

NATRAJ CHINNAPPA NAIR

v.

STATE OF MAHARASHTRA
(Criminal Appeal No.1002 of 2008)

JULY 7, 2008

[DR. ARIJIT PASAYAT AND P. SATHASIVAM, JJ.]

Penal Code, 1860 – s.302 – Accused brought by his mother to police station – He stated to SHO that he assaulted his wife in fit of anger and thereafter consumed poison – Conviction by Trial Court under s.302 on basis of circumstantial evidence – Affirmed by High Court – On appeal, held: PW3 who had dropped accused and his wife to their house in his rickshaw narrated about hurling of abuses by accused to his wife – She died as a result of incised injuries caused by a chopper – Recovery of the chopper and a blouse at the instance of accused conclusively established that accused removed the blouse of his wife and thereafter assaulted her with chopper – Evidence – Circumstantial evidence – Appreciation of.

Appellant was brought to the police station by his mother in a taxi, who informed the SHO of the police station that Appellant had consumed poison. The SHO made inquiry from Appellant who purportedly stated that he had assaulted his wife in a fit of anger and then himself consumed poison. He was sent to the hospital. Police officials went to the spot and found wife of the Appellant in an injured condition. She died on way to hospital. The charge sheet was filed under s.302 IPC. The Trial Court found that the case rested on circumstantial evidence and the chain of circumstances was complete and, accordingly convicted Appellant under Section 302 IPC and imposed life imprisonment. High Court affirmed the conviction. Hence the present appeal.

A Dismissing the appeal, the Court

B HELD: The circumstances highlighted by the Trial Court and the High Court to find the accused-Appellant guilty are the evidence of PW3 who had dropped Appellant and his wife to their house in his rickshaw and narrated about hurling of abuses by the Appellant to his wife. After the assault, he consumed poison and was taken to the police station by his mother and thereafter to the hospital where he was treated by doctor. Appellant's wife died as a result of several incised injury on her body which were caused by a chopper. Recovery of the chopper and a blouse at the instance of the accused are other circumstances which conclusively established that the Appellant was in the room and removed the blouse of his wife and thereafter assaulted her with chopper. [Para 5] [88-D,E & F]

D CRIMINAL APPELLATE JURISDICTION : Civil Appeal No. 1002 of 2008

E From the final Judgment and Order dated 15.12.2005 of the High Court of Judicature at Bombay in Criminal Appeal No. 47 of 2005

Shankar Divate (A.C.) for the Appellant.

Ravindra K. Adsure for the Respondent.

The Judgment of the Court was delivered by

F Dr. ARIJIT PASAYAT, J. 1. Leave granted.

G 2. Challenge in this appeal is to the judgment of a Division Bench of the Bombay High Court dismissing the appeal filed by the appellant questioning the correctness of the judgment of a learned Additional Sessions Judge, Greater Mumbai in the SC Case No. 1098 of 1998. He was convicted for offence punishable under Section 302 of the Indian Penal Code, 1860 (in short the 'IPC').

H 3. Prosecution case in a nutshell is as follows:

PSI Balwant Patil was working as a Station House Officer in Tilak Nagar Police Station from 8 AM to 6 PM. At about 4.30 p.m. one taxi halted in front of the police station. A lady named Tulsibai Chinnappa got down from the said taxi and came to the police station and informed the Station House officer Patil that her son Natraj has consumed Tik-20 Poison and he has been brought in the taxi. The Station House Officer rushed towards the taxi. He is alleged to have made inquiry from the person who was said to have consumed Tik 20 poison. The said person purportedly stated before him that he assaulted his wife in a fit of anger and he himself consumed the Tik 20 poison. Nivas Ayyer and Prakash Muthkar were the other two persons sitting in the taxi. The person who was said to have consumed the Tik 20 poison became restless and serious and thus he was sent to Rajawadi Hospital with P.C. No. 5437. PSI Patil along with PI Shirole went to the spot Panchsheel Nagar. Several people were found to have gathered in front of one Kuchha road. They entered the room and found that one woman lying in an injured condition in the room. On inquiry, PSI Patil came to know from one Laxmi Surya the sister of Natraj that the injured woman is the wife of his brother Natraj Nair. The injured woman who was in a serious condition was sent to Rajawadi Hospital. Before her admission in the hospital, she was declared dead by the doctor on duty. PSI Patil filed complaint on behalf of the State against the accused. The offence under Section 302 IPC was registered at Tilak Nagar Police Station at Crime No. 143-98.

PSI Patil drew the inquest panchanama on the dead body of Surya Natraj the dead. Further investigation was carried by PI Shirole. He recorded the statements of the witnesses. On 26.7.1998 he seized the clothes of the accused and drew the panchanama. On 1.8.1998 he seized the chopper and blouse at the instance of the accused Natraj under memorandum discovery panchnama. Accused was arrested on 29.7.1998 when he was discharged from the hospital. The attached properties were sent to the C.A. along with the covering letter under signa-

A ture of the Sr. PI Shirole on 10.8.1998.

Since accused abjured with guilt, eleven witnesses were examined to substantiate the prosecution version. The trial court found that though the case rested on circumstantial evidence and the chain of circumstances was complete and, therefore, he must be punished for offence punishable under Section 302 IPC. Life imprisonment was imposed. Before the High Court the stand taken was that the circumstances highlighted by the prosecution do not make out a case of conviction of the accused. The prosecution on the other hand submitted that the circumstances clearly establish the offence by the accused.

4. In support of the appeal learned counsel for the appellant submitted that having regards to the circumstances of the case, no case for conviction is made out.

5. Learned counsel for the State on the other hand supported the order. Circumstances highlighted by the trial court and the High Court to find the accused guilty are the evidence of Anil Das-PW 3 who had dropped the accused and his wife to their house in his rickshaw and narrated about hurling of abuses by the accused to his wife. After the assault he consumed poison and was taken to the police station by his mother and thereafter to the hospital where he was treated by a doctor. The deceased died as a result of several incised injury on her body which were caused by a chopper. Recovery of the chopper and the blouse at the instance of the accused are other circumstances which conclusively established that the accused was in the room and removed the blouse of his wife and thereafter assaulted her with chopper.

6. In these circumstances, we find no merit in this appeal and the same is accordingly dismissed.

B.B.B.

Appeal dismissed.