

State Vs. Sandeep @ Raju @ Ors.

21.05.2018

Present : Sh. V.K. Negi, Ld Addl P.P for the state.

Accused Sandeep @ Raju is produced from JC.

Accused Lokesh Goyal is present on bail.

Sh. Ritesh Bahri, Ld. Counsel for accused Lokesh Goyal.

(Fresh vakalatnama is filed on behalf of accused Lokesh Goyal. Same is taken on record.)

Sh. Uday Pratap Singh, Ld. Counsel for accused Sandeep @ Raju.

Inspector Subhash Chander, PS Bawana along with IO ASI Narinder.

1. Brief facts are :

On 04.04.2017 at 8:30 a.m., a PCR call regarding "Sector-1, Bawana Industrial Area, Factory No. L-36, near Bhagat Singh Chowk, Ek Ladke ne Faasi Laga li hai" was received at PS Bawana vide DD No. 7-A and the same was marked to ASI Narender Kumar for further necessary action who along with staff reached the spot and found a dead body lying in a hall on the first floor of the above factory, whose name was revealed as Pappu S/o. Late Shobran Singh R/o. Village Dhana Purva, PS Thathia, Distt. Kannoj, U.P. A person namely Raju S/o. Late Sh. Shobran Singh living with deceased claimed himself as the brother of the deceased.

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In the meantime, the factory owner Lokesh Kumar S/o. Satish Kumar came at the spot and also introduced Raju as real brother of the deceased Pappu. Local enquiry was conducted with the other workers of the factory and other nearby persons found present at that time regarding the identity of Raju and Pappu and also about their relations and it came to knowledge that both are real brothers and lived in the top floor of the factory mentioned above.

The spot was got inspected as well as photographed by the crime team and CCTV footage of CCTV installed at stairs was seen. The statement of the factory owner and Raju were got recorded about the incident (death of Pappu) and local enquiry was conducted. From the CCTV footage, it was found that a scuffle took place between Raju, his wife and Pappu in the night of 03.04.2017 at about 11:20:24 PM on some issues but thereafter Raju and his wife went to the top floor. Pappu (deceased) himself is seen carrying a wooden ladder at 12:52:38 AM on 04.04.2017 from top floor to the room which he was found hanging by Raju at 6:00 AM. Raju came down at about 6:00 PM on 04.04.2017 and noticed the hanging of Pappu. The PM of the deceased was got conducted on 04.04.2014 at Dr. BSA Hospital, Rohini, Delhi vide PM No. 232/17 and the event of the CCTV footage as well as facts revealed during local enquiry were brought in the notice of autopsy surgeon before getting the PM of deceased conducted. After PM, the dead body of

deceased was handed over to his brother through handing over memo. The PM report was collected on 12.06.2017 and put in file for concluding the proceedings u/s 174 CrPC as there was no suspicion of any offence arose after going through the PM report.

On 24.06.2017, one Ram Narayan S/o. Shri Ram R/o. Village Dhana Purva, PS Thathia, Distt. Kannoj, U.P. approached PS Bawana and claimed that the deceased Pappu was his real son and his real name was Shiv Nath and the person namely Raju was not his real brother but a resident of his Village Dhana Purva, PS Thathia, Distt. Kannoj. U.P. Thereafter, a subsequent opinion regarding the cause of death was obtained from doctors and doctor opined the cause of death "hanging".

2. Today the matter is fixed for consideration on charge(s). However, from the perusal of the post mortem report of the deceased Pappu S/o. Shobhram Singh, some glaring discrepancies have been observed in the same, which raises grave doubt about the cause / manner of death of the said person :

Firstly, as per the post mortem report, the ligature material which was found wrapped inside the neck was a multi coloured towel. However, despite that the IO has not obtained any subsequent opinion, whether the death of the said deceased could be caused by the said multi coloured towel / ligature material.

Secondly, at the time of examination of body of deceased during the post mortem blackish and sand stains were present on his body at several places, but nothing has been enumerated in the post mortem report, how these blackish and sand stains were found on all over the body of the deceased, which is a glaring omission.

Thirdly, as per the post mortem report, width of the ligature mark in the midline over front of neck was 2 cm, thereby implying that the ligature mark was consistent and uniform of 2 cm in width. However, it is not clear that if the multi coloured towel / angocha had been used for hanging, how the ligature mark of 2 cm consistent in diameter can be found in the post mortem of the deceased, which can only be possible in case, cable or rope is used as ligature material.

