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BRIEF FACTS -

The criminal appeal stems from a statement given by Sonmuni Baskey to the police on August 11, 2011. Sonmuni, residing at her maternal uncle Deblal Kisku's house, had a friendship with Nesh Kisku @ Dhanai Kisku. When Nesh went to Assam for work, Doman Murmu became her friend. When Nesh returned, he resumed living with Sonmuni. On August 10, 2011, after returning from Bengal, Sonmuni, Nesh, and others went to sleep. Sonmuni woke up to Nesh screaming and saw Doman fleeing with a dagger stabbed in Nesh's chest. Sonmuni removed the dagger and threw it. Nesh died during treatment. A case was registered against Doman Murmu under Section 302 of the Indian Penal Code based on Sonmuni's statement. The investigation concluded, and a charge-sheet was filed against Doman for murder.

ISSUES RAISED

Whether the order of sentence passed by the learned Additional Sessions Judge-III, Dumka requires interference by High Court of Jharkhand?

ARGUMENTS ADVANCED BY THE APPELLANT

The appellant argued that the testimony of P.W.1, Sonmuni Baskey, the informant and supposed eyewitness, is unreliable due to contradictions between her fardbeyan (initial statement) and her statement during the trial.

The other prosecution witnesses (P.W.2 to P.W.12) are argued to be hearsay witnesses who only learned about the incident from Sonmuni Baskey, thus their testimonies are not independently reliable.

The dagger recovered from the crime scene was not sent to the Forensic Science Laboratory (FSL) for examination, which undermines the physical evidence.

The prosecution failed to prove a motive for the crime.

The seizure memo (document detailing the seized items) was not proven through the testimony of independent witnesses.

It was a dark night with no electric light, making it impossible for the informant to have identified the accused. The informant did not witness the actual stabbing but only saw the accused fleeing, questioning her status as an eyewitness. The failure to send the dagger to FSL is highlighted as a defect in the investigation. The appellant suggested that Sonmuni Baskey herself might have committed the murder to eliminate her former husband and live with her second husband, Doman Murmu.

ARGUMENTS ADVANCED BY THE RESPONDENT

The prosecution's case is based on direct evidence from P.W.1, Sonmuni Baskey, who is the wife of the deceased and an eyewitness. Her identification of the accused is credible due to their close relationship and her familiarity with him.

P.W.2, Deblal Kisku, and P.W.3, Churki Hembrom, the maternal uncle and aunt of the informant, corroborated P.W.1's testimony by arriving at the scene immediately after hearing her alarm.

Despite the darkness, P.W.1 could identify the accused based on his gait, bodily structure, and gestures due to their intimate relationship.

In cases of direct evidence, proving motive is not necessary.

The failure to send the dagger to FSL does not fatally undermine the prosecution's case since it is based on direct evidence.

The testimonies of P.W.2 and P.W.3 are admissible as they corroborate the eye-witness account of P.W.1.

Although the door was closed, there was no evidence to suggest it was latched from inside, thus the accused could have entered and committed the crime.

The suggestion that the informant herself committed the murder was denied by the prosecution witnesses and is not supported by evidence.

JUDGEMENT ANALYSIS

The defense argued that Sonmuni Baskey's testimony was unreliable due to contradictions between her initial statement (fardbeyan) and her court testimony. The judges did not find this argument convincing enough to discredit her testimony.

The defense claimed that it was impossible for Sonmuni Baskey to identify the accused in the dark. The judges dismissed this contention, noting the close relationship between the informant and the appellant (her second husband), suggesting she could identify him by his gait, bodily structure, and gestures even in darkness.

The defense argued that the motive for the crime was not established. The judges ruled that in cases based on direct evidence, proving motive is not essential.

The defense argued that Sonmuni Baskey could not be considered an eye witness since she did not see the actual stabbing, only the accused fleeing. The judges countered that her presence at the scene and her

witnessing the immediate aftermath (dagger in the victim's stomach and the accused fleeing) qualifies her as an eye witness.

The defense pointed out that the dagger was not sent for forensic examination. The judges deemed this defect in the investigation non-fatal, emphasizing that the case was based on direct evidence, making the forensic analysis less critical.

The defense argued that other witnesses were hearsay witnesses and their testimonies were inadmissible. The judges found these testimonies admissible as corroborative evidence since they were based on information provided by the eye witness, Sonmuni Baskey.

The defense suggested that the informant might have committed the murder herself to be with the appellant. The judges dismissed this theory, noting that the appellant himself did not allege such connivance during his statement under Section 313 of the Cr.P.C., and there was no evidence of such connivance found during the investigation.

After a critical appraisal of the prosecution evidence, the judges concluded that the prosecution successfully proved the case against the appellants beyond a reasonable doubt. The judgment of conviction and the sentence were affirmed, and the appeal was dismissed.

In summary, the judges systematically refuted each of the appellant's arguments, supported the credibility of the key witness, and upheld the trial court's conviction and sentencing based on the evidence presented.

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