

Chandan
v.
The State (Delhi Admn.)

(Criminal Appeal No.788 of 2012)

05 April 2024

[Sudhanshu Dhulia* and Prasanna B. Varale, JJ.]

Issue for Consideration

Matter pertains to effect of lack or absence of motive, when there is testimony of a reliable eye-witness.

Headnotes

Penal Code, 1860 – s. 302 – Murder – Prosecution case that accused stabbed the victim multiple times with the knife he was carrying, resulting in the death of the victim – Victim’s sister-in-law witnessed the incident from a short distance – Conviction and sentence u/s. 302 by the courts below – Interference with:

Held: Not called for – Blood of the deceased clearly matched with the blood found on the knife recovered from the accused, together with the ocular evidence of a reliable eye-witness of the incident – Murder, the arrest of the accused and the recovery of the knife from him happened in quick succession, with a very little time gap – Entire evidence put together by the prosecution establishes the guilt of the accused beyond a reasonable doubt – Submission that the prosecution not been able to establish any motive on the accused for committing this dastardly act is true, but since in the instant case there is nothing to discredit the eye-witness, the motive itself is of little relevance – Lack or absence of motive is inconsequential when direct evidence establishes the crime. [Paras 4-6]

Case Law Cited

Shivaji Genu Mohite v. State of Maharashtra **AIR (1973) SC 55**; *Bikau Pandey v. State of Bihar* **[2003] Supp. 6 SCR 201 : (2003) 12 SCC 616**; *Rajagopal v. Muthupandi* **[2017] 2 SCR 84 : (2017) 11 SCC 120**; *Yogesh Singh v. Mahabeer Singh* **[2016] 7 SCR 713 : (2017) 11 SCC 195 – referred to.**

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Penal Code, 1860.

List of Keywords

Lack of or absence of motive; Testimony of a reliable eye-witness; Murder; Ocular evidence; Recovery of knife.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No.788 of 2012

From the Judgment and Order dated 02.07.2010 of the High Court of Delhi at New Delhi in CRLA No. 130 of 1997

Appearances for Parties

Ms. Richa Kapoor, Deepak Singh, Advs. for the Appellant.

Mrs. Aishwariya Bhati, A.S.G., Mukesh Kumar Maroria, Mrs. Shivika Mehra, Mrs. Rajeshwari Shankar, Alankar Gupta, Akshaja Singh, Advs. for the Respondent

Judgment / Order of the Supreme Court**Judgment**

Sudhanshu Dhulia, J.

1. The appellant before this Court was convicted under Section 302 of IPC. The conviction and sentence have been upheld by the High Court in appeal. As per the prosecution it is a case of a daylight murder with a reliable eye-witness.
2. Brief facts of the case are that on 28.05.1993 at about 8:15 pm while PW-2, who was sister-in-law of the deceased was returning from Ram Bazar, the deceased and the accused were walking a few steps ahead of her. After a few minutes she saw the two, i.e. the deceased Rakesh and Chandan, grappling with each other and then she saw the accused stabbing the deceased multiple times with the knife he was carrying. The deceased fell on the ground and the accused/appellant fled away. The deceased, Rakesh, was first taken to the adjacent clinic which was a private clinic of Dr. Kalra in the vicinity, where they were advised to take him to Hindu Rao hospital which was the nearest hospital where an emergency treatment could

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be given to the deceased. By the time the deceased reached the hospital he was declared dead. Post-mortem was conducted on the deceased the next day i.e. on 29.05.1993, and the following ante-mortem injuries were detected:

1. *An incised stab wound 22 cm x 2 cm x? places vertically on the left clavicular area. (cellar bone region).*
 2. *An incised wound 2 cm x 1 cm x? vertically present just below an moidal to the left nipple.*
 3. *An incised wound 3 cm. x 1.5 cm x? transversally places on the middle on left arm over anterolateral surface. The medial end was actually cut.*
 4. *An incised wound 1.5 cm. x. 0.8 cm. x? transversally placed on the back of let arm upper part. The posterior end of the injury was actually cut.*
- Injury No. 3 and 4 were found to be communicating with each other.*
5. *An incised wound 2.5 cm x 1.5 x? vertically placed on the left lateral chest wall on the seventhribs, lower and was acute.*
 6. *An incised wound 20. cm. x · 1.5 cm. x? sprindle shape on the top of let shoulder*
 7. *An incised wound 2 cm. x 0.5 cm. x muscle deep on the left scapular area.*
 8. *An incised wound 2 cm. x 1 cm. x? placed vertically on the left renal angle.”*

It was further observed:

“Injury no. 1 on the chest was only muscle deep. So was injury No. 2 Injury No. 5 had entered left chest cavity through 7th intercostals space and was directed upwards and medially where it involved pericardium and tip of the left ventricle of the hear...”

