

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1300/2010

ISHWAR YADAV PATIL

APPELLANT (S)

VERSUS

STATE OF MAHARASHTRA

RESPONDENT (S)

J U D G M E N T

KURIAN, J.

The appellant was convicted under Section 302 read with Section 34 IPC by the Vth Additional Sessions Judge, Jalgaon in Sessions Case No.77 of 1991 and was sentenced to imprisonment for life.

2. In the impugned order the High Court has sustained the conviction. In paragraph 26, the following circumstances have been highlighted by the High Court:-

i. That, it was deceased Suresh who 15 days prior to the incident informed Manohar (PW-13) that his hybrid Jawar crop was cut by the appellants and as a result, PW-13 Manohar Patil called both the appellants in presence of Suresh, questioned them and when the appellants admitted, Manohar PW-13 beat both the appellants. So, this becomes motive as because of deceased Surech, the theft committed by the appellants came to light. The appellants had to suffer thrashing at the hands of PW-13 Manohar.

ii. Second circumstance against the appellants is that about 2-3 hours before the incident PW-6 Dhanraj Patil was told by deceased that both the appellants had given him threat of killing with sickle.

iii. The dead body of Suresh was lying in the Wheat corp with scarf around his neck by which strangulation was committed. The death of Suresh was due to strangulation. It was homicidal death and not incidental or suicidal death.

iv. PW-12 Vaijayantabai saw the appellants near dead body at about 2.00 to 2.30 p.m. and on seeing Vaijayantabai and being questioned by her as to what they were doing, both the appellants ran away.

v. As a result of shouts by Vaijayantabai, PW-8 Mukunda, PW-9 Laxman, PW-11 Hirabai and PW-17 Rupchand came running and asked PW-12 Vaijayantabai what had happened and she disclosed that appellants had killed Suresh by strangulation, which was the inference drawn by her from the circumstances seen by her. Her conduct is relevant in immediately disclosing names of the appellants.

vi. The appellants have not given explanation as to why they had gone to Wheat field of deceased Suresh and what they were doing while bending on the dead body and why they ran away when seen and questioned by PW-12 Vaijayantabai. This omission to explain conduct coupled with motive and earlier incident becomes a strong circumstance against the appellant.

3. We have also gone through the evidence in detail, particularly of the key witnesses PW.12 and PW.13.

4. Having heard the learned counsel appearing for the appellant and having gone through the evidence and judgments passed by the Sessions Court as well as the High Court, we do not find any ground to take a different view.

5. The appeal is hence dismissed.

6. However, having regard to the fact that the appellant was a young boy of 19 years at the time of occurrence, we request the State to consider his case for remission as per guidelines.

.....J.
[KURIAN JOSEPH]

.....J.
[A.M. KHANWILKAR]

NEW DELHI;
JANUARY 31, 2017.



JUDGMENT