1974 KHC 703
Supreme Court of India
*A. N. Ray, C. J. I.; Y. V. Chandrachud; *V. R. Krishna Iyer, JJ.*
Mohan Lal Pangasa v. State of U.P.
Crl. A. No. 24 of 1971
09 April, 1974

Constitution of India, Art.136 - Reassessment of the evidence by Supreme Court -- Is not permissible in the ordinary course. (Para 5)

JUDGMENT

V. R. Krishna Iyer, J.

1 This appeal by special leave relates to a tragic case of one young doctor murdering his fellow doctor with whom he was on very friendly terms -- an act of motiveless malignity, if the case of the prosecution were true. The accused 28 years old, and the deceased of around the same age, were both students in the Ganesh Shanker Vidyarathi Memorial Medical College, Kanpur, and were both employed in the same college and were residing together in the same hostel. Obviously they were as thick as brothers and indeed spent their evenings often together.

2 On the fateful day, April 11, 1969, the accused and the deceased went to see a picture in the Natraj Cinema around 6 p.m. After witnessing the show they returned together and looked out for the whereabouts of one Dr. Shah, in which connection they went to the police outpost, Govind Nagar, at about 10 p.m. They left the outpost but took an out of the way route to the Medical College hostel via the Juhi Railway yard. The action packed hour begins now, but we are left with no direct evidence about the happenings except the circumstantial testimony provided by PWs 3 and 5, the two Rakshaks of the Railway Protection Force serving at R.P.F. Thana, G. M. C., Juhi. While they were on patrol duty, they described someone in the distance running in the direction of the Etawah Railway line. Police - like, they challenged the fleeing man and flashed their torches to discover the accused with bloodstained clothes. The latter continued to run but the Rakshaks chased him and dragged him from underneath the goods bogie where he had suddenly hidden himself. Caught with the bloodstained clothes bespeaking some guilt, the accused disclosed that he was a doctor and had knifed to death his companion, Dr. Gupta, somewhere near the railway lines. Thereupon, PWs. 3 and 5 searched the person of the accused and recovered the knife, Ex. 1, from the right side pocket of his trousers. There was also a purse, Ex. 2, and a photograph, Ex. 7, some cash and other sundry items. The two witnesses took the accused to their police station where PW 6, the Sub Inspector, was present. A report was made by PW 3 which was recorded in the general diary of the Thana at sometime after midnight, Ex. Ka-8. A seizure memo, Ex. Ka-1, was made out regarding the knife, Ex. 1, PW 6 was told by the appellant that he would point out the dead body of the victim and thereafter the party consisting of PW 6, the appellant, PW 3, and PW 5 moved to the spot where the cadaver was pointed out by the appellant. The scene of occurrence was within the territorial limits of the police station, Juhi, and so a copy of Ex. Ka-8 was communicated to that station. Investigation was taken up there, inquest was held and postmortem examination conducted. The bloodstained articles were sent to the Chemical Examiner and eventually the accused was charge sheeted for murder and a minor offence under S.25 of the Arms Act. On committal, the

Sessions Judge tried the case and in a careful judgment held the accused guilty and sentenced him to death under S.302, Indian Penal Code. The appeal to the High Court resulted in the confirmation of the conviction but the reduction of the death penalty to life imprisonment.

3 Counsel for the appellant has urged before us that the evidence being purely circumstantial and doubtful the conviction was unsustainable. It is true that there are no direct witnesses to the actual murder. Even so, an impressive array of telling circumstances has, according to the courts below, convincingly shown the accused guilty. Men are convicted not merely on direct evidence alone but also on circumstantial testimony. In the present case, the accused was the person last seen with the deceased; his conduct of running away when challenged and chased and crouching underneath a bogie when the Rakshaks were about to run him down, his wearing clothes which were bloodstained, the recovery of the knife, Ex. 1, from his trouser pocket and his conduct in telling the Rakshaks that he murdered his companion are too overwhelming for any possible inference of innocence. Moreover, the accused led the police party to the discovery of the dead body which also has an incriminating impact.

4 The counter version belatedly set up by the accused has been demonstrated to be false. His curious story is that when he and the victim were returning home they were attacked by a batch of badmashes, that both were injured, and that, while his friend succumbed to the wounds, he survived. This case of exculpation was not mentioned to the Rakshaks when, they caught him or in his bail petition later. Even in the committal court he merely denied the offence and withheld his positive explanation which he reserved for the Sessions Court. However, even the case that he has put forward has been examined in the light of the evidence and found to be false. Indeed, among the circumstances which go against the accused's innocence is the falsity of the plea that he put forward. It is not illegal to take into consideration this circumstance also if there are other compelling materials bringing home the guilt to the accused.

5 In this court, with its special jurisdiction under Art.136 of the Constitution, reassessment of the evidence is not permissible in the ordinary course. Counsel for the appellant, Shri. Lal, vainly urged that there was something fishy about the investigation and the entries in the police records. He also wanted us to accept the insufficiency of the circumstances, apart from their dubiety. Concurrent findings of fact in the Sessions Court and the High Court must normally be the last word and we decline to reappreciate the evidence.

6 It is trite law that when the evidence against an accused person, particularly when he is charged with a grave offence like murder, if it consists of only circumstances and not direct oral evidence, it must be qualitatively such that on every reasonable hypothesis the conclusion must be that the accused is guilty; not fantastic possibilities nor freak inferences but rational deductions which reasonable minds make from the probative force of facts and circumstances. So viewed, it is impossible to escape the conclusion that the circumstantial testimony adduced in this case is incompatible with the guiltlessness of the appellant. We, therefore, decline to interfere with the conviction.

7 In the result, the appeal fails and is hereby dismissed.