

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D No. 892-DB of 2009(O&M)

Date of decision : 03.07.2015

Ramesh Singh

.....Appellant

Versus

State of Punjab

....Respondent

**CORAM:- HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Gurvinder Singh Lalli, Advocate for
for the appellant.

Mr. Manoj Bajaj, Addl. Advocate General, Punjab.

LISA GILL, J.

Appellant - Ramesh Singh son of Sohan Singh has preferred this appeal impugning the judgment and order dated 16.10.2007 passed by the learned Sessions Judge, Bathinda whereby the appellant has been convicted for the offence punishable under Section 302 IPC and sentenced to undergo imprisonment for life besides pay a fine of ₹10,000/- in default of which to undergo further rigorous imprisonment for six months.

Prosecution was set in motion by PW2 complainant - Jagroop Singh, father of the deceased when he recorded his statement Ex. PD on 20.08.2006. He disclosed that he had three daughters and four sons. All his children were married. His daughter Balwinder Kaur @ Bholi Kaur was married with appellant - Ramesh

Singh since last 10/12 years. Three children were born out of this wedlock. Eldest being a son and two younger daughter. Ramesh Singh - appellant used to maltreat and harass his daughter. Since last two years his daughter alongwith her children was living with him. She was doing some labour work to look after her children. Complainant's son-in-law appellant – Ramesh Singh came to his house alongwith his brothe-in-law and sister who were residing at Nathana on 17.08.2006. After settling the matter he took back his daughter alongwith children to village Tungwali. On 20.08.2006, complainant alongwith his son Balwinder Singh PW3 went to village Tungwali to inquire about the well being of his daughter at about 7.00 a.m. They were sitting in the courtyard after taking tea and were in conversation when the appellant started abusing his daughter in their presence. His daughter went inside a room at about 7.30 a.m. for some work. Appellant went after her inside the room. On hearing hue and cry, complainant and his son Balwinder Singh went inside the room and within their sight Ramesh Singh – appellant inflicted an axe blow from its sharp side on the neck of the complainant's daughter. She fell down on the ground and he gave another axe blow from the sharp edged side on her right shoulder. Complainant and his son raised a hue and cry on which appellant fled alongwith the axe. A number of persons gathered. Complainant's daughter passed away on the spot. The complainant, thus, prayed for legal action to be taken against the appellant. On this statement Ex. PD, formal FIR Ex. PD/2 was registered.

On completion of the investigation, report under Section

173 Cr.P.C. was presented against the accused and charge was framed against him on 11.12.2006 to which the accused pleaded innocence and claimed trial. Prosecution in order to prove its case examined six witnesses.

Accused while denying incriminating evidence put to him pleaded innocence and false implication in his statement under Section 313 Cr.P.C. He took a specific stand that he was a poor daily wage labourer. His father-in-law was in the police and the deceased was of a dominating nature. He used to do all the work and asked his wife to treat him at par. He requested his father-in-law to ask his wife to behave with him in a normal fashion. Deceased was taken to Bathinda by his father-in-law. After three years deceased returned to the matrimonial home of her own accord. Complainant was not happy at this and in collusion with local police he manipulated the entire scene. He pleaded innocence saying that none of his children had stepped in the witness box against him. Clothes recovered did not belong to him. Blood of the deceased was not compared with his alleged clothes. Alleged eye witnesses were not present at the spot and he had been falsely implicated due to enmity. He was engaged in doing labour work at that time. However, no evidence was led in defence by the accused.

Learned trial Court on appreciation of the evidence on record convicted the accused for the offence punishable under Section 302 IPC and sentenced him as detailed above while concluding that the prosecution had duly proved its case beyond reasonable doubt against the accused. Hence aggrieved, present

appeal has been preferred.

Learned counsel for the appellant has argued that the conviction of the appellant is not sustainable in view of the evidence on record. It is submitted that there was no possible reason or motive for the appellant to have murdered his wife and that too by bringing her back from her father's house. Furthermore, PW2 Jagroop Singh and PW3 Balwinder Singh, father and brother of the deceased respectively are interested witnesses, therefore no reliance can be placed on their testimonies. Their presence at the time of the alleged occurrence is not believable, probable or natural. No independent witness from the neighbourhood has been examined by prosecution to prove its case. Children of the appellant and the deceased have not been cited as witnesses. No complaint regarding ill treatment and harassment meted out by the appellant to the deceased had ever been made by the complainant at any earlier point of time. No recoveries had been effected from the accused as projected by the prosecution. It is also urged that blood group of the deceased has not been matched with the blood on the alleged clothes of the appellant or the axe. In this scenario it is prayed that the impugned judgment and order be set aside and the appellant be acquitted of the charge against him.

Per contra learned counsel for the State submits that there is no ground whatsoever for setting aside the conviction of the appellant. Impugned judgment and order has been correctly passed after proper appreciation of the evidence on record., Culpability of the appellant is duly proved on the record. It is, thus, prayed that the

impugned judgment and order be upheld.

