

PETITIONER:
VIRBHAN SINGH AND ANR.

Vs.

RESPONDENT:
STATE OF U.P.

DATE OF JUDGMENT 12/08/1983

BENCH:
ERADI, V. BALAKRISHNA (J)
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ERADI, V. BALAKRISHNA (J)
VENKATARAMIAH, E.S. (J)

CITATION:
1983 AIR 1002 1983 SCR (3) 600
1983 SCC (4) 197 1983 SCALE (2) 91

ACT:

Evidence-Circumstantial evidence-Several circumstances supported by medical evidence lead to the only conclusion that the deceased was murdered in a most brutal and heinous fashion and then hung by rope by the accused so as to give an appearance of a case of suicide - Conviction and sentence for the offence of murder should be confirmed.

HEADNOTE:

For the offence of murder of Smt. Gyani, her husband Virbhan Singh his mother Smt. Gyani Devi (both appellants before the Supreme Court) alongwith his father Sileti Singh were arraigned before life Sessions Judge, Etawah, u/s. 302 read with Section 34 Indian Penal Code. According to the prosecution the motive was the selfish animal nature in the husband and his parents which has come out in the form of their determination that the husband should remarry after doing away with the obstacle in the shape of his existing wife on the sole ground that she was inauspicious due to the fact that she did not bear children for four or five years after the marriage and that even though thereafter she conceived twice and successfully gave birth to two male babies, both those babies did not survive beyond a few weeks or days. The further evidence of the prosecution were that the accused assaulted the deceased and then hung her with a rope to give the impression of suicide, did not inform anyone and kept the body in the room, that an attempt made by Sileti Singh to remove the body in a lorry failed, that when P.W.1, the sister of the deceased went along with P.W.4 her brother-in-law to see the deceased on the 14th of August, 1968, the husband and the mother told a lie that the deceased had gone out to get medicine, that again on the 15th August, 1968 after P.W.1's repeated insistence, the dead body was shown to her in a decomposed condition, that Sileti Singh only thereafter lodged a report at the police station Jawaharnagar to the effect that the deceased committed suicide which version was accepted by the Police and the Panchas; that on the insistence of P.W.1, the dead body was sent for postmortem, that the postmortem revealed (a) five antemortem injuries including the breakage of the right side hyoid bone under the ligature mark, (b) death should have taken place between 5.30 P.M. On August 13th,

1968 and 5.30 A.M: on August 14th, 1968, (c) death was due to shock and haemorrhage as a result of injury to liver and stomach as well as asphyxia due to hanging and (d) in view of the antemortem injuries found, there was little possibility of the deceased hanging herself.

The Sessions Judge found, on a careful and analytical consideration of the evidence, all the accused guilty, convicted them under Section 302 I.P.C. and sentenced the three of them to life imprisonment. In the appeal filed the 601

High Court confirmed the conviction and sentence of the present appellants and acquitted Sileti Singh, the father. There was no appeal by the State against the acquittal.

Dismissing the appeal, the Court

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HELD: 1: 1. The conviction and sentence of the appellants are perfectly correct and sound, as they are guilty of the murder of the deceased in a brutal and heinous fashion.

