

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.829 OF 2013
GOPAL NEOGI ...APPELLANT

VERSUS

STATE OF WEST BENGAL ...RESPONDENT

O R D E R

1. We have heard the learned counsels for the parties and perused the relevant material.

2. The conviction of the accused-appellant under Sections 302/201 of the Indian Penal Code made by the learned trial Court and affirmed by the High Court is based entirely on circumstantial evidence. The test, therefore, would be whether the circumstances relied upon by the Courts below have been proved against the accused-appellant and if so, whether they give rise to a chain of circumstances which point to only one direction that it is the accused and the accused alone who is responsible for the crime.

3. Learned counsel for the appellant has very elaborately taken us through the evidence

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of the witnesses and the judgments under challenge.

4. From the materials on record, we find that PWs-7 (Alok Kumar Malik), 8 (Mongala Malik), 9 (Aditya Malik), 10 (Pairag Patra), 13 (Haru Santra) and 14 (Nikhil Chandra Malik) are the material witnesses. On the basis of the testimonies of the said witnesses, the following circumstances have been proved against the accused-appellant :

(1) According to PW-7, the accused-appellant had murdered his first wife and thereafter re-married the deceased (Lakshmi).

(2) The accused had an extra-marital affair with one-Padma, which has been proved by PW-13. On account of the said extra-marital affair, there were serious differences between the accused-appellant and his deceased wife.

(3) The accused was last seen with his wife (Lakshmi) and daughter (Mamta) at about 10.30-11.00 a.m. of 2nd July,

1998; the dead-bodies of his wife (head severed) and daughter were

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recovered on the next day i.e. 3rd July, 1998.

(4) The accused-appellant was found present in his village on the morning of the next day i.e. 3rd July, 1998. On

being asked he had informed the prosecution witnesses that his wife and daughter were with their aunt in Polba village and would be returning in 2-3 days; time.

(5) The accused-appellant had informed the prosecution witnesses, referred to above, that he along with his wife and

daughter were going to his aunt's
house in Polba village and would be
spending a few days there.

(6) The aforesaid prosecution witnesses have stated that after three days of the incident they were informed by the aunt of the accused-appellant that neither the appellant nor his wife and the child had come to her house in Polba village.

(7) PW-8 had deposed that the deceased had come to her house and asked for a jute bag and a saree as she along with the accused and her daughter was going

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to the house of the aunt of the
accused in Polba village. The same
jute bag and saree was found next to
the dead-bodies at the scene of the
crime.

5. The only circumstance, out of the above, which may be understood not to have been fully proved is the visit of the accused-appellant with his wife and daughter to his aunt's house in Polba village as the said aunt had not been examined. However, the above lacuna on the part of the prosecution has to be seen in the light of the conduct of the accused in being alone in his village on 3 rd

July, 1998 when he had informed the prosecution witnesses that the whole family would be visiting his aunt's house in Polba village and staying with her for the next few days.

ITEM NO.108

COURT NO.4

SECTION IIB

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Criminal Appeal No(s). 829/2013

GOPAL NEOGI

Appellant(s)

VERSUS

STATE OF WEST BENGAL

Respondent(s)

(with office report)

Date : 19/01/2017 This appeal was called on for hearing today.

CORAM :

HON&#39;BLE MR. JUSTICE RANJAN GOGOI

HON&#39;BLE MR. JUSTICE ASHOK BHUSHAN

For Appellant(s) Mr. Rutwik Panda, Adv.

Ms. Anshu Malik, Adv.

For Respondent(s) Mr. Joydeep Mazumdar, Adv.

Mr. Parijat Siknha, Adv.

Mr. Rohit Dutta, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The appeal is dismissed in terms of the signed order.

(Neetu Khajuria)

Court Master (Asha Soni)

Court Master

(Signed order is placed on the file.)