

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2270 OF 2010

LIYAKAT

.. Appellant(s)

Versus

THE STATE OF UTTARAKHAND

.. Respondent(s)

O R D E R

1. The appellant was convicted of an offence under Section 302 of the Indian Penal Code by the Additional Sessions Judge, Roorkee. The judgment of conviction and the sentence has been affirmed by the High Court by its impugned judgment dated 07 May 2008.

2. Briefly stated, the case of the prosecution is that the deceased-Liyakat had developed a relationship with the wife of the accused-appellant three to four months prior to the date of the incident. On 28 May 1988, the deceased came to the house of the appellant between 10-10.30 A.M. He was seen at that stage by PW5 (Naseeran). Between 11.30 A.M.-12.00 noon, the appellant was seen by PW5 coming out of the house. PW5 noticed that the appellant had blood stains on his clothes. On being enquired about the source of the blood stains, the appellant informed Sakoora (who died during the trial) that he had caused the death of Liyakat. The appellant fled away from the scene. PW7, the Village Pradhan, who is the complainant, stated that when he

arrived at the scene, he was informed by the villagers about the murder of the deceased. The body of the deceased was found in the house of the appellant and the blood stained weapon, namely, a spade was recovered from the house.

3. The case of the prosecution is based on circumstantial evidence. Essentially, the issue which arises before the Court is whether the chain of circumstances is complete. The Court must deduce from the evidence as to whether, all the circumstances are consistent only with the guilt of the appellant and that there is no circumstance which would be consistent with his innocence.

4. The crucial pieces of evidence in the present case are those of PW5- Naseeran; PW-7-the complainant who was also the village Pradhan; and PWs3-4 who were witnesses to the recovery. PWs8-9 who were respectively the Police Officer and Police Inspector corroborated the recovery of the dead body from the house of the appellant.

5. From the evidence, the following circumstances stand established :

(i) From the deposition of PW7 it emerges that four to five months prior to the incident, the deceased had been living in the house of the appellant. The deceased had developed a relationship with the wife of the appellant and about four to five days prior to the incident, the deceased had taken away the wife

and one year old child of the appellant;

(ii) PW5 during the course of his evidence stated that on the date of the incident, the accused-appellant had visited her house and then proceeded to the house of the deceased to recover certain monies which he had lent to the deceased. After 20-25 minutes, the appellant came out of the house and his clothes were soaked in blood. Upon being asked, the appellant informed Sakoorra in the presence of PW5 that he had killed Liyakat. Thereupon, the appellant fled from the scene;

(iii) PW5 and Sakoorra entered the house of the appellant and found the dead body of the deceased;

(iv) the weapon of offence, namely, a spade which had blood stains was recovered from the house of the appellant. PW3 and PW4 are witnesses to the recovery. The dead body was also recovered from the house of the appellant, as deposed to by PW8 and PW9.

6. From the above evidence, the chain of circumstances establishes the guilt of the appellant. All the circumstances are consistent only with his guilt.

7. During the course of the hearing, Shri Satya Mitra, learned Amicus Curiae appearing on behalf of the appellant submits that the case may perhaps appropriately be dealt with under Section 304 Part II.

8. We are unable to accept the submission. PW6, Dr. Arun Kumar Jain, who conducted the postmortem examination found the following injuries on the body of the deceased:

"(i) "Incised wound 11 cm X 8 cm X bone deep on top of left shoulder with edges clean cut and contused with major vessels and soft tissues divided, and fracture of head of left humerus tailing towards arm.

(ii) Incised wound 13 cm X 8 cm X bone deep on back of neck extending from external occipital protuberance of head to the level of cervical 5 vertebra below with clean cut and contused edges dividing major vessels, soft tissues and fracture of cervical vertebra, tailing towards right side."

9. There is absolutely no evidence to indicate that there was a sudden fight between the appellant and the deceased. Such a suggestion was not put to any of the witnesses during the course of cross-examination. The nature of the injuries clearly indicate that there was an intention to commit murder and that the injuries which were caused were sufficient in the ordinary course of nature, to cause death.

9. We, therefore, find no merit in the appeal. The appeal is, accordingly, dismissed. The appellant would be entitled to such remission as is admissible in accordance with law.

.....J.
(DR. DHANANJAYA Y. CHANDRACHUD)

.....J.
(VINEET SARAN)

New Delhi,
Dated: DECEMBER 04, 2018.

ITEM NO.103

COURT NO.11

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 2270/2010

LIYAKAT

Appellant(s)

VERSUS

THE STATE OF UTTARAKHAND

Respondent(s)

(MR. SATYA MITRA, ADVOCATE HAS BEEN APPOINTED AS AN AMICUS
CURIAE ON BEHALF OF APPELLANT)

Date : 04-12-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE VINEET SARAN

For Appellant(s) Mr. Satya Mitra, AOR (A.C.)
Mr. Purvesh Jitendra Malkan, Adv.

For Respondent(s) Mr. Jatinder Kumar Bhatia, AOR
Mr. Krishanan Mishra, Adv.

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

The Criminal Appeal is dismissed in terms of the
Signed Order.

Pending Applications, if any, stand disposed of.

(GEETA AHUJA)
COURT MASTER (SH)

(VIDYA NEGI)
BRANCH OFFICER

(The Signed Order is placed on the file)