



IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT
BILASPUR (C.G.)

Criminal Appeal No. 451 of 2011

APELLANT/

In Jail

: Lalman Lohar, aged about 27 years, S/o
Jhamnath Lohar, occupation-Labourer,
R/o Village Jurkela, Tahsil Jashpur, Distt.

P.R. No.....

Presented by Shri.....

Dated.....

3537/11

C.P. Kurre

02.06.11

Jashpur (C.G.)

VERSUS

RESPONDENT

: State of Chhattisgarh Through P.S.
Jashpur, Distt. Jashpur (C.G.)

CRIMINAL APPEAL U/S. 374 (2) OF Cr.P.C.

AGAINST THE JUDGEMENT AND CONVICTION DATED

06.08.2009 PASSED IN SESSION TRIAL NO. 81/2008 BY

SESSION JUDGE SESSION DIVISION JASHPUR (C.G.)



HIGH COURT OF CHHATTISGARH AT BILASPUR

(25)

DIVISION BENCH:

Hon'ble Shri T.P. Sharma &

Hon'ble Shri C.B. Bajpai, JJ

Criminal Appeal No.451/2011

APPELLANT

(In jail)

Lalman Lohar

Vs

RESPONDENT

State of Chhattisgarh

Present:

Mr. G.P. Kurre, Advocate for the appellant.

Mr. Mahesh Mishra, Panel Lawyer for the State.

J U D G M E N T

(30.04.2014)

T.P. Sharma, J

1. Challenge in this appeal is to the judgment of conviction and order of sentence dated 06.08.2009 passed by the Sessions Judge, Sessions Block Jashpur in S.T. No.81/08 whereby & whereunder the Sessions Judge after holding the appellant guilty for causing homicidal death of deceased Ludruram, amounting to murder, convicted him under Section 302 of the Indian Penal Code (for short 'IPC') and sentenced to undergo R.I. for life & fine of Rs.100/-.
2. Conviction is impugned on the ground that without there being any iota of evidence the trial Court has convicted & sentenced the appellant as aforementioned and thereby committed illegality.
3. As per case of the prosecution, on account of dispute relating to marriage the appellant took unfortunate deceased Ludruram with him to his house on 22.6.2007 at about 9.30 p.m., caused fatal injuries over his head by axe and committed his homicidal death and thereafter fled from the spot. Incident was witnessed by Manobai (PW-8), wife of the deceased, who informed the incident to Ramnath (PW-2) who went to the police out-post Lodaam and lodged FIR vide Ex.P-3. The investigating officer left for scene of occurrence and after summoning the witnesses prepared inquest over the dead body of the deceased

vide Ex.P-5. Spot map was prepared vide Ex.P-4. Blood stained soil and plain soil was recovered vide Ex.P-6. Axe was seized from Chhatkuraam vide Ex.P-7. Blood stained clothing of the appellant was seized vide Ex.P-18. Dead body was sent for autopsy to the Primary Health Centre, Lodaan where Dr. Pramila Toppo (PW-6) conducted autopsy vide Ex.P-9 and noticed following injuries:-

- Incised wound on parietal bone in the line of sagittal suture of scalp length of which was 10 cm.
- Incised wound on the left side of cheek of temporal bone
- Incised wound on the right side of head including of temporal & parietal bone.
- Incised wound on the right side of forehead near hair line.
- Incised wound on the middle of forehead
- Incised wound near glabella of 2cm x skin deep.

Cause of death was haemorrhagic shock and death was homicidal in nature. Finally, FIR was recorded vide Ex.P-11 and Merg vide Ex.P-12 & P-13. Statements of witnesses were recorded under Section 161 of Cr.P.C.

4. After completion of investigation, charge sheet was filed before the Chief Judicial Magistrate, Jashpur who, in turn, committed the case to the Court of Sessions Judge, Jashpur. In order to prove guilt of the appellant, the prosecution had examined as many as nine witnesses. Statement of the appellant was recorded under Section 313 of Cr.P.C. where he denied the circumstances appearing against him in the prosecution case and pleaded innocence & false implication.
5. The trial Court, after providing opportunity of hearing to the parties, convicted and sentenced the appellant as mentioned in paragraph-1 of this judgment.
6. We have heard learned counsel for the parties, perused the impugned judgment and record of the trial Court.
7. Learned counsel for the appellant vehemently argued that conviction is based on the evidence of Manobai (PW-8) but her statement does not inspire confidence and trustworthy. As per her evidence, the appellant

has taken the deceased with him to his house for consuming Hadiya and thereafter on hearing the sound of assault when she reached on the spot she saw that the appellant was running from the spot. This evidence is not sufficient for drawing inference that the appellant has caused homicidal death of the deceased.

8. On the other hand, learned State counsel opposed the appeal and submitted that evidence of Manobai (PW-8) is sufficient to prove the guilt of the appellant and the trial Court has rightly convicted and sentenced the appellant on the basis of evidence adduced on behalf of the appellant.
9. In order to appreciate arguments advanced on behalf of the parties, we have examined the evidence adduced on behalf of the prosecution.
10. In the present case homicidal death of the deceased as a result of fatal injuries found on body of the deceased has not been substantially disputed on behalf of the appellant. Even otherwise, from the evidence of Manobai (PW-8), Dr. Pramila Toppo (PW-6) & autopsy report (Ex.P-9), it is established that death of the deceased was homicidal in nature.
11. As regards the complicity of appellant, conviction is substantially based on the evidence of Manobai (PW-8), wife of deceased. As per her evidence, her husband Ludruram was sleeping in his house, the appellant came to her house and took him for consuming Hadiya and within a few minutes thereafter she heard the sound of assault. She rushed near the house of the appellant and saw that her husband was agonizing and the appellant was running from the spot after causing injuries to her husband. She informed about the incident to other persons of the village and finally report was lodged. The defence has cross-examined this witness at length and she has specifically admitted that her husband had gone with the appellant to his house for consuming hadiya and thereafter she saw the appellant running from the spot. Her evidence inspires confidence and trustworthy and is sufficient for

drawing inference that only the appellant has caused homicidal death, amounting to murder, of the deceased.

12. After appreciating the evidence available on record, the trial Court has convicted & sentenced the appellant under Section 302 of the IPC and on close scrutiny of the evidence, we do not find any illegality or infirmity in the said finding of the trial Court.

13. Consequently, the appeal being without any substance is liable to be and hereby dismissed.

Sd/-
T. P. Sharma
Judge

roshan/-

Sd/-
Chandra Bhushan Bajpai
Judge