

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA No.D-907-DB of 2002

Date of decision:18.03.2015

Lachhman Singh

..... Appellant

Versus

State of Punjab

.... Respondent

CORAM: Hon'ble Mr. Justice S.S. Saron.
Hon'ble Mr. Justice Surinder Gupta.

Present: Mr. Vikas Mohan Gupta, Advocate for the appellant.

Ms. Deipa Singh, Additional Advocate General, Punjab
for the State.

S.S. Saron, J.

This appeal has been filed by the appellant Lachhman Singh against the judgment and order dated 19.10.2002 passed by the learned Sessions Judge, Ropar whereby the appellant has been held guilty and convicted for the offences punishable under Sections 302 and 201 Indian Penal Code ("IPC" – for short). He has been sentenced to undergo imprisonment for life for the offence under Section 302 IPC; and imprisonment for three years, besides, pay a fine of Rs.2000/- and in default thereof undergo further rigorous imprisonment for three months for the offence under Section 201 IPC. Both the sentences have been ordered to run concurrently. In terms of the said judgment, Mito (accused No.2) and Giano (accused No.3) wife and daughter respectively of Prem Singh were acquitted.

FIR in the case has been registered on the basis of application dated 28.2.1997 (Ex.PA) submitted by the complainant Mohinder Singh (PW-1) son of Chanchal Singh, resident of Amarali, Tehsil and District Ropar to the SHO Ropar, District Ropar. According to the complainant Mohinder Singh, his two daughters namely Karamjeet Kaur (PW-4) and Amarjeet Kaur (deceased in the case) were married to two brothers namely Angrej Singh and Lachhman Singh (appellant) sons of Prem Singh, residents of village Majri, Police Station Sadar Ropar about eight-nine years earlier from the date of submission of the application (Ex.PA) i.e. 28.2.1997. The wife of the complainant namely Gurdev Kaur had reached village Majri to meet their daughter Amarjeet Kaur (deceased) on 10.10.1995. On reaching there she was informed on her asking that their daughter Amarjeet Kaur (deceased) had gone to meet them at village Amarali. On getting this information, the wife of the complainant returned back to her village Amarali. However, when she reached home she found that their daughter Amarjeet Kaur had not reached their home at village Amarali. Then they searched for their daughter around the village and on the next day i.e. on 11.10.1995, the complainant along with Darbara Singh son of Niranjana Singh, Amreek Singh son of Ram Aasra, Gurnam Singh son of Chanan Singh of village Amarali and Ram Pal Singh, Nater Singh son of Mydita, Hari Singh son of Mydita, Malkiat Singh, Thakur Singh residents of Samrala reached village Majri Chamiaran near Ropar and they met Prem Singh father of the appellant Lachhman Singh @ Lali, and asked him about their daughter. Then Lachhman Singh @ Lali (appellant) and his father Prem Singh replied that now they did not know anything about their daughter

Amarjeet Kaur (deceased) and they were not responsible. They should themselves search for their daughter.

Then the complainant while searching for their daughter, returned back to village Amarali. On the next day i.e. on 12.10.1995, the complainant along with his aforesaid companions reached village Majri Chamiaran. On reaching there, they came to know on enquiry that Atma Singh, Sarpanch of the village was residing in his house at Ropar. Then they all reached Ropar and met Atma Singh, Sarpanch of Majri Chamiaran and disclosed everything about their daughter Amarjeet Kaur (deceased) to him. He said that he had come to know that their daughter Amarjeet Kaur (deceased) had drowned in the 'pucca' canal near village Majri Chamiaran. Therefore, now it would be of no use to search for her. In case they desired, then he could call the Panchayat of village Majri Chamiaran and Lachhman Singh Lali (appellant) and also his father Prem Singh there in front of them. He would give four-five shoe beating to Lachhman Singh Lali (appellant), and ask him to apologize and get the matter compromised between them. In case they went to the Police Station, they would get nothing and no purpose would be served. Rather, the Police officials would make them sit there. The complainant side were greatly pained on hearing the reply of Atma Singh, Sarpanch of village Majri Chamiaran. Then they without any hope reached Police Station Thana Sadar Ropar and the complainant lodged report No.12 dated 12.10.1995 (Ex.DE) at 2.30 p.m. in the Daily Diary of the police. This report was entrusted to Chanan Ram, ASI for carrying out investigation and search of the girl.

