

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

Crl. Appeal No. S-54-SB of 2007

Date of decision : 04.12.2015

Chhinder Pal Singh & Ors. ... Appellants
versus
State of Punjab ... Respondent

with Crl. Appeal No. S-80-SB of 2007
Harminder Singh ... Appellant
versus
State of Punjab ... Respondent

with Crl. Appeal No. S-694-SB of 2007
Surjan Singh & Anr. ... Appellants
versus
State of Punjab ... Respondent

and Crl. Revision No. 893 of 2007
Amarjeet Kaur ... Appellant
versus
State of Punjab & Ors. ... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

**Argued by:- Mr. Manvinder Singh Sidhu, Advocate
for appellants in CRA No.S-54-SB of 2007 &
CRA No.S-694-SB of 2007.**

**Mr. J.S. Bhandohal, Advocate
for appellant In CRA No.S-80-SB of 2007**

**Mr. H.S. Cheema, Advocate
for complainant-petitioner Amarjeet Kaur.**

Mr. K.S. Aulakh, AAG Punjab.

ANITA CHAUDHRY, J.

Appellants Chhinderpal Singh, Amrik Singh, Nirmal Singh, Paramjit Singh Gill, Bhinder Kaur, Chamkaur Singh and Mohinder Singh have preferred Crl. Appeal No.S-54-SB of 2007, Harinder Singh has instituted Crl. Appeal No.S-80-SB of 2007 while Surjan Singh and Jangir Singh have filed Crl. Appeal No. S-694-SB of 2007 against the judgment of conviction and order of sentence dated 22.12.2006 vide which they had been held guilty under Sections 365, 342, 325, 323, 148 and 149 IPC and sentenced in the following manner:-

365 IPC	Rigorous imprisonment for three years with a fine of Rs.1000/- each. In default of fine, to further undergo rigorous imprisonment for one month;
342 IPC	Imprisonment for six months;
323 IPC	Imprisonment for six months;
325 IPC	Rigorous imprisonment for two years with a fine of Rs.500/- each. In default of fine, to further undergo rigorous imprisonment for fifteen days;
325/149 IPC	Rigorous imprisonment for two years with a fine of Rs.500/- each. In default of fine, to further undergo rigorous imprisonment for fifteen days;
148 IPC	Imprisonment for one year.

Crl. Revision No. 893 of 2007 has been filed by victim Amarjit Kaur seeking enhancement of sentence.

Proceedings against appellant Jangir Singh abated due to his death during the pendency of appeal.

The epitome of facts which necessarily requires narration are as under:-

Surjan Singh had three sons namely Chhinderpal

Singh, Amrik Singh and Nirmail Singh and a daughter Bhinder Kaur, who was married to Harbans Singh. Nirmail Singh was married to Amarjeet Kaur. Amarjeet Kaur claimed that she took divorce from Nirmail Singh. She started living in the house of Harbans Singh in village Panjrukha. The case set up by the prosecution was that on 07.08.2002 Harbans Singh was present in front of his house with Badar Khan, meantime, Nirmail Singh, Chhinderpal Singh armed with dangs, Kala armed with Kirpan along with Surjan Singh and his daughter Bhinder Kaur alighted from a maruti van. On exhortation made by Surjan Singh and Bhinder Kaur, the accused picked up Amarjeet Kaur from the room and inflicted injuries and put her in their van and fled. Harbans Singh made a complaint to SI Rattanjit Singh of Amarjeet Kaur's abduction with an intention to kill. A case was registered and investigated. Amarjeet Kaur was recovered on 08.08.2002 from the house of the accused in village Bugga Kalan. She was examined by Dr. Ashok Kumar and nine injuries were found on her person. On x-ray examination by Dr. Sudesh Singh, a fracture of right ring finger was found. On completion of investigation, final report was presented against the accused.

Initially, eight accused were put to trial. Charge under Sections 364, 368, 342, 325, 323, 148 and 149 IPC was framed. Later accused Harminder Singh and Jangir Singh were summoned as additional accused.

The prosecution examined Dr. Ashok Kumar Kapila as PW1, Badar Khan as PW2, Amarjit Kaur, PW3, Mahesh Kumar,

Draftsman, PW4, complainant Harbans Singh, PW5, SI Rattanjit Singh, the investigating officer, PW6 and Dr. Sudhir Sethi, PW7.

The incriminating circumstances led by the prosecution were put to the accused in their statements under Section 313 Cr.P.C., which they denied and pleaded false implication. In defence, they examined DW1 Lachhman Singh, DW2 Major Singh, DW3 HC Harbhajan Singh, DW4 HC Malkiat Singh, DW5 Kamaljit Kaur, DW6 Raj Karan Singh, Medical Social Officer, DW7, DSP Balbir Singh, DW8 (wrongly numbered as DW7) HC Rajinder Singh.

On appraisal of the evidence produced on record, the trial Court convicted and sentenced the appellants in the manner indicated above.

Dis-satisfied with the same, the above appeals have been filed by the appellants.

Since in all the appeals and revision filed by the victim, a challenge has been laid to the common judgment, the same are being disposed of by this order passed in Crl. Appeal No. S-54-SB of 2007.

I have heard learned counsel for the parties and with their able assistance gone through the record of the case very carefully.

Learned counsel for the appellants have urged that the appellants have falsely been implicated in the case on account of family dispute and the testimonies of Badar Khan, Amarjeet Kaur

and Harbans Singh are not trustworthy in absence of any independent corroboration. It was urged that Badar Khan was a stock witness of Harbans Singh and had appeared in another case. It was contended that the trial Court has wrongly ignored the defence version disclosed by DW.1 Major Singh and DW.5 Kamaljit Kaur, father and daughter respectively of Amarjeet Singh.