1: 2. The case no doubt turns purely on circumstantial evidence. But the circumstances are so telling that the only conclusion reasonably possible is the one arrived at by the courts below that the deceased did not commit suicide by hanging herself but was done to death by being brutally assaulted and thereafter hung by the neck with a rope. The medical evidence clearly goes to prove that it would not have been possible for the deceased, who had sustained severe injuries of the type and nature described in the post-mortem report in the stomach and liver, to hang herself. The husband, Virbhan Singh and his mother, Smt. Gyani Devi, were throughout present in the house and no outsider had come to the house at the relevant time. According to the opinion of the doctor, the latest point of time at which the death of the deceased could have taken place was 5.30 a.m. On 14.8.1968 but even on the evening of that day when P.W. 1, Shrimati Ram Kumari, sister of the deceased went to their house and enquired for the deceased, she was told by Virbhan Singh and his mother that the deceased had gone out with the father-in-law for getting some medicine. On the next day (15th August, 1968) rumours spread in the village that the deceased had been done to death and it was only when P.W. 1 accompanied by her brother-in-law, P.W. 4 went to the house of the accused and insisted on being shown the body that she was finally allowed to see the dead body of her sister which, by then, was already in a state of decomposition. Significantly, it is only subsequent thereto that Sileti Singh went to the police station and lodged the report stating that the deceased had committed suicide by hanging. The conduct of the appellants is consistent only with their active involvement in the commission of the crime. It has come out in the evidence that on the evening of the 14th August 1968 at about 7.30 or 8.00 p.m. Sileti Singh had made attempts to remove clandestinely the dead body from the locality for which purpose he had met Brahma Nand (P.W. 3), a truck owner, and unsuccessfully tried to hire his truck to transport the dead body.

[605 G-H, 606 A-E]

Observations (i) If society should be ridden of this growing evil, it is imperative that whenever dastardly crimes of this nature are detected and the offence brought home to the accused, the courts must deal with the offender most ruthlessly and impose deterrent punishment. [602 E]

(ii) Most strangely, in spite of the body being in a fairly advanced state of decomposition, thereby clearly

indicating that the death had taken place a long time prior to the report given by Sileti Singh, which should have normally aroused serious suspicion in the mind of any reasonable person about the

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version of suicide given by him, the Sub-Inspector and the panchas were inclined to record the cause of death as suicide by hanging and close the case without any further investigation. [603 H-604 A]

(iii) Though the reasons stated by the High Court in acquitting Sileti Singh by giving the benefit of doubt are not sound and convincing since the State has not preferred an appeal, his acquittal will stand. [606 F-G]

JUDGMENT:

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 154 of 1974.

From the Judgment and order dated the 25th September, 1973 of the Allahabad High Court in Criminal Appeal No. 1809 of 1969.

R.R Garg, V. J. Francis and Nikhil Chandra for the appellants.

Dalveer Bhandari. H. M. Singh and Ranbir Singh Yadav for the respondent.

The following Judgment of the Court was delivered by:

BALAKRISHNA ERADI J. It is an unfortunate and disturbing phenomenon that has recently arisen in many parts of our country that instances of bride killing are alarmingly on the increase. If society should be ridden of this growing evil, it is imperative that whenever dastardly crimes of this nature are detected and the offence brought home to the accused, the courts must deal with the offender most ruthlessly and impose deterrent punishment. The case before us is one of its kind. While, in the vast majority of such cases, the harassment and killing of the bride is traceable to the abominable and pernicious practice of demanding and extracting dowry and the failure on the part of the bride's parents to adequately satisfy the greedy demands of the husband's people, the reason for the torture and murder of the innocent wife in the present case was that she was considered an "inauspicious" girl. That was for the reason that she did not bear children for four or five years after the marriage and even though thereafter, she conceived twice and successively gave birth to two male babies, both those babies did not survive beyond a few weeks or days. Having branded the young wife as inauspicious, the selfish animal nature in the husband and his parents came out in the form of their determination that the husband should remarry after doing away with the obstacle in the shape of his existing wife. That led the husband and his mother to commit the dastardly murder of the young wife in a most gruesome fashion .