The complainant and residents of village Amarali continued to search for the girl. The complainant along with the other villagers while searching for their daughter on 16.10.1995 reached near the fall of the 'pucca' canal at Salempur and saw the dead body of their daughter Amarjeet Kaur lying near the fall of the 'pucca' canal in the water of the siphon. Information in this regard was given at Police Station Sadar Ropar. The police came from the Police Station at the spot and got sent the dead body to Civil Hospital, Ropar. The post-mortem of the dead body was jointly conducted by four doctors on 17.10.1995. Contents from the dead body were sent for chemical examination to Patiala. The complainant brought the dead body of his daughter Amarjeet Kaur (deceased) to his village Amarali and cremated it.

Thereafter, the complainant along with some other residents of the village on 28.10.1995 met Sardar Shamsheer Singh Rai, MLA and informed him about the entire circumstances and demanded justice from him. He said that Lachhman Singh Lali (appellant) and his family were his relatives. Therefore, he would not let any legal action be taken against them. They should keep quiet and sit at home. Otherwise, he would not spare them and would get the persons from Amarali hanged upside down. Then they hopelessly returned back to their village. The complainant had submitted an application in Punjabi on 12.10.1995 at Police Station Sadar Ropar. The complainant, in the said application had stated that proceedings be taken against Lachhman Singh Lali (appellant) and his family after registration of a FIR. The police of Police Station Sadar, however, had not registered a FIR. The report regarding the contents of the dead body of Amarjeet Kaur after

post-mortem examination conducted by four doctors of Civil Hospital, Ropar which were sent on 17.10.1995 had also been received from the Chemical Examiner, Patiala many months earlier but despite that till date of submission of application, no FIR had been registered against the accused who had killed the daughter of the complainant namely Amarjeet Kaur and thrown her in the 'pucca' canal, which was a grave injustice against the poor man, whereas his daughter Amarjeet Kaur had been killed and her dead body thrown in the canal by Lachhman Singh Lali (appellant) son of Prem Singh, Giano daughter of Prem Singh and Mito wife of Prem Singh, residents of Majri Chamiaran in conspiracy with each other. Therefore, it was requested that FIR be registered against the above said three persons and they be arrested, besides, justice be given to the poor man for which, he would be most grateful.

The Senior Superintendent of Police on the said application dated 28.02.1997 (Ex.PA), marked the case to Superintendent of Police (Detective) on 09.04.1997 to complete enquiry and see why no action had been taken. The order on the application marking the case for enquiry was signed by Sh.R.S. Khatra Senior Superintendent of Police, Ropar. The application bears endorsement No.114/S Peshi dated 09.04.1997 and it is recorded to complete enquiry.

The Superintendent of Police (Detective) Sh. Jagdish Singh Kahlon conducted an enquiry and submitted his report regarding the application from Mohinder Singh (complainant) resident of Amarali, Police Station Morinda. It is mentioned that the application duly attached with subject No.114/S dated 9.4.1997 and 528/S dated 20.5.1997 was entrusted to him for conducting an

enquiry. In connection with the enquiry statements of various persons had been recorded. The facts of the case were that Karamjeet Kaur (PW-4) and Amarjeet Kaur (deceased) two daughters of the complainant were married to Angrej Singh and Lachhman Singh (appellant) sons of Prem Singh respectively about eight-nine years earlier. The mother of Amarjeet Kaur had come to meet her at her in-laws house but she did not meet her at the house. The complainant lodged an untraceable report at Police Station Sadar Ropar on 12.10.1995 regarding Amarjeet Kaur being not traceable. Then the complainant on 17.10.1995 lodged a report regarding recovery of the dead body of Amarjeet Kaur from the siphon of the 'pucca' canal near Salempur. In this regard, the concerned Investigating Officer conducted proceedings under Section 174 of the Code of Criminal Procedure ("CrPC" – for short). Post mortem was conducted on the dead body by a Board of Doctors at Civil Hospital, Ropar. The dead body was cremated by the parents of the deceased. The complainant had alleged in his application that his daughter Amarjeet Kaur had been killed by her husband Lachhman Singh, sister-in-law Giano and mother-in-law Mito and they had thrown her dead body in the 'pucca' canal. On the basis of the postmortem report which had been given by the doctor and opinion of cause of death was sent to Civil Surgeon, Ropar for clarification. In terms of their demi-official letter No.CS/95/97 dated 13.6.1997 in this case, the cause of death had been mentioned as 'asphyxia'. From the subject of application, the statements of witnesses, doctors' opinion and on his enquiry, it was found that cause of death of Amarjeet Kaur was due to strangulation. In this connection, it was recommended that case

