

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CRA-D-931-DB of 2010**

DATE OF DECISION: FEBRUARY 24, 2015

BALJINDER SINGH

...APPELLANT

VERSUS

STATE OF HARYANA

...RESPONDENT

2. **CRA-D-995-DB of 2011**

RANJIT KAUR & ANOTHER

...APPELLANTS

VERSUS

STATE OF HARYANA & ANOTHER

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

1. Whether the judgement should be reported in the digest?

PRESENT: MR. A.P.S.DEOL, SR.ADVOCATE
WITH MR. VISHAL RATTAN LAMBA, ADVOCATE
FOR THE APPELLANT IN CRA-D-931-DB-2010.
FOR RESPONDENT NO.2 IN CRA-D-931-DB-2010.

MS. ANJU ARORA, ADVOCATE
AND MR. ADITI GIRDHAR, ADVOCATE
FOR THE APPELLANTS IN CRA-D-995-DB OF 2011.

MS. TANISHA PESHAWARIA, DAG, HARYANA.

M. JEYAPPAUL, J.

1. Accused Baljinder Singh, the husband of the injured Ranjit Kaur, alone was convicted and sentenced as follows:-

Under Section 307 IPC - To undergo RI for life and to pay a fine of
₹10000/-, in default, to undergo further RI

for 6 months.

Under Section 325 IPC - To undergo RI for 7 years and to pay a fine of ₹3000/-, in default, to undergo further RI for 2 months.

Under Section 498-A IPC - To undergo RI for 3 years and to pay a fine of ₹2000/-, in default, to undergo further RI for 2 months.

2. He has challenged the conviction and sentence passed by the trial Court in CRA-D-931-DB of 2010. Injured Ranjit Kaur and her minor daughter have preferred CRA-D-995-DB-2011 praying for compensation for the injuries she sustained in the occurrence.

3. The case of the prosecution projected through PW8 Ranjit Kaur is that accused Baljinder Singh who is the husband of PW8 received instructions through telephone from his parents accused Inder Singh and Kamaljit Kaur and thereafter he caught hold of PW8 and pressed her neck and gave fist blows on her face. She was laid down in a room and the accused gave an electric shock with electric rod. The accused demanded a sum of ₹5 lacs, but PW8 refused to fulfill his demand. PW8 was pregnant at the time of occurrence.

4. PW2 Gurmeet Singh is the father of PW8 Ranjit Kaur. He had set the law in motion by lodging the first information report on 31.10.2008 for the occurrence which took place on 27.10.2008. He has deposed that PW8 was married to accused Baljinder Singh on 20.1.2008. All dowry articles including a Maruti car were given to accused Baljinder Singh at the time of marriage. But the Maruti car given to accused Baljinder Singh was

handed over to Jaswinder Singh. Accused Baljinder Singh demanded a luxury car and started taunting and harassing his daughter. He also physically assaulted PW8. He has deposed that accused Baljinder Singh attempted to commit the murder of his daughter by strangulating her and also by giving an electric shock to her.

5. PW6 Lt.Col. (Dr.) M.A.Khan spoke about the admission of PW8 on 27.10.2008 with burn injuries on the left side of the abdomen. Accused Baljinder Singh and Sepoy Sukhpreet Singh brought her for admission. The right eye of PW8 was found blackened.

6. PW1 Col. (Dr.) Amit Sharma gave an opinion Ex.PA to the effect that the injuries sustained by PW8 were life threatening injuries and could result in her death. In his opinion Ex.PB and Ex.PB/1, he opined that the patient was not fit to make any statement.

7. PW3 Lt.Col. (Dr.) Alok Sharma spoke about the treatment given to PW8 and her discharge on 5.3.2009. He also responded to the enquiries made by the investigating official that PW8 was unfit to make any statement. He also noted that PW8 had fractures of two upper teeth.

8. PW9 SI Kartar Singh had investigated the case and filed a final report.

9. In his statement under Section 313 Cr.P.C., accused Baljinder Singh has stated that he was innocent, but he was falsely implicated in the present case. He did not suffer any disclosure statement and no recovery also was effected at his instance. PW8 Ranjit Kaur wanted to commit suicide. He had not given her an electric shock, he has further stated.