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Sileti Singh, his wife, Smt. Gyani Devi, and his son, Virbhan Singh, were arraigned before the Sessions Judge, Etawah, charged with the murder of Smt. Gyani, the wife of Virbhan Singh, in furtherance of the common intention of all of them, by intentionally causing death by beating the deceased and then hanging her with a rope. The deceased was married to Virbhan Singh about 9 years prior to the time of the occurrence. She did not give birth to any child for about five to six years after marriage. According to the prosecution case, the husband of the deceased and his

parents used to harass her and beat her on this account and they used to say that they would get the second marriage performed for Virbhan Singh. In or about the seventh year after the marriage, the deceased gave birth to a male child but that child survived only for about 9 or 10 months. There- - after, the ill-treatment of the deceased at the hands of the husband and his parents is said to have commenced again. A few months prior to the occurrence, the deceased gave birth to another male child but that baby too died within 6 or 7 days of its birth. This precipitated matters and the deceased is said to have been branded as an "inauspicious" woman, who could no longer be retained in the family. According to the prosecution, she used to make complaints of severe harassment by the accused to her sister, Shrimati Ram Kumari (P.W.1), who too was married to a person in the same village-Nangla Incha. On 14th August 1968 at about 5.00 p.m., Shrimati Ram Kumari had gone to the house of the deceased with an intent to meet her but she was told by the husband, Virbhan Singh and his mother that the deceased had gone with the father-in law to obtain some medicine. The next morning, P.W. 1 heard a general rumour in the village that her sister had been killed. There upon, she called her husband's younger brother, Krishna Gopal (P.W.4) and again went to the house of the accused along with him. She found Virbhan Singh and his mother, Smt. Gyani Devi, in the house and she asked them to show her the dead body of the deceased. At first they refused but on a hue and cry being raised by her, they showed her the dead body lying in a room in a swollen condition, emitting a foul smell. On 15th August 1968, at about 9.30 a.m. Sileti Singh lodged a report at the Police Station Jaswantnagar to the effect that the deceased had committed suicide by hanging herself with a rope. Sub-Inspector Netrapal Singh (P.W. 11) went to the place of occurrence and held an inquest on the dead body with the assistance of panchas. Most strangely, in spite of the body being in a fairly advanced state of decomposition, thereby clearly indicating that the death had taken place a long time prior to the report given by Sileti Singh, which should have normally aroused serious suspicion in the mind of any reasonable person about the version of suicide given by him, the Sub-Inspector and the panchas were inclined to record the cause of death as suicide by hanging and close the case without any further investigation. However, Ram Kumari (P.W.1) and her brother-in-law, Krishna Gopal (P.W.4), strongly protested and demanded that the body should be sent for post-mortem and due to their persistence, the request was acceded to. The post-mortem examination was conducted by Dr. Lakhotia on 15-8-1968 at 5.30 p.m. In the opinion of the doctor, the death had taken place between one and a half to two days prior to the time of his examination, i.e. between 5.30 p.m. On 13-8-1968 and 5.30 a.m. On 14-8-1968. The post-mortem report disclosed that there were the following ante mortem injuries on the person of the deceased.

1. Ligature mark 8" x 1/2" on the neck in the upper part between larynx and chin, in front and on sides just below the chin. On dissection the margins were found congested. It was directed upwards obliquely following the lower jaw and was almost behind. Its base was pale, hard and leathery.
2. Abrasion 1-1/2" x 1/2" on the neck lower part left side.
3. Contusion covering whole of the upper eye lid

- of left eye. Conjunctive was congested.
4. Contusion covering the whole of upper eye lid of right eye. Conjunctive was congested.
 5. Contusion 4" x 4" on the chest left side upper part below the clavicle. Under the ligature mark greater curve of hyoid bone was broken on the right side. There was congestion around the big vessels of the neck.

The lower ribs of the deceased from 8th to 10th on the left side were found broken. The abdomen was distended and discoloration was present in the flanks. Peritoneum was deeply congested. The abdominal cavity was full of blood weighing about 1-1/2 lbs. There

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was a big tear 6" long in the stomach. The abdominal walls were congested. There was a lacerated wound 3"x 1/2" on the front of left lobe of the liver. Both kidneys were congested and decomposing. Both sides of her heart were empty. Larynx was congested deeply. Both lungs were deeply congested and deeply decomposing. The large vessels were congested in the neck on both sides. In the opinion of the doctor, the death was due to shock and haemorrhage as a result of injury to liver and stomach as well as asphyxia due to hanging. The doctor, on being examined as a witness, stated categorically that in view of the injuries mentioned in post-mortem report, there was little possibility of the deceased hanging herself.

