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CRA-1118-2016

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&

HON'BLE SHRI JUSTICE RATNESH CHANDRA SINGH BISEN

ON THE 8th OF JANUARY, 2026CRIMINAL APPEAL No. 1118 of 2016*BIFAIYA BAIGA**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Surendra Kumar Khare - Advocate for the appellant.

Shri B.K. Upadhyay - Government Advocate for the
respondent/State.

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ORDER

Per. Justice Ratnesh Chandra Singh Bisen.

This Criminal Appeal under Section 374 (2) of the Code of Criminal Procedure, is filed by the appellant being aggrieved of the judgment dated 10.09.2015, passed by the learned Sessions Judge, Shahdol (M.P.), in S.T. No.383/2014, whereby the learned trial Court has convicted the appellant for offence punishable under Section 302 of Indian Penal Code (hereinafter referred to as 'IPC' for short) and sentenced him to life imprisonment with fine of Rs.10,000/- with default stipulation of 06 months' Rigorous Imprisonment.

2. The prosecution case in a nutshell is as under:-

2.1 On 26.08.2014 at about 1:00 PM, when complainant Hariram, who was



a resident of Village Udhiya Mauhar Tola and suffering from paralysis, was cutting fodder in his field, Puniya Bai wife of Lalva Baiga came to take out the water from the hand pump. After taking out the water when Puniya Bai was returning back to her home accused Bifaiya Baiga came out of his house armed with Tangia (Axe) and started assaulting her, as a result of which Punia Bai fell down and thereafter accused returned back to his house. When Lalwa Baiga (husband of deceased Puniya Bai) came back, complainant Hariram informed him that accused Bifaiya Baiga had assaulted his wife Puniya Bai on account of old grudge by hitting her with a *tangia*.

2.2 Upon a report to this effect, *Dehati Nalishi*, Exhibit P-1 and *Dehati Merg* Intimation Exhibit P-2 were recorded. Thereafter, First Information Report Exhibit P-4 was recorded and the case was taken up for investigation.

3. Upon being charged under Section 302 of IPC, the appellant abjured his guilt and sought to contest further proceedings in the case.

4. Learned counsel for the appellant submits that the judgment dated 10.09.2015 passed by learned Sessions Judge, Shahdol in S.T. No.383/2014 is against law and procedure, passed without minute examination of facts/evidence and proper legal provisions, and, therefore, the same is liable to be set aside. He further submits that the trial Court has failed to see the statement of Hariram (PW-4) who is eye-witness in this case because as per prosecution, he was paralyzed and even after he was paralyzed, he was cutting grass on his *badi* and after looking incident, he was silent for about 5 to 6 hours and has not stated anything to anybody, therefore, the said eye-witness was not reliable. According to the counsel for the appellant, the trial Court has failed to see material contradiction and omission between the



prosecution witnesses. He further states that the trial Court has failed to see the statements of prosecution witnesses Lalva Baiga (PW-3), Ratnu Baiga (PW-5) and Semvati Baiga (PW-6). They are all hearsay and interested witnesses. According to him, the trial Court has further failed to see the F.S.L. report and Postmortem report because Dr. Amit Pyasi (PW-11) had opined that the cause of death was due to injury sustained on account of *mar-peat* which was homicidal in nature and therefore, the appeal deserves to be allowed and appellant is liable to be acquitted.

5. On the other hand, Shri B.K. Upadhyay, learned Public Prosecutor for the respondent/State, in his turn, supports the impugned judgment and submits that after analyzing the oral and documentary evidence which has been produced by the prosecution, the trial Court has properly convicted the appellant under Section 302 of IPC and there is no such mistake in the finding of the trial Court and there are sufficient evidences against the present appellant to confirm the conviction and as such, it does not call for any interference and the appeal deserves to be dismissed.

6. We have heard learned counsel for the parties and also gone through the record.

7. Dr. Amit Pyasi (PW-11) had conducted the postmortem of Puniya Bai on 27th August 2014. He found that there was bleeding on her face and head. There was a lacerated wound on the right side of her head. It was so deep that a piece of bone had been broken off. There was a fracture on the back side of her head which was caused by a hard object. The weapon could possibly be a hard and double-edged blade and both injuries on the head came from different sides of the weapon. He opined that the cause of death was shock



due to excessive bleeding and brain injury. The postmortem report is exhibit P-11A.

8. Pushpa Patel (PW 10) prepared the spot map (Exhibit P-9). Hariram's house was situated to the north side of the place of incident and there was a hand pump on the other side. She stated that Hariram's house is on one side of the road where the incident took place and there is a hand pump on the other side as per Exhibit P-9. The accused Bifaiya's house is to the south of the incident site.

