

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-D-399-DB-2010
Date of Decision: 27.08.2015

Gurdeep Singh & Others

...Appellants

Versus

State of Punjab

...Respondent

CORAM: Hon'ble Mr. Justice Hemant Gupta
Hon'ble Mrs. Justice Raj Rahul Garg

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the Digest?

Argued By: Mr. Mehar Singh Rai, Advocate for appellants

**Ms. Manjari Nehru Kaul, Additional Advocate General,
Punjab.**

Raj Rahul Garg, J.

Appellants assailed the judgment of conviction dated 10.03.2010 whereby appellant No. 1 Gurdeep Singh was convicted for committing offence punishable under Section 302 IPC whereas appellants Kartaro Bai, wife of Nazar Singh and Keedan Bai alias Manjit Kaur, daughter of Nazar Singh were convicted for committing offence punishable under Section 302/34 IPC and each one of them was sentenced life imprisonment with fine.

The main accused of this case was Gurdeep Singh (appellant No. 1)

son of Nazar Singh. Mr. Mehar Singh Rai, Advocate for appellant No. 1 stated

that Gurdeep Singh has died in jail. Ms. Manjari Nehru Kaul, learned Additional Advocate General, Punjab confirmed the factum of the death of Gurdeep Singh on 05.07.2015 in Gurdaspur Jail. The aforesaid information was provided to Ms. Manjari Nehru Kaul, learned Addl. Advocate General, Punjab by Surender Singh Saini, Superintendent, Central Jail, Ferozepur. Since Gurdeep Singh has died, therefore, appeal stands abated.

Now, we are left with the appellants Kartaro Bai and Keedan Bai @ Manjit Kaur. Prosecution case against them is this that one day prior to the day of *Raksha Bandhan*, Kishan Singh, complainant, who is brother of deceased Binder Kaur wife of Gurdeep Singh, along with his father Kundan came to village Jhuge Lal Singh i.e. to the matrimonial home of his sister Binder Kaur. They reached the village at about 12.00 noon. They learnt that Gurdeep Singh, his mother Kartaro Bai and sister Keedan Bai and his sister Binder Kaur were hoeing in the field of sugarcane near the village towards west side. As per complainant, after taking light refreshment, they had gone to the field where her sister, husband Gurdeep and his family members were at work. It was at about 1.00 PM. They had conversation with each other and thereafter sat under a *Sheesham* tree. Complainant's sister wanted to go with her brother and father to village *Sukhera*. At this, the appellants had argument with the complainant party. They said to them that Binder Kaur had just come to their house from her parental house only yesterday. As such, they should let her settle in her matrimonial home. During the course of arguments, Kartaro Bai and Keedan Bai started abusing Binder Kaur as well as complainant party. Kartaro Bai and Keedan Bai raised *lalkara* "*Gurdeep, Binder Kaur should not be allowed to go today*". Upon this, as Gurdeep Singh was quarreling with them, he at once picked up a spade and gave a blow with spade from its sharp side on the left side of the neck of Binder Kaur. While she

was sitting, he again gave 3-4 more blows with spade from its sharp side to Binder Kaur with the intention to kill her. The aforesaid blows hit her towards left ear, on the mid of head, on the upper side of left shoulder. Complainant Kishan Singh and his father Kundan raised '*Raula*' whereupon Gurdeep Singh ran towards complainant with spade from its sharp side. However, complainant ran backwards. As complainant and his father raised '*Raula*', therefore, all the aforesaid three accused ran towards village with spade, from the spot. Though complainant's father had tried to save Binder Kaur, however, after sometime, she breathed her last. Complaint Ex. P1/A was made to the police by Kishan Singh, brother of the deceased. On this complaint, formal FIR was recorded. Rough site plan of the spot was prepared. From the spot, police took in its possession Chappals and broken bangles of deceased, vide memo Ex. P14. Blood stained earth, simple earth were also taken into police possession, vide memo Ex. P15. Photographs of the spot were also got obtained. These photographs are Ex. P2 to Ex. P10. Same were taken into police possession, vide memo Ex. P11. Inquest report was prepared. Post-mortem examination of the dead body was got conducted. Report of post-mortem is Ex. P10/A.

