

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 550 OF 2007

UTTAM KUMAR

.....

APPELLANT

VERSUS

STATE OF M.P. (NOW CHHATTISGARH).....

RESPONDENT

O R D E R

1. The solitary accused stands convicted for an offence punishable under Section 302 of the Indian Penal Code with a sentence of imprisonment for life and fine for having murdered his wife Meena Bai on the 5th July, 1998 at about 12 noon in the family home. It appears that the relations between the appellant and his wife was strained as he suspected that she was not of good character. On the intervention of the family members, however, Meena Bai who had left the matrimonial home and gone to her parents, was persuaded to return. The appellant nevertheless assaulted Meena Bai on the day in question with a tangia (an agricultural weapon easily available in all farming families) on which she cried out in pain whereupon her sister-in-law P.W. 7 Sulesan

Bai who was preparing the food close by came running to the spot. She saw Meena Bai lying in a pool of blood and the appellant standing by carrying a tangia in his hand. The appellant also told Sulesan Bai that he had caused injuries to his wife and that he would go to the police station to lodge a report. Suleshan Bai thereupon conveyed the information to Derhin Bai P.W. 9, the step mother of the appellant, and Derhin Bai also saw the appellant leaving the house carrying his tangia. On enquiry from him he told her that he was going to the police station. A short while later Dauwa Ram P.W. 10, the father of the appellant, also reached the place and was told by Sulesan Bai and Derhin Bai that the appellant had killed his wife Meena Bai and had left for police station, Kasdol at about 6:10p.m. 24 kms. away from the village. It is admitted position that the appellant never reached the police station. He was, however, arrested and was ultimately brought to trial.

2. During the course of the evidence P.W. 7 and P.W. 9 supported their statements to the extent of the extra judicial confessions having been made to them and that they had conveyed the information to P.W. 10, but they resiled on some insignificant matters. P.W. 10, however, deposed that his wife and daughter had conveyed

the information about the incident and the details thereof to him after he had returned from the fields. The trial court accordingly, found that the statements of P.W. 7, 9 and 10 clearly proved the case against the appellant.

3. The matter was thereafter taken in appeal to the High Court and the High Court has, by the impugned judgment, confirmed the judgment of the trial court. This matter is before us after the grant of special leave.

4. Ms. Aishwarya Bhati, the learned counsel for the appellant has raised primarily one argument before us during the course of the hearing. She has pointed out that as the two primary witnesses, P.W. 7 and P.W. 9 had been declared hostile, no reliance could be placed on their testimony. We, however, find no merit in this submission as the factum of the extra judicial confession made to them had been affirmed by them in their evidence. In any case, the evidence of P.W. 10 to whom P.W. 7 and P.W. 9 had conveyed the information has not been in any manner whittled down. P.W. 10 owned up his statement made under Section 161 of the Code of Criminal Procedure and reiterated the fact that the

information with regard to the murder committed by the appellant had been conveyed to him by P.Ws. 7 and 9. We also see that the medical evidence fully supports the prosecution story. Dr. K.L. Banjare who had performed the post mortem found five injuries on the person of the deceased which could have been caused with a tangia. We must also emphasise that as the incident happened while the appellant and the victim were together in the family home, some obligation lay on the appellant to explain the circumstances which had led to the death of his wife. There is however, a bare denial by him and he has not given any explanation as to how and why his wife met her death; a matter which should have been in his special knowledge.

5. The appeal is dismissed for the aforesaid reasons.

6. Fee of the Amicus is fixed at ₹7,000/-.

.....J
[HARJIT SINGH BEDI]

.....J
[GYAN SUDHA MISRA]

NEW DELHI
JULY 13, 2011.