

PETITIONER:
GEETHA

Vs.

RESPONDENT:
STATE OF KARNATAKA

DATE OF JUDGMENT: 02/12/1999

BENCH:
G.T.Nanavati, S.N.Phukan

JUDGMENT:

NANAVATI. J

The appellant and her husband were tried for the offence punishable under Sections 302, 392 and 201 I.P.C. In the Court of the Additional Sessions Judge, Bangalore City in Sessions Case No. 175 of 1990. The allegation against the appellant was that on 30.10.1989 between 4.30 and 7.30 p.m. she murdered Rajeshwarl, took away her ornaments worth Rs. 50,000/- and thereafter, tried to cause disappearance of the evidence by putting the dead body in two gunny bags to dispose of the same.' :: - . . -

In order to prove its case, the prosecution mainly relied upon certain circumstances which according to the prosecution clearly indicated that it was the appellant (A-1) who had committed the murder. The trial Court believed the evidence partly and held that Rajeshwari died a homicidal

death and that she was seen in the house of the appellant. on 30.10.89 at about 4.00 p.m. It did not believe the evidence regarding recovery of the dead body, the ornaments and clothes of the deceased from the house of the appellant. It was of the view that time mentioned in the recovery mahazar created some suspicion regarding its correctness and there was also inconsistency between the evidence of P.Ws. 1, 2 and 3 on one hand and the evidence of P.W. 6 on the other as regards the manner in which those articles were seized from the house of the appellant. It then held that the evidence was -insufficient to lead to the only conclusion that the appellant and her husband were guilty of murder and the other offences alleged to have been committed by them. Taking this view the trial Court acquitted them. The State feeling aggrieved thereby filed an appeal before the High Court. After reappreciating the evidence the High Court held that all the incriminating circumstances have been satisfactorily established and the chain of circumstances was so complete that it was reasonable to conclude that accused No. 1 had committed the murder of Rajeshwari. As it did not find sufficient evidence against the husband of the appellant, his acquittal was maintained. It convicted the appellant (A-1) under Sections 302, 392 and 201 IPC. The appellant has, therefore, filed this appeal challenging her conviction and also the order of sentence passed against her.

- 3 - We have carefully gone through the evidence led by the prosecution and also the reasons given by the trial

Court and also by the High Court. We find that the High Court was right in reversing the findings of the trial Court regarding discovery of the dead body and some articles belonging to the deceased from the house of the appellant. We find that High Court has given good reasons for reversing the order of acquittal of the appellant. The prosecution had led evidence of P.Ws. 9, 11 and 22 to prove that on 30.10.89 at about 4.00 p.m. the deceased had gone to the house of the appellant. P.W. 9 has stated before the Court that she had seen Rajeshwari going towards the house of accused No. 1 and she had inquired from her as to where she was going, she had replied that she was going to the house of the appellant. P.W. 11 had also seen her passing by her house and going towards the house of the appellant. P.W. 22 had not only seen her going towards the house of appellant but had also seen her entering her house. This evidence was believed by the trial Court and it has also been believed by the High Court. The evidence of these three witnesses clearly establishes that the deceased had gone to the house of the appellant at about 4.00 p.m. on the date of the incidence and she had many ornaments on her person at that time.

The evidence of P.Ws. 2 and 3 further proves that at about 4.30 p.m. they had seen the deceased sitting in the

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house of the appellant. P.W. 2 while going to the house of his uncle which was just opposite the house of the appellant had seen the deceased sitting in the appellant's house. P.W. 2 who is an Advocate and also a neighbour of the appellant, had seen Rajeshwari sitting in the house of the appellant talking with her. The evidence of these two witnesses was not properly appreciated by the trial Court. The High Court has rightly held that their evidence is available and trustworthy.

P.W. 4 had good relations with the appellant. She has stated in her evidence that on the date of the incidence at about 5.00 or 5.15 p.m. the appellant had come to her house along with her minor daughter and requested her to keep her minor daughter for some time as she wanted to go to bus stand to see off one relative. The appellant, did not return till 7.15 p.m.. The appellant's daughter wanted to go back to her house and as she was afraid of going back alone she had gone with her. She had also taken her cousin P.W. 20 with her. They found the appellant's house closed but the daughter of the appellant peeped through the window and told her that her mother was inside. She again knocked the door and after sometime the appellant had opened the door. Very strangely the appellant allowed only her daughter to enter the house, asked her to wait and closed the door. She was allowed to enter the house after about five minutes. P.W. 4 and P.W. 20

