

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.D-737-DB of 2002

Date of Decision : January 08, 2015

Krishan Singh and another

.....Appellants

Versus

State of Punjab

....Respondent

**CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE DR. SHEKHER DHAWAN**

Present : Ms. Gagandeep Grewal, Advocate as amicus curiae
for the appellants.

Mr. Rajesh Bhardwaj, Additional Advocate General, Punjab.

T.P.S. MANN, J.

Krishan Singh and Satgur Singh, sons of Sher Singh, residents of village Neelowal, Tehsil Sunam, District Sangrur, have filed the present appeal for challenging the impugned judgment and order dated 3.8.2002 passed by learned Sessions Judge, Sangrur whereby they were convicted under Section 302 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.5,000/- each and in default of payment of fine, to suffer further rigorous imprisonment for one year.

The case of the prosecution is that on 31.5.2000 at 10.00 a.m. complainant-Satpal Singh made statement Ex.PG before SI Rajwinder Singh in Civil Hospital, Sangrur that he was resident of village Neelowal and used to work as a labourer. A day before, i.e. on 30.5.2000 at about 9.00 p.m. when he, alongwith his father Jit Singh

and mother Gurcharan Kaur, was present in their house after taking meals when Krishan Singh and Satgur Singh came to his house and stated that they wanted to talk to his father Jit Singh. After coming out of the house, Jit Singh accompanied the two accused. After some time, the complainant heard exchange of hot words between Jit Singh on the one hand and Krishan Singh and Satgur Singh on the other. On hearing the same, the complainant, alongwith his mother Gurcharan Kaur, came out of the house. At that time, electric bulb fitted on their house was on and emitting light. The complainant and his mother saw that Jit Singh was present on the bridge of canal minor close to their house. Both the accused were holding chhuras (daggers) in their hands. Within their sight, Satgur Singh aimed a dagger blow towards Jit Singh, who raised his left arm to ward off the same and in the process received injury on the outer side of the left arm. Satgur Singh aimed another dagger blow, which was again warded off by Jit Singh by raising his left arm and in the process received injury on its inner side. Krishan Singh gave dagger blow thrust wise in the belly of Jit Singh, which after piercing came out of the back. On receiving injuries, Jit Singh fell down. The complainant and his mother Gurcharan Kaur raised an alarm. Both Krishan Singh and Satgur Singh ran away from the spot while carrying their respective daggers. The complainant and his mother lifted Jit Singh and took him to Civil Hospital, Sunam where the doctor, on seeing critical condition of Jit Singh, referred him to Civil Hospital, Sangrur where on account of the

injuries, Jit Singh breathed his last. According to the complainant his father Jit Singh had illicit relations with Jaswant Kaur, mother of Krishan Singh and Satgur Singh since long and for that reason Krishan Singh and Satgur Singh had caused injuries to Jit Singh.

Further case of the prosecution is that after making endorsement Ex.PG/1 on the statement Ex.PG of complainant Satpal Singh, SI Rajwinder Singh sent it to Police Station, Sunam where, on its basis, FIR Ex.PG/2 came to be recorded under Sections 302/34 IPC against Krishan Singh and Satgur Singh on 31.5.2000 at 11.00 a.m., which was completed at 11.50 a.m. Special report was sent through Constable Dhatra Singh, which was received by Sub Divisional Judicial Magistrate, Sunam at 1.00 p.m.

During the investigation of the case, SI Rajwinder Singh inspected the spot, prepared inquest on the dead body of Jit Singh, sent the dead body for post-mortem and took into possession blood stained earth from the spot. Both the accused were arrested, who got recovered a dagger each after suffering disclosure statements Ex.PQ and Ex.PR, respectively. Upon completion of investigation and presentation of challan, followed by commitment of the case, the trial Court charged the accused for committing offences under Section 302 read with Section 34 IPC, to which they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined as many

as twelve witnesses. PW1 Dr. H.S. Bali, Medical Officer, Civil Hospital, Sangrur testified that on 31.5.2000 at 1.50 p.m., he conducted post mortem on the dead body of Jit Singh and noticed the following injuries on the dead body:-

- "1. Incised perforating wound in anterior abdominal wall on left side in left epigastric region, 2 cms. on left of midline, elliptical, 8.5 cms. x 3 cms. Clotted blood present. Lies below left costal margin.
2. Another incised elliptical (exit wound) 2.5 cms. x 2 cms. on back of abdomen on left side in its upper part 3 cms. on left of midline. Clotted blood present.