10. On the side of the defence, three witnesses were examined.

DW2 Sepoy Davinder Singh has deposed that on 27.10.2008 when he was preparing to set off for his duty, he heard cries from the house of accused Baljinder Singh. He went alongwith Sukhpreet and made an attempt to open the door. They gave pushes and kicks and thereafter the door opened. They found in the kitchen a lady lying on the floor. An electric rod fitted on the switch was lying on the right side of her stomach. Bucket of water was lying nearby and the water was spilled around her. He switched off the electric connection. Somebody from outside rang up accused Baljinder Singh who alongwith Sukhpreet took the lady to the hospital for treatment.

11. DW3 Major Karan Singh deposed that accused Baljinder Singh who was serving as a Sepoy in the military was on duty on 27.10.2008. He enquired into the incident and came to know that PW8 Ranjit Kaur sustained burn injuries on her left abdomen due to her contact with the electric immersion rod. Sepoy Baljinder Singh was not at his home. It was an accident in which PW8 sustained injury.

12. The trial Court having thoroughly adverted to the evidence on record, came to the conclusion that accused committed cruelty by demanding dowry and caused grievous injury on her mouth and thereafter attempted to cause her death by giving her an electric shock. The trial Court rejected the plea of the accused that PW8 made an attempt to commit suicide.

13. PW8 Ranjit Kaur had sustained extensive electric burn injuries on her stomach when she was pregnant by 2½ months. She has categorically deposed that accused Baljinder Singh made a demand of ₹5 lacs. She had not acceded to his request. Therefore, accused Baljinder

Singh attacked her on her mouth and caused injury. He also pressed her neck and thereafter, he gave an electric shock on her abdomen.

14. PW2 Gurmeet Singh is the father of PW8. He has also categorically spoken about the demand of dowry and the ill-treatment meted out to PW8.

15. The evidence of PW1 Dr. Amit Sharma, PW3 Dr. Alok Sharma and PW6 Dr. M.A.Khan, would go to establish that PW8 who sustained grievous electric burn injuries on her abdomen was totally unfit to suffer any statement. No wonder, PW2 Gurmeet Singh who was by the side of PW8, took about four days to lodge the first information report. The medical evidence completely supports the version of injured PW8.

16. It is to be noted that accused Baljinder Singh set up a plea that his wife made an attempt to commit suicide. Whereas, he let-in evidence through DW2 and DW3 that it was a case of accidental electric burns suffered by PW8. In other words, accused Baljinder Singh has come out with a self-contradictory version through his defence plea.

17. PW8 Ranjit Kaur is the wife of accused Baljinder Singh and PW2 Gurmeet Singh is the father-in-law of accused. There was no reason for them to come out with false implication as against accused Baljinder Singh if at all he had not taunted and made an attempt to kill her. We do not find any reason to reject the testimony of PW2 and PW8 as regards the role of accused Baljinder Singh.

18. Learned Sr.counsel Sh.A.P.S.Deol, appearing for the accused-appellant Baljinder Singh, would submit that there was a delay of four days in setting the law in motion. The delay has given an ample time for the

prosecution party to cook-up a story to suit their convenience, he further submitted.

19. Learned DAG, Haryana would submit that the facts and circumstances of this case would go to show that PW8 was not in a position to speak and therefore, there was some delay in lodging the first information report.

20. PW8 Ranjit Kaur was unconscious and not at all fit to suffer any statement as per the evidence of PW1, PW3 and PW6. Even long after the occurrence, the investigating official could not record the statement of PW8 as it was consistently certified by the Doctors that she was totally unfit to suffer any statement. PW2 Gurmeet Singh was by the side of his daughter who was taking intensive treatment for the electric burn injuries she suffered. He also might have been worried about the child in the womb of PW8. PW2 would have focused his attention only to save the life of PW8 and the child in the womb. Therefore, delay in lodging the first information report does not cause any dent in the case of the prosecution.

21. Learned Sr.counsel appearing for the appellant would submit that the trial Court has completely ignored the defence that accused Baljinder Singh was on duty at the time of occurrence and therefore, he had no occasion to make any attempt to cause the death of PW8.