Injury no. 5 was sufficient the ordinary course of nature to cause death. Death was due to shock and haemorrhage consequent to injuries...

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In my opinion, injuries found on the body of deceased Rakesh were possible with this weapon. I had also made sketch of the said weapon along with P.M. report which is Ex.PW9/A which is signed me and is correct.

The weapon knife Ex.PI is taken out. The weapon Ex. PI shown to me in the court is the name with was produced before me police in sealed parcel at the time P.M. and the injury could be caused with Ex.PI.”

An FIR was registered on the date of incident itself i.e., 28.05.1993, at Police Station, Kashmere Gate, Delhi on the statement of PW-2, the complainant, where she narrated the incident as already stated above. The police after investigation filed the chargesheet against the sole accused, Chandan, under Section 302 IPC. After committal of the case to the Sessions, 18 witnesses were examined by the prosecution. The star witness of the prosecution was PW-2, who was the eye-witness. She was put to a lengthy cross-examination by the defence but nothing has come out which may discredit this witness. This witness in her testimony narrates the entire sequence of events as to how the accused stabbed the deceased to death and how she watched from a short distance the act being committed before her, and how all this happened in quick time.

3. The accused, it must be stated here, was caught the same day in the vicinity itself along with the knife, which was the weapon, used in the commission of the crime. The forensic report and other evidences show that this was the knife which was recovered from the possession of the sole accused and was used in the commission of the crime. The blood of the deceased was found to be matching with the blood found on the knife, which was recovered from the accused/appellant. Brahm Pal Singh (PW-12) Head Constable is a witness to this recovery. He states that upon receiving information of stabbing, he along with constable Mahabir found the accused at Hamilton Road. They saw the accused coming out from the side of 'ganda Nala', carrying a blood stained knife and wearing a blood stained shirt. The accused was then apprehended by constable Brahm Pal and the knife and shirt were accordingly recovered.
4. There were certain doubts raised on the manner of recovery of the knife from the accused, but nothing moves on this aspect alone, more particularly, in view of the fact that the blood of the deceased clearly

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matches with the blood which was found on the knife, together with the ocular evidence in the form of an eyewitness (PW-2), who is a reliable eye-witness of the incident. We can also not lose sight of the fact that the murder, the arrest of the accused and the recovery of the knife from him happened in quick succession, with a very little time gap. The entire evidence put together by the prosecution does establish the guilt of the accused beyond a reasonable doubt. Both the Trial Court as well as the Appellate Court have rightly held that the prosecution has proved their case as such.

5. The argument of the defence that the prosecution has not been able to establish any motive on the accused for committing this dastardly act is in fact true, but since this is a case of eye-witness where there is nothing to discredit the eye-witness, the motive itself is of little relevance. It would be necessary to mention some of the leading cases on this aspect which are as under:

In ***Shivaji Genu Mohite v. State of Maharashtra, AIR 1973 SC 55***, it was held that it is a well-settled principle in criminal jurisprudence that when ocular testimony inspires the confidence of the court, the prosecution is not required to establish motive. Mere absence of motive would not impinge on the testimony of a reliable eye-witness. Motive is an important factor for consideration in a case of circumstantial evidence. But when there is direct eye witness, motive is not significant. This is what was held:

“In case the prosecution is not able to discover an impelling motive, that could not reflect upon the credibility of a witness proved to be a reliable eye-witness. Evidence as to motive would, no doubt, go a long way in cases wholly dependent on circumstantial evidence. Such evidence would form one of the links in the chain of circumstantial evidence in such a case. But that would not be so in cases where there are eye-witnesses of credibility, though even in such cases if a motive is properly proved, such proof would strengthen the prosecution case and fortify the court in its ultimate conclusion. But that does not mean that if motive is not established, the evidence of an eye-witness is rendered untrustworthy”

The principle that the lack or absence of motive is inconsequential when direct evidence establishes the crime has been reiterated by

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this Court in [*Bikau Pandey v. State of Bihar*, \(2003\) 12 SCC 616](#); [*Rajagopal v. Muthupandi*, \(2017\) 11 SCC 120](#); [*Yogesh Singh v. Mahabeer Singh*, \(2017\) 11 SCC 195](#).

6. In view of above, we see no reason to interfere with the orders of the Trial Court and that of the High Court, accordingly the appeal is dismissed. Interim order dated 09.05.2012 granting bail to the appellant stands vacated. Appellant, who is presently on bail, is directed to surrender before the Trial Court within a period of four weeks from today. A copy of this judgment shall be sent to the Trial Court to ensure that the appellant undergoes the remaining part of his sentence.

Headnotes prepared by: Nidhi Jain

Result of the case:
Appeal dismissed.