On dissection of injuries Nos.1 and 2, there was injury to left sub-cutaneous tissue, left abdomen muscles on left side.

Injury to peritoneum, injury to spleen in its middle part (showing cut), also injury to small intestines. Pooling of one litre of blood in abdominal cavity. Also there was injury to muscles on post abdominal wall. The track of injury No.1 when traced leads to injury No.2. Hence, No.1 is inlet wound and No.2 is out let or exit wound. The track was lined with clotted blood.

3. An incised wound 3.5 cms. x 1.0 cm. on front of middle of left forearm slightly on its outer side. Muscle deep. Clotted blood was present.
4. Incised wound 5.5 cms. x 1.5 cm. on middle of

medial aspect of left forearm. Clotted blood present."

In the opinion of the doctor, the cause of death was due to shock and haemorrhage as a result of injuries which were ante-mortem in nature. Injuries No.1 and 2 were declared to be individually sufficient to cause death in ordinary course of nature. Probable time that elapsed between death and injuries was within twelve hours and between death and post-mortem it was within twenty four hours. He further opined that possibility of injuries No. 1 and 2 with one strike of big dagger Ex.P1 and injuries No.2 and 3 with small dagger Ex.P2 could not be ruled out.

PW2 Dr. Ravinder Bansal testified that on 31.5.2000, when he was posted as Medical Officer in Civil Hospital, Sangrur he medically examined Jit Singh at 1.00 a.m. and found the following injuries on his person :-

- "1. Incised perforated wound in the abdominal wall on the left side of midline just below costal cartilages. Entry wound elliptical 8.5 cms. x 2.5 cms. in epigastrium. Exit wound elliptical 2.5 cms. x 2 cms. on the back.
2. Incised wound 3.5 cms. x 1 cm. on the middle of radial side of left forearm.
3. Incised wound of 6 cms. x 1.5 cms. on the middle of ulna side of left forearm."

He further testified that he had sent ruqa Ex.PE on

31.5.2000 at 6.30 a.m. to the Station House Officer, Police Station, Sangrur regarding death of the injured on 31.5.2000 at 4.50 a.m.

PW3 Dharminder Singh, Draftsman proved scaled site plan Ex.PF which he had prepared after visiting the place of occurrence and at the instance of complainant Satpal Singh.

PW4 Satpal Singh deposed on the lines of statement Ex.PG made by him before SI Rajwinder Singh.

PW5 Amrik Singh, who according to the prosecution had witnessed lifting of blood stained earth from the place of occurrence did not support the case of the prosecution and was, accordingly, got declared hostile.

PW6 MHC Budh Singh tendered in evidence his affidavit Ex.PK, whereas PW7 Constable Harbans Singh tendered in evidence his affidavit Ex.PL. The testimonies of both the witnesses were formal in nature.

PW8 Gurcharan Kaur, wife of deceased Jit Singh corroborated the prosecution version to the extent of witnessing the infliction of injuries by the two accused upon her husband Jit Singh. However, she testified that there was no motive behind the occurrence. For that reason she was got declared hostile and cross-examined by the learned Public Prosecutor wherein she reiterated that in her presence and that on her son Satpal Singh, the two accused had caused injuries to her husband Jit Singh. However, she stated

that she did know about her husband Jit Singh having illicit relations with the mother of Krishan Singh accused.

