

[Non-Reportable]

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (Crl.) No. 5369 of 2013

N.S.Nagendra

...Petitioner

Vs.

State of Karnataka

...Respondent

J U D G M E N T

A.K.SIKRI,J.

1. The petitioner is convicted for the offences punishable under Section 302 and 201 of the Indian Penal Code (IPC) by the trial court. For offence under Section 302 IPC, he is sentenced to undergo life imprisonment and also imposed a fine of Rs.2,000/-. For committing offence under Section 201 IPC, the petitioner is sentenced to undergo rigorous imprisonment for 7 years and also to pay a fine of Rs.500/-. Both the sentences are ordered to be run concurrently. The petitioner appealed to the High Court challenging the conviction. However, the High Court has dismissed said appeal maintaining the conviction and sentence of the petitioner vide impugned judgment dated 12th January 2010.

Not satisfied and undeterred, present Special Leave Petition is filed questioning the validity of the conviction, as indicted above.

2. The charge against the petitioner was of murdering a boy named Madhusudhan (hereinafter referred to as 'deceased') aged about 12 years who was studying in a Boarding School at Bellur, Karnataka. His mother was one Smt.Sujatha (PW6) who is the wife of PW9. It appears that because of strained relations developed between Sujatha and her husband, her husband had deserted her about 7 years prior to the incident. The petitioner had developed intimacy with Sujatha and were in a live-in relationship.

3. As per the prosecution story, the accused found the deceased to be an impediment in his relationship with Sujatha. On the fateful day i.e. on 16.9.2003 he went to the school of the deceased and took the deceased with him from Bellur to a hotel at Srirangapatnam. He hired a room in the lodge giving his name K.Raju, resident of Rajajinagar, Bangalore and signed the hotel register in the said name. The deceased and accused stayed in room No.12 in that lodge. The allegation of the prosecution is

that the petitioner administered poisonous food to the child, who after consuming the said food, died. The petitioner left the hotel at around at 10.30 p.m. On the next morning at about 7.30 a.m., the Manager of the hotel (PW1) found through window of the room that the child was lying on the floor. He lodged the complaint whereupon police came. After the door of the room was broken open, it was found that child was lying dead.

4. The cause of death, as per the post-mortem report, was respiratory failure on account of consumption of zinc phosphate/poison. The death was described as homicidal. The petitioner was arrested on 5.11.2003 after investigation. Challan was filed; the petitioner was charged of the offence under Section 302 and 201, IPC; prosecution evidence led; statement of the petitioner under Section 313, Cr.P.C. recorded; the petitioner did not produce any defence witness; and after hearing the matter verdict of guilt against the petitioner was returned by the learned Sessions Judge and he was convicted in the manner described above. This has been upheld by the High Court.

5. We may record that after the accused was arrested on 5.11.2003 he was identified by PW1 in the identification parade which was conducted by I.O. (PW13). The prosecution had produced two school children as witnesses, namely PW3 and PW4 who deposed to the effect that after the school, the deceased was taken away by the petitioner on 16.9.2003. PW1, who had identified the petitioner, stated in his deposition, that the petitioner had come to the hotel on 16.9.2003 around at 5.30 p.m. along with the deceased and took room No.12. He also signed the hotel register stating his name to be K.Raju.

6. In order to find out as to whether it is the petitioner who had taken the room in the hotel, the hotel register containing the hand-writing and a note book containing the admitted hand-writing of the petitioner were seized and sent to the hand-writing expert. As per the report of the hand-writing expert, hand-writing in the hotel register and that in the note book are of the same person which clearly connects it to the petitioner. Further, mother of the deceased (PW6) admitted her relationship with the petitioner.

7. From the aforesaid testimony, it becomes abundantly clear that there is a complete chain of events, proving the guilt of the petitioner and he could be the only person who had committed the crime.

8. As mentioned above, as per the post-mortem report child has died of poison and the death is homicidal. The deceased had attended the school on 16.9.2003. Therefrom, he was taken away by the petitioner, as per the unshaken testimony of two school children viz. PW3 and PW4. The fact that he was taken to the hotel at Rangapatnam the same evening, stands proved from the testimony of PW1, supported by the hand writing of the deceased on the hotel register, proved through hand writing expert. The deceased was, thus, last seen in the company of the petitioner. PW1 also categorically stated that the petitioner was seen leaving the hotel at 10.30 p.m and whereafter he had not returned. On next day at 7.30 a.m. in the morning, the boy was found dead in the room. All this clearly proves beyond doubt that it is the petitioner only who committed the murder of the child. Even motive stands established which is accepted by the PW6 herself, namely her relationship with the petitioner. The

petitioner wanted to ease out the boy who was becoming an eyesore in their relationship. Pertinently, in his statement under Section 313 Cr.P.C. the petitioner has not denied the seizure of note book and his signature.

9. Learned counsel for the petitioner made desperate attempt, but in vain, to find certain loopholes in the testimonies of the witnesses. After going through the statements of witnesses and cross-examination, we are in agreement with the judgments of the courts below. There is hardly any substantial question of law. This Special Leave Petition is, therefore, dismissed in limine.

.....J.
(K.S.Radhakrishnan)

.....J.
(A.K.Sikri)

New Delhi,
January 29, 2014

JUDGMENT