Learned counsel for appellant Harminder Singh submitted that he was falsely implicated as he was the Sarpanch of the village but he was not related to any of the parties. It was urged that he had undergone a heart operation in February that year and he could not have participated in the crime.

On the other hand, learned State counsel assisted by learned counsel for the victim supported the judgment of conviction. Learned counsel for Amarjeet Kaur had submitted that the sentence awarded to the appellants was not in consonance with the gravity of the offence and Court should have awarded compensation to the victim. He prayed for modification of order and sought enhancement of the sentence.

The instant case is based on the evidence consisting of testimonies of PW2 Badar Khan, PW3 Amarjeet Kaur and PW5 Harbans Singh, the eye-witness/ complainant. A close scrutiny of their evidence reveals that all of them unequivocally deposed that on 07.08.2002 when Badar Khan and Harbans Singh were present near the main gate of house, then accused Surjan Singh, Harmel Singh, Kala @ Parminder, Bhinder Kaur, Jagir Singh,

Harminster @ Lali, Chhinderpal Singh, Amrik Singh and two unknown persons came in a vehicle. Amarjeet Kaur was caught by Bhinder Kaur and Chhinderpal Singh; Mohinder Singh put a piece of cloth around her neck while Amrik Singh and Nirmail Singh inflicted injuries with clubs. They had stated that her son Paramjit Singh @ Kala gave a blow with sword underneath her right knee and Jagir Singh gave a blow with a barcha from the blunt side on right ring finger. Amrik Singh and Nirmail Singh and Chamkaur Singh also inflicted injuries to her and she was forcibly carried away in a vehicle. Their testimonies get support from the medical evidence. The police had found the victim in the house of the accused. It is though not in dispute that she was taken to her in-laws house where her children were also residing.

PW6 SI Rattanjit Singh is the investigating officer whose statement is crucial. Immediately after the occurrence, on 08.08.2002 he raided the premises of accused at village Bugge Kalan and Amarjeet Kaur was recovered and she was found injured. The ocular version gets corroborated from medical evidence on record. Nine injuries were found on Amarjeet Kaur on right thigh, knee, lower part of back, right ring finger and lower leg apart from complaint of pain on neck. On x-ray examination, fracture of right ring finger was found. A feeble attempt was made by the defence and reference was made to the statement of the father and daughter of Amarjeet Kaur and DW2 Major Singh, Sarpanch of village Bugge Kalan to show that no such occurrence had taken place, but it had to be discarded by

the trial Court. Nothing was shown that at the time of occurrence they were present at village Panjrukha from where Amarjeet Kaur was kidnapped. There is no dispute that Amarjeet Kaur was recovered by the police from the house of accused. Amarjeet Kaur had started living with Harbans Singh, husband of Bhinder Kaur, sister of Nirmail Singh. Due to this, the relations were strained. The daughter-in-law had gone astray. She had brought shame to the family and her act had destroyed two homes. The family including the son of the victim and the husband got her back but they had used force. She was beaten up, bundled in a car and brought back to the matrimonial home. There is no material to take a different view. The findings are affirmed.

Faced with the situation, learned counsel for the appellants had urged that the matter related to 2002 and thirteen years had elapsed. It was urged that appellants Surjan Singh, Chhinderpal Singh, Amrik Singh, Nirmail Singh, Paramjit Singh and Bhinder Kaur were the father-in-law, brother-in-laws, husband, son, sister-in-law respectively of Amarjeet Kaur. It was urged that injury under Section 325 IPC was attributed to appellant Jangir Singh, who has since died. It was also submitted that appellant Amrik Singh, Paramjit Singh, Chhinderpal Singh, Nirmal Singh, Mohinder Singh, Chamkaur Singh had remained in custody for over two months and appellant Surjan Singh was more than 80 years of age and only *lalakara* was attributed to him and had remained in custody for about 17 days.

The facts are indeed peculiar. The daughter-in-law left

the matrimonial home and started living with her brother-in-law (husband's sister husband). The accused were disturbed as this act had brought shame to the family. There is no evidence on record that Amarjeet had taken divorce from her husband Nirmail Singh at that point of time. In a bid to take the daughter-in-law back, the accused had taken law in their hands. Amarjeet Kaur had grown up children. Her son i.e. Paramjit Singh is the accused. The others accused are closely related. They are facing the agony of criminal proceedings for the last about thirteen years. Taking into consideration the peculiar facts and circumstances of the case, the appellants deserve lenient view in the matter of sentence and it is a fit case to grant probation. Therefore, the conviction of the appellants is maintained. The appellants are directed to be released on probation of good conduct under Section 4(1) of the Probation of Offenders' Act, 1958 for a period of one year subject to their furnishing personal and surety bonds in the sum of Rs.20,000/- within one month to the satisfaction of Chief Judicial Magistrate, Ludhiana. The appellants shall undertake to keep peace and good behaviour during the aforesaid period of probation and shall appear before the trial Court as and when called upon to undergo the remaining sentence during the said period, in case of violation of any condition. On the failure to furnish the bonds, the appeals shall be deemed to be dismissed. Fine, if not paid, shall be deposited and be treated as cost of proceedings.

With the above modifications, the instant appeals

stand disposed of.

The criminal revision filed by Amarjeet Kaur is dismissed.

Copy of order be sent to CJM, Ludhiana.

December 04, 2015
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(ANITA CHAUDHRY)
JUDGE