

REPORTABLE
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NOS.185-186 OF 2011

SUDAM @ RAHUL KANIRAM JADHAV ... APPELLANT

VERSUS

STATE OF MAHARASHTRA ...RESPONDENT

J U D G M E N T

CHANDRAMAULI KR. PRASAD, J.

1. Appellant, an accused held guilty of committing the murder of four children and a woman with whom he was living as husband and wife and sentenced to death is before us with the leave of the Court.

2. Residents of Rupla Naik Tanda, a remote village in District Nanded in the State of Maharashtra were horrified when few of its natives found four dead bodies floating in the village pond in the morning of 21st August, 2007. A male child of six years alongwith a female child of ten years and another female child of ten years alongwith a male child of two to four

years were tied separately. P.W.1 Yashwant Jadhav, Inspector of Rupla Naik Tanda outpost came to know about the presence of dead-bodies in the pond through a villager and reached there at 8.00 A.M. There besides the aforesaid dead-bodies, he found the body of an unidentified woman with Mangalsutra on her neck below a boulder. He accordingly informed the Mahur Police Station and on that basis crime under Section 302 and 201 of the Indian Penal Code was registered and the investigation was entrusted to the Police Inspector Parmeshwar Munde (P.W.14). He went to the spot took out the dead bodies from the Pond and prepared the inquest reports. During the course of investigation, Maroti Madavi identified the dead body of the woman to be his daughter, Anita and the two children of deceased Anita born to her from the first husband and two children from the appellant herein. Search was made to apprehend the appellant but he was not found till 24th August, 2007. During the course of investigation, it further transpired that the deceased Anita who was living with the appellant as his wife had come to know about his illicit relationship with P.W.6, Muktabai. The deceased used to protest the said relationship. This relationship led to serious

dispute amongst deceased Anita, Muktabai and the appellant. Appellant orally divorced Muktabai and agreed to pay Rs.15,000/- to her. It was the deceased Anita who promised to pay the amount. Thereafter, Muktabai went to her village and the appellant the deceased Anita and the four children came to Juna Pani where because of the strained relationship, appellant committed the murder of Anita and the four children.

3. Police after usual investigation submitted the charge-sheet under Section 201 and 302 of the Indian Penal Code and the appellant was ultimately committed to the Court of Session to face the trial. Appellant denied to have committed any offence and claimed to be tried.

4. In order to bring home the charge the prosecution has altogether examined 14 witnesses besides a large number of documents have been exhibited. There is no eye-witness to the occurrence and relying on the circumstantial evidence the trial court came to the conclusion that the circumstances proved clearly lead to one and the only conclusion that the appellant had committed the murder of the four children and Anita

and in order to cause disappearance of evidence of murder threw the dead bodies in the Pond. For coming to the aforesaid conclusion, the trial court held that the appellant had motive to commit the crime and the five deceased were last seen in the company of the appellant. Further extra-judicial confessions given before PW.6, Muktabai and PW.9, Ishwar were reliable. Failure to explain the circumstances under which all of them met homicidal death were taken into consideration to hold the Appellant guilty of the charge. Abscondence was another circumstance relied on by the trial court to hold the appellant guilty. The trial court awarded the death sentence. On appeal, the High Court concurred with the findings of the trial court and finding the case to be one amongst the rarest of the rare cases confirmed the death sentence.

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5. We have heard Mr. Manoj Prasad, learned Counsel appearing for the appellant; whereas respondent-State is represented by Mr. Sushil Karanjakar.

6. All the deceased met a homicidal death has not been questioned before us. Dr. Bandiwan (P.W.10) who had conducted the post mortem of the dead bodies of

the four children has clearly stated in his evidence that all the four children died of asphyxia due to throttling. Dr. Bhosale (P.W.4) who conducted post-mortem examination of deceased Anita in his evidence, has opined that she died of asphyxia due to strangulation. In view of this, we have no manner of doubt that all the five deceased met homicidal death.

7. Mr. Prasad, however, contends that the circumstantial evidence brought on record do not point out towards guilt of the appellant. Mr. Karanjakar, however, submits that the circumstances proved point towards the guilt of the appellant.

8. PW.5, Anusayabai is the mother of the deceased and she has stated in her evidence that her daughter Anita was earlier married to one Anil Gedam and they were blessed with two children. Because of differences, he deserted Anita and the deceased thereafter started residing with her. According to her evidence, Anita suddenly left her house with the children and she did not make any enquiry as she thought that she had gone to her husband's place. After few days, according to this witness she came to

know that the deceased was not residing with her husband Anil but in fact residing with the appellant. She went to the house of the appellant, saw the deceased along with her children residing there. According to her evidence when she came to know about the dead bodies of the children floating in the Pond she went there and identified the dead bodies. They were the two children of the deceased and her husband Anil, and other two children of the deceased and the appellant. She also found the dead body of her daughter Anita there.