should be registered against the accused under the relevant legal offences. If agreed, the papers were asked to be sent to the Deputy District Attorney (Legal), Ropar and it was recommended to obtain legal opinion about this. Report was submitted for necessary action by Jagdish Singh Superintendent of Police (Detective), Ropar.

The Senior Superintendent of Police accordingly asked the Deputy District Attorney (Legal) to submit his opinion. The Deputy District Attorney (Legal) submitted that before legal opinion was given, a copy of the postmortem report and inquest report prepared under Section 174 CrPC were required to be examined. From this it was also to be seen whether any G.O. had verified the inquest report. In this regard, Sh. Kuldip Singh DSP (Detective) sent his report to the Deputy District Attorney (Legal) after attesting it. Thereafter, the Deputy District Attorney (Legal) submitted his report inter alia stating that there was an altercation between Lachhman Singh (appellant) and Amarjeet Kaur (deceased) on 10.10.1995. The wife of the complainant Mohinder Singh went to village Amarali to enquire about the matter. There she came to know that Amarjeet Kaur had gone to Amarali but she did not reach there. DDR No.12 dated 12.10.1995 (Ex.DE) was got recorded at Police Station about Amarjeet Kaur being not traceable. The dead body of Amarjeet Kaur was recovered from the Bhakra Main Line Canal from the siphon at Salempur on 16.10.1995. The postmortem was got conducted on 17.10.1995. The viscera was sent to the Chemical Examiner, Patiala but no poison was detected in the report. The verification of the proceedings under Section 174 CrPC was not done by any G.O. at that time but had been done later by DSP Headquarters, Ropar. During verification, the

statements of complainant Mohinder Singh, Gurmukh Singh, Karamjeet Kaur, father, brother and sister of the deceased and others had been recorded. According to them, Amarjeet Kaur was murdered by her husband Lachhman Singh, Giano, his sister and Ravneet Kaur alias Mito his mother and then she was thrown in the canal. The motive to murder, it is mentioned, was for seeking more dowry. On the other hand Lachhman Singh, husband of the deceased had stated that Amarjeet Kaur was suffering from disease and was fed up from her life and committed suicide by jumping in the canal. On the day of her death, her mother Gurdev Kaur had also come to see her at village Majri. As such, there was no question to murder her. However, the DSP (Headquarters), had concluded that Amarjeet Kaur was murdered by her in-laws and then thrown in the canal. It is further mentioned that Dr. D.K. Batta Civil Surgeon, Ropar had opined after examination of the postmortem report that drowning in this case was post mortem and was not the cause of death in this case. In terms of the findings in the postmortem report, the cause of death was due to 'asphyxia'. However, on the other hand there would be delay of about two years if the case, it is mentioned, was ordered to be registered, which was an apparent murder case. The inordinate delay would be difficult to explain. Had the proceedings under Section 174 CrPC been verified at that time i.e. on 17.10.1995, so much of delay would not have occurred. According to the Deputy District Attorney (Legal), some "hanky-panky" had been played. There were some efforts to suppress the murder and this aspect of the case needed a thorough probe. It was accordingly, submitted for orders by Ranjit Singh, Deputy District Attorney (Legal) on 28.8.1997.

The Senior Superintendent of Police, Ropar on this wrote to the SP (Headquarters) to fix responsibility and hold an enquiry. The SP (Headquarters) submitted his enquiry report to the SSP. Thereafter, the SSP recorded for registering a case immediately. The SP (Detective) Sh. Gurmit Singh asked the SHO Police Station Sadar to register a case under his close supervision. On receipt of the communication, FIR (Ex.PJ/6) was registered by SHO/Inspector Rajinder Singh, Police Station Sadar (PW-13) on 26.5.1998. Copies of the FIR as Special Reports were being sent to the Ilaka Magistrate and to the concerned officers through Constable Darbara Singh, investigation of which was to be conducted. The Special Report was received by the Ilaka Magistrate on 26.5.1998. Investigation of the case was transferred to Inspector Parampal Singh.

