

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-D No.1064-DB of 2010

Date of decision:6.5.2015

Assa Bahadur Sangma

....Appellant

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MS. JUSTICE LISA GILL

Present: Mr. Sanjiv Sharma, Advocate for the appellant.

Mr. Manoj Bajaj, Additional Advocate General, Punjab.

HEMANT GUPTA, J.

The present appeal is directed against an order dated 11.02.2010 convicting the appellant for an offence under Section 302 of Indian Penal Code and sentencing him to undergo life imprisonment and to pay a fine of Rs.5000/-, in default of payment of fine to further undergo rigorous imprisonment for one year.

The prosecution case was initiated on the basis of a communication from Commandant 123 Battalion BSF (Ex.PH) on 30.12.2006 to Station House Officer, Police Station Bhikhiwind. The communication is that Head Constable P.K. Thapa of 'E' coy informed the Commandant that Constable A.B.M. Sangma, (the present appellant) along with his wife has forcibly entered his House No.66, Type-II in his absence and locked the door from inside. On receiving this information, a party consisting Sub Inspector Ramji Lal with HC Babu Lal and Constable Puran Mal was sent to open the door and inquire into the situation. When the party reached there, they found the door locked from inside. On knock, nobody opened it and

then they forcibly opened the door. On opening the door they saw Constable A.B.M. Sangma holding a blood stained dagger (*Khukhari*) in his right hand and his wearing clothes had blood stains on them. His wife Putul @ Neema was lying on the floor dead in the pool of blood. Constable A.B.M. Sangma was overpowered by the party and in this process dagger (*Khukhari*) fell from his hand on to the floor. Constable A.B.M. Sangma was brought to the unit Quarter guard and detained there. The blood stained dagger (*Khukhari*) and scene of occurrence has been preserved and a guard has been posted there. On such information First Information Report (Ex.PS/1) was lodged.

ASI Mukhtiar Singh PW15 reached place of occurrence and took into possession one blood stained dagger (*Khukhari*) and kept in a parcel Ex.P1. He also took into possession blood with the help of bandage which was air dry and put into polythene envelope. He also recorded statement of the witnesses and subsequently handed over the case property to SHO.

PW16 Inspector Gurpreet Singh arranged to send dead body for postmortem vide application Ex.PU. The accused Assa Bahadur Sangma was interrogated and the clothes worn by the accused were taken in possession vide parcel Ex.P4 consisting of one pant, one Jersi, one wrist watch which were blood stained. The parcel Ex.P4 was taken into possession vide memo Ex.PR. On 31.12.2006, HC Salwinder Singh handed over to Inspector Gurpreet Singh one jersi, one blouse, one underwear, one salwar, one pajami, one another underwear, one shawl, two socks along with two bangles and one ring of deceased Putul @ Neema which were made in parcel Ex.P6 and taken in possession vide memo Ex.PX. He also took in possession the

photographs taken by HC Surjit Singh vide memo Ex.PY. He recorded statement of PWs and completed the investigations. In cross-examination, he stated that he did not find any broken piece of door, padlock or any bolt at the place of occurrence or recorded any observation that door was opened with force. He did not call any person from the nearby family quarter during investigation. He denied the suggestion that nothing was recovered from the accused as alleged by him in the recovery memo. He deposed that blood was lifted with some thing and the same was put in the plastic box. The blood stained articles including weapon of offence were sent to Forensic Science Laboratory, Chandigarh and that he recorded the statement of witnesses without any addition or omission. He denied the suggestion that investigations have been fabricated in connivance with the BSF officials.

The prosecution also examined PW1 Dr. Gurpreet Singh Rai who conducted the postmortem of the deceased on 31.12.2006. He found 8 incised wounds mostly around the neck. The postmortem report is Ex.PA.

The prosecution examined PW11 Smt. Meenu Thapa wife of PW Pawan Kumar Thapa. It is Meenu Thapa who noticed the accused and his wife entering her house and locking them inside her bedroom. She deposed that at about 1:45 PM, she saw deceased running to her house followed by the accused Assa Bahadur Sangma armed with dagger (*Khukhari*) and they both entered in the bedroom of her house and accused bolted the door from inside. The deceased raised hue and cry for help. She was terrified and went to the office of her husband to inform him. Her husband informed to the officials of

the BSF through telephone and then the officials of the BSF along with her husband and a guard came to her house and found the accused armed with dagger (*Khukhari*) while the deceased was lying in pool of blood as a dead. In cross-examination, she stated that she has one child who is school going in the second class. The day of occurrence was holiday however it was Saturday. She knew the deceased only on account of her being a neighbourer in the quarter allotted to her husband. The deceased used to visit her house and used to stay in her house in the absence of her husband. Her quarter is on the second floor situated two or three quarters away from the quarter of the accused. She deposed that she ran to her husband at the ration store which is at the distance of 100-150 yards and she narrated to her husband that the deceased and the accused have bolted themselves in a bedroom of her house with weapon. She denied the suggestion that the accused never entered her house on the day of occurrence and the accused was not overpowered by the guards and he was not armed with blood stained dagger (*Khukhari*).