9. Lalva Baiga (PW-3) stated that the Puniya Bai was his wife. The incident occurred near about five months back, a day before the Teej festival. He deposed that when he returned home at 6 p.m. in the evening with Sukhku Baiga and Sugana Baiga at that time Hariram Baiga informed that accused Bifaiya Baiga had killed his wife with an Axe like weapon. Thereafter he went to Ayodhya Maharaj of the Village and informed him and then Kailash Maharaj called the police. According to him, his wife's dead body was lying on the road, a little ahead of the hand pump next to the accused's house. Puniya Bai had a pit-like injury on the back of her head and between her ear and eye and there was bleeding. Police had prepared the spot map of the place of incident and also prepared the panchama of dead body.

10. Hariram Baiga (PW-4), who is the eye witness of the case, stated in his examination-in-chief that on 26.08.2014 at about 1:00 PM, when he was cutting fodder in his field, Puniya Bai wife of Lalva Baiga came to take out the water from the hand pump. After taking out the water when Puniya Bai was returning back to her home accused Bifaiya Baiga came out of his house armed with Tangia (Axe) and started assaulting her, as a result of which



Punia Bai fell down and thereafter accused returned back to his house. When Lalwa Baiga (husband of deceased Puniya Bai) came back, complainant Hariram informed him that accused Bifaiya Baiga had assaulted his wife Puniya Bai on account of old grudge by hitting her with a *tangia*. He also stated that he did not intervene because he feared that the accused would kill him too. Based on the information given by this witness, *Dehati Nalshi* and *merg* intimation have been registered by H.S. Pandey (PW-13). On perusal of aforesaid statement, it appears that there was no contradiction or omission of any kind in the cross-examination of this witness. This witness admitted in Para 7 of his cross-examination that he too is having a dispute with the accused Bifaiya Baiga regarding land. Similarly, this witness also admitted that he saw the incident from his courtyard (*badi*).

11. It would also be pertinent to mention here that the spot map was prepared by Pushpa Patel (PW.10) in which it is shown that on one side of the road where the incident took place is Hariram's house and on the other side is a hand pump and on the south side is the house of the accused Bifaiya Baiga. Thus, the presence of Hariram Baiga (PW-4) at the scene of the incident is natural. Therefore, merely on the basis of the fact that the accused had enmity with this witness, the evidence of this witness cannot be discarded.

12. From the evidence of Ratnu Baiga (PW-5), Semvati Baiga (PW-6), Harihar Kewat (PW-8) and Smt. Battu Bai (PW-9), it is clear that they reached on the spot after the incident and saw the dead body of deceased Punia Bai. Ratnu Baiga (PW-5) stated that Lalva Baiga told him that accused Bifaiya Baiga had killed his wife Puniya Bai and he saw Punya Bai



had sustained injury on the back side of her head.

13. H.S. Pandey (PW-13) who is the investigating officer in this case has stated in his examination-in-chief that on reaching the spot at 7:30 pm on being informed about the incident by complainant Hariram, he registered a crime against the accused on the spot vide Crime No. 0/14 under Section 302 of the Indian Penal Code and recorded *Dehati Nalshi* vide Exhibit P-2 on the spot itself, against accused Bifaiya Baiga. After that, he sent the *Dehati merg* intimation Exhibit P1 and *Dehati Nalshi* Exhibit P-2 through constable Purushottam Singh for registration to Police Station, Singhpur. He had written the statements of complainant Hariram Baiga and Lalwa Baiga (husband of deceased) on the same day. He also prepared spot map on 27th August 2014 in presence of Hariram Baiga, Lalwa Baiga and Rampramod. In the presence of witnesses, the dead body and the area around the incident site were inspected and Panchnama was prepared which is an Exhibit P-6. The deceased's body was lying on a gravel road about 40 feet east of the hand pump in front of accused's house. The deceased had a wound on her right forehead caused by a sharp weapon like a *tangia*. The dead body had been sent through Constable Jaan Singh for postmortem to Community Health Centre, Singhpur. On 28th August 2024, he had arrested accused in the presence of the witnesses and an arrest memo Exhibit P-18 was prepared. At the same location when accused Bifaiya Baiga was questioned in the presence of witnesses chunni Baiga and Kailash Tripathi, the accused stated that he had washed a hammer resembling an axe (*tangiya*) in the canal, hidden it in the attic of his house and that he would recover it. Based on the information provided by the accused, he recorded the



memorandum of the spot Exhibit P-19 in presence of the witnesses and seized an iron piece hammer hidden in the attic of his house, which looked like an axe. It also appeared from his evidence that seized articles were sent to FSL, Sagar for forensic examination.