The incident in the present case had occurred on 10.10.1995 from which date Amarjeet Kaur (deceased) was not traceable. Efforts were made to search her on the following day i.e. on 11.10.1995 when the complainant along with others namely Darbara Singh son of Niranjana Singh, Amrik Singh son of Ram Asra, Gurnam Singh son of Chanan Singh, residents of Amarali and Ram Pal Singh, Gurnam Singh son of Maya Ditta, Hari Singh son of Maya Ditta, Malkit Singh and Thakur Singh, residents of Samrala went to village Majri Chamiaran near Ropar to the house of the father of the Lachhman Singh (appellant) namely Prem Singh and asked about their daughter on which they replied that they did not then know anything about their daughter and it was not their responsibility. Besides, they should themselves search for their daughter. Then on the next day i.e. 12.10.1995, the complainant along with his

companions reached Majri Chamiaran and on asking went to the house of Atma Singh, Sarpanch at Ropar. However, he dissuaded the complainant side from lodging a report with the police on the pretext that he would get a compromise affected between the parties. In case they went to the police, they would not get anything. The complainant then went to Police Station Sadar Ropar and lodged report No.12 dated 12.10.1995 (Ex.DE). This was an application against Lachhman Singh (appellant). It was requested that daughter of the complainant was married at village Majri Chamiaran near Ropar about 7 years earlier. However, a dispute had occurred between the husband and wife. On 10.10.1995 the wife of the complainant i.e. the mother of his daughter had gone to meet her and then she came to know that their daughter had gone to her parents' house. On returning home, the wife of the complainant i.e. the mother of the daughter of the complainant found that their daughter had not reached home. It was requested that on the application of the complainant, FIR may be registered and enquiries made from Lachhman Singh (appellant) and his family so that the whereabouts of his daughter could be ascertained for which he would be thankful. Police proceedings were recorded on the said DDR No.12 dated 12.10.1995 (Ex.DE) to the effect that the informant mentioned in Column No.2 i.e. Mohinder Singh had come to the Police Station and submitted the application which had been read over to him word to word and he after hearing and admitting it to be correct put his left thumb impression beneath it. It is mentioned that initially report No.8 dated 11.10.1995 had been written in the Police Station regarding this application on which an enquiry had been marked to ASI Chanan Ram. The copy of the

report now lodged on the application, it is mentioned, would be also be marked to ASI Chanan Ram. After enquiry, proceedings would be conducted as per law. The FIR (Ex.PJ/6) relating to the intervening period from 10.10.1995 to 12.10.1995 was registered vide DDR No.8 dated 26.5.1998 i.e. after about more than two years of the incident.

As already noticed, the dead body of Amarjeet Kaur was found on 16.10.1995 near the artificial fall of the 'pucca' canal at Salempur in the water of the siphon. The Police had reached the spot and the inquest proceedings (Ex.PD) were conducted on 17.10.1995 by ASI Iqbal Singh, Police Station Sadar Ropar. The date of death and the time of discovery is mentioned as 17.10.1995 at 7.00 a.m. The condition of the body parts, eyes and mouth is mentioned as mouth open, tongue protruding, eyes close and the body swollen. The colour of the face is mentioned as withered. The site plan of the place of recovery of the dead body is mentioned as the siphon of the Bhakra Canal at Salempur. The brief facts of the case are recorded to the effect that on 11.10.1995 Lachhman Singh had lodged a missing report at Police Station Sadar Ropar that his wife Amarjeet Kaur was not traceable. In this regard, Mohinder Singh, resident of Amarali had also lodged a missing report at Police Station Sadar Ropar on 12.10.1995 that his daughter Amarjeet Kaur was missing. On that day i.e. 17.10.1995 Mohinder Singh gave information after reaching Police Station that the dead body of his daughter Amarjeet Kaur had been found floating in the siphon at Salempur. Action was asked to be taken. On this information, ASI Iqbal Singh along with other police officials reached the siphon at Salempur and the dead body was brought out. No signs of injury

