

CASE NO.:
Appeal (crl.) 293 of 2004

PETITIONER:
Anantlal Ghosh

RESPONDENT:
State of West Bengal

DATE OF JUDGMENT: 07/09/2005

BENCH:
H.K. Sema & Tarun Chatterjee

JUDGMENT:
JUDGMENT

SEMA, J.

The appellant alongwith 7 accused were put to trial under Sections 302 IPC and 201 read with 34 IPC. Six accused were acquitted by the trial court. The appellant was convicted under Sections 302 IPC and 201 read with 34 IPC and sentenced to R.I. for life under Section 302 IPC. The appellant was also convicted under Section 201/34 IPC and sentenced to R.I. for five years and a fine of Rs. 2,000, in default further R.I. for six months'. The other accused was also convicted under Section 201 read with 34 IPC and was sentenced to four years' R.I. and a fine of Rs. 1,000, in default further three months' R.I. It appears that he has already undergone the sentence and conviction recorded against him.

This appeal is filed by the accused Anantlal Ghosh who was convicted under Section 302/201/34 IPC by special leave.

Admittedly, there is no eye-witness to the occurrence. The conviction is based on the circumstantial evidence. Both the trial court and the High Court recorded the conviction against the appellant on the basis of the evidence of PW.1, PW.2 and PW.3. It is now established principle of law that the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis except that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence.

The High Court on re-appreciation of the evidence found following circumstances well established against the appellant :

1. That it was the fact that the deceased Lilabati bore marks of certain injuries which has been stated in the evidence of PW.1 and mentioned in FIR (Ext.1) corroborated by the evidence of PW.3 and PW.4.
2. That the evidence of Pws .2, 3 and 4 with regard to the fact that they were threatened to leave the place and the body of Lilabati was hurriedly taken for cremation.
3. That the fact that no information was given to the police and the police could not see the dead body.
4. That PW.8 was sent by the mother of the appellant to inform PW.1 and his parents that Lilabati was attacked by diarrhea and the body was kept till the time of their arrival does not establish that the Lilabati died of diarrhea.
5. That PW.2 in his evidence stated that he learnt from the appellant that there was an altercation between the appellant and Lilabati and a rope on

her waist was found below a Krishnachura tree. This testimony of PW.2 could not be shaken in the cross-examination.

6. That the statement of PW.2 has been well corroborated by the statements of Pws.3 and 4.

7. That the appellant and the deceased Lilabati spent a night together previous to the date of incident and seizure of the rope under the Seizure List (Ext.2).

8. It is well within the knowledge of the appellant and who only could explain the circumstances leading to the cause of death of Lilabati.

9. Last but not the least, the conduct of the appellant in cremating the dead body of the deceased hurriedly before the arrival of the police, when relatives went to call the police after noticing the injury marks on the body of the deceased.

All these circumstances appearing against the appellant remain unimpeached.

In our view, the testimony of Pws.2, 3 and 4 alongwith other incriminating materials relied upon by the prosecution taken cumulatively would consistently point to the guilt of the accused and inconsistency with his innocence. In our view, the prosecution has been able to establish the chain of circumstances beyond all reasonable doubt consistently pointing out to the guilt of the accused.

In the reasons aforesaid, we find no merit in this appeal and the same is accordingly dismissed.