,. 5 - had remained in the house for some time and during that period P.W. 20 had gone inside the bed room along with the appellant's daughter in search of a ball for playing. The evidence of P.W. 20 is that when he was searching for a ball he noticed a leg of some person lying below a cot. He tried to find out what it was and then saw

one dead body covered with a gunny bag. He also deposed that while returning to their house he had told that fact to P.W. 4. P.W. 4 has supported P.W. 20 on this point. The evidence of these two witnesses was challenged as unbelievable by the 'learned counsel for the appellant. But they had no reason to falsely involve the appellant. On the contrary P.W. 4 was on good terms with the appellant. Their evidence appears to be true and in our opinion, the High Court was right in placing reliance upon it and in holding that it establishes the circumstance that at about 7.30 p.m. P.W. 20 had noticed a dead body lying below a cot in the bed room of the appellant.

The prosecution evidence further establishes that the deceased after going to the house of the appellant was found missing. The evidence of her husband is that when his wife did not return till about 8.30 p.m. he became suspicious and went in search of her. He had also gone to the house of Geetha (the appellant) and inquired if his wife had come there. Geetha told him that the deceased had not come to her house. After some time he lodged a report with the police.

- 5 - The prosecution also led evidence to prove that on the next day the husband of the deceased was again informed by P.W. 2 and P.W. 3 that on the previous day they had in fact seen the deceased in the house of the appellant and therefore the husband of the deceased had gone to the police station and informed the police about the same. On the basis of his statement and the suspicion the police took the appellant to the police station and there she was interrogated. She then expressed her desire to make a statement. Therefore, two panch witnesses were called and in their presence the appellant made a statement that the dead body, some ornaments and clothes of the deceased were in her house and that she would point them out. The investigating Officer along with panch witness and P.W. 3 (a neighbour and an advocate) went to the house of the appellant and in their presence the appellant had recovered the dead body, some ornaments, a wrist watch and clothes of the deceased. This evidence regarding discovery of the dead body was disbelieved by the trial Court on the ground that according to the panchnama, the disclosure statement was made at 10.15 p.m. and recording of it could not have lasted till 11.15 p.m. Therefore in all probability the panchnama was not prepared correctly and everything was written in the police station itself. As regards the find of ornaments from the house, the trial Court held that evidence

of P.Ws. 1,2 and 3 was not consistent with the evidence of P.W. 6 and therefore also it created a doubt as to whether the ornaments were really found from the house of the appellant. The High Court on reappraisal of the evidence found that the trial Court was not right in taking this view. It also found that there was really no inconsistency in the evidence regarding sealing of the articles seized from the house. Having gone through his evidence we find that the panch witness had not stated that the seal was kept with him. The Investigating Officer has also in clear terms stated that the seal had remained with him and that he had not parted with the same. What was given to P.Ws. 1 and 2 was the impression of the seal so as to enable them later on to compare the seal for the purpose of identification of the articles. The High Court

has also rightly pointed out that there is no inconsistency between the evidence of P.W.s. 1, 2 and 3 on the one hand and P.W. 6 on the other hand. All these witnesses have clearly stated that accused No. 1 (the appellant) had taken out the ornaments from a tin which was kept in the bath room. P.W.s. 1, 2 and 3 have deposed that the appellant had taken the panch witness and the Investigating Officer to the bath room and from a tin which was lying on the ventilator of the bath room, she had taken out the ornaments after removing coir under which they were

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concealed. What P.W. 6 has stated is that the appellant had taken out ornaments from that tin. He did not give further details. For that reason only the evidence of P.W.s. 1, 2 and 3 cannot be regarded as inconsistent with the evidence of P.W. 6. Therefore, the evidence of these witnesses including the evidence of P.W. 3 who is an Advocate, a neighbour establishes beyond doubt that the dead body and some articles belonging to the deceased were found from the house of the appellant.

When all these incriminating circumstances were put to the appellant in her examination u/s 313 Cr.P.C. she merely stated that they were false and failed to give any other explanation. The prosecution evidence which has been found reliable proves that the answers given by the appellant in her 313 statement were really false. The appellant did not explain how the dead body and articles belonging to the deceased were found from her house. She denied that they were found from her house. This being the case of circumstantial evidence, this false denial assumes importance as it would

supply a missing link in the chain of circumstances.

In our opinion, the High Court was right in holding that all the incriminating circumstances were established beyond doubt and they were sufficient to come to the

conclusion that it was the appellant who had committed the murder of the deceased. The appeal is, therefore dismissed.