PW9 ASI Baldev Singh, PW10 HC Sukhwinder Singh and PW11 SI Rajwinder Singh deposed about the various steps taken by them during the investigation of the case.

PW12 Dr. Parmodh Jain, who stood posted as Medical Officer, Civil Hospital, Sunam on 31.5.2000 testified that on that day Jit Singh was admitted in Civil Hospital, Sunam in an injured condition and he had sent ruqa/information chit Ex.PT in that regard to the Station House Officer. He further testified that vide same chit, he had referred the injured to Civil Hospital, Sunam as his condition was serious.

After tendering in evidence report Ex.PV of the Forensic Science Laboratory, learned Additional Public Prosecutor closed the evidence of the prosecution.

When examined under Section 313 Cr.P.C., both the appellants claimed to be innocent and the prosecution case to be false. According to them deceased Jit Singh was a smuggler who was addicted to poppy husk and also selling the same. He owed money to many people. His daughter Rani had some dispute with her in-laws. As both the accused were supporting the in-laws of Rani, deceased Jit Singh and his family members had grudge with them and due to that grudge, both the accused were falsely implicated. In defence, no evidence was examined by any of the two accused.

After hearing learned counsel for the parties and on going through the record, the trial Court accepted the prosecution case and, accordingly, convicted and sentenced the appellants, as mentioned above.

Learned counsel for the appellants has submitted that neither PW4 Satpal Singh nor PW8 Gurcharan Kaur had witnessed the occurrence. Names of those two witnesses were not mentioned in the medico-legal report, which made their presence at the spot doubtful. At the time of the occurrence, i.e. 9.00 p.m, PW4 Satpal Singh and PW8 Gurcharan Kaur were expected to be in their house and not at the bridge where the occurrence was said to have taken place. It has also been submitted that PW8 Gurcharan Kaur did not support the prosecution case and was declared hostile. Further, the two eye-witnesses are close relatives of the deceased and, therefore, no implicit reliance can be placed on their testimonies when they claimed that in their presence the two appellants had caused injuries to Jit Singh. It has also been submitted that there was delay in lodging of the FIR and the said delay was used in holding deliberations and setting up the son and wife of the deceased as eye witnesses. It has also been submitted that both the appellants have been falsely implicated as they used to support the in-laws of Rani, daughter of the deceased.

On the other hand, learned State counsel has submitted that the prosecution has been able to prove beyond doubt that it were

the appellants who had launched an attack upon Jit Singh, who succumbed to the injuries, thereafter. It has also been submitted that the occurrence in question had taken place in the presence of PW4 Satpal Singh and PW8 Gurcharan Kaur. It has also been submitted that both the appellants had the motive to commit the crime as deceased Jit Singh used to have illicit relations with the mother of the appellants.

Having heard learned counsel for the parties and on going through the evidence with their able assistance, this Court finds that on 30.5.2000 at about 9.00 p.m., when PW4 Satpal Singh, PW8 Gurcharan Kaur and Jit Singh, since deceased had taken their meals and before going to sleep, they were talking to each other, then the two appellants called Jit Singh outside as they wanted to have talk with him. Jit Singh accompanied both the appellants. Soon thereafter, both PW4 Satpal Singh and PW8 Gurcharan Kaur heard exchange of hot words between the deceased and the appellants. On hearing the same, PW4 Satpal Singh and PW8 Gurcharan Kaur came out of their house. At that time, the electric bulb fitted outside their house was on and emitting light. In the bulb light PW4 Satpal Singh and PW8 Gurcharan Kaur noticed that Jit Singh was present on the bridge of the canal minor and was under an attack of the two appellants. Both the appellants were armed with a dagger each. Satpal Singh twice made an attempt with the dagger at Jit Singh but on both the occasions Jit Singh was able to ward off the blows by raising his left