3. Further, as per the post mortem report, multiple injuries were found all over the body of the deceased. However, no report has been given by the Autopsy Surgeon, as to whether such injuries which have been enumerated at **VIII (External examination)** were cumulatively independently sufficient to cause the death of the deceased Pappu i.e. to say no opinion has been given, whether the deceased had been killed first and then hanged and whether the probability of the same cannot be ruled out after conducting the post mortem.

4. Further, the first opinion on the post mortem report dated 12.06.2017 was given by Dr. Narayan Dabas MD (Forensic Medicine), wherein he had opined as under :

“Death is due to asphyxia secondary to constriction of neck structures as result of hanging. The ligature mark and injuries were antemortem, fresh in duration and could be caused due to blunt force trauma / blunt surface impact prior to the death.”

It is not clear once that opinion had been given by Dr. Narayan Dabas, who was also MD(Forensic Medicine) then why subsequent opinion dated 10.07.2017 was taken from Dr. Vijay Dhankar, MD (Forensic Medicine) Department of Forensic Medicine, BSA Hospital, in which he had opined as under :

“The overall pattern of the injuries (abrasions / abraded contusions) along with the history of the case indicate that the case is of suicidal hanging. The injuries described in the PM report are likely to have been caused in the scuffle before death.”

5. From perusal of the report / opinion of Dr. Vijay Dhankar, a strange addition has crept in the post mortem report with regard to cause of death as the word '***the case of suicidal hanging***' was missing in the report of Dr. Narayan Dabas dated 04.04.2017, which raises grave suspicion regarding the said subsequent opinion by Dr. Vijay Dhankar. It is not clear in what circumstances, the IO obtained the subsequent opinion from Dr. Vijay Dhankar, bypassing Dr. Narayan Dabas. It is also not clear why subsequent opinion was obtained at all, except to the fact whether the ligature mark or hanging was possible in the present case with the multi colour towel.

6. Further, it is not clear, why the CCTV footage was shown to the said Autopsy Surgeon, when it is not the business of the said Surgeon to have a look at the same, he is only entitled to go through the inquest papers and the history of the case and the post mortem report of the same and it does not fall in his domain to look into the said CCTV footage, which is a piece of evidence, which can be used by the prosecution at the time of trial, as he has to give his report on the basis of the injuries found in the post mortem report and after observation of all the findings given in the post mortem report.

7. In view of these glaring discrepancies in the post mortem report, which raises grave suspicion / doubt regarding the cause / manner of death, I consider it expedient in the interest of justice that the Autopsy Surgeon Dr. Narayan Dabas be called as a court witness for certain clarification(s) on the next date of hearing.

8. Further, show cause notice be issued to the DCP, Rohini to appear in person along with SHO and ACP concerned, to show cause with direction to appear in person on the next date of hearing, why no proper supervision during the investigations has been done in the present case, which resulted in grave miscarriage of justice. As there are various suspicious circumstances leading to the death of the deceased Pappu S/o. Shobhram Singh, which required thorough investigation by a senior police official of at least the rank of Inspector and instead the present investigation has been done by a police official of the rank of ASI. What is most galling is the fact that in the present case, dead body of the deceased was claimed by the accused Sandeep @ Raju itself and he also cremated him at the back of his parents and relatives. What is further most painful is the fact that the FIR in the present case was only lodged on the directions of the Court u/S. 156(3) CrPC of Ld. MM dated 26.07.2017.

9. Further, the dead body was handed over to the accused persons of this case vide handing over memo dated 04.04.2017 and dead body was also identified as per the statement of both the accused persons dated 04.04.2017.

10. In these peculiar facts and circumstances, in view of the colossal blunder committed by the IO, the above Senior police Officers are directed as above to show cause why investigations of such a serious case have been handed over to one ASI, who is not at all equipped to conduct such serious and intricate investigations.

11. Show cause notice be also issued to the IO, as to why action be not taken against him, as per law for carrying out the investigations in most cavalier / careless manner, as pointed above.

12. Copy of this order be sent to the DCP, Rohini for taking appropriate action against the IO.

Copy of this order be also sent to Commissioner of Police, Delhi for information and necessary action with the request to file action taken report within two weeks of the receipt of this order, without fail.

Copy of this order along with post mortem report / subsequent opinion be also sent to the Commissioner of Police and DCP, Rohini for information and necessary action.

Nothing observed herein above shall have any bearing on the merits of the case during trial.

Put up for further proceedings on 06.06.2018.

(Sanjeev Aggarwal)
Addl. Sessions Judge-02(North)
Rohini Courts Delhi
21.05.2018