

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (DB) No.91 of 1998 (R)

Anil Kumar Sinha son of Sri Brijnandan Prasad, resident
of village Jitni More, Chatra, P.S. Chatra, District Chatra.
----- Appellant

Versus
The State of Bihar (now Jharkhand) ----- Respondent

PRESENT
HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Appellant : Mr. Pandey Ashok Nath Roy, Adv.
For the State : Mr. Bhola Nath Ojha, Spl.P.P

JUDGMENT

Per R. Mukhopadhyay, J.

1. Heard Mr. Pandey Ashok Nath Roy, learned counsel for the appellant and Mr. Bhola Nath Ojha, learned Spl.P.P.
2. This appeal is directed against the judgment and order of conviction and sentence dated 03.04.1998 passed by Sri Vinod Kumar Sinha, learned 5th Additional Sessions Judge, Giridih in S.T. No. 223 /1996, whereby and whereunder the appellant has been convicted for the offence punishable under Section 302 I.P.C and has been sentenced to undergo imprisonment for life.
3. The prosecution case arises out of the Fardbayan of Sukhdeo Gope recorded on 10.07.1996 in which it has been stated that while the informant was going in the Dumri-Bermo road towards Ghutwali, he saw the dead body of a female lying on the field with her neck cut. A blade was found beside the dead body. None of the neighbouring people could identify the dead body.

Based on the aforesaid allegations, Dumri P.S. Case No. 20 of 1996 was instituted against unknown. On completion of investigation, charge sheet was submitted and after cognizance was taken, the case was committed to the Court of Sessions where

it was registered as S.T. No. 223 of 1996. Charge was framed against the accused under Section 302 I.P.C which was read over and explained to him in Hindi to which he pleaded not guilty and claimed to be tried.

4. The prosecution has examined as many as 12 witnesses in support of its case.

5. P.W.1 Surendra Yadav has stated that when he had reached the place of occurrence, he had seen the dead body of a female with stab wounds on her body and neck.

In cross-examination, he has deposed that he had not witnessed the occurrence and he had also not seen any weapon of assault at the place of occurrence.

6. P.W. 2 Sukhdeo Gope is the informant who has stated that while he was patrolling his area in his capacity as a Chowkidar, he had located the dead body of a female near Jamtara village with her neck cut. A blade was also found beside the dead body. He has proved his Fardbayan which has been marked as Exhibit-1 and the signature of A. Upadhyay, S.I. Dumri P.S on the Fardbayan which has been marked as Exhibit-2.

In cross-examination, he has deposed that he had not witnessed the murder.

7. P.W. 3 Yatindra Prasad is the brother of the deceased Sushma Kumari who has stated that her marriage was solemnized with Anil Kumar Sinha in the year 1994. His sister used to stay at Dhanbad with her husband. On 10.07.1996, the accused had disclosed to him that his sister has met with an accident at Bagodar. He and the others on such information had gone to Bagodar but they could not find the dead body which further aroused their suspicion. He came to know that the dead body of a married female has been recovered at which he and the accused reached Dumri P.S. where the photographs of the dead body were

shown which was identified by him and the accused as that of his sister. From the bag of the accused, blood-stained wearing apparels, earrings, camera, etc. were recovered. His sister was murdered because of the second marriage solemnized by the accused. He has proved the seizure list which has been marked as Exhibit-3.

In cross-examination, he has deposed that the accused had informed him about the occurrence on 10.07.1996 at 6.00 p.m. and on 11.07.1996 at 9.00 a.m he and his two brothers as well as the accused had left for Hazaribagh from where Madan Kishore Prasad had joined them and at about 1.00 p.m they had reached Bagodar. The Police had recorded the statement of the accused in the Police Station itself.

8. P.W. 4 Satyendra Prasad is also the brother of the deceased whose marriage was solemnized with Anil Kumar Sinha about three years back. There was an internal conflict between his sister and Anil Kumar Sinha. He has stated that Anil Kumar Sinha had come in the evening to Ranchi and informed him and his two brothers that their sister has met with an accident at Bagodar which aroused a suspicion in their minds. In the morning, he and his brothers as well as Anil Kumar Sinha had left for Bagodar and on the way they had picked up their another brother, Madan Kishore Prasad at Hazaribagh. On reaching Bagodar, it came to light that an unknown dead body is lying at Dumri P.S. When they reached Dumri P.S, they were shown the photographs of the dead body which he identified to be that of his sister. His brother-in-law Anil Kumar Sinha wanted to solemnize a second marriage.

