IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
B.R. GAVAI; J., VIKRAM NATH; J.
CRIMINAL APPEAL NO(S). 804/2011; 01.12.2022
RAM PRATAP *versus* THE STATE OF HARYANA

Criminal Trial - Circumstantial Evidence - Suspicion, howsoever strong, cannot substitute proof beyond reasonable doubt - There is not only a grammatical but also a legal distinction between 'may' and 'must'. For proving a case based on circumstantial evidence, it is necessary for the prosecution to establish each and every circumstance beyond reasonable doubt, and further, that the circumstances so proved must form a complete chain of evidence so as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show, in all human probability, that the act has been done by the accused - The facts so established must exclude every hypothesis except the guilt of the accused. *Followed Sharad Birdhichand Sarda v. State of Maharashtra (1984) 4 SCC 116. (Para 9)*

For Appellant(s) Mr. Ajay Pal, AOR Mr. Mayank D., Adv. Ms. Priyanka C., Adv. Mr. Kuldeep Singh Kuchaliya, Adv.

For Respondent(s) Mr. Dinesh Chander Yadav, AAG Mr. A.S. Rishi, Adv. Dr. Monika Gusain, AOR Mr. D.C. Yadav, AAG Mr. Ishwar, Adv. Mr. Sanjay Kumar Visen, AOR

J U D G M E N T

B.R. GAVAI, J.

1.   This appeal arises out of the Judgment and Order passed by the High Court of Punjab and Haryana, vide which it set aside the conviction of the present appellant – Ram Pratap under Section 120-B of IPC, while maintaining the conviction for the offence under 302 of the IPC. The High Court also confirmed the sentence of life imprisonment. In so far as the acquittal of the other accused are concerned, the High Court maintained the same.

2.   The prosecution story in a nutshell is that the deceased - Om Prakash was on visiting terms with the present appellant/ accused- Ram Pratap. On 13th December 2007 at 10:00 AM, the accused Ram Pratap visited the house of the deceased - Om Prakash and after taking tea both went together. At 12 midnight, the present appellant - Ram Pratap along with others came to the house of deceased with his dead body in a jeep. He met Jagdish Chander (PW - 4), the brother of the deceased and told him that the deceased died at his house. On the basis of the complaint of Jagdish Chander (PW-4), an FIR came to be registered. Upon completion of the investigation, a chargesheet was filed against the four accused persons.

3.   In so far as the evidence of Jagdish Chander (PW - 4) is concerned, when he reported the matter to the police on the basis of which FIR was registered, he had only expressed a suspicion against the present appellant. We further find that there was a delay of 14 hours in reporting the incident to the police.

4.   The learned trial Court relying upon the evidence of PW-4, PW-7 and PW-8 held that the prosecution has proved the case beyond reasonable doubt against the present appellant. Further, on the basis of the same evidence, the Trial Judge acquitted the other accused whose acquittal has been upheld by the High Court.

5. The High Court, while confirming the conviction of the appellant, relied upon the evidence of Jagdish Chander (PW-4). Further, the High Court specifically records that Bhagwana (PW-5), the brother-in-law of the deceased, who was the witness to the last seen, has turned hostile and thus did not support the prosecution case.

6. We have heard Mr. Mayank Dahiya, learned counsel appearing on behalf of the Appellant and Mr. Dinesh Chander Yadav, learned counsel appearing on behalf of the Respondent-State.

7. The learned counsel appearing on behalf of the respondent - State submitted that the High Court as well as the trial court have grossly erred in convicting the appellant when there is no evidence worth the namesake. The learned counsel for the respondent – State submitted that the trial court as well as the High Court has appreciated the evidence in the correct perspective and no interference is warranted.

8. Undisputedly, the present case is a case based on circumstantial evidence.

9. It has been held by this Court in a catena of cases including *Sharad Birdhichand Sarda v. State of Maharashtra* reported at (1984) 4 SCC 116, that suspicion, howsoever strong, cannot substitute proof beyond reasonable doubt. This Court has held that there is not only a grammatical but also a legal distinction between 'may' and 'must'. For proving a case based on circumstantial evidence, it is necessary for the prosecution to establish each and every circumstance beyond reasonable doubt, and further, that the circumstances so proved must form a complete chain of evidence so as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show, in all human probability, that the act has been done by the accused. Further, it has been held that the facts so established must exclude every hypothesis except the guilt of the accused.

10. In the present case, if the evidence of Jagdish Chander (PW - 4) is to be appreciated wherein he has stated that the accused came to his house and informed him that he has killed the deceased-Om Prakash, such statement does not find any mention in the oral report. Apart from this, the delay of 14 hours in lodging the oral report has not been sufficiently explained. The only witness of the last seen theory, i.e. PW-5, has turned hostile and has thus been disbelieved.

11. Apart from that, the trial court disbelieved the very same evidence in so far as the other four accused were concerned.

The said acquittal has also been found to be valid by the High Court.

12. In that view of the matter, we find that the High Court as well as the trial court were not justified in convicting the appellant. The appeal is allowed and the appellant is acquitted of the charges. The bail bonds stand cancelled.

13. Pending application(s), if any, stand disposed of.