

REPORTABLE
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.683 OF 2009

Ranjeet Singh @ Dara

... Appellant

VERSUS

State of Madhya Pradesh

...Respondent

J U D G M E N T

SURINDER SINGH NIJJAR, J.

1. This appeal is against the final Judgment and order of the High Court of Madhya Pradesh, Bench at Indore, in Criminal Appeal No: 469/2000 wherein the order of conviction of the appellant for the offences punishable under Section 302 IPC, passed by the Special Judge (S.C & S.T Prevention of Atrocities) and Additional Sessions Judge, Indore has been confirmed.

2. The deceased Jayawati was the second wife of Machi Singh. The prosecution version of the tragic episode, leading to the death (murder) of Jayawati (hereinafter referred to as the deceased) has been primarily narrated by Hukum Singh (PW 11). He is the son of Machi Singh and the deceased. The first wife of Machi Singh, Kaushalya Devi had given birth to 13 children. She had produced 8 sons, namely, Surendra Singh, Narendra Singh, Balwant Singh, Nanak Singh, Ranjit Singh @ Dara (hereinafter referred to as the appellant), Jasbir Singh, Santosh Singh, Trilochan Singh (PW 12), and five daughters.

3. The deceased Jayawati used to reside with her son Hukam Singh (PW 11) at A.H. Sukalya Road on the first floor. Trilochan Singh @ Lucky (PW 12) used to reside on the ground floor with his wife Surendra Kaur @ Poli (PW 1). The appellant was a regular visitor at the house situated at Sukalya. On the morning of 6/9/97, the appellant had gone to Indore from Bhopal by car and reached the house at around 11:30 am. He came in to visit, after parking the car outside. On the same

day Jayawati was found dead in the same house around 2 to 3 pm.

4. It is further the case of the prosecution that one Ranjeet Singh had telephonically informed that someone had committed a murder at house NO: A.H. 37 Sukalya, and that the accused had been caught and detained. This information was recorded by Brijesh Mishra (PW13), SHO, in the General Diary at Serial No: 357 (Ex P/19 – C at 14:50 hours). The SHO then proceeded along with Constable Balkishan (PW8) to the house in question. On reaching the house when he went to the first floor, he found that the door was closed from inside. He asked the person inside to open the door. When the door was opened by the appellant from inside, he had a blood stained sword in his hand. His hands were soiled in blood. There were also stains of blood on the door. Jayawati was lying on the double bed and her body was smudged with blood. Trilochan Singh @ Lucky (PW 12) then asked the accused “Dara, what have you done?” The appellant replied that “I have done the right thing – you shut up and go away from here.” SHO,

Brijesh Mishra (PW 13) persuaded the accused to hand over his sword and it was laid down on the floor by him. Constable Balkishan (PW 8) was deputed to stand guard.

5. Soon the senior officials of the Police, on being apprised of the incident, also arrived at the scene of the murder. Hukum Singh (PW 11) gave report Ex P/16 in writing and on the basis thereof Dehati Nalish P/17 was recorded. Summons were issued for holding inquest and inquest report Ex. P/8 was prepared. PW8 was entrusted with the duty of taking the dead body of Jayawati for post mortem examination. At the instance of Trilochan Singh (PW 12) spot map Ex P/20 was prepared. In the presence of Rajesh Dubey (PW 3) and Nanuram (PW 4), the sword was seized from the floor, one gold “bala” lying near the leg of the deceased., the cotton in which the blood was collected, simple cotton, the sheath of the sword lying behind the door, the blood stained bed sheets and pillow cover were seized vide Ex. P/13. Accused was arrested under Memo Ex P/6. His clothes namely shirt, jeans, shoes and the blood removed from his hands were seized vide Ex P/4.

Accused was taken to Police Station Heeranagar and case No: 165/97 under Section 302 IPC was registered vide Ex P/21. Accused was also sent for medical examination by issuing medical form Ex P/22.

6. By order dated 7/3/2000, the Trial Court convicted the appellant herein for the offences punishable under Section 302 IPC and sentenced him to imprisonment for life and imposed a fine of Rs. 5000/-, in default of which he had to further undergo rigorous imprisonment for one year. Challenging the aforesaid judgment, the appellant herein filed Criminal Appeal No: 469 of 2000 before the High Court of Madhya Pradesh, Bench at Indore. The High Court vide order dated 13/3/2006 confirmed the conviction of the accused under Section 302 IPC. Aggrieved by the said judgment, the appellant herein has filed the present appeal before this Court.

7. We have heard Mr. K.T.S Tulsi, learned Senior Advocate for the appellant and Mr. C.D. Singh on behalf of the respondent-State.