In cross-examination, he has deposed that the accused has shown his ignorance as to how his wife was crushed to death. The accused after having dinner went to sleep while he and his brothers remained awake the whole night. Madan Kishore Prasad has stated that at Hazaribagh, he was met by his three cousin

brothers and Anil Kumar Sinha who had disclosed that his wife had met with an accident at Bagodar. He has stated that at Bagodar they came to know that no accident had taken place. One person had disclosed that the body of a woman is kept at Dumri P.S. In the police station, the photograph of the dead body was shown which was identified by him to be that of his cousin sister Sushma alias Gudiya.

In cross-examination, he has deposed that he cannot say the name of the person who had disclosed about the body of a female being kept at Dumri P.S.

9. P.W. 6 Madhusudhan Singh has proved the blood-stained full shirt and full pant which have been marked as material Exhibit-I and II respectively. The sarees, petticoat and blouse have been proved and marked as material Exhibit Nos. III, IV and V respectively. Two white brassieres, one premium camera, a green coloured cap and a full t-shirt have been proved and marked as material Exhibits-VI, VIII, IX and X. The topaz blade and a hair clip have been proved and marked as material Exhibit Nos. XI and XII.

In cross-examination, he has deposed that the bag was not sealed.

10. P.W. 7 Durga Prasad Mahto has proved his signature on the seizure list of a topaz blade, a hair clip and an earring which has been marked as Exhibit-2/1.

11. P.W. 8 Karu Mandal has proved his signature on the seizure list which has been marked as Exhibit-2/2.

12. P.W. 9 Ravindra Prasad is another brother of the deceased who has stated that the marriage of his sister was solemnized with Anil Kumar Sinha. He has stated that Anil Kumar Sinha had come to his place and disclosed that his sister has been crushed by a truck. On the next morning, he, his brothers and

Anil Kumar Sinha had left for Bagodar and on the way they had picked up Madan Kishore Prasad. At Bagodar, a person had disclosed about the dead body of a female having been found within the jurisdiction of Dumri P.S. and when they reached Dumri P.S., they were shown the photographs of the dead body which were identified to be that of his sister. He has proved the signature of his brothers in the seizure list which have been marked as Exhibits-2/3, 2/4 and 2/5. In Dumri P.S., the accused had confessed that he had committed the murder of his wife with a blade. The relationship between his sister and the accused was not good and the accused wanted to solemnize a second marriage.

In cross-examination, he has deposed that the accused and the deceased had a very attritional relationship and he was annoyed at such behavior of the accused. He had tried to intervene and settle the dispute 2-3 times. He has identified two letters written by his deceased sister addressed to his father which has been marked as Exhibit-A/2 and A/3. The accused had disclosed to him that the accident had taken place on 09.07.1996 and he had left the body at Bagodar itself. The accused had further disclosed that when he and his wife were going on foot, the accident had occurred. He had become unconscious and when he regained consciousness, he could not trace out the dead body. The disclosures made by the accused aroused a suspicion in his mind. None of the persons at Bagodar had disclosed about any accident which had taken place. The statement of the accused was not recorded in his presence.

13. P.W. 10 Dr. R. Choudhury was posted as a Civil Assistant Surgeon, Sadar Hospital, Giridih and on 10.07.1996, he had conducted autopsy on the dead body of an unknown female and had found the following:-

“Rigor mortis present in all limbs. Hair black, eyes closed. Mouth partially open

- (1) Abrasion on chin 1" x 1/6"
- (2) Incised wound above Hyoid bone of neck with cutting of larynx of trachea, muscle vein artery nerves-4" x 2.1/2" x 1.1/2" with dark clotted bleeding.

On dissection – Skull intact, Brain-NAD, Heart empty, Lung, Liver, Spleen, Kidney- NAD, Stomach contained digested food. Urinary bladder- empty. Uterus- NAD, Gavina- NAD.

All injuries mentioned above are antemortem in nature caused by sharp weapon."

The cause of death has been opined to be due to cardiorespiratory failure with shock and haemorrhage. The P.M. report has been proved and marked as Exhibit-4.

In cross-examination, he has deposed that the death may have been caused at about 2.00 p.m. on 09.07.1996.

14. P.W. 11 Madan Mohan Singh has proved the formal F.I.R which has been marked as Exhibit-6. The Fardbayan and the endorsement on the Fardbayan have been marked as Exhibit-7. He has proved his signature on the seizure list which has been marked as Exhibit-2/6. He has also proved the inquest report which has been marked as Exhibit-8. He had taken over the investigation on 10.07.1996 and inspected the place of occurrence which is at village Ghutwali in Dumri-Bermo road in an agricultural field where there were signs of struggle and a pool of blood was also found. He had seized a topaz blade, one hair clip and an earring of roll gold. After preparing the inquest report, he had got the dead body photographed and thereafter sent it for autopsy. In the Police Station he had recorded the confessional statement of Anil Kumar Sinha and had also recorded the statements of the witnesses. He had obtained the post-mortem report and based on the supervision note by the Sub-Divisional

Police Officer, Giridih he had submitted charge sheet.