After hearing learned counsel for the parties and perusing the record, we find no merit in the arguments advanced by the learned counsel for the appellant. Prosecution case rests on categorical eye witness account rendered by PW2 Jagroop Singh father of the deceased and PW3 Balwinder Singh brother of the deceased Balwinder Kaur. Both these witnesses have consistently deposed that Balwinder Kaur had been residing with them alongwith her children for the past few years. She was doing labour work for maintaining her children as well. Appellant - Ramesh Singh alongwith sister Pallo and her husband had taken Balwinder Kaur back on 17.08.2006 alongwith two of their children.

Jagroop Singh and Balwinder Singh had gone to inquire about the well-being of Balwinder Kaur on 20.08.2006. Their presence is natural and normal in the circumstances as they would necessarily be concerned about the well being of the deceased who had been taken back after a settlement to her matrimonial home by the appellant along with his sister and brother-in-law. They were sitting in the courtyard after having tea when the deceased went inside the room for some work. Appellant followed her inside the room and it is on hearing shrieks of Balwinder Kaur that both Jagroop Singh and Balwinder Singh went inside. It is within their sight that the accused rendered an axe blow with its sharp side on the neck of Balwinder Kaur. When she fell on the ground accused inflicted another axe blow with the sharp side on the right shoulder of his wife.

Argument on behalf of the appellant that presence of the witnesses is

not believable because they did not even try to intervene is not acceptable in the facts and circumstances of the case. PW2 has specifically stated that they did try to intervene but the deceased was having an axe in his hands. Sequence of events as narrated by both the witnesses does not evince any adverse inference qua the prosecution in this case. Their testimony inspires confidence and there is nothing on record to cast a cloud thereon.

Medical evidence on record corroborates the ocular version. As per PW1 Dr. Tarsem Kumar, who was posted as Medical Officer, Bathinda on 20.08.2006, he conducted the post mortem of Balwinder Kaur deceased and following injuries were found on the body :-

- 1) Neck transected from right side. Trachea, Oesophagus vertebral column major vessels of neck and muscles all completely transacted, Head attached with body on left side of neck by 4 inch skin and sub cutaneous tissue. Clotted blood present. Margins of wound incised.
- 2) Incised wound 3.5 x 2cm x 3cm on right shoulder posterio lateral clotted blood present.

Cause of death was due to hemorrhage and shock on account of injuries described above, which were ante-mortem in nature and sufficient to cause death in the ordinary course of nature. The time which elapsed between injury and death was immediate and between death and post mortem 12 hours. PW1 specifically opines these injuries could be inflicted by an axe.

Photographs Exs. P1 to P7 also corroborate the ocular version and reflect the gruesome nature and manner in which the

appellant has axed his wife to death. In this fact scenario, no adverse inference can be drawn on account of non examination of any other witnesses who may have been present or of any other person from the neighbourhood. Presence of the eyewitness at the spot cannot be doubted.

Similarly, non examination of the children of the deceased and the appellant cannot be fatal to the prosecution version. PW6 Harvinder Singh, Investigating Officer has deposed that the deceased had three children, one of them being 2½ years old and other 5 years, he could not tell the age of third child. As the two children were of tender age they could not tell much. PW2 Jagroop Singh has clarified that Balwinder Kaur had taken only two of her children with her to village Tungwali. Therefore, this plea is of no avail to the appellant.

A valiant attempt has been made to suggest that the appellant is entitled to acquittal on the ground that the blood group of the deceased was not matched with the blood on the clothes of the appellant which were recovered or the axe which was recovered from him. As per the report of Forensic Science Laboratory, Madhuban Chandigarh Ex. PQ, human blood was detected on the blood stained earth which was lifted from the spot as well as the clothes Ex.P16 and Ex.P17 of the appellant and the blood stained axe Ex. P15 recovered from the appellant. It is a matter of record that the blood stained axe as well as blood clothes were recovered from the accused vide Ex. PL and Ex. PM respectively. PW6, Inspector Harvinder Singh has duly proved the said recovery. Case property

with seals intact was deposited by him with MHC Gurinder Singh PW4 who has duly filed his affidavit Ex. PF. PW5 Constable Sukhcharanjit Singh who deposited the samples with the Forensic Science Laboratory, Chandigarh has also sworn his affidavit Ex. PG. In the facts and circumstances of the case, the above argument is noticed only to be rejected.

Similarly, motive or its absence thereof loses significance in this case which staunchly rests on a trustworthy eyewitness account duly corroborated by the medical and other evidence on record.

In view of the facts and circumstances as above, we find no ground whatsoever to interfere in the conviction and sentence imposed upon the appellant vide impugned judgment and order dated 16.10.2007.

Consequently, this appeal is dismissed.

(Hemant Gupta)
Judge

(Lisa Gill)
Judge

July 03, 2015
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