PW7 Pawan Kumar Thapa admitted that the accused was on visiting terms and wife of the accused used to visit their house. He supported the prosecution story and corroborated the statement of his wife in all material aspects. Apart from such witnesses, the prosecution also examined PW8 SI Ramji Lal who was ordered by the Commandant to reach at the residence of HC Pawan Kumar Thapa. It is he who called the accused to open the door but he did not open. Then the party forcibly opened the door. He deposed that accused was having a dagger (*Khukhari*) in his hand which was blood stained and his wife Putal was lying flat on the floor in a pool of blood, when

the door of the bedroom of PW11 Meenu Thapa was opened. He is the signatory to the inquest report Ex.PF and other documents of recovery. Meharudin Khan, the Deputy Commandant has been examined as PW9 who instructed PW8 Ramji Lal to go the house of Pawan Kumar Thapa.

Apart from such witnesses, the prosecution also examined other formal witnesses to complete the chain of circumstances. The report of FSL was produced on record as Ex.PZ. It examined 7 parcels including the parcel containing clothes worn by the deceased. Parcel 'E' contained clothes worn by the accused; parcel 'B' contained dagger (*Khukhari*) whereas all the seven parcels were found to be stained with human blood.

All the incriminating evidence was put to the accused while recording his statement under Section 313 of the Code of Criminal Procedure (for short 'Cr.P.C.'). The stand of the accused was that he had gone for shopping at 10 AM and when he returned he came to know about the death of his wife and that he has been falsely implicated.

Learned trial Court after considering the entire evidence on record found that the accused committed the murder of his wife on 30.12.2006.

Learned counsel for the appellant has vehemently argued that the prosecution case is unreliable, unnatural and therefore, not worthy of reliance. It is argued that it is not explained that why the accused would move to another quarter to kill his wife whereas the crime can very well be committed at his house as well. The

prosecution story is contradictory, lacks cohesiveness and therefore cannot be relied upon to maintain conviction of the present appellant.

The wife of the accused was known to PW11 Meenu Thapa. She has deposed that the deceased came running to her house followed by accused armed with dagger (*Khukhari*). Meaning thereby that the confrontation between them started outside the house of PW11 Meenu Thapa but the accused followed his wife to the house of the witness and bolted themselves in the bedroom. She has no motive to depose against the appellant. The cross examination does not show any discrepancy in her statement raising doubt on the truthfulness of her statement. Her statement is corroborated by her husband PW7 Pawan Kumar Thapa. The statement of Pawan Kumar Thapa is corroborated by PW8 SI Ramji Lal and also by Deputy Commandant Meharudin Khan. None of the persons have any motive to depose falsely so as to implicate the accused. The clothes worn by the accused were taken in possession before the arrest of the accused in the unit Quarter guard. Such clothes were made into parcel and examined by FSL. Such parcel 'E' has been found to be stained with human blood. Similarly, human blood is found on dagger (*Khukhari*) which was seen by PW11 Meenu Thapa, PW7 Pawan Kumar Thapa and PW8 SI Ramji Lal. All of them have seen the accused with the blood stained weapon of offence soon after the commission of crime with the dead body lying nearby. Their testimony cannot be discredited in any manner whatsoever. The dagger (*Khukhari*) is also stained with human blood. All 7 parcels which were taken in possession by the investigating agency have been found to be stained with human blood.

In view of the categorical and consistent evidence of the prosecution witnesses, we do not find any error in the findings recorded by learned trial Court which may warrant interference in the appeal.

Consequently, the present appeal is dismissed with modification of the sentence so as to sentence the appellant to undergo life imprisonment and to pay a fine of Rs.5000/-. However, in default of payment of fine, he shall undergo one month's rigorous imprisonment.

(HEMANT GUPTA)
JUDGE

MAY 6, 2015
'D. Gulati'

(LISA GILL)
JUDGE