

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

CRA-S-2233-SB of 2003

DATE OF DECISION : March 12, 2015

Satpal

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

Present:- Ms. Ishma Randhawa, Advocate for the appellant.

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

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**

M.JEYAPPAUL, J.

1. Accused Satpal and Rekha were tried for offences under Section 307 and Section 120B of the Indian Penal Code. Accused Rekha was acquitted of the charges framed against her whereas accused Satpal was convicted under Section 307 of the Indian Penal Code and was sentenced to undergo 5 years of rigorous imprisonment and to pay a fine of ₹2000/- and in default of payment of fine to undergo simple imprisonment for a further period of two months. Accused Satpal has challenged in the present appeal the above conviction and sentence passed by the trial Court.

2. It is the case of the prosecution that on 12.10.2000

accused Satpal in culmination of the criminal conspiracy he hatched with co-accused Rekha, poured kerosene oil on the person of his wife Sheela, who was examined as PW1, and set her on fire.

3. PW1 Sheela who sustained 50% burn injuries on her body, was the star witness in this case. She has categorically deposed before the trial Court that she entertained a suspicion that her husband Satpal had an illicit relationship with co-accused Rekha, who was his elder sister-in-law. She had to go back to her parental house on account of such dispute which arose quite often. On 12.10.2000 at about 5.00 P.M. PW1 enquired with her husband Satpal as regards the quarrel he picked up with co-accused Rekha. Satpal having declared that the dispute had arisen only on account of the suspicion entertained by PW1, sprinkled kerosene oil on the body of Sheela and set her on fire with an intention to kill her.

4. PW3 Dr. B.B. Goyal medico legally examined PW1 on 12.10.2000 and found 50% burn injuries on her front and back of chest, arms and head including face. She remained admitted in Guru Nanak Dev Hospital, Amritsar from 12.10.2000 to 17.11.2000. The bed head ticket was exhibited as Ex. PC.

5. Based on the opinion expressed by PW5 Dr. Tejwant Singh that PW1 was fit and conscious to make a statement, the learned Judicial Magistrate recorded her statement.

6. The accused set up a plea in his statement under Section 313 Cr.P.C. that there was a Bhog ceremony in his house on the day of occurrence. Many relatives gathered at his house. Complainant was an

unpredictable person of strange nature. She used strange tactics to overawe him and boost her importance. On an occasion, she consumed pills to commit suicide. On the day of occurrence she herself sprinkled kerosene oil on her and started tormenting accused Satpal and other relatives. She lit the match as a part of her drama but it suddenly turned into reality and she caught fire. Persons present over there immediately extinguished the fire. It is his submission that a false case has been foisted on him.

7. On the side of the accused DW1 Swarn Singh was examined. He spoke of the fact that on the day of occurrence there was a Bhog ceremony at the house of accused. He also participated in the Langar hosted by Satpal. Somebody raised a voice that a girl had herself set her on fire. DW2 Sadiq Masih, who was the President of Karampura, deposed that he also participated in the Bhog ceremony held in the house of accused Satpal. At about 2.30 P.M. when he was taking Langar along with others, wife of the accused-appellant poured kerosene oil on her mouth and set herself on fire.

8. The trial Court having relied upon the evidence of star witness PW1 Sheela in the background of the medical evidence adduced by PW3 Dr. B.B. Goyal, arrived at a conclusion that accused Satpal poured kerosene oil on the person of PW1 Sheela set her on fire and thereby made an attempt to commit murder.

9. PW1 Sheela is the wife of accused Satpal. If at all there was no such occurrence at the instance of accused Satpal, she would not have pointed her accusing finger towards her husband Satpal. It is

an unbelievable a story that PW1 enacted a drama but she caught fire accidentally and had chosen to put the entire blame on her husband Satpal. Such a version of the accused recorded under Section 313 Cr.P.C. is found to be totally unnatural and unbelievable. No woman who caught fire accidentally, would have the guts to implicate her own husband in a case of murder attempt.

10. PW1 Sheela has categorically deposed without any semblance of contradiction that she had a doubt that her husband had some illicit relationship with co-accused Rekha, the very elder sister in law of Satpal. PW1 just enquired about the quarrel Satpal had picked up with the co-accused. But finding fault with PW1 for the quarrel he had picked up with the co-accused, Satpal-accused poured kerosene oil and set her on fire. PW1 has come out with a consistent version in the First Information Report, in the statement recorded by learned Judicial Magistrate and the deposition given by her before the trial Court. There was no reason to reject the testimony of PW1, the injured victim, who is none other than the wife of main accused Satpal. The medical evidence adduced by the prosecution through PW3 Dr. B.B. Goyal established that PW1 sustained 50% of burn injuries on the major part of the front side of body. Not only the chest but also head including face had been burnt due to the fire set upon her by accused Satpal. Evidence of PW3 Dr. B.B. Goyal completely corroborates the testimony of PW1.

