

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Appeal No.S-462-SB of 2004
Date of Decision: September 09, 2015

Ram Lal and another

...Appellants

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.P.Dhir, Advocate and
Mr.S.S.Tiwana, Legal Aid counsel
for the appellants.

Mr.B.S.Bhullar, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present appeal has been filed by the appellants against the judgment of conviction and order of sentence dated 09.02.2004 passed by learned Addl. Sessions Judge, Nawanshahr, whereby they were held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of three years each and to pay a fine of ₹1,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for a period of fifteen days each under Section 306 read with Section 34 IPC.

The brief facts of the case are that on 24.03.2000, ASI Avtar Singh recorded the statement of Joginder Singh, complainant, who stated that his daughter Kanta Rani was married to Ram Lal

accused about 12 years back and two sons and one daughter were born out of their wedlock. He further stated that relations between his daughter and her husband were not smooth right from the date of marriage. They always used to quarrel. On that day, he was present at his village Majhoor, where he came to know that his daughter Kanta Rani has died. He after taking his brother Gurmail Ram, Surinder Pal and Mohinder Pal and few more persons, went to village Bhangal Kalan (village of in-laws of Kanta Rani). From the respectables of the village, he came to know that Kanta Rani was administered poison by her husband Ram Lal. She was firstly admitted in the hospital of Dr.Mukesh at Nawanshahr, where she died because of consumption of poison. The complainant further stated that his daughter Kanta Rani has been killed by her husband Ram Lal by administering poison. On the basis of this statement, ruqa was sent and FIR was registered under Sections 302/34 IPC. Dead body was sent for post-mortem examination after preparing inquest report. Rough site plan was prepared. Statements of witnesses were recorded. Viscera was sent for chemical analysis. Accused Ram Lal was arrested on 07.04.2000 and accused Raj Rani alias Rajji was arrested on 04.04.2000. On receipt of the report of the chemical examiner as well as report from the pathologist and after completion of formal investigation, the accused were challaned under Section 306 read with Section 34 IPC. Originally the case under Section 302/34 IPC was registered but subsequently, during the investigation, the offence was amended from Section 302 to Section 306 read with Section 34

IPC.

On presentation of challan against accused-appellants, copies of challan and other documents were supplied to them under Section 207 Cr.P.C. Finding prima facie case, the accused-appellants were charge-sheeted under Sections 306 IPC read with Section 34 IPC, to which they pleaded not guilty and claimed trial.

In support of its case, prosecution examined Dr.Mukesh Alipuria, who mainly deposed that on 23.03.2000, Kanta Rani was brought to his clinic by two unknown youth on scooter with history of taking something poisonous by that lady Kanta Rani. He further deposed that after giving first aid, he referred her to Civil Hospital, Nawanshahr. He proved the certificate Ex.PA. PW-2 Dr.Amarjit Singh, Asstt. Professor mainly deposed that no pathological abnormality was detected in the viscera. PW-3 Mohinder Pal deposed that Kanta Rani was his niece. There used to be quarrel between her and her husband. Two boys came to them and told that Kanta Rani had died. When they went to village Bhangal Kalan on scooter and stopped on the road near the house of Kanta Rani, they were told by some residents that Kanta Rani has been poisoned to death. Then they went to her in-laws house. The persons who were sitting by the side of the dead body, told them that on the night of 23.03.2000, the deceased was taken to the hospital of Dr.Mukesh at Nawashahr. This witness further deposed that they went to Police Station Nawanshahr and on the way ASI Avtar Singh met them. Joginder Singh, his brother and father of the deceased was also with him and Joginder

Singh narrated the occurrence to ASI Avtar Singh. This witness further deposed that he identified the dead body of Kanta Rani. PW-4 Dr.Devinder Singh mainly deposed regarding conducting of post-mortem examination on the dead body of Kanta Rani. After receiving the histopathology and chemical examiner report, the cause of death was declared due to aluminium phosphide poisoning (a pesticide). PW-5 Joginder Singh, complainant deposed that Kanta Rani was married with accused Ram Lal. On 24.03.2000, he was at his village Majhur. Two persons came to him and informed that his daughter had expired. Then he along with his brothers Surinder Pal, Mohinder Pal and Gurmail and along with other persons went to village Bhangal Kalan. On reaching they found that his daughter was lying dead and it was disclosed to him by the persons that his daughter has been killed by administering poison. His daughter was got admitted in the hospital of Dr.Mukesh, Nawanshahr at the instance of the accused. PW-5 further deposed that his daughter died due to poisoning as accused Ram Lal had illicit connection with Raj @ Raji co-accused. Due to this illicit connection with co-accused, Ram Lal poisoned their daughter and proved his statement Ex.PH. PW-6 Constable Hem Raj mainly deposed regarding handing over of clothes of deceased to him by the doctor. PW-7 Baldev Singh Saini, Draftsman mainly proved the scaled site plan Ex.PK. PW-8 ASI Kuldip Singh deposed regarding partial investigation conducted by him in the present case. PW-9 Gurdev Singh deposed that his wife namely Sukhvir Kaur was the Sarpanch of village. Since, his wife is a lady, therefore, he was

