

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

**CRA-D-987-DB of 2009
DATE OF DECISION : January 08, 2015**

Veerain Rao

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MR. JUSTICE DARSHAN SINGH

Present:- Mr. S.S. Rana, Advocate
with Mr. Suresh Kumar Gupta, Advocate for the appellant.

Mr. P.P.S. Thethi, Addl. Advocate General, Punjab.

M.JEYAPPAUL, J.

1. The appellant Veerain Rao has challenged the conviction and sentence passed by the trial Court under Section 302 of the Indian Penal Code. The brief case of the prosecution is that the accused who was the servant of Mansa Singh (since deceased) aggrieved by the postponement of payment of wages to him attacked Mansa Singh with datar on his neck and caused his instantaneous death.

2. PW1 Chamkaur Singh, the son of the deceased Mansa Singh, who lodged an F.I.R. and PW3 Paramjit Kaur, the wife of PW1 Chamkaur Singh, were eye witnesses to the occurrence.

3. PW1 and PW3 have categorically deposed that accused Veerain Rao who was engaged by deceased Mansa Singh as a servant attacked him with datar in his house and caused lethal injury and as a result of which Mansa Singh died instantaneously. They have also spoken to the motive for the murder.

4. PW6 Dr. Sukhjot Singh conducted post mortem examination on the dead body of Mansa Singh on 30.4.2006 and found an incised wound measuring 7½ inch x 3 inch on the backside of the neck cutting under lying muscle tissue and blood vessels. In his opinion the deceased died due to shock and haemorrhage, as a result of the above injury which was sufficient to cause his death in the ordinary course of life.

5. It was pleaded by the accused in his statement under Section 313 Cr.P.C. that there was some dispute in the family of the deceased. Some one from the family might have killed the deceased. He was innocent but he was falsely implicated in this case.

6. The trial Court having heavily relied upon the evidence of PW1 Chamkaur Singh and PW3 Paramjit Kaur, the eye witnesses in this case recorded conviction as against the accused.

7. We heard the elaborate submissions made by learned

counsel for the appellant as well as learned State counsel appearing for the State of Punjab.

8. The present case is based on ocular version of PW1 and PW3. The occurrence had taken place in the house of the deceased at about 7.00 P.M. PW1 Chamkaur Singh and PW3 Paramjit Kaur the wife of PW1 had resided in the house of the deceased Mansa Singh. The testimony of PW1 and PW3 would go to establish that accused Veerain Rao was engaged by the deceased as a servant. The presence of PW1 and PW3 at the house of Mansa Singh at 7.00 P.M. cannot at all be doubted. They being the family members would have been definitely present at 7.00 P.M. along with the deceased in the house.

9. In the house where the occurrence took place not only the deceased but PW1 and PW3 were also present. They have deposed that it was only the accused, who had a grievance that the deceased, having not promptly paid the wages, made an attempt to postpone the payment of wages attacked him with lethal weapon Datar and caused his instantaneous death. There is no reason to disbelieve the evidence of PW1 and PW3.

10. Of course, the accused had set up a plea in his statement under Section 313 Cr.P.C. that he was innocent but only a family member of the deceased, due to the quarrel in the family, committed murder of the deceased. Except the above self-serving version of the accused in his statement under Section 313 Cr.P.C.

there is no other evidence adduced by the accused to substantiate his plea of defence. Therefore, the defence set up by the accused is not found acceptable.

11. The learned counsel appearing for the appellant would submit that only one injury was caused on the neck of the deceased. Therefore, at best the case would fall under the ambit of Section 304 of the Indian Penal Code.

12. Per contra, the learned counsel appearing for the State of Punjab would submit that the prosecution had established the motive for the murder. There was no quarrel which preceded the occurrence. A calculated attack was launched by the accused with all vehemence at his command, therefore, the offence committed by the accused would not fall under the scope of Section 304 of the Indian Penal Code.

13. We are of the considered view that there is ample force in the statement made by the learned State counsel appearing for the State of Punjab. The prosecution has established the motive for murder. The weapon used was lethal in nature. With one attack, the accused had taken away the precious life of the deceased. The attack was launched on the vital portion of the neck. Pre-mediation cannot be ruled out in this case. There was no sudden quarrel nor was there any provocation at the instance of the deceased. Therefore, the case does not fall under the ambit of Section 304 of the Indian Penal Code.

14. In our view, the trial Court has rightly recorded conviction under Section 302 IPC and passed adequate sentence thereunder. There is no merit in the appeal. Therefore, the appeal stands dismissed.

**(M. JEYAPPAUL)
JUDGE**

**(DARSHAN SINGH)
JUDGE**

January 08, 2015

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