In cross-examination, he has deposed that he had not visited the place of occurrence as depicted by the accused. He had not sealed the blood-stained cloths of the deceased and he had not sent the same for forensic examination. He had not sent the blade for examination. Regarding the sour relationship between the accused and the deceased, he had not recorded the statement of any of the villagers except the brother of the informant.

15. P.W. 12 Ratan Lal Barnwal had clicked the photographs of the dead body. The negatives and the photos have been proved and marked as Exhibit-5, 5/1, 6 and 6/1 respectively. The negative and photo of the accused have been marked as Exhibit-5/2 and 6/2 respectively.

16. The statement of the accused was recorded under Section 313 Cr.P.C in which he has denied his complicity in the murder of his wife.

17. It has been submitted by Mr. Pandey Ashok Nath Roy, learned counsel for the appellant that the entire case is based on circumstantial evidence primarily projected by the brothers of the deceased and such evidence automatically dilutes its relevance in absence of any independent witness having been examined by the prosecution. PW-11, the Investigating Officer has not even hinted about the bag of the appellant from which certain incriminating materials were purportedly recovered and even if it is assumed to be incoherent, such recovery would not enhance the case of the prosecution as they were not sent to the forensic science laboratory for forensic examination. It has further been submitted that the appellant was on duty when the incident had taken place.

18. Mr. Bhola Nath Ojha, learned Special P.P has submitted that the strong circumstance of committing the murder of his wife is revealed in the manner by which the appellant has created a new story regarding the accidental death of his wife. It

has been submitted that blood-stained wearing apparels of the appellant were recovered from his bag which solidifies the allegation against the appellant. There is no document to substantiate the stand of the appellant that he was on duty at the time of the murder. The inclination of the appellant to solemnize the second marriage itself highlights the motive of the appellant to get rid of his wife.

19. We have heard the learned counsel for the respective sides and have also perused the trial court records.

20. The appellant seems to have fed a concocted story about the death of his sister to P.W.3, P.W.4, P.W.5 and P.W.9 who are the brothers of the deceased that his wife has been crushed by a truck resulting in her death. A frantic search was made by the brothers at Bagodar and having failed to locate the dead body and on an information by some unknown persons, all had reached Dumri P.S where the photograph of the unknown female dead body was shown which was recognized by P.W.3, P.W.4, P.W.5 and P.W.9 as their sister Sushma. Being crushed by a heavy vehicle would reveal about different categories of injuries and the autopsy report demolishes the story projected by the appellant as only two injuries were found on the person of the deceased and injury no.2 was caused by a knife or a sharp cutting weapon. Such wide discrepancy in the manner of bodily injury and the cause of death demonstrates the devious plan hatched by the appellant in eliminating the deceased. So far as *alibi* which is strongly advocated by the learned counsel for the appellant is concerned and which finds place in the 313 Cr.P.C statement of the appellant, there does not seem to be any document produced in support of such claim. When we consider the evidence of P.W.9, we find that the appellant had stated about his wife being crushed by a truck and he had become unconscious and when he regained consciousness he could not find his wife. As per P.W.9 therefore

the appellant was present with the deceased. The cover-up attempted by the appellant seems to have blown up on his face in view of his contradictory statements. Some of the witnesses have stated about an attritional relationship between the appellant and the deceased and the inclination of the appellant to solemnize a second marriage and this can be construed to be a motive for committing such dastardly act. Even if we leave aside the recovery of various incriminating articles from the bag of the appellant as neither the same have been sent to the forensic science laboratory nor in absence of any statement to that effect made by P.W.11 (I.O.), the other aspects of the case proves beyond any reasonable doubt that the instances put forward by the prosecution completes the chain and leaves no room for doubt about the active role played by the appellant in committing the murder of his wife.

21. The learned trial court having appreciated the material evidence on record has rightly come to a conclusion about the involvement of the appellant in the incident of murder of his wife and having found no reason to differ with such finding, we hereby dismiss this appeal.

22. Since the appellant is on bail, he is directed to surrender immediately and forthwith to serve out the rest part of his sentence.

23. Pending Interlocutory Applications, if any, stand closed.

(Rongon Mukhopadhyay, J.)

(Arun Kumar Rai, J.)

High Court of Jharkhand, Ranchi

Dated: 8th April, 2025

Shamim/-