

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

CRIMINAL APPEAL NO. 817/2001@@
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Ramesh Kumar

Appellants (s)

VERSUS

State of Haryana

Respondent (s)

(With Office Report)

Date : 13.8.2002 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE BISHESHWAR PRASAD SINGH

For Petitioner (s) Ms. K. Sharada Devi,Adv.

For Respondent (s) Mr. J.P. Dhanda,Adv.

UPON hearing counsel the Court made the following
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Ms. K. Sharda Devi, learned counsel started her arguments at 12.30 P.M. and concluded at 1.00 PM. The appeal is dismissed.

Ms. Sharda Devi, learned counsel who has appeared as amicus curiae be paid Rs.750/- as her fee.

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(Ganga Thakur)
P.S.to Registrar

(Prem Prakash)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.817 OF 2001@@
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-Versus-

STATE OF HARYANA

..... RESPONDENT

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The appellant and one Naveen were charged for having committed a triple murder and for having caused injuries on two persons, by the Additional Sessions Judge, Yamuna Nagar and after trial they were found guilty of various charges framed against them, the learned Sessions Judge imposed death sentence for the substantive offence of murder under Section 302 IPC and other sentences for the related offences and referred the matter to the High Court for confirmation of death sentence which was numbered as Murder Reference No.3 of 1998. The appellant and the co-accused who were so convicted also preferred appeal before the High Court against the conviction and sentences in Criminal Appeal No. 416-DB of 1998. The High Court after considering the reference on merits rejected the same as also the ...2/-

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Criminal Appeal filed by the appellant and the co-accused Naveen however converted the capital punishment into imprisonment for life while maintaining the other convictions imposed by the Sessions Court.

Against the said judgment of the High Court rejecting the Reference made by the learned Sessions Judge and reducing the sentence from death to life imprisonment the State had preferred the appeal before this Court which came to be rejected. Against his conviction A.1 Naveen did not prefer any appeal and the conviction against him has become final. Ramesh, the appellant herein who was A.2 has now preferred this appeal against his conviction and sentence as altered by the High Court.

The prosecution case briefly is that A.1 Naveen was a grand son of one Banarsi Das who had gifted his property in favour of PW 13 and another brother of said PW 13 by name also Naveen who are the children of another son Dwarka Das. A1 Naveen who was the son of other son of Banarsi Das by name Raj Kumar was not given any share, therefore, he had enmity with his grand father as also with the beneficiaries, PW 13 his father and his other brother Naveen and it is in furtherance of this ..3/-

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enmity the prosecution alleges that on 5th of July, 1995 at about 2.00 A.M. when Banarsi Dass, his son Dwarka Das and latter's daughter Ritu were sleeping in the court yard of the house the appellant with his close friend A.1 came both carrying gandasa and attacked Banarsi Das,

his son of Dwarka Das and latter's daughter Ritu and caused multiple injuries on them leading to their instant death. Prosecution also alleges that these accused persons assaulted PW 14, wife of Dwarka Das and also PW 15, Manju another daughter of Dwarka Das. The incident in question was also witnessed by Sanjiv Kumar (PW-13), son of Dwarka Dass who is the complainant in this case. After the assault, it is stated that these accused persons ran away from the place of incident. Complaint in this case was lodged at about 3 O' clock at the Police Station, Sadhoura which was recorded by PW 18, who is the Investigating Officer who after registering the complaint and sending express report of the complaint visited the place of incident and conducted the inquest panchnama and sent the injured to the hospital and in the course of his investigation, he arrested the appellant and co-accused A.1 on 10th of July, 1995 and on statement made by the accused he recovered blood-stained handasa

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as also blood-stained trouser and baniyan belonging to this appellant under Exhibit P.KK/1 and P.KK/2 from the house of the appellant. It is based on the evidence of the injured witnesses PWs 14 and 15 and the evidence of PW 13 who is also another eye witness, also bearing in mind the motive for the murder and the recoveries the Sessions Judge found appellant as well as A.1 guilty and sentence of death was imposed on them which as stated above came to be converted into one for imprisonment of life by the High Court.

Ms. Sharda Devi, learned amicus curiae appearing for this appellant contends that this appellant did not have any motive whatsoever to commit this crime. She also contends that the recovery of the gandasa as well as the clothes from his house as Exhibit P.KK/1 and P.KK/2 is not supported by the panch witness DW 2, therefore, the prosecution case ought not be accepted. In regard to the evidence of eye witnesses PWs 13, 14 and 15 she submitted that there is admittedly an improvement in their evidence by trying to implicate persons who are otherwise innocent. Therefore there is every possibility of this accused similarly being implicated by the said

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witnesses because he was a friend of A.1. Therefore, the appellant is entitled to the benefit of doubt.

We have considered the material on record, the evidence of PWs 13, 14 and 15 as well as the judgment of the courts below and we find no reason to differ from the findings arrived at by the courts below. The arguments that the appellant did not have any motive whatsoever to commit the crime cannot be accepted in the light of the admitted fact that the appellant was a close friend of A.1 who according to the prosecution did entertain the motive for committing the crime. The fact that PW 2 one of the panch witness to the recovery has not supported the recovery of gandasa and blood-stained clothes by itself would not be sufficient to reject the said recovery more so in the background of the fact that the said recovery is spoken to by the Investigating Officer PW 18 and place of recovery being house of the appellant.

We also find the evidence of eye witnesses some of whom are injured in the incident is also acceptable. In this situation, we find there is no ground to interfere with the judgments of the courts below. The appeal fails and the same is dismissed.

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We must record our appreciation of the assistance rendered by Ms. Sharda Devi, to the court as amicus curiae and we direct the payment of Rs.750/- as fee to her.

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.....J.
(N. SANTOSH HEGDE)

New Delhi,
August 13,2002.

.....J.
(BISHESHWAR PRASAD SINGH)

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