

RAM CHRITTAR AND ANR. ETC.

v.

STATE OF UTTAR PRADESH ETC.

APRIL 4, 2007

[S.B. SINHA AND MARKANDEY KATJU, JJ.]

*Penal Code, 1860:*

*s. 302/34 IPC—Two brothers and two others causing death of widow and two daughters of their deceased brother by throwing acid on them—Three accused caught by neighbours at the spot—Acquittal by trial court—High Court convicting two of them and affirming acquittal of remaining two giving them benefit of doubt—Held, though there were no eye witness to the incident, keeping in view the circumstantial evidence supported by medical evidence and there being motive to grab the property of deceased, conviction of two accused by High Court and acquittal of remaining two giving them benefit of doubt needs no interference—Circumstantial evidence.*

Four persons, namely, the two appellants alongwith wife of appellant no. 1 and son of appellant no. 2, were prosecuted for the murders of the widow of appellant's brother and her two young daughters, by throwing acid on them. The trial court acquitted all the four. The High Court convicted the two appellants u/s 302/34 IPC and sentenced them to imprisonment for life, and affirmed the acquittal of the remaining two, giving them benefit of doubt. Appeal No. 329 of 2006 was filed by the two convicted accused and Appeal no. 766 of 2006 was filed by the State against acquittal of other two accused.

Dismissing both the appeals, the Court

**HELD:** It is true there were no eye witness to the incident, but there were as many as four witness, namely PWs 2 to 5, who are the neighbours and who have stated in their evidence that they saw the accused coming out of the house of the victims. Appellant no. 1 had an acid bottle in his hand. These witnesses and other people got hold of accused-appellant nos. 1 and 2 and the wife of appellant no. 1, but the son of appellant no. 2 fled away. The evidence of these four witnesses is consistent. Thus, there is strong circumstantial evidence against the appellants. The medical evidence corroborates the

**A** evidence of these witnesses and there is also the saying declaration of one of the deceased stating that appellant no. 1 had thrown acid on them. In the present case, there was strong motive for the accused to liquidate the deceased to grab the property. On killing them the accused became the immediate beneficiary to the estate left by the husband of the deceased. No enmity of the witnesses with the accused could be proved by the evidence. The High Court held that some minor contradictions will not shake their testimony. There is no reason to disagree with the view taken by the High Court in convicting the two accused appellants and affirming the acquittal of the remaining two accused giving them benefit of doubt.

[Paras 8, 9, 10 and 11] [775-G-H; 776-B-D]

**C** CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 329 of 2006.

From the Judgment and Order dated 14.12.2005 of the High Court of Judicature at Allahabad in Government Appeal No. 2083 of 1981.

**D** WITH

Crl. A. No. 766 of 2006.

S.B. Sanyal, Raj Kumar Gupta, Sheo Kumar Gupta, Bhanu Pratap Gupta and A.N. Bardiyar for the Appellants.

**E** Pramod Swaup, Irshad Ahmad, Ameet Singh, Dr. I.B. Gaur, Piyush Sharma and Neeraj Dutta Gaur for the Respondent.

The Judgment of the Court was delivered by

**F** **MARKANDEY KATJU, J.** 1. These two connected appeals have been filed against the impugned judgment of the Allahabad High Court dated 14.12.2005 in Government Appeal No.2083 of 1981.

2. Heard learned counsel for the parties and perused the record.

**G** 3. The incident in question took place on the night of 28/29th March, 1980 in village Gaayghat, Police Station Kalwari, District Basti. There were four accused in the case. The appellants Ram Charittar and Kishori Lal, who are the brothers of one Ram Chet, are two of the accused. The other co-accused were Ram Kumar son of Kishori Lal and Chandrawati wife of the appellant Ram Charittar. It is alleged that the accused killed Sushila widow of **H** Ram Chet as well as her two young daughters Bindu and Nandini by throwing

acid on them.

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4. The trial court acquitted all the accused by its judgment dated 12.5.1981 but in appeal the High Court convicted the appellants Ram Charittar and Kishori Lal under Section 302/34 IPC, and sentenced them to life imprisonment, but gave the benefit of doubt to the other co-accused Ram Kumar and Chandrawati and thus affirmed their acquittal.

B

5. We have carefully gone through the material on record. It is alleged that the motive for killing Sushila and her children was to grab her property.

6. The prosecution case is that in between the eventful night at about 3 o'clock, cries and shrieks emanating from the house of Sushila attracted her neighbours Bhagwati PW-2, Ram Din PW-3, Mangroo PW-4, Prem Narain PW-5 and several others to the scene. They saw the accused Ram Charittar, Kishori Lal, Ram Kumar and Chandrawati coming out of the house of the deceased which was near their own houses. Ram Charittar had in his hand a bottle of acid. Seeing the witnesses, Ram Charittar dropped the bottle of acid in the verandah of the deceased. The bottle was broken and the acid splashed on the floor. The witnesses succeeded in apprehending the accused Ram Charittar, Kishori Lal and Chandrawati at the spot, but Ram Kumar made good his escape. Ram Charittar applied some acid to his face and some acid fell on the face of his wife accused Chandrawati. In the meantime, Sushila came out with her younger daughter Nandini rolling on the floor and both of them died near her door. Bindu elder daughter of Sushila was also badly burnt with acid. While crying she said that 'Badka Dada' had thrown acid on them. Being badly burnt with acid she was taken to the District Hospital, where she died.

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7. The post mortem report of the deceased shows that there are acid burn injuries on large parts of their bodies including their face, chest, neck, etc. According to the Doctor the death was due to the corrosive acid burns and shock.

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8. Learned counsel for the appellant submitted that there were no eye-witnesses to the incident. It is true that there were no eye-witnesses to the incident but there were as many as four witnesses being Bhagwati PW-2, Ram Din PW-3, Mangroo PW-4, Prem Narain PW-5, who have stated in their evidence that they saw the accused coming out of the house of Sushila. The appellant Ram Charittar had an acid bottle in his hand. These witnesses and other people got hold of Ram Charittar, Kishori Lal and Chandrawati but Ram

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A Kumar fled away.

9. The evidence of these four witnesses is consistent. Thus there is strong circumstantial evidence against the appellants. We see no reason to disbelieve these evidences and hence we agree with the view taken by the High Court. The medical evidence corroborates the evidence of these witnesses and there is also the dying declaration of Bindu the elder daughter of Sushila.

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10. In the present case, there was strong motive for the accused to liquidate the deceased to grab the property. On killing them the accused became the immediate beneficiary to the estate left by the husband of deceased Sushila. No enmity with the accused could be proved by the evidence against the witnesses, and hence we agree with the High Court that some minor contradictions will not shake their testimony. Thus we dismiss the appeal of Ram Charittar and Kishori Lal.

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11. As regards the State's appeal against the acquittal of Ram Kumar and Chandrawati, the High Court has given these accused the benefit of doubt. We see no reason to disagree with the view taken by the High Court.

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12. Thus, there is no force in both these appeals and both are dismissed.

RP.

Appeals dismissed.

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