8. After taking us through the relevant materials relied on by the prosecution, Mr K.T.S Tulsi, learned Senior Advocate submitted that initially Machi Singh, father of the appellant, had been made the accused. According to Mr.Tulsi, this is a case of false implication. The real culprit, possibly Machi Singh is sought to be shielded. He then set out the sequence of events which according to him would make it atleast very doubtful, if not impossible, for the murder to have been committed by the appellant. He submits that in this case, the FIR had been recorded at 7.00 p.m. However, the first document mentioning the details of the incident is the inspection report of Dr. Sudhir Sharma (PW10). Both the Courts below have illegally discarded the evidence of this witness. Mr.Tulsi emphasized that PW13 Brijesh Mishra, SHO, who was the Investigating Officer did not conduct the spot inspection according to the directions issued by PW10. Investigation in this case being incomplete, no reliance could have been placed on the evidence of PW13.

Learned senior counsel further emphasized that at the time of the murder, the appellant was already in the custody of the police. He had been sent for medical examination to Dr.R.C.Choudhary. On medical examination, this witness had recorded the time of examination at 11.45 hrs. The appellant had suffered five injuries on his hands. According to Mr.Tulsi, the nature of the injuries would make it impossible for the appellant to wield a sword, to inflict the kind of injuries that were found on the deceased. According to Mr.Tulsi, the registration of the FIR was deliberately delayed in order to shield the real culprit. Learned senior counsel submitted that obviously the delay had occurred whilst the concerned individuals were trying to concoct a plausible version to protect the real assailant. Apart from the delayed registration of the FIR, there is no explanation as to why a copy of the FIR was not sent to the Magistrate for the next five days. This could be sufficient to discredit the version of the prosecution. According to Mr.Tulsi, the inherent weaknesses in the

prosecution case have been totally ignored by both the courts below. The benefit of these shortcomings ought to have been given to the appellant. In support of his submissions, learned counsel relied on the judgments in the cases of **Rangaiah Vs. State of Karnataka [(2008) 16 SCC 737]**, **Ghurey lal Vs. State of U.P [(2008) 10 SCC 450]**, and **Abdulwahab Abdulmajid Baloch Vs. State of Gujrat [(2009) 11 SCC 625]**. With regard to the effect of delayed receipt of the copy of the FIR by the Magistrate, learned counsel relied on **Budh Singh Vs. State of U.P [(2006) 9 SCC 731]** and **Rajeevan Vs. State of Kerala [(2003) 3 SCC 355]**.

9. Learned counsel for the State, however, submitted that both the courts below have held that the delay in sending the copy of the FIR has not caused any prejudice to the appellant. Both the courts below have found that sufficient explanation has been given about the delay by PW 13. In any event, the delay in sending the copy of the FIR would not in itself be sufficient to discard the entire prosecution evidence. Learned

counsel also relied on ***Dharamver & ors. Vs. State of U.P [(2010) 4 SCC 469]***, ***Rabindra Mahto Vs. State of Jharkhand [(2006) 10 SCC 432]*** and ***Aqeel Ahmed Vs. State of U.P [(2008) 16 SCC 372]***. Learned counsel further submitted that the appellant in this case had a clear motive to commit the crime. He was apprehensive that the father may favour the illegitimate son PW11 over the legitimate sons. The plea with regard to the real murderer being shielded is just to protect the appellant, who was caught red handed. His hands as well as the sword were covered in blood. He had suffered injuries by sword whilst committing the murder. According to the learned counsel, reliance on Ex.D5 is falsified by Ex.P22. Therefore, Ex.D5 has been rightly discarded by the trial court as well as the High Court. Ex.P22 clearly shows that the appellant has been sent for medical examination after arrest because he had suffered injuries with sword. The aforesaid fact is clearly adverted to by PW 13 in his deposition.

10. We have considered the submissions made by the learned counsel for the parties.

11. Undoubtedly, in this case there is no eye-witness account of the murder. The prosecution has relied heavily on the circumstantial evidence. Both the courts below have examined the entire evidence with great care and caution and have reached the conclusion that the murder has been committed by none other than the appellant herein. The approach of the courts below is in consonance with the well established principles, in matters where the prosecution case is based only or primarily on circumstantial evidence. Laying down the principles in such cases, this court in the case of ***Hanumant Govind Nargundkar Vs. State of M.P., [1952 SCR 1091]*** observed as follows:-

“It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human

probability the act must have been done by the accused.”