arm. In the process, he received injuries on the outer side as well as on the inner side of his left arm. Similarly, Krishan Singh gave dagger blow hitting Jit Singh in his belly. The dagger pierced the belly and came out from its back side. It has come in the evidence that the place of occurrence was not far away from the house of the complainant party. Rather, it was at a distance of only ten karms, as stated by PW4 Satpal Singh, and 5/7 karms as stated by PW8 Gurcharan Kaur and from such a distance, both PW4 Satpal Singh and PW8 Gurcharan Kaur could see the infliction of injuries by the appellants upon Jit Singh. Both PW4 Satpal Singh and PW8 Gurcharan Kaur have corroborated the prosecution case regarding infliction of injuries. Out of them, PW8 Gurcharan Kaur failed to support the prosecution case regarding the motive which had impelled the two appellants to cause injuries to Jit Singh. According to the prosecution, Jit Singh had illicit relations with the mother of the appellants. This fact was reiterated by PW4 Satpal Singh while deposing before the trial Court. However, PW8 Gurcharan Kaur feigned ignorance about her husband Jit Singh having illicit relations with the mother of the appellants. However, she categorically deposed that the two appellants had come to her house and after calling Jit Singh outside the house, had caused him injuries with daggers and the place of occurrence, i.e. the bridge of canal minor, was only at a short distance from her house. Merely because neither PW4 Satpal Sijngh nor PW8 Gurcharan Kaur had made an attempt to rescue Jit

Singh from the attack launched by the two appellants is no ground to reject their testimonies as none of them was carrying any weapon with them whereas, on the other hand, both the appellants were armed with daggers and in such a situation, PW4 Satpal Singh and PW8 Gurcharan Kaur could not have intervened to rescue Jit Singh. At the most, they could raise an alarm which they did and that forced the appellants to retreat. Even otherwise, Krishan Singh had given dagger blow in a thrusting manner which hit Jit Singh in his belly and the force applied was enough for the dagger to pierce the belly and come out at the back. Having caused such an injury, the appellants must have thought it proper to run away as their mission almost stood completed. In case they had not run away, the villagers would have gathered and over-powered them. Even otherwise, there is no material on the record from which it could be inferred that PW4 Satpal Singh and PW8 Gurcharan Kaur were not present at the time of occurrence in which their close relative Jit Singh had received injuries at the hand of the appellants. Their relationship with the deceased does not come in the way of the Court to hold that they had been falsely set up as eye-witnesses of the occurrence.

The defence tried to highlight the admission made by PW4 Satpal Singh during his cross-examination that at 9.00 a.m., when the police reached the Civil Hospital, Sangrur, Gian Singh, brother of the accused was with the police and when he told the police about the occurrence that the two accused had killed his father, he was detained

by the police upto 10.00 a.m. Merely because Gian Singh, brother of the accused had come with the police to Civil Hospital, Sangrur is no ground to reject the prosecution case as there was no grievance of the complainant party against Gian Singh. Rather the grievance was with Krishan Singh and Satgur Singh who had come to the house of the complainant party and after calling Jit Singh out side the house, launching an attack upon him with daggers. Further, the admission by PW4 Satpal Singh that he was detained by the police upto 10.00 a.m., does not mean that at any stage he was nominated as the accused. He may have been associated by the police upto 10.00 a.m. for recording of the statement Ex.PG, which was completed at 10.00 a.m., The detention of PW4 Satpal Singh, thus, cannot be said to be in connection with his being involved in the killing of his father.

The occurrence in question had taken place on 30.5.2000 at 9.00 p.m. in village Neelowal. Soon-after the occurrence Jit Singh was removed in an injured condition to Civil Hospital, Sunam where he reached at 11.50 p.m. As the condition of Jit Singh was serious, he was referred to Civil Hospital, Sangrur at 12.00 mid night. Informatory chit Ex.PT was prepared by PW12 Dr. Parmodh Jain on 31.5.2000 at 12.10 a.m. and sent to the Station House Officer, Police Station Sadar, Sunam. After making arrangements, the complainant party shifted Jit Singh to Civil Hospital, Sangrur where he was medico-legally examined by PW2 Dr. Ravinder Bansal on 31.5.2000 at 1.00 a.m., Jit Singh could not survive the attack and ultimately breathed his last on