9. PW.6, Muktabai has stated in her evidence that proposal for her marriage came on behalf of a person called Rahul and she was told that he is unmarried. Her evidence is that the prospective bridegroom came to her house and proposed to marry her claiming that he was single. After marriage, both of them resided at the village for eight to ten days and thereafter went to Karim Nagar and resided there for about a month. According to her evidence, she returned to her village along with her husband to attend the marriage of her cousin and while they were residing there the deceased Anita came there and informed her that the

name of her husband is not Rahul but appellant Sudam and she had two children from him. Hearing this, the appellant fled away from there.

10. Muktabai has further deposed in her evidence that after some time the appellant came to her house and on being questioned, he disclosed that he was being harassed by the deceased Anita. Appellant further disclosed to this witness Muktabai that the two children were his from Anita. The deceased requested this witness to release the appellant, whereupon appellant undertook to maintain both PW.6, Muktabai and the deceased Anita but later refused to accept the aforesaid proposal. According to her, appellant orally divorced her and promised to give her Rs.15,000/-. Thereafter, according to this witness, Anita alongwith children went with the appellant. Few days thereafter, the Police came to her house and enquired the whereabouts of the appellant and the deceased. She was shown the photographs of four children and the deceased Anita. This witness has further stated that after few days, appellant returned and on being asked, he disclosed that he had

committed the murder of Anita and four children as Anita was harassing him.

11. PW.9, Ishwar had stated in his evidence that the appellant made an extra-judicial confession before him that he strangled the four children and his first wife to death and threw their dead bodies in the Pond as he was being harassed by his first wife.

12. PW.8, Pralhad has stated in his evidence that on 19th August, 2007 when he was at his house the appellant along with his wife and four children came and asked for water. He has further stated in his evidence that he requested the appellant to stay back but he left the place along with his wife and four children and two to three days thereafter he came to know that he had killed his wife and the children.

13. Thus from the evidence of PW.5, Anusayabai the mother of the deceased and PW.6, Muktabai it is evident that the deceased Anita along with the four children were living with the appellant. The appellant had married PW.6, Muktabai projecting himself to be single and the protest made by the

deceased led to the divorce. From the evidence of the aforesaid witnesses and further from the evidence of PW.8, Pralhad it is evident that Anita and four children were last seen alive with the appellant on 19th August, 2007. The dead bodies of the four children were found floating in the Pond and of Anita under a boulder on 21st August, 2007. Appellant has also made extra-judicial confession before PW.6, Muktabai and PW.9, Ishwar. He confessed to have committed the murder on account of the harassment meted out to him by his wife Anita. From the evidence of the aforesaid witnesses it is apparent that the appellant had motive to commit the crime, was last seen with the deceased and had made extra-judicial confession before the two witnesses PW.6, Muktabai and PW.9, Ishwar admitting the commission of crime. Further, he absconded and he is unable to explain how the woman with whom he was living as husband and wife and the children met the homicidal death. In our opinion to bring home the guilt on the basis of the circumstantial evidence the prosecution has to establish that the circumstances proved lead to one and the only conclusion towards the guilt of the accused. In a case based on circumstantial evidence

the circumstances from which an inference of guilt is sought to be drawn are to be cogently and firmly established. The circumstances so proved must unerringly point towards the guilt of the accused. It should form a chain so complete that there is no escape from the conclusion that the crime was committed by the accused and none else. It has to be considered within all human probability and not in fanciful manner. In order to sustain conviction circumstantial evidence must be complete and must point towards the guilt of the accused. Such evidence should not only be consistent with the guilt of the accused but inconsistent with his innocence. The circumstances referred to above, in our opinion lead to one and the only conclusion that the appellant had committed the murder of all the five persons. Accordingly we uphold his conviction.

14. Now we proceed to consider as to whether the case in hand fall in the category of rare of the rarest case. The appellant had chosen to kill the woman with whom he lived as husband and wife, a woman who was in deep love with him and willing to pay Rs.15,000/- to PW.6, Muktabai, to save the relationship. Appellant

had not only killed the two children of the deceased who were born from the first husband but also killed his own two children. He projected himself to be single and changed his name to dupe a woman and in fact succeeded in marrying her. However, when the truth came to light, he killed five persons. The manner in which the crime has been committed clearly shows it to be premeditated and well planned. It seems that all the four children and the woman were brought near the Pond in planned manner, strangled to death and dead bodies of the children thrown in the pond to conceal the crime. He not only killed Anita but crushed her head to avoid identification. Killing four children, tying the dead bodies in bundles of two each and throwing them in the Pond would not have been possible, had the appellant not meticulously planned the murders. It shows that the crime has been committed in a beastly, extremely brutal, barbaric and grotesque manner. It has resulted into intense and extreme indignation of the community and shocked the collective conscience of the society. We are of the opinion that the appellant is a menace to the society who cannot be reformed. Lesser punishment in our opinion shall be fraught with danger as it may expose

the society to peril once again at the hands of the appellant. We are of the opinion that the case in hand falls in the category of the rarest of the rare cases and the trial court did not err in awarding the death sentence and the High court confirming the same.

15. In the result, we do not find any merit in these appeals and the same are dismissed accordingly.

....J.

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(HARJIT SINGH BEDI)

.....J.
(CHANDRAMAULI KR.

PRASAD)

NEW DELHI,
JULY 4, 2011.

JUDGMENT