

PETITIONER:
RANDHIR BASIL

Vs.

RESPONDENT:
STATE OF WEST BENGAL

DATE OF JUDGMENT: 07/02/2000

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

JUDGMENT:

J U D G M E N T
G.T. NANAVATT.J.

i. . The appellant and one Krtshnanendu Jana were tried for committing murders of Subhash Chandra Pal, his wife Sulekha Pal, father Davendra Mohan Pal and mother Latika Pal In the Court of Sessions Judge, Barasat, North 24 Parganas In Sessions Case No. 4(5) of 1993. The learned trial Judge held that the appellant committed the murders and Krishnanendu aided and abetted the appellant in committing the offence. He accordingly convicted the appellant under Sections 302 read with 120-B and 201 I.P.C. He convicted Krishnanendu under Sections 302 read with 109 I.P.C. He imposed death sentence on both of them.

2. Challenging their conviction and sentence the appellant and Krishnanencu filed separate appeals in the Calcutta High Court. The learned, trial Judge also made a reference to the High Court for confirmation of the death sentence. The appeals and the reference were heard together and were disposed of by a common judgment. The High Court confirmed the conviction and sentence of the appellant but gave benefit of 'doubt' to Krishnanendu and acquitted him. As his conviction and sentence have been confirmed the appellant has filed this appeal challenging the same.

3. The prosecution version, as held and proved by the evidence of P.W.2 Sudipa, was as under:

(a) The family of Subhash Chandra Pal (deceased) consisted of his parents, wife and the only daughter Sudipa. They were economically well-off. Subhash Chandra Pal wanted to give good education to his daughter Sudipa and, therefore, used to engage private tutors also since Sudipa was in class VI In 1988, when Sudipa was in class IX, her father engaged the appellant as a private tutor to teach her certain subjects as he was residing hereby. Initially Sudipa used to go to his house, but after

sometime the appellant, with the consent of Sudipa's parents, started teaching her by going to her house every evening.

(b) Sudipa was often ill-treated by her mother as she believed that Sudipa was responsible for all her

physical sufferings which had started after her birth. She was not allowing her to mix with boys and girls with the result that she did not have any friend. She was also at times physically assaulted by her mother. Sudipa used to make complaints about the ill-treatment by her mother to the appellant. The appellant used to listen to her complaints and console her and thereby he had won the confidence of Sudipa. Sudipa also started believing that the appellant was her real well wisher.

(c) As the relationship of Sudipa and appellant became more and more close the appellant started touching her- body. He used to tell her stories -which could influence her mind and also arouse romantic feeling in her. By the middle of 1990 they started moving out alone after remaining absent from their respective schools,

(d) On 24.9.1990 the appellant had a headache when he was in the house of Sudipa, he had lied down on a sofa and Sudipa had rubbed Anrritanjan balm on her head. This was seen by her mother. After the appellant had left Sudipa's mother had beaten her for that reason. On two subsequent occasions also her mother had noticed the appellant placing his hands on the back of Sudipa and because of that she was beaten by her mother. All these incidents used to be narrated by Sudipa to the appellant. After hearing the last incident in September, 1990 the appellant had told Sudipa that her mother really deserved to be taken to a hill and thrown down from the hill top.

(Q) In November, 1990 her other teacher Ashutosh Chakraborty was discontinued. Believing that her father had done so at the instance of her mother, Sudipa became very agitated and complained about it to the appellant. The appellant took this opportunity to poison her mind by telling her that her mother was not eager to see improvement in her studies and to make her life a success and, therefore. If she wanted to come up in life she should remove her from this world.

(r) During the latter half of 1990 the appellant had also started telling her about his financial difficulties and with her help he obtained a loan of Rs. 6,000/- from her father. When it was not possible for her to get money from her father she used to give him her ornaments like chain, ring etc. without the knowledge of her parents. On one occasion she removed cash from the house and gave it to the appellant. On another occasion she gave Indira Vikas Patra worth Rs. 5,000/- Thus towards the end of 1990 Sudipa was under complete influence of the appellant and she had started believing that appellant was the only true friend interested in her welfare.

(g) Again when her mother told Sudipa not to appear in the 1991 examination and when Sudipa informed the appellant about it, the appellant had told her that if she really wanted to remain happy in life she should remove her from the world. When she had enquired as to how that can be done the appellant had told her to mix 50 tablets of Compose with the medicine which her mother was taking every day. Initially, she agreed to that suggestion but could not muster enough courage to do so. In the beginning of January, 1991 the appellant tried to persuade Sudipa to give some poison to her mother to get rid of

her. On 18.1.1991 the appellant's wife w

JUDIS