On the next day i.e. 09.08.2006, accused Gurdeep Singh was produced before the Investigating Officer by Gurnam Singh in the presence of one Kehar Singh. He was arrested and personal search memos were prepared. During the course of interrogation, accused Gurdeep Singh suffered disclosure statement Ex. P18 to the effect that he had kept concealed one spade in the field of *Serghum* in the east corner to which he has the knowledge and can get the same recovered by giving *nishandehi*. In pursuance with this disclosure statement, accused Gurdeep Singh got recovered spade from the *Chari* crop fields and the same was taken into police possession, vide memo Ex. P20. Site plan of

the place of recovery of spade was prepared as Ex. P21. The rough sketch plan of the blade of the spade was prepared as Ex. P19. On 17.08.2006, Kartaro Bai was produced before the Investigating Officer by Gurnam Singh. She was arrested. Thereafter, belongings of the deceased were handed over to the Investigating Officer by Constable Lakhwinder Singh and the same were taken into police possession, vide memo Ex. P23. Report FSL regarding blood stained earth, simple earth and blood stained clothes of the deceased was obtained as Ex. PX. Scaled site plan of the spot was got prepared from Patwari. As Keedan Bai earlier absconded but when later on arrested, a supplementary challan was presented against her. After completion of necessary investigations, accused were challaned in this case.

Finding a prima-facie case against accused-appellants for committing offence punishable under Section 302/34 IPC, they were charge-sheeted accordingly. To which they did not plead guilty but claimed trial.

After taking entire prosecution evidence, statements of accused under Section 313 Cr.P.C. were recorded whereas accused denied each prosecution allegation and pleaded their innocence. Gurdeep Singh-appellant took the defence that Binder Kaur was his wife. They had cordial relations with each other. On 08.08.2006, he was out of the village. On his return, somebody informed him that dead body of Binder Kaur was lying in the field. He had not caused injuries to Binder Kaur. He was residing with Binder Kaur separately from his parents.

Kartaro Bai took the defence that deceased was her daughter-in-law who was living separately with her husband. Both husband and wife were having cordial relations. On the alleged day of occurrence, she was present in her house and did not go for labour. Kishan Singh and Kundan did not visit their village.

They were informed by them (accused) regarding the death of Binder Kaur whose dead body was lying in the pool of blood in the fields. Keedan Bai is married and living in her in-laws house. She has been implicated falsely in this case.

Keedan Bai took the defence that her name is Manjit Kaur and not Keedan Bai. She was married to Balwinder Singh, who had later on died and she is still living in the house of her in-laws and was not present in village Jhuge Lal Singh on 08.08.2006. She further pleaded that she is not the sister of Gurdeep Singh nor the daughter of Kartaro Bai and Najar Singh. Vipin Gulati, Ahlmad of the Court of Additional Sessions Judge, Ferozepur was examined as DW-1. Copy of Ration Card mark 'A' was placed on the file.

We have heard Mr. Mehar Singh Rai, learned counsel for appellants and Ms. Manjari Nehru Kaul, Learned Addl. Advocate General, Punjab for the State of Punjab besides appraising the entire evidence and material coming on record.

As proceedings against Gurdeep Singh, appellant No. 1, had already abated on account of his death, therefore, now we are left with the case of appellants Kartaro Bai and Keedan Bai. Gurdeep Singh was a main accused of this case. As he is no more, therefore, we need not to discuss his evidence and material available on the file against him. Now, we are to see as to if any case against Kartaro Bai and Keedan Bai is made out or not.