11. The learned counsel appearing for the appellant would submit that PW1 had made an attempt earlier to commit suicide. As she

had a tendency to commit suicide, the defence plea set up by the accused under Section 313 Cr.P.C. will have to be necessarily accepted. The learned Additional Advocate General for the State would submit that even assuming that PW1 had made earlier an attempt to commit suicide, the ocular version of PW1 that it was only her husband who made an attempt to cause her death, cannot be rejected.

12. I find that there is much force in the submission made by learned counsel appearing for the State. There is no material except the evidence of DW1 and DW2 as well as the statement under Section 313 Cr.P.C. suffered by the accused to establish that PW1 made attempts earlier to commit suicide. Even assuming for the sake of argument that she made an attempt earlier to commit suicide as contended by the accused, there was no reason for PW1 to implicate her husband for self inflicted injuries suffered by her.

13. It is true that the compromise struck between the parties earlier, would go to show that PW1 purchased peace by putting the blame for her departure from her matrimonial home not only on her parents but upon herself as well. But such a stand taken by PW1 does not throw any doubt on the ocular version of PW1 who sustained extensive burn injuries in the occurrence at the hands of her husband.

14. The learned counsel appearing for the appellant would further submit referring to the statement suffered by PW1 before the learned Judicial Magistrate that PW1 had chosen to give credit to the good samaritan attitude of the husband and other family members who had taken efforts to admit her to hospital for treatment.

15. Firstly, I find that she denied having praised her husband and other relatives who brought her to the hospital for treatment. Even assuming that she had appreciated the good nature of her husband and other relatives, her version in the very same statement suffered before the learned Judicial Magistrate that it was only her husband who poured kerosene oil and set her on fire, cannot at all be doubted.

16. Referring to the evidence of DW1 and DW2, the learned counsel appearing for the appellant would submit that they had witnessed PW1 pouring kerosene oil on herself and making an attempt to commit suicide.

17. On a thorough perusal of the evidence of DW 1 and DW2, I find that they were not eye witnesses to the occurrence. DW1 had simply heard the voice from the first floor that a girl had set fire to herself. DW2 was on the ground floor taking Langar. He had seen PW1 Sheela proceeding to the first floor. It is not his version that he also proceeded to the first floor along with Sheela to witness the occurrence. By sitting in the first floor itself, he visualised the occurrence and deposed before the Court as though he witnessed the occurrence. Therefore, the evidence of DW1 and DW2 loses its credibility.

18. It was argued by the learned counsel appearing for the appellant that it was totally unbelievable that accused Satpal himself poured kerosene oil and at the same time set the victim on fire. She referred to a judgment of Delhi High Court in ***Sat Pal versus The State (Delhi), 1983 Vol. X Criminal Law Times (85)*** to support her line of argument.

19. Of course, the Bench of the Hon'ble Delhi High Court doubted the version of the eye witness in a case of murder where accused himself allegedly poured kerosene oil and simultaneously set the victim on fire.

20. In the above case, it appears that the victim had died. It was only the other witnesses who allegedly witnessed the occurrence and spoke about the role of the accused. In the special circumstances of the said case, the Court doubted the version of the eye witnesses. But in the instant case, the victim who is alive has graphically spoken about the occurrence. That apart in a case where the husband makes an attempt to set fire to his wife by pouring kerosene oil, the victim on the hope that her husband would not take such a foolish decision to set her on fire would have exhibited stubbornness. Under the special facts and circumstances of this case which are quite distinguishable from the above case, I do not doubt the cogent testimony of PW1.

21. The learned counsel appearing for the appellant would lastly submit that the appellant had already undergone more than three years and, therefore, his sentence may be reduced to the period already undergone by him. The learned State counsel would submit that a heinous crime of pouring kerosene oil and setting fire upon the victim with an intention to cause the death of the victim had been committed by accused Satpal. Therefore, no leniency in the matter of sentence can be shown by the Court of law.

22. I am in full agreement with the submission made by learned State counsel. The victim is none other than the wife of accused Satpal.

He had poured kerosene oil and set fire on her. The evidence of PW3 Dr. B.B. Goyal would go to show that the victim had been completely disfigured by the attempt made by the accused to cause her death. The trial Court had given only a lesser sentence of five years of rigorous imprisonment. Therefore, I do not find any merit in the submission made by learned counsel appearing for the appellant praying for reduction of sentence.

23. In the result, confirming the sentence passed by the trial Court, the appeal stands dismissed. Accused Satpal is on bail. He shall surrender within 15 days from the date of this judgment before learned Chief Judicial Magistrate, Amritsar, failing which the learned Chief Judicial Magistrate, Amritsar shall issue warrant of arrest and send him to jail to undergo the unexpired portion of sentence.

**(M. JEYAPPAUL)
JUDGE**

March 12, 2015

p.singh