dealing with the functions of Sarpanch. He deposed that he knew Ram Lal accused. He also knew Joginder Singh and his daughter. The accused was married to daughter of Joginder Singh. 5/6 months prior to the occurrence, accused met him at Block at Nawanshahr. He told him that his wife had gone to her parents after getting annoyed with him and requested the witness to intervene. PW-9 further deposed that on returning to his village, he called Joginder Singh and asked him as to what was the matter. Joginder Singh told him that Ram Lal was in fact maintaining illicit relations with a lady and Ram Lal was harassing his daughter. Accordingly, panchayat was convened. He also deposed that he came to know on 24.03.2000 that daughter of Joginder Singh, has been killed. PW-10 C-II Ranjit Singh mainly deposed regarding depositing of the samples and also deposed that he got conducted the post-mortem examination on the dead body. PW-11 DSP Manmohan Singh deposed regarding investigation conducted by him in the present case.

At the close of prosecution evidence, the accused-appellants were examined under Section 313 Cr.P.C. and they denied the correctness of the evidence and pleaded themselves as innocent. Accused-appellant Ram Lal further pleaded that Joginder Singh had taken ₹50,000/- from him for sending his son abroad. One day prior to death, Kanta went to her father Joginder Singh and demanded ₹50,000/- back as he (Ram Lal) wanted to get sale deed registered of 8 marlas of land. Joginder Singh refused to pay money and asked Kanta not to come to his house. Kanta was suffering from blood

pressure and under depression, she consumed wrong medicine. Accused Ram Lal also pleaded that he was not present in the house at the time of alleged occurrence. His nephew and his brother took his wife to hospital. He had good relations with his wife and they have three children residing with them. He had no illicit relations with co-accused Rajji.

In defence, accused-appellants examined DW-1 Harbhajan Singh, who was member of Grievance Committee, Nawanshahr, at the time of occurrence. He deposed that at present he is Vice-President of Youth Akali Dal. At the time of occurrence, his mother Smt.Pritam Kaur was Sarpanch of village Bhangal Kalan. He is on visiting terms to the house of accused Ram Lal. Ram Lal accused and Kanta Rani deceased were having cordial relations and there was no dispute in their marriage and no application was made whatsoever before the panchayat at any time before the occurrence. On 23.03.2000, he came to know that Kanta Rani was suffering from Blood Pressure and consumed wrong medicine. When he came to know about the false implication of accused Ram Lal and when enquiry was conducted by DSP, he appeared before the DSP along with other panchayat members and made his statement before the DSP. DW-2 Usha Rani daughter of accused Ram Lal and deceased Kanta Rani, deposed in favour of the accused and stated that one day prior to the occurrence, her mother Kanta Rani went to her (Usha Rani) maternal grand father Joginder Singh and when she came back, she was very depressed. She enquired from her mother, who told that

she demanded ₹50,000/- from Joginder Singh but he refused to pay the amount and scolded and insulted her and turned her out of the house. This witness further deposed that her mother Kanta Rani was suffering from blood pressure and she consumed wrong medicine. Her father Ram Lal was not at home at that time. An enquiry was conducted by the DSP and she made statement before the police officer. She also stated that her father Ram Lal was not having any connection with Rajji accused.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellants as stated above.

At the time of arguments learned counsel for the appellant argued that there is no evidence on record to prove the abetment to commit suicide. There is no evidence on record to show that accused Ram Lal had any relation with Rajji @ Raj Rani. He further argued that in the FIR there is nothing regarding relation of Ram Lal with co-accused and further even no suspicion is there in the FIR regarding this relationship. Rather, complainant himself stated in cross-examination that he came to know regarding this illicit relation of Ram Lal with Rajji @ Raj Rani after the death of Kanta Rani, which means that Kanta Rani had never informed the complainant Joginder Singh regarding illicit relation of Ram Lal with co-accused. Learned counsel for the appellant next argued that complainant Joginder Singh made material improvements while appearing as witness as PW-5. Neither there is any cogent evidence on record regarding any maltreatment or harassment nor any specific particulars have been given. He further

contended that the marriage took place about 12 years prior to the occurrence and daughter of deceased and accused Ram Lal has supported the defence version. He next contended that prosecution has failed to prove its case beyond doubt. Learned counsel for the appellant, therefore, argued that accused-appellant should be acquitted and appeal should be allowed.