could be seen due to the dead body being decomposed. The marriage of Amarjeet Kaur was stated to have been solemnized in the year 1988. Till then the cause of death could not be ascertained as to whether it was due to force or drowning. Keeping in view the suspicious circumstances, it was necessary to get the postmortem conducted. The papers in inquest form 25.35 (1) A had been prepared. Regarding identification of the dead body, separate statements under Section 175 CrPC had been prepared. The dead body for conducting post mortem examination along with papers was sent through Constable Raj Kumar under supervision of ASI Iqbal Singh. The post mortem examination was asked to be got conducted from a team of doctor and its result was asked to be intimated. The inquest report is endorsed by Mohinder Singh, complainant and Jaswant Singh son of Chanchal Singh, residents of Samrali who had identified the dead body. Jaswant Singh son of Chanchal Singh in his statement (EX.PD/1) under Section 175 CrPC stated that his niece Amarjeet Kaur was married about 7-8 years earlier in the year 1988 to Lachhman Singh. She had two sons aged five years and two years. A missing report of Amarjeet Kaur had been lodged at Police Station Sadar Ropar on 12.10.1995. Her dead body was found on that day i.e. 17.10.1995 in the siphon of Salempur and till then the cause of her death could not be ascertained. It would be intimated after investigation. The inquest report had been prepared by ASI Iqbal Singh in his presence. These papers relate to Amarjeet Kaur and he identified the dead body of Amarjeet Kaur. His statement had been recorded by ASI Iqbal Singh which had been read over to him, which he had heard and accepted as correct. The statement is signed by Jaswant Singh

in Punjabi and attested by ASI Iqbal Singh. Similar statement (Ex.PD/2) of Karamjeet Kaur wife of Angrej Singh has been recorded. Karamjeet Kaur is the sister of deceased Amarjeet Kaur and is married to the brother of appellant Lachhman Singh. According to Karamjeet Kaur, she is resident of Majri Harijana. Her husband was in a private job. Her sister was married to her husband's younger brother ('devar') about eight years earlier. She had two children; the elder was five years and the younger was two years. Her sister Amarjeet Kaur was having evil affects. The entire family had got considerable treatment done for this. Her sister had been missing from home since 10.10.1995 and her dead body was found in the canal on 17.10.1995. She did not know that cause of her death till that time as to how it had happened. In case, it came to her notice as to how she died, then she would inform the police officer. Her statement (Ex.PD/2) had been recorded which was correct.

Inspector Parampal Singh (PW-9) conducted investigation in the case. He recorded statement of witnesses on 6.6.1998. Lachhman Singh (appellant) was arrested on 24.6.1998. Giano and Mito appeared before the Judicial Magistrate Ist Class, Ropar on 11.7.1998 and they were arrested on his directions by Inspector Parampal Singh (PW-9). He (PW-9) interrogated the accused. Their version was recorded in the 'zimni' (case diary) on 11.7.1998. The investigation was then transferred to Inspector Didar Singh (PW-5) as he (PW-9) was transferred from Police Station Sadar Ropar. Parampal Singh (PW-9) recorded the statements of Mohinder Singh, Rulda Singh, Dalip Singh, Gurmukh Singh and Ex.DD of Karamjeet Kaur (PW-4) with portions marked

therein correctly without any addition or omission. Copy of DDR recorded on 12.10.1995 was Ex.DE. Karamjeet Kaur, Mohinder Singh had visited him (PW-9) at the Police Station. They were accompanied by a number of persons.

Inspector Didar Singh (PW-5) after perusal of the case file found a prima facie case against the accused and he prepared the 'challan' (police report) against the accused. During scrutiny of the 'challan' (police report) some objections were raised and after compliance of those objections, he recorded the statements of Constable Darbara Singh (PW-6) and Jatinder Kumar, Draftsman (PW-2). Constable Darbara Singh (PW-6) was entrusted with the special report of this case for delivering the same to the concerned quarters which he delivered. He tendered in evidence his affidavit Ex.PC. (Ex.PC in fact is also copy of Rapat No.31 dated 17.10.1995). According to the affidavit (Ex.PC) of Constable Darbara Singh (PW-6), he was handed over two sealed envelopes of the present case by MHC Nikka Ram, which he delivered one to the Ilaqa Magistrate and one to the concerned officer. Jatinder Nath, Draftsman (PW-2) had prepared the scaled site plan with correct marginal notes on 6.8.1998 at the instance of Mohinder Singh, complainant (PW-1).

The accused