

CASE NO.:
Appeal (civil) 1419 of 2003

PETITIONER:
Hari Badan Rai & Ors.

RESPONDENT:
State of Bihar

DATE OF JUDGMENT: 08/12/2004

BENCH:
K.G. BALAKRISHNAN & Dr. AR. LAKSHMANAN

JUDGMENT:
J U D G M E N T

K.G. Balakrishnan, J.

Seven accused persons were tried by the 6th Additional District and Sessions Judge, Chapra in Bihar for the offences punishable under Section 302 and Section 201 read with Section 34 IPC. All of them were found guilty and were sentenced to undergo imprisonment for life for the offence under Section 302 read with Section 34 IPC and for the offence under Section 201 each of them was sentenced to undergo imprisonment for three years.

All the seven accused jointly filed an appeal before the High Court. During the pendency of the appeal, A-1 Dublal Rai died and the High Court by the impugned Judgment confirmed the conviction and sentence of all the appellants. The Judgment of the Division Bench is challenged before us.

The prosecution case is that on 29.12.1986 at about 7.00 a.m. deceased Ram Krishna Singh along with his relatives and co-villagers had gone to Dariyaoganj Ghat to sprinkle milk on the ashes at the funeral place of his mother who had died on the previous day. After completing these rituals, deceased Ram Krishna Singh was coming back with Uma Singh, Birendra Singh and Kapil Singh. The first informant and others remained there for few minutes to take a bath in the river. When Ram Krishna Singh and others reached in front of the house of Sant Lal Rai, A-1 Dublal Rai (since dead) and other accused persons attacked Ram Krishna Singh with various weapons. A-1 Dublal Rai exhorted other accused persons to kill Ram Krishna Singh. A-2 Hari Badan Rai and A-3 Parma Rai gave bhala blows on the right chest and left abdomen of deceased Ram Krishna Singh. Ram Krishna Singh fell in the ditch, and accused persons continued to cause various injuries on him. The persons who were with deceased Ram Krishna Singh were threatened by the accused and they could not save Ram Krishna Singh. The accused then brought a bamboo raft and the dead body of Ram Krishna Singh was tied over the bamboo raft. Some of the villagers came there but the assailants chased them away and the body of Ram Krishna Singh was taken to the river. They took him on a boat and rowed the boat towards south east and threw the body of Ram Krishna Singh in the river. The first informant, the son of deceased Ram Krishna Singh went to the police station and the case was registered on the same day. On 4-1-1987, during the course of the investigation, the decomposed head and some bones were recovered from the river at village Bhabangawan and after investigation, a final report was filed.

The prosecution examined 17 witnesses. PW 5, 7 and 8 are eye-witnesses. To prove that the skull and other bones recovered by the police were that of deceased Ram Krishna Singh, PW 3 Nitya Nand, PW 4 Raj Ballabh Singh, PW 6 Raghubansh Singh, PW 7 Kapil Singh and PW 8 Ajay Kumar Singh were examined. PW 6 Raghubansh Singh deposed that after the murder, he carried out a search for the dead body and on 4.1.1987, he came to know that the dead body was lying in the river at Bhabangawa. He went there at 10.00 AM and met the Mukhiya of the village and others. He also deposed that the head portion of the dead body was found tied in a cloth and it was in his presence that the cloth bundle was opened and

he found that the head was that of Ram Krishna Singh. He also deposed that it was in a highly decomposed state and that after 10-15 minutes, the flesh started disintegrating. PW 11, the Investigation Officer also supported the evidence of PW 6. The dead body was identified by PW 3 Nitya Nand, PW 4 Raj Ballabh Singh, PW 7 Kapil Singh and PW 8 Ajay Kumar Singh and inquest of the dead body was held at the Sadar Hospital, Chapra. These witnesses clearly deposed that they could identify the head portion as that of Ram Krishna Singh.

PW 10 Dr. B.N. Mishra, conducted the post-mortem examination. It is important to note that certain marks of injuries were found on the remnants of the dead body. Only some of the bones could be recovered and were available for post-mortem examination and PW 15 Dr. N.K. Jha, Professor & Head of the Department of Anatomy gave an opinion that the bones were of a male aged above 45 years. There is clear and convincing evidence of PW 5, PW 7 Kapil Singh and PW 8 Ajay Kumar Singh to prove the motive for the crime. The Trial Court as well as the High Court placed reliance on evidence of these witnesses and as regards the motive, PW 8 Ajay Kumar Singh deposed that one Lok Nath Rai, the father of A-2 Hari Badan Rai and A-5 Gyan Chand Rai was caught and produced before Ram Krishna Singh alleging that he had committed theft of cattle and deceased Ram Krishna Singh said that Lok Nath Rai be produced before the police, but on the way to the police station, he died. The appellants believed that he must have been done to death at the instance of Ram Krishna Singh. The evidence of PW 5, PW 7 and PW 8 have been critically examined and analysed by the High Court. We do not find any flaw in the appreciation of the evidence of these witnesses. The investigation was also conducted properly and the learned Counsel for the appellant could not point out any infirmity. We do not find any reason to disagree with the finding of the Division Bench of the High Court.

The appeal is accordingly dismissed.