14. From the evidence of M.V. Prajapati (PW 15), it appears that he had written merge number 22 / 14 Exhibit P3 on the basis of Dehati merge Intimation Exhibit P-1. Similarly, on the basis of the *Dehati Nalshi*, crime number 160/14 was registered against the accused under Section 302 of the Indian Penal Code .

15. Kailash Tripathi (PW-16) stated in his examination-in-Chief that Police had enquired about crime from accused, but he denied that anything was seized from accused in his presence. He admitted his signature on Exhibit P-20. This witness has been declared hostile by prosecution.

16. Similarly, from the evidence of the Chunnu Baiga (PW-17), it appears that the accused took out an iron axe from his house and gave it to the police.

17. From the evidence of Purushottam Singh (PW-1), it appears that this witness went to the police station with *Dehati Nalshi* and *merge* intimation. On 10.09.2014, Constable Jaan Singh of Singhpur Police Station brought a sealed packet from Community Health Centre, Singhpur which had a written seal containing the red and white coloured towel of deceased Puniya Bai and a sealed sample of CHC Singhpur and handed it over to head Constable Awadhraj Singh (PW-2) in his presence. The above fact is also corroborated by Awadh Raj Singh (PW-2).

18. Mohammed Imtiyaz Khan (PW-7) had stated that he visited the place of occurrence where he took 10 photographs of the dead body and its



surroundings. He had given said photograph to the police. The photographs are articles 'A to J'.

19. Thus, on analyzing the evidence adduced by the prosecution, it is clear that Hariram Baiga (PW-4) had seen the accused hitting Pooniya Bai with an axe. It is also clear from his statement that at the time of the incident, Pooniya Bai had come to the handpump to take out water. It was through this witness that other persons came to know that accused Bifaiya Baiga had killed the deceased by hitting her with an axe. Dehati Merg Intimation (Exhibit P1) has been written by H.S. Pandey (PW-13) on the basis of information given by Hariram Baiga. It is also clearly mentioned in the Dehati Merg Intimation (Exhibit P-1) that the deceased Puniya Bai was killed with an axe by accused Bifaiya Baiga. It would also be necessary to mention here that the FSL report, Exhibit P-23 reveals that human blood was found on the weapon recovered from the accused.

20. The main argument made by the learned counsel for appellant is that in this case, only one witness Hariram Baiga (PW-4) was said to have seen the incident but apart from this witness, there was no other eye witness to corroborate the testimony of the complainant and therefore, it would not be appropriate to hold the accused guilty merely on the basis of statement of this witness because this witness had admitted in his cross-examination that he had an enmity with the accused.

21. The above argument of learned counsel for the appellant is not acceptable because the testimony of this witness cannot be discarded merely on the ground that he had enmity with the accused. It would be necessary to mention here that his house is adjacent to the incident site. In such a



situation, it is natural for this witness to be present at the scene of the incident. In the cross-examination of this witness, no contradiction or omission has been found on the statement written during the investigation, on the basis of which his statement should be disbelieved. The statement of this witness has been recorded by the investigating officer H.S.Pandey (PW-13) on the date of the incident itself, in which this witness had given complete details of the incident. It would also be necessary to mention here that the number of witnesses is not necessary to prove any fact, rather, the quality of evidence given by the witness is important. In this regard, the law laid down by the Hon'ble Supreme Court in the case of **Vadivelu Thevar vs The State of Madras, AIR 1957 SC 614** is relevant. Paras 10 to 12 of the aforesaid judgment is relevant which reads as under:-

" 10. It is not necessary specifically to notice the other decisions of the different High Courts in India in which the court insisted or corroboration of the testimony of a single witness, not as a proposition of law, but in view of the circumstances of those cases. On a consideration of the relevant authorities and the provisions of the Evidence Act, the following propositions maybe safely stated as firmly established:

(1) As a general rule, a court can and may act on the testimony of a single witness though uncorroborated. One credible witness outweighs the testimony of a number of other witnesses of indifferent character.

(2) Unless corroboration is insisted upon by statute, courts should not insist on corroboration except in cases where the nature of the testimony of the single witness itself requires as a rule of prudence, that corroboration should be insisted upon, for example in the case of a child witness, or of a witness whose evidence is that of an accomplice or of an analogous character.

(3) Whether corroboration of the testimony of a single witness is or is not necessary, must depend upon facts and circumstances of each case and no general rule can be laid down in a matter like this and much depends upon the judicial discretion of the Judge before whom the case comes.