31.5.2000 at 4.50 a.m., as mentioned in chit Ex.PE, addressed by Dr. Ravinder Bansal to Station House Officer, Police Station, Sangrur on 31.5.2000 at 6.30 a.m. A couple of hours later, SI Rajwinder Singh reached Civil Hospital, Sangrur and recorded statement Ex.PG of Satpal Singh son of the deceased, which was completed on 31.5.2000 at 10.00 a.m., and on its basis, FIR Ex.PG/2 came to be recorded in Police Station Sunam at 11.00 a.m. and completed at 11.50 a.m. The special report was sent through Constable Dhatra Singh, which was received by the Ilqa Magistrate on 31.5.2000 at 1.00 p.m. From the sequence of events, it cannot be said that there was any inordinate delay in lodging of the FIR. Whatever delay occurred has been satisfactorily explained. Upto about 5.00 a.m., on 31.5.2000, both PW4 Satpal Singh and PW8 Gurcharan Kaur would have been rushing here and there in providing medical treatment to Jit Singh. However, the end of Jit Singh came at 4.50 a.m. and at 6.30 a.m. PW2 Dr. Ravinder Bansal sent ruqa Ex.PE to the Station House Officer, Police Station, Sangrur and after it was routed through Police Station Sunam, SI Rajwinder Singh reached Civil Hospital, Sangrur and recorded the statement of Satpal Singh.

As regards the motive, the prosecution case is that the deceased was having illicit relations with the mother of the appellants. This fact was so stated by Satpal Singh while making statement Ex.PG on the basis of which FIR was registered and also before the trial Court where he appeared as PW4. However, Gurcharan Kaur, wife of

the deceased, while deposing before the trial Court as PW8, feigned ignorance about her husband having illicit relations with the mother of the appellants. Merely because PW8 Gurcharan Kaur did not support the case of the prosecution qua the motive is not sufficient to reject the prosecution case in its entirety. Moreover, motive for committing the murder always lies in the mind of the accused and it is difficult to lead direct evidence to substantiate the same.

Similarly, PW5 Amrik Singh not supporting the prosecution case regarding lifting of blood stained earth from the spot does not falsify the prosecution case. He may be having his own reasons to resile from his earlier version during his examination under Section 161 Cr.P.C. but PW9 ASI Baldev Singh and PW11 Rajwinder Singh have deposed about lifting of the blood stained earth from the spot. From the report Ex.PV of the Forensic Science Laboratory, it is apparent that the soil lifted from the spot was stained with human blood.

As regards the plea of the defence that the deceased was a smuggler, who was addicted to poppy husk and owed money to a number of people, and that his daughter was having dispute with her in-laws and in the said dispute the appellants were supporting the in-laws of the daughter of the deceased, suffice it to say that no material has been brought on record by the defence in that regard. Further, PW4 Satpal Singh denied that his father used to take liquor but he used to consume poppy husk. He also denied that his father was a

smuggler who owed money to many persons. He further denied that the appellants were supporting the in-laws of Rani. Therefore, the plea of the defence that Jit Singh was murdered at the hands of those whom he owed money or the appellants were falsely implicated as they supported the in-laws of Rani, the daughter of the deceased, is liable to be rejected.

In view of the above, this Court finds that the prosecution has led cogent and convincing evidence to prove its case against the appellants. On re-appreciation of the entire evidence brought on the record, it is made out that the statements made by PW4 Satpal Singh and PW8 Gurcharan Kaur are worthy of reliance. Their testimonies stand duly corroborated by the medical evidence as well as scientific evidence in the shape of report Ex.PV of the Forensic Science Laboratory.

Resultantly, there is no merit in the appeal, which is, accordingly, dismissed.

**(T.P.S. MANN)
JUDGE**

**(SHEKHER DHAWAN)
JUDGE**

January 08, 2015
satish