

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 131 OF 2006

CHANDRA BONIA

Appellant (s)

VERSUS

STATE OF ASSAM

Respondent(s)

This
appeal
against
the



O
R D E R

conviction has been filed against the concurrent findings recorded by the trial court and the High Court for a double murder committed on 7th October, 1990 for which the appellant was sentenced for life on two counts, both sentences to run concurrently.

As per the prosecution story, Somra Munda and Agnash Munda, the father and brother of the first informant were murdered during the night of 7th October, 1990 in their house. The First

Information Report was lodged by Chukhnu Munda at Police Station Marian on the 8th October, 1990 alleging that during his absence from the house some persons had murdered his father and younger brother. During the course of the investigation, the police recorded the statement of various witnesses including PW 1 Pradip Das and PW 2 Niran Bonia (who were both declared hostile), PW 5, the Medical Officer who had conducted the post mortem on the two dead bodies, PW 6 the informant and PW 7 Baloni Bawri, who was a neighbour

of the
deceased,
and to
whom the
accused
had made
an extra
judicial



confession on the date of the murder itself and PW 12 the Investigating Officer who was also a witness to the recovery of the murder weapon at the instance of the accused. The trial court and the High Court have both noticed that as the solitary eye witness had died and the other two material witnesses PW 1 and PW 2 had been declared hostile, the prosecution story rested exclusively on the confession made by the accused to PW 7 and the factum of recovery of the dao at the instance of the accused

before PW 12 the Investigating Officer.

At the hearing before us today, Mr. Praneet Ranjan, the learned Amicus Curiae for the accused - appellant has argued that the only evidence against the accused was the extra judicial confession made before PW 7 and as this evidence was a weak kind of evidence, the conviction of the appellant could not be maintained. He has further submitted that police had, in fact, used third degree methods and tortured and threatened the witnesses

to give

false

evidence

and as

such the

case

against

the

appellant

appeared to be a concocted one.



Mr. Avijit Roy, the learned counsel for the State of Assam, however, has supported the judgments of the courts below.

It is true that an extra judicial confession is a very weak piece of evidence and ordinarily a conviction solely on the basis of such evidence cannot be maintained. The confession, made by the appellant to PW 7, however, falls in a different category. A

reading of the evidence of PW 7 clearly reveals that her house was about 100 yards away from the murder site and that when she had come out from her house to throw the starch out of the cooked rice, she had seen three persons running away from the house of the deceased and that a little later, the appellant - accused had come to her house carrying a dao and addressing her as Didi had told her that he had murdered two persons and cautioned her not to disclose this fact to anybody otherwise she too would be killed,

and on

account

of fear,

she and

her

husband

had left

their

residence



and shifted to some other place. We also see that the statement of PW 7 recorded under Section 164 Cr.P.C is almost in identical terms. It is therefore evident that the extra judicial confession was made in a different background in as much that as the appellant suspected that he had been identified by the witness he had returned to warn her not to divulge any information to anyone. The very proximity of the murder and the

extra judicial confession made to PW 7 speaks volumes as to its authenticity. We also see from the record that the alleged murder weapon, a dao, had been recovered at the instance of the appellant. It is true that the independent witnesses of the recovery have not supported the prosecution, but we have no reason to doubt the evidence of PW 12 on this score.

On an overall assessment of the facts the prosecution story is proved beyond reasonable doubt.

We
thus find
no merit
in this
appeal
and the
same is



dismissed.

The fee of the Amicus Curiae is fixed at Rs.7000/-.

.....J
(HARJIT SINGH BEDI)

.....J
(CHANDRAMAULI KR. PRASAD)

NEW DELHI
MARCH 30, 2011



