

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No. D-1425-DB of 2014

Date of Decision : March 25, 2015

Harihar Singh

.....Appellant

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Hitesh Pandit, Advocate
for the appellant.

T.P.S. MANN, J.

Challenge in the appeal filed by the victim, namely, Harihar Singh, father of deceased Rahul Singh @ Ram Manohar, is to the judgment dated 31.3.2014 passed by the Additional Sessions Judge, S.A.S. Nagar, Mohali, whereby respondent No.2-Vijay Kumar, hereinafter referred to as 'the accused', was acquitted of the charge under Section 302 IPC.

The case of the prosecution, in nutshell, is that deceased Rahul Singh @ Ram Manohar left the house on 31.3.2008 at 7.45 a.m. to attend his duties at M/s Phillips India Limited, Mohali where he was employed on contract basis. On way to the factory, he was approached by the accused, who asked him to accompany him to Government Medical College and Hospital, Sector 32, Chandigarh as the accused intended to get himself admitted in De-addiction Centre of the said hospital for treatment of his various addictions. Rahul Singh @ Ram Manohar did not proceed for his place of work. Instead, he

took the accused to the hospital on his motorcycle and helped him in getting admitted in the hospital by filing forms etc. Rahul Singh @ Ram Manohar remained with the accused throughout the day and returned home at 5.00 p.m. In the evening at about 7.00 p.m. Rahul Singh @ Ram Manohar went to rehri market to purchase cigarette where he met a few of his friends. The accused again met him there and invited him to his house for drinks. Rahul Singh @ Ram Manohar accompanied the accused to his house and remained there upto 9.00 p.m. When the appellant returned home at 8.30 p.m. after attending his duty, he made several phone calls to know the whereabouts of his son Rahul Singh @ Ram Manohar who replied that he was with the accused and would be back by 9.00 p.m. Rahul Singh @ Ram Manohar returned home at 9.00 p.m., while in a state of intoxication. He went to bed at 10.00 p.m. The appellant felt somewhat uneasy and slept on the ground by the side of bed of Rahul Singh @ Ram Manohar at 11.30 p.m. During same night i.e. on 1.4.2008 at about 1.30 a.m, the appellant woke up and noticed that his son had stopped snoring and his heart beat was dull. The appellant, immediately, woke up his wife and daughter and, thereafter, shifted Rahul Singh @ Ram Manohar to Fortis hospital. In the hospital, he was declared dead at 2.10 a.m. In the morning at 7.30 a.m., mother of the accused came to the house of the appellant to enquire about Rahul Singh @ Ram Manohar. She complained to the wife of the appellant that her son Vijay Kumar and Rahul Singh @ Ram Manohar had remained together throughout the day at her house and kept on consuming liquor and disturbing the atmosphere of the house. However, the wife

of the appellant told her that Rahul Singh @ Ram Manohar was in the hospital and under treatment. Accordingly, the mother of the accused did not come to know about death of Rahul Singh @ Ram Manohar. In the morning of 1.4.2008, the accused made three calls from his mobile on the mobile of Rahul Singh @ Ram Manohar between 9.00 a.m. and 12.00 noon, which were attended to by the daughter of the appellant. However, the accused disconnected the calls. The elder brother of Rahul Singh @ Ram Manohar was intimated about his death. On 2.4.2008 at 6.00 a.m. after his arrival, the appellant took the dead body of Rahul Singh @ Ram Manohar to hospital where post-mortem was conducted. The appellant noticed that the colour of the dead body had turned purplish red which raised doubt in his mind that some foul play might have been done by the accused, his wife and his mother. Even during the last six months, there had been quarrels between the accused and Rahul Singh @ Ram Manohar on three occasions on one or the other issue. On 2/3.3.2008 at about 10.00 p.m. the accused had asked Rahul Singh @ Ram Manohar to take him to Burail so that he could purchase drugs. Rahul Singh @ Ram Manohar had refused, but later on, his motorcycle was found missing, which was found abandoned on the next day near commando complex bridge. The appellant had apprised the police of these facts but he was told that proceedings would be initiated only after receiving the final post-mortem report. As no action was taken for six weeks, the appellant submitted an application to the Senior Superintendent of Police and ultimately FIR was registered. During the investigation when no evidence could be found regarding the death

of Rahul Singh @ Ram Manohar or his illicit relations with some girls, untraced report was prepared which was objected to by the appellant. During further investigation, the wife of the accused was found innocent. Challan was presented only against the accused. However, the trial ended in the acquittal of the accused. Hence, the present appeal.

Having heard learned counsel for the appellant and on perusing the impugned judgment, this Court finds that according to PW4 Ramesh Kumar and PW6 Harnek, on 31.3.2008, they had seen the deceased and the accused together yet the fact remains that after leaving his home at 7.45 a.m. on 31.3.2008, the deceased had spent the day in the company of the accused but at 5.00 p.m., the deceased had returned home. Even, thereafter, at about 7.00 p.m. the deceased went out on the pretext of purchasing cigarette where he again met the accused, who invited him to his house for drinks and they stayed together upto 9.00 p.m. when the deceased, once again, returned to his house. After returning home, the deceased ate food and took liquor whereafter he went to sleep. As the deceased was feeling uneasy, his father slept by his side. At about 1.00 a.m., the condition of the deceased deteriorated and he was shifted to hospital where he was declared dead. In view of the above, it cannot be said that the deceased was in the company of the accused when his end came.

Even as regards the evidence of the prosecution by way of testimony of PW3 Sanjay Kumar that he had heard mother of the accused stating about the accused and the deceased taking drugs and

liquor together on 31.3.2008 but it is also made out that the mother of the deceased was requesting the appellant and his wife to come to her house so as to catch the deceased and the accused red handed while consuming intoxicants. PW3 Sanjay Kumar had also admitted that he had not stated about the mother of the accused stating that the accused and the deceased had consumed drugs and liquor together on 31.3.2008.

The appellant, while appearing before the trial Court as PW1, did not attribute any specific motive to the accused for committing the murder of his son. However, PW13 Shivani Singh, sister of the deceased, who was subsequently summoned by the prosecution by moving an application under Section 311 Cr.P.C. admitted that she did not state in her application and also in the supporting affidavit that the deceased was having illicit relations with the wife of the accused or due to said reason the accused and the deceased had been quarrelling with each other or the accused threatening to kill the deceased.

In view of the above, no fault can be found in the impugned judgment which would require interference.

The appeal is without any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

(MAHAVIR S. CHAUHAN)
JUDGE

March 25, 2015