

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 654 OF 1998

State of U.P. . . . . .Appellant

Versus

Puran Lal . . . . .Respondent

O R D E R

The respondent herein was convicted for the offences punishable under Sections 302 and 201 IPC by the Sessions Judge, Nainital for having committed the murder of one Jugal who was a co-worker with the respondent in an agricultural farm. The appeal filed by the respondent having been allowed by the High Court setting aside the said conviction by the learned Sessions Judge the State of U.P. is in this appeal before us.

The brief facts necessary for the disposal of this appeal are as follows :

The appellant and the deceased were co-workers in the agricultural farm of which PW.6, who was the Manager. It is alleged that the deceased was having illicit relationship with the wife of the respondent because of which on 12th April, 1989 the respondent took the deceased on the pretext of offering him liquor and committed the murder by decapitating his head in the banks of the lake in the farm in which he was working. The prosecution alleges that the respondent was seen going with deceased and returning back alone to the farm was noticed by PWs.2 and 3 who were also workers in the said farm. The prosecution further states that on 13th of April, 1989 the co-workers in the farm where the deceased was working searched for the deceased and he was not found on that day and on 14th of April, 2004 on further search they found the headless body of the deceased. A complaint in this regard was lodged by PW.2 in Pilibhit Police Station and on the basis of the said complaint an investigation was initiated. It is further the case of the prosecution that on 14.4.1989 the respondent made an extra-judicial confession to PW.6 admitting that because of the illicit relationship of the deceased with his wife he had committed the murder of the deceased. It is also stated that at that time police came to the farm and in their presence the accused agreed to lead the police to the place where the head of the deceased, the weapon (Banka) and other personal articles of the deceased were lying and based on the said statement it is stated that the respondent took the police to the said place from where the head and articles were recovered and on that basis the trial court accepting the prosecution case convicted the respondent.

In appeal the High Court noticed that the prosecution had relied on four circumstances which according to it had not been established beyond reasonable doubt. These circumstances were as follows:

- (1)that the respondent had motive to commit the crime;
- (2)the respondent had made an extra-judicial confession to PW.6;
- (3)the deceased was last seen in the company of the respondent and
- (4)certain articles including head and weapon used in the crime was recovered at the instance of the accused.

The High Court on re-appreciation of the evidence came to the conclusion that the trial court did not properly appreciate the evidence on record which according to the High Court was not even proved beyond reasonable doubt. While re-appreciating the same the High Court came to the conclusion that the fact that PWs.2 and 3 had seen the respondent along with deceased on the date of incident was doubtful. So far as PW.2 the complainant is concerned it noticed that in the complaint it was only stated that accused and deceased were seen going together from the farm but he had not stated who actually had seen them going out of farm together. In regard to PW.3 the High Court noticed that this witness on 12th April, 1989 in the evening at 7 p.m. saw the deceased and the accused going together and he identified them by torch, the High Court noticed that this torch was not seized by the police. It also noticed the fact that the statement of this witness was recorded on 17.4.1989 nearly three days after the complaint in question was filed even though the said witness was available in the said farm all through as he was working there. In regard to the recovery the High Court came to the conclusion that the same was doubtful because on 13.4.1989 nearly 40-45 workers of the farm had searched for the deceased and having not traced him again on 14.4.1989 they searched the farm and found his headless body. If so the possibility of they not finding the head and weapon which was lying hardly 40 paces away from the body is very difficult to believe. Thus it came to the conclusion that the recovery also cannot be believed.

The High Court further noticed the fact that the alleged extra-judicial confession was made to PW.6 on 14th April, 1989 was at about 3 p.m. but it found that the accused was not detained but allowed to go to work as if nothing had happened. It also found from the cross-examination of PW.6 that this extra-judicial confession was made in the presence of the police personnel who had come to the guest house of the farm, therefore, it is not safe to rely upon this circumstance also. Thus the High Court came to the conclusion that the circumstances relied upon by the trial court cannot be accepted as having been proved beyond reasonable doubt thus giving benefit of doubt the High Court allowed the appeal filed by the respondent. We have heard learned counsel for the parties and perused the records. We find no merit in this appeal. The appeal fails and the same is dismissed.

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

.....J.  
( B.P. SINGH )

NEW DELHI,  
APRIL 01, 2004.

ITEM No.103

Court No.4

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.654 of 1998

STATE OF U.P. Appellant (s)

VERSUS

PURAN LAL Respondent (s)

Date : 01/04/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE  
HON'BLE MR. JUSTICE B.P. SINGH

For Appellant (s) Mr. C.D. Singh, Adv..  
Mr. J.K. Bhatia, Adv.

For Respondent (s) Mr. D.K. Garg, Adv..  
Mr. Manzoor Ali Khan, Adv..  
Mr. Rohit Pandey, Adv..

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

The appeal fails and the same is dismissed in terms of the signed order.

(PAWAN KUMAR) (PREM PRAKASH)  
COURT MASTER COURT MASTER  
(signed order is placed on the file)