11. In view of these considerations, we have no



hesitation in holding that the contention that in a murder case, the court should insist upon plurality of witnesses, is much too broadly stated. Section 134 of the Indian Evidence Act, has categorically laid it down that “no particular number of witnesses shall, in any case, be required for the proof of any fact”. The legislature determined, as long ago as 1872, presumably after due consideration of the pros and cons, that it shall not be necessary for proof or disproof of a fact, to call any particular number of witnesses. In England, both before and after the passing of the Indian Evidence Act, 1872, there have been a number of statutes as set out in Sarkar's Law of Evidence — 9th Edn., at pp. 1100 and 1101, forbidding convictions on the testimony of a single witness. The Indian Legislature has not insisted on laying down any such exceptions to the general rule recognized in Section 134 quoted above. The section enshrines the well recognized maxim that “Evidence has to be weighed and not counted”. Our Legislature has given statutory recognition to the fact that administration of justice may be hampered if a particular number of witnesses were to be insisted upon. It is not seldom that a crime has been committed in the presence of only one witness, leaving aside those cases which are not of uncommon occurrence, where determination of guilt depends entirely on circumstantial evidence. If the legislature were to insist upon plurality of witnesses, cases where the testimony of a single witness only could be available in proof of the crime, would go unpunished. It is here that the discretion of the presiding judge comes into play. The matter thus must depend upon the circumstances of each case and the quality of the evidence of the single witness whose testimony has to be either accepted or rejected. If such a testimony is found by the court to be entirely reliable, there is no legal impediment to the conviction of the accused person on such proof. Even as the guilt of an accused person may be proved by the testimony of a single witness, the innocence of an accused person may be established on the testimony of a single witness, even though a considerable number of witnesses may be forthcoming to testify to the truth of the case for the prosecution. Hence, in our opinion, it is a sound and well-established rule of law that the court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact. Generally speaking, oral testimony in this context may be classified into three categories, namely:

- (1) Wholly reliable.
- (2) Wholly unreliable.
- (3) Neither wholly reliable nor wholly unreliable.



12. In the first category of proof, the court should have no difficulty in coming to its conclusion either way — it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court equally has no difficulty in coming to its conclusion. It is in the third category of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial. There is another danger in insisting on plurality of witnesses. Irrespective of the quality of the oral evidence of a single witness, if courts were to insist on plurality of witnesses in proof of any fact, they will be indirectly encouraging subornation of witnesses. Situations may arise and do arise where only a single person is available to give evidence in support of a disputed fact. The court naturally has to weigh carefully such a testimony and if it is satisfied that the evidence is reliable and free from all taints which tend to render oral testimony open to suspicion, it becomes its duty to act upon such testimony. The law reports contain many precedents where the court had to depend and act upon the testimony of a single witness in support of the prosecution. There are exceptions to this rule, for example, in cases of sexual offences or of the testimony of an approver; both these are cases in which the oral testimony is, by its very nature, suspect, being that of a participator in crime. But, where there are no such exceptional reasons operating, it becomes the duty of the court to convict, if it is satisfied that the testimony of a single witness is entirely reliable. We have therefore, no reasons to refuse to act upon the testimony of the first witness, which is the only reliable evidence in support of the prosecution."

22. If the present case is considered in the context of the above theory, then it is clear that in this case also, the only eye-witness Hariram Baiga (PW-4) has been examined by the prosecution but his testimony is highly reliable. It was through this witness that information about the incident was given to the husband of deceased and other witnesses. This witness gave information about the incident to the police on the date of the incident. The statement of



this witness has been recorded by the Investigating Officer on the date of the incident itself. In this regard, the law laid by the Supreme Court in case of **Chuhar singh vs State of Hariyana, AIR 1977SC 386** is also relevant. Para 4 of the aforesaid judgment is relevant which reads as under:-

".....The fact that the prosecution has been able to examine but one eyewitness to the occurrence cannot detract from the strength of its case. What is important is not how many witnesses have been examined by the prosecution but what is the nature and quality of evidence on which it relies. The evidence of a single witness may sustain a sentence of death whereas a host of vulnerable witnesses may fail to support a simple charge of hurt.....".

23. In view of the foregoing analysis, in our opinion, the prosecution on the basis of credible evidence succeeded to prove beyond reasonable doubt that appellant is guilty for committing the aforesaid offence. Thus, we do not find any infirmity or illegality in the impugned judgment, warranting interference by this Court.

24. The appeal fails and is hereby **dismissed**.

(VIVEK AGARWAL)
JUDGE

(RATNESH CHANDRA SINGH BISEN)
JUDGE