22. DW2 and DW3, the colleague and superior officer of the accused, came out with a version that it was only on account of accidental electric shock PW8 sustained burn injuries. DW3 had not produced any record to show the findings arrived at by him. After all, DW2 was the colleague of accused Baljinder Singh. No wonder, he chose to support the

defence set up by the accused. In the absence of any documentary proof to show that the enquiry embarked upon by DW3 culminated in a conclusion that it was a case of accident, we are not inclined to accept the evidence of DW2 and DW3.

23. It was projected by accused Baljinder Singh that he was on duty at the time of occurrence. DW2 and DW3 also supported such a stand taken by accused Baljinder Singh. The Duty register was not at all exhibited before the Court. DW3 has set up a plea that when the Unit was transferred, the entire records were destroyed. PW8 had already got legal assistance. Accused Baljinder Singh had been directed to face the ordeal of trial Court. He would have definitely taken some steps to secure a copy of the duty register to buttress the defence plea set up by him. In view of the above, we have no hesitation to reject the testimony of DW2 and DW3 that accused was actually on duty on the date of occurrence.

24. DW2, of course, spoke about the fact that he and his colleague gave a push to the door and broke open the latches to enter into the house. The investigating official who was examined as PW9 also deposed that latches were found broken. It may be a case where PW8 had stage-managed the episode as if the door was broke opened. Even otherwise, the above evidence of PW9 and DW2 does not throw any doubt on the testimony of PW8 who is the victim in this case.

25. It was submitted by learned Sr.counsel appearing for the accused-appellant Baljinder Singh that the evidence of PW8 that she was strangled by the accused, was belied by the medical evidence. We thoroughly scanned the evidence of PW8 and found that she has simply

stated that the accused pressed her neck. Such a pressure mounted by the accused might not have left any impression. It is not the case of the prosecution that she was strangled. A pressure was given on the neck beforever she was given an electric shock by the accused.

26. In view of the above facts and circumstances, we are of the view that the prosecution has established beyond reasonable doubt that accused-appellant Baljinder Singh has committed the offence punishable under Sections 498-A, 307 and 325 IPC.

27. Learned Sr.counsel appearing for the appellant Baljinder Singh would submit that the sentence imposed was on the higher side. We also feel that the sentence has been awarded disproportionately.

28. It is not a case where the victim had reached the vegetative stage on account of the attack launched by the accused. Of course, it is found that the electric shock given by accused had left a marked impact on PW8 who was not able to speak fluently and walk freely.

29. Considering the above facts and circumstances, we are of the considered view that the sentence of 10 years R.I. with fine amount imposed by the trial Court for the major offence under Section 307 IPC would meet the ends of justice.

30. Coming to the compensation prayed for by PW8, we find that accused Baljinder Singh had lost his job on account of conviction recorded in this case. His father is only a small farmer, having about 2½ acres of land. Of course, PW8 who had taken treatment for about 4½ months in a hospital will have to be compensated. In our view, award of compensation of a sum of ₹1 lac, over and above, the compensation awarded by the trial

Court would meet the ends of justice.

31. In the result, the judgement of conviction and order of sentence passed by the trial Court for the offences under Sections 325 and 498-A IPC stands sustained. The conviction recorded by the trial Court for the offence under Section 307 IPC also is confirmed. But the sentence for life imposed on the appellant Baljinder Singh for the offence under Section 307 IPC is reduced to 10 years R.I. The fine amount imposed thereunder is enhanced to ₹1,10,000/-. In default of payment of fine, the accused-appellant Baljinder Singh shall undergo a further period of 1 year R.I. On recovery of entire fine from the accused-appellant, the same shall be paid to PW8 by way of compensation. As the minor child of PW8 was not the victim in the occurrence, no compensation was awarded to her.

32. With the above modification in the matter of sentence, CRA-D-931-DB of 2010 stands dismissed and CRA-D-995-DB-2011 is allowed in part.

(M. JEYAPPAUL)
JUDGE

February 24, 2015
Gulati

(DARSHAN SINGH)
JUDGE