/34, I.P.C. and for offence under Section 201, I.P.C. for which each of them were sentenced to life imprisonment and R.I. for five years respectively. The High Court concurred in that view. This is how the matter is before us.

6. We have heard learned counsel and we have also examined the available records. In our view, the circumstances above enumerated are not enough to maintain the conviction of the appellants. The father and the son had been living together all along and Smt. Asha Devi was the lone female who had been inducted into the family. The act of appellant No. 2 in catching hold of the arm of her daughter-in-law was viewed as an amorous suggestion and the deceased was successful in having a Panchayat convened for the purpose. The Panchayat, as said before advised separate residences for the father and son. Despite such suggestion father and son lived together and so did the deceased with them. There is no evidence that there was any untoward incident thereafter. Had there been any it would have been complained about. The appellants were living in a neighbourhood. If the deceased was murdered in the house as suggested and her dead body was thrown away at some distance, it is difficult to believe that the appellants could do so stealthily without attracting the attention of the neighbours either at the time of the homicidal death or when carrying and disposing of the dead body by throwing it in a well. The presence of blood-stains on the floor of the room of the house and the shawl by themselves are not such circumstances to establish that the deceased was killed in the room of the house or that those blood stains were matching, with the blood group of the deceased. During the course of the investigation, efforts were made to match the blood group but unsuccessfully. No report came from the expert. The recovery of the dead body from the well even was not at the instance of the appellants by means of disclosure statements. Rather the dead body surfaced on its own and was noticed by the villagers. Thus in nutshell the only incriminating circumstance which can be said to have been established is that there was perhaps motive for appellant No. 2 to avenge himself for the accusation made against him by the deceased. Even so the deceased could have met homicidal death in other ways and not necessarily at the hands of the appellants. When links in the chain of circumstances are missing, we cannot jump to the conclusion that the assailants of the deceased could be no other than the appellants, thus, in our view, it is unsafe on the aforementioned circumstances to maintain the conviction of the appellants, we thus extend to them the benefit of doubt, we, therefore, order the appellants' acquittal. The appeal is thus allowed, upsetting the judgment and order of the High Court as also that of the Court of Session. The appellants shall, as a result, be set at liberty forthwith.