

Supreme Court of India

Lavji Mona vs State Of Gujarat on 5 January, 1993

Equivalent citations: AIR 1993 SC 2480, 1993 CriLJ 3148

Bench: K J Reddy, S Bharucha

JUDGMENT

1. The sole accused is the appellant. He was tried by the trial court for an offence punishable under Section 302, I.P.C. for causing death of his wife by inflicting injuries with axe. The case rests on circumstantial evidence, retracted extra judicial confession and recovery of blood stained shirt of the deceased. The trial court found it insufficient and acquitted the accused. On an appeal by the State the High Court held that all the circumstances put forward are sufficient to establish the guilt and accordingly convicted the appellant under Section 302, I.P.C. and sentenced him to undergo imprisonment for life. This appeal is filed under the provisions of the Supreme Court enlargement of Criminal Appellate Jurisdiction Act. The prosecution case is as follows:

2. The accused was residing in village Anide with his wife, the deceased and children. He was cultivating a field in the said village. On 18th September, 1979 the accused and the deceased have gone to the field for carrying out certain agricultural operation. His daughter Kavita (F-12) aged about 10-12 years went to the field at 12-00 Noon with meals and at that time she saw her mother lying in the field with injuries and the accused missing. She found that her mother was injured and she went to call her brother Ramji Lavji (Ex.P-13) who immediately came to the field and found that his mother had passed away. He found injuries on her head and shoulder and other parts. He also did not find his father in the field or in the vicinity. He immediately went and reported the matter to the police patal Thakarahi Shamji, The dead body was brought to the residence of the accused. According to the prosecution, in the meantime, the accused went to Shetrunji Dam where he had earlier served for three years and he met one Jamal Bachhu (P-1) and before whom he made an extra judicial confession and told him that he killed his wife and he would surrender himself before the police. Thereupon, P-1 advised the accused to go to the dam outpost and contact the police. It is alleged that the accused went to the police station with a weapon of assault namely pickaxe. There he also gave a report (Exh. A) which formed as FIR in this case. The clothes of the accused were stained with blood and the weapon of assault too was stained with blood. The concerned officer carried out the investigation and ultimately the doctor who conducted the postmortem found several injuries and opined that the death was due to shock and haemorrhage due to multiple injuries. After completion of the investigation a chargesheet was laid. On examination under Section 313, I.P.C. the accused denied the offence.

3. Learned Sessions Judge held that Exhibit-A containing the confessional statement of the accused made before the police was inadmissible as it was hit by Sec 25 of the Evidence Act. He also found that there is no direct evidence and the extra-judicial confession cannot be relied upon. He found that the other circumstantial evidence was insufficient to establish the crime. On an appeal by the State the High Court in an elaborate judgment has discussed every item of evidence and found that the circumstances taken together form a complete chain and connect the accused with the commission of the crime.

4. Since this is an appeal filed under Supreme Court Enlargement Jurisdiction Act, we have gone through the judgment and record carefully. We do not find any ground to reject the evidence of Jamal Bachhu (PW-1). He has given a cogent and convincing evidence and has given all the details as to how the accused came to him and confessed before him and that accused said that he would go to the police station. Then we have the evidence of the Head Constable who was in the police station before whom the accused surrendered himself. As a matter of fact the accused himself has gone to the police station and lodged a complaint by giving there a First Information Report. The evidence of the two children show that the accused was in the company of the deceased in the field and thereafter he was seen missing. The accused has no explanation as to where he went and why he went to the police station and he also had not come forward with any acceptable explanation for the presence of the blood on the clothes as well as on the pick-axe. The serological report shows that the group of the blood found on the clothes of the accused was the same as that of the deceased. These are the circumstances which corroborate extra-judicial confession. In our view the High Court has rightly metered in convicting the appellant and there are no two views possible. Accordingly the appeal is dismissed.