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Cr1.A.No. 1105 OF 2003  
ITEM No.121 Court No. 7

SECTION IIA

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Cr1.A. No.1105/2003

Bhavar Singh Pidhiyabhai BhilPetitioner (s)

VERSUS

State of Gujarat

Respondent (s)

( with office report)

Date : 21/09/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN  
HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Petitioner (s) Mr. M.N. Shroff, Adv.

For Respondent (s) Mr. V. Madhukar, Adv.  
Ms. Sadhana Sandhu, Adv.  
Ms. Hemantika Wahi, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Mr. M.N. Shroff, learned counsel for the appellant started his arguments at 11.30 a.m. and concluded at 12.35 p.m. Thereafter Mr. V. Madhukar, learned counsel for the State made his submissions for five minutes.  
The appeal is dismissed in terms of the signed order.

(R.K. DHAWAN)(VEERA VERMA)  
COURT MASTER COURT MASTER  
(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO.1105 OF 2003

Bhavar Singh Pidhiyabhai Bhil.... Appellant.

Versus

State of Gujarat.... Respondent.

O R D E R

The appellant Bhavar Singh Pidhiyabhai Bhil was tried along with the another accused Mukam Singh. The appellant was found guilty for the offence punishable under Section 302 IPC for causing death of his brother-in-law Kendubhai Bhil. The appellant challenges his conviction and sentence.

The deceased Kendubhai Bhil was staying with his wife and children at village Dhamapura, Distt . Vadodra in Gujarat. They were doing agricultural work of one Mafatbhai Patel. On 8th January, 2000 deceased Kendubhai left his house with the appellant Bhavar Singh. Thereafter his whereabouts were not known. Sharda, the wife of deceased Kendubhai made enquiry about Kendubhai with Bhursing her father-in-law thinking that Kendubhai must have visited him, but he was not found there. Bhursing thereafter made certain enquiries, but he could not get any information regarding whereabouts of Kendubhai. He lodged a report with the police about the disappearance of Kendubhai. About six months thereafter Dhundabhai, nephew of Bhursing informed him that second accused Mukam Singh had made extra judicial

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confession to him that Kendubhai was murdered by the present appellant and his dead body was buried at the river bed of Narmada near village Shisodara. On the basis of this information, Bhursing filed a complaint before Rajpipla Police Station on 16th July, 2000 and a crime was registered. During the investigation dead body of Kendubhai was recovered from the river bed which was identified by her daughter Champaben and the police finally filed the report.

To prove the prosecution case Pws.1 to Pws.20 were examined. The main witness examined by the prosecution was PW-1 Bhursing, PW-3 Dhundabhai and PW-4 Champaben. PW-3 disclosed the extra judicial confession made by the second accused. The confession of the second accused is admissible under Section 30 of the Evidence Act against the appellant as it is corroborated in material particulars. The recovery of the dead body at the instance of the appellant clearly supports the extra judicial confession made by second accused. The investigation officer gave evidence to the effect that the appellant pointed out the place where dead body was buried.

The evidence of PW-4 Champaben is also crucial. She deposed that the appellant had come to her house and taken food along with her father and both of them left the house and thereafter she had not seen her father. PW-4 would further say that she made enquiry with the appellant and then on first enquiry he stated that deceased had gone

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to his father Bhursing and she went to Bhursing and realised that he had not come there. Thereafter again PW-4 made enquiry with the appellant and asked where her father had gone then he replied that he had gone mad and he did not know anything. From the evidence of PW-4, it is clear that the appellant had been giving false replies to mislead the daughter of the deceased. PW-4 identified the dead body of the deceased from the clothes worn by him.

The extra judicial confession and the recovery of dead body at the instance of the appellant and the fact that he was last seen with the deceased clearly established the guilt of the appellant. The courts have rightly convicted the appellant for the offence charged. We do not find any reasons to interfere with the findings.

The appeal is accordingly dismissed.

.....J  
(K.G. BALAKRISHNAN)

.....J  
(DR. A.R. LAKSHMANAN)

NEW DELHI;  
SEPTEMBER 21, 2004.