Ex. P1/A is the FIR. This FIR was recorded on the statement of Kishan Singh, brother of deceased. Kishan Singh as PW-3 and his father Kundan Singh as PW-4 have fully corroborated the prosecution story as contained in this complaint. The only allegation levelled by Kishan Singh against Kartaro Bai and Keedan Bai is this; that they raised a *lalkara* telling Gurdeep Singh, husband of the deceased, not to allow her to go that day. In fact, on the day of *Raksha*

Bandhan, as per the case of complainant, sisters go to their parental home for tying *Rakhi* to their brothers and in case they are not able to go, then in that eventuality, brothers go to the place of their sisters for the purpose. Thus on account of *Raksha Bandhan*, deceased wanted to go to her parental home. Gurdeep Singh, husband of the deceased, and his family members were not willing to send her on account of the fact that she had come to her matrimonial home, only a day earlier, from her parents' house. They also wanted that the complainant party should let the deceased settle in her matrimonial home and under these circumstances they told Gurdeep Singh not to allow her to go to her parental house that day. If, for the sake of arguments, they had stated so, in that eventuality as well, it cannot be said that they in any way instigated Gurdeep Singh to commit this crime. They did not state even a single word that Gurdeep Singh should do away with life of deceased. This Court is also conscious of the fact that now-a-days there is a tendency to implicate as many people of the family in a criminal case, as they can. Complainant deposed that he and his father had taken refreshments at the house of the complainant when they reached village Jhuge Lal Singh. Kartaro Bai has taken the defence that she did not go to the fields that day. She was present in the house. The statement of Kishan Singh PW-3 that when they took refreshment at the matrimonial house of the deceased, there was a small girl present. But the complainant has failed to name that girl nor disclosed her relation with the accused. Under these circumstances, even presence of Kartaro Bai at the spot becomes doubtful. Likewise, Keedan Bai alias Manjit Kaur is a married lady. She is supposed to be present at her matrimonial home. She has stated so by way of defence. Though during the course of cross-examination, PW-3 deposed that she had murdered her husband and is living at village Jhuge Lal Singh, yet, this fact remains unproved on the file as in the next

breath he deposed that he does not know as to when he was murdered. He further stated that he had only heard about that. He further admitted that no case was registered in that connection. On the other hand, it is the case of the accused that Keedan Bai has been living in her in-laws house even after the death of her husband.

Under the above discussed circumstances, as Keedan Bai has been implicated, in this case without any fault even though her presence at the spot is also not free from doubt.

For the aforesaid reasons, viewing from any angle, finding merit in this appeal, filed by appellants No. 2 and 3, Kartaro Bai and Keedan Bai, the same is accepted and the impugned judgment of conviction dated 10.03.2010 and order of sentence of the even date, recorded against them, are set aside and appellants No. 2 and 3 stand acquitted, whereas appeal against Gurdeep Singh stands abated as he is no more.

If the appellants Kartaro Bai and Keedan Bai are in custody, they be released at once, if not wanted in any other case.

This appeal is allowed, accordingly.

(Hemant Gupta)
Judge

(Raj Rahul Garg)
Judge

27.08.2015

Waseem

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Gurdeep Singh & Ors. vs. State of Punjab

Present: Mr. Mehar Singh Rai, Advocate for appellant No. 1.

Ms. Aditi Girdhar, Advocate as amicus-curiae
for the appellants No. 2 and 3.

Ms. Manjari Nehru Kaul, Addl. Advocate General,
Punjab.

During the course of arguments, learned counsel for the State pointed out that appellant No. 1 Gurdeep Singh has died on 05.07.2015 in Gurdaspur Jail. This information was provided to her by Sh. Surender Singh Saini, Superintendent, Central Jail, Ferozepur. In view of this, proceedings against Gurdeep Singh stand abated.

Arguments on behalf of appellant No. 2 Kartaro Bai and appellant No. 3 Keedan Bai alias Manjit Kaur heard.

Vide separate judgment of even date, the appeal filed by them is accepted by giving the benefit of doubt. Both the appellants Kartaro Bai and Keedan are acquitted. They be released forthwith, if not required in any other case.

(Hemant Gupta)
Judge

(Raj Rahul Garg)
Judge

27.08.2015

Waseem