12. Mr.Tulsi has sought to project that the real culprit in this case is being shielded. He has suggested that possibly it is Machi Singh who had committed the murder. The only evidence linking Machi Singh with a crime is the mention of his name by Dr.Sudhir Sharma (PW 10) in the report Ex.P14. This report itself indicates that it is based on the information received. However, the author has failed to specify the source of information, although at one stage, it was stated by PW-10 that he had talked to the Investigating Officer (PW13). There is, however, no confirmation of this fact by the Investigating Officer. Thus, the High Court declined to give any credence to the suggestion that name of Machi Singh had been correctly recorded in the report Ex.P14. Both the courts below have concluded that the name of Machi Singh may have been the result of confusion in the mind of Dr.Sudhir Sharma (PW10). The conclusion reached by both the courts below on due

appreciation of the evidence of these two witnesses cannot be said to be either unjustified or perverse.

13. On the other hand, there is oral, medical and documentary evidence, which would undoubtedly connect the appellant with the murder. The appellant was the step son of the deceased. She was living on the first floor of the house owned by Machi Singh. The ground floor was occupied by Tarlochan Singh and his wife, Surinder Kaur, who appeared as PW1. She has testified that appellant lives in Bhopal. He had come to Indore in the morning of 6/9/1997. His car was parked outside the house. She had met the appellant and asked if he wanted to have a meal. He had, however, stated that he will have the meal along with her husband Tarlochan Singh, PW12. Thereafter, she went into her room. After about 10-15 minutes, Kiran (PW 9), her maid came and told her that she had heard screams coming from the room of Jaya aunty. Kiran also stated that appellant lives in Bhopal, he comes to Indore quite often. She also corroborated the fact that he was in the house at the time of the murder. PW-11 stated that on

the day of the murder, he wanted to go and see a movie. He left the house around 1.30 p.m to tell his friend to get ready. He then came back to the house at about 2.30/2.45 p.m.to take some money for the movie, from his mother. Therefore, he went upstairs to her room. He heard the voice of the appellant from inside the room. It appeared to him, that he was talking to some one on the telephone. The room was locked from inside. He knocked at the door and asked the appellant to open the door so that he could talk to his mother. The appellant told him, “you go for now – I want to talk to Jaya”. He was told by the appellant that the deceased was in the bathroom. He went out to the gallery and saw that there was no body in the bathroom. He again came and asked the appellant to open the door of the room. In the meanwhile, Tarlochan Singh, PW 12 also reached there. He also tried to get the door opened. He even called out to the appellant. He was also told to go away by the appellant. Ultimately, the appellant shouted that he will open the door only when the police arrives. In the meanwhile, the police arrived. On being satisfied with the identity of PW 13, the appellant opened the

door. He stated that he had killed the deceased. He was holding a blood stained sword in his hand at the time. On directions from PW13, he had put the sword on the floor. Hukum Singh PW-11 then went inside the room and saw his mother lying on the bed covered in blood. The Dehati Nalish was recorded on the basis of the sequence of events narrated by him. Thereafter, FIR (P 21) was recorded. This witness was cross-examined at length. Nothing useful could be elicited from him. The version given by PW 11 is consistent with the testimony of the Investigating Officer PW.13.

14. Apart from the oral evidence, the post-mortem report Ex.P-11 makes it abundantly clear that except for injuries No. 2, 3 and 4, all the injuries found on the deceased were incised wounds. The post mortem report of Dr.P.C.Jain (PW5) indicates the following injuries on the body of the deceased:-

1. Incised wound 3 x 2 x 0.5 c. transverse oblique in direction (tr.06) on upper mid point of abdomen (9 cm above umbilicus).
2. Contused abrasion 1.5 x 0.4 cm on left hypocondrium region.
3. Contused abrasion 3 x 1 cm on public region.
4. Abrasion 1 x 0.5 cm on public region (3 cm below injury no.3).
5. Incised wound – Stab wound internally size 3.4 cm x 2 cm on the upper point of Abdomen. Vert. Oblique direction (Vt 06) present 17 cm below the ant. End of axillary fold internally it runs obliquely upwards passes through whole wideness of abdominal wall (lat side), both walls of stomach (through and through) and makes cut mark on Lt. Lobe of liver (size of wound is 1.3 x 0.4 x 3cm deep). The whole abdominal cavity full of blood and very little food particles (semi digested) come out from

stomach and present near wounds on stomach.