The sessions Judge found, on a careful and analytical consideration of the evidence, that the death of the deceased was caused as a result of the injuries inflicted on her by the accused, followed by asphyxiation resulting from the deceased having been hung by her neck by the accused. He found all the accused guilty of the offence of murder, convicted them u/s 302 I.P.C. and sentenced the three of P them to undergo imprisonment for life. In the appeal filed by the three accused, the High Court confirmed the finding that the case was not one of suicide but one of calculated murder, the hanging by rope being part of the process of the deceased being put to death by her assailants. The High Court, however, took the view that the presence of Sileti Singh at the time of the commission of offence was not established beyond doubt and hence it acquitted him giving him the benefit of doubt. The conviction of Virbhan Singh and his mother, Smt. Gyani Devi, u/s 302 I.P.C. was confirmed by the High Court. This appeal has been preferred by the afore-mentioned two accused.

We find no merit at all in the appeal. Since we are in complete agreement with the findings entered by the Sessions Judge and the High Court regarding the cause of the death of the deceased and the manner in which she was done to death, it is unnecessary for us to burden this judgment with a repetition of the details of the evidence. The case no doubt turns purely on circumstantial evidence. But the circumstances are so telling that the only conclusion reasonably possible is the one arrived at by the courts below that the deceased did not commit suicide by hanging herself but was done to death by being brutally assaulted and thereafter hung by the neck with

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a rope. The medical evidence clearly goes to prove that it would not have been possible for the deceased, who had sustained severe injuries of the type and nature described in the post-mortem report in the stomach and liver, to hang herself. The husband, Virbhan Singh and his mother, Smt.

Gyani Devi, were throughout present in the house and no outsider had come to the house at the relevant time. According to the opinion of the doctors the latest point of time at which the death of the deceased could have taken place was 5.30 a.m. on 14-8-1968 but even on the evening of that day when P.W. 1, Shrimati Ram Kumari, sister of the deceased went to their house and enquired for the deceased, she was told by Virbhan Singh and his mother that the deceased had gone out with the father-in-law for getting some medicine. On the next day (15th August 1968) rumours spread in the village that the deceased had been done to death and it was only when P.W.1 accompanied by her brother-in-law, P.W. 4 went to the house of the accused and insisted on being shown the body that she was finally allowed to see the dead body of her sister which, by then, was already in a state of decomposition. Significantly, it is only subsequent thereto that Sileti Singh went to the Police Station and lodged the report stating that the deceased had committed suicide by hanging. The conduct of the appellants is consistent only with their active involvement in the commission of the crime. It has come out in the evidence that on the evening of the 14th August 1968 at about 7.30 or 8.00 p.m. Sileti Singh had made attempts to remove clandestinely the dead body from the locality for which purpose he had met Brahma Nand (P.W.3), a truck owner, and unsuccessfully tried to hire his truck to transport the dead body.

On a scrutiny of the evidence, we are fully satisfied that the conclusion recorded by the learned Sessions Judge and by the High Court, that the appellants are guilty of the murder of the deceased in a most brutal and heinous fashion, is perfectly correct and sound. We may observe that the reasons stated by the High Court in acquitting Sileti Singh, by giving him the benefit of doubt, have not appealed to us as sound and convincing but since the State has not preferred an appeal, his acquittal will stand.

In the result, the conviction and sentence are confirmed in respect of Virbhan Singh and Smt. Gyani Devi and this appeal is dismissed. The appellants will forthwith surrender to their bail bonds and will be taken into the custody to serve out their sentence.

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Appeal dismissed.