On the other hand, learned State counsel argued that prosecution case has been duly proved. PWs have consistently deposed regarding prosecution version. He next argued that there are no material contradictions or material improvements in the statements of the PWs and the oral statements have been duly supported and corroborated by the medical evidence and accused have been rightly convicted. Learned State counsel, therefore, argued that there being no merit in the appeal, the same should be dismissed.

After hearing learned counsel for the appellant as well as learned State counsel and after going through the record, I find merit in the arguments of learned counsel for the appellant. The star witness in the present case is complainant PW-5 Joginder Singh, father of the deceased. The perusal of the statement of PW-5 Joginder Singh shows that no particulars have been given in the evidence regarding any earlier dispute between Ram Lal and deceased Kanta Rani. Kanta Rani was married to Ram Lal about 12 years ago. There is no allegation regarding demand of dowry etc. There is also no other reason or motive for any maltreatment or

harassment. There is also no evidence that Kanta Rani was ever turned out of the matrimonial house or ever came back to her parental house. There is no cogent evidence on the record nor any particular has been mentioned by PW-5 Joginder Singh regarding convening of any panchayat. There is nothing on the record to show that whether the matter was ever reported to the Gram Panchayat or any application or any complaint was given to the police or to any other authority. Three children were born to Kanta Rani from the loins of accused Ram Lal. The statement of complainant that there used to remain quarrel between accused and Kanta Rani, is not supported and corroborated by any evidence and it is a general and vague statement given by PW-5 Joginder Singh.

Further, the only reason given in the evidence by Joginder Singh is that accused Ram Lal had illicit relations with Rajji @ Raj Rani co accused and due to this, Ram Lal poisoned his daughter. First of all, there is no charge framed under Section 302 IPC nor accused have been held guilty under Section 302 IPC. There is nothing that there used to remain dispute between accused Ram Lal and Kanta Rani regarding the illicit relation. The only fact that accused Ram Lal had illicit relations with co-accused Rajji @ Raj Rani is not supported and corroborated by any cogent evidence on record. Rather, PW-5 Joginder Singh, in the cross-examination stated that he knew accused Rajji @ Raj Rani prior to one year of the death of his daughter. The illicit relation of accused Ram Lal with Rajji @ Raj Rani came to the notice of Joginder Singh complainant after the death of

his daughter. Before the death of Kanta Rani, this illicit relation was neither in the notice of Joginder Singh nor anybody was informed about this fact. Joginder Singh also stated in the cross-examination that he did not narrate the fact to the police about illicit relation of the accused inter se. He had also not narrated this fact to the police that due to this illicit relation accused Ram Lal has poisoned his daughter. The only reason given by the complainant is illicit relation of Ram Lal with Rajji @ Raj Rani but the complainant himself stated that he has not stated this fact to the police while recording his statement, which means that this is a material improvement made by PW-5 Joginder Singh while appearing in the Court, which goes to the root of the case and this material improvement cannot be relied upon. The statement of Gurdev Singh, Sarpanch PW-9 also cannot be believed regarding convening of panchayat or the fact that Joginder Singh informed him that Ram Lal is maintaining illicit relation during the lifetime of Kanta Rani as Joginder Singh himself came to know regarding this fact after the death of Kanta Rani as per his own statement. PW-3 Mohinder Pal nowhere states regarding any illicit relation of the accused inter se. Therefore, from the evidence on record, I find that prosecution has failed to prove the abetment by the accused to commit suicide by leading cogent evidence. The defence witnesses have duly supported the defence version. The daughter of Ram Lal accused and Kanta Rani deceased has appeared as DW-2 and also supported the defence version. She is the only witness who was residing with the accused and deceased at the time of occurrence.

Furthermore, PW-11 Manmohan Lal DSP, in cross-examination stated that he has sent the remand request dated 08.04.2001 which bears his signatures, which is Ex.DB. In this remand request, there is no mention of illicit relation of Ram Lal with Rajji @ Raj Rani nor there was any mention of confessional statement of Ram Lal before PW-9 Gurdev Singh, Sarpanch. He also stated in the cross-examination that story of illicit relation of Ram Lal with Rajji @ Raj Rani came into light in due course of enquiry conducted through Sh.R.K.Sharma, DSP (D) Nawanshahr, but this witness has not been examined by the prosecution.

So, from the above discussion, I find that a reasonable doubt exists in the prosecution version. The abetment to commit suicide has not been proved by leading cogent evidence beyond reasonable doubt and the benefit of doubt is to go the accused. Hence, giving benefit of doubt, the accused-appellants are acquitted of the charges framed against them. Therefore, the judgment of conviction and order of sentence dated 09.02.2004 passed by learned Addl. Sessions Judge, Nawahshahr, are set aside.

Therefore, finding merit in the appeal, the same is allowed.

As appellants Ram Lal and Rajji @ Raj Rani are on bail, their bail bonds stand discharged.

September 09, 2015
Vgulati

(INDERJIT SINGH)
JUDGE