6. Incised wound 3 x 2 x 1 cm on lateral part of Lt. Inguinal region (vtl.06).
7. Incised wound – chopped size 4 x 2 x 0.3 cm. (ms deep) on Lt. Middle finger (dorsum aspect and near base Vgt. 06).
8. Incised wound – 4 x 2 x 0.3 cm. (ms deep) on Lt. Pain near base of thumb and index finger (Vt.06).
9. Incised wound – 2 x 0.5 x 0.2 cm (ms deep) on Lt. Index finger (Tr.06) mid part and palmer aspect.
10. Incised wound 2.5 x 1 x 0.3 cm on Lt. Forearm. Present 8 cm above the wrist joint on antro medial.
11. Incised wound 6 cm x 1 cm x 1 cm (upto skull deep) on Lt. Temporal area of head in sagital (2 cm above the Ltd. Ear pinna and runs posterior)

12. Incised wound 3 x 2 x 0.5 cm. on Lt. Buttock (upper and outer quadrant & vt. 06).
13. Incised wound 1.5 x 0.4 x skin deep present buttock (upper and outer quadrant).
14. Incised wound 1 x 0.2 x skin deep (4 cm above).
15. Incised wound 7 x 3 x 1 cm on Rt. Forearm present at 5 cm above the wrist joint on post media.
16. 4 Incised wound 4 x 2 cm chopped cut present Rt. Base of thumb and other three 1 cm x 4 cm type x skin deep on Rt. Hand of palmer aspect in one plane.
17. Incised wound 5 x 2 x 0.3 cm (ms. Deep present from Rt. Angle of mouth and runs laterally).

15. All the aforesaid injuries could be caused with a sharp edged weapon such as a sword. Furthermore, the appellant

has failed to give any explanation for his presence in the room of the deceased. There is no explanation about the presence of blood stained sword in his hand. All the circumstances taken together clearly point towards the guilt of the appellant.

16. The appellant had tried to create a defence by stating that he was already in the custody of the police at the time when the murder was committed. According to him, he had been beaten up by the police which necessitated medical examination. This, according to the appellant, was conducted by Dr.R.C.Chaudhury. He relied on Ex.D5 which had indicated that the appellant had been examined on 6.9.1997 in the morning at 11.30 a.m. The story about the medical examination at 11.30 a.m. has been disbelieved by the trial court on the ground that since appellant had only arrived from Bhopal, a little before the murder, there is little likelihood of his being in the custody of police at 11.30 a.m. In any event, the entry with regard to the time of inspection being 11:30 am in the medical report (Injury Report) seems to be in different ink from the rest of the report. The High Court further noticed

that Ex.D5 could not be relied upon as the author of the said report, Dr. R.C.Choudhary was never examined. The report was produced in Court by DW1 who merely stated that the report had been written by Dr.Chaudhary. He had also stated that the report bears the signatures of Dr.Chaudhary. In our opinion, even this conclusion reached by courts below cannot be said to be either erroneous or perverse.

17. The aforesaid conclusions have been reached by both the courts below on the basis of due appreciation of the relevant material on record. No exceptional circumstances have been pointed out to enable this Court to interfere in exercise of jurisdiction under Article 136 of the Constitution of India. We may also notice that most of the submissions made by Mr.Tulsi were in the realm of appreciation of evidence. Undoubtedly, the powers of this Court under Article 136 are very wide; the interference with concurrent findings of facts would only be in very exceptional circumstances. The circumstances in which this Court may interfere with the concurrent findings have been broadly dealt with by this Court

in the case of **Ganga Kumar Srivastava Vs. State of Bihar**, [(2005) 6 SCC 211] wherein it was observed as follows:

“10. From the aforesaid series of decisions of this Court on the exercise of power of the Supreme Court under Article 136 of the Constitution following principles emerge:

(i) The powers of this Court under Article 136 of the Constitution *are very wide* but in criminal appeals this Court does not interfere with the concurrent findings of fact *save in exceptional circumstances*.

(ii) It is open to this Court to interfere with the findings of fact given by the High Court, if the High Court has *acted perversely or otherwise improperly*.

(iii) It is open to this Court to invoke the power under Article 136 only in *very exceptional circumstances* as and when a question of law of general public importance arises *or a decision shocks the conscience of the Court*.

(iv) When the evidence adduced by the prosecution *fell short of the test of reliability and acceptability* and as such it is highly unsafe to act upon it.

(v) Where the appreciation of evidence and finding is vitiated by any error of law of procedure or found contrary to the principles of natural justice, errors of record and misreading of the evidence, or *where the conclusions of the High Court are manifestly perverse and unsupportable from the evidence on record*.”

18. We are of the considered opinion that the case of the appellant does not fall within the purview of the aforesaid ratio of law.

19. Mr.Tulsi has tried to point out a number of discrepancies and contradictions between the evidence of PW-10, PW-11 and PW-13. We are not much impressed by the aforesaid submissions. The discrepancies have been noticed by both the courts below. It was held by both the courts below that the discrepancies are not such as to justify discarding the evidence led by the prosecution.

20. For the reasons stated above, we find no reason to interfere with the well reasoned judgments of the trial court and the High Court. The appeal is accordingly dismissed.

.....J.
[B.Sudershan Reddy]

**New Delhi;
September 20, 2010.**

**.....J.
[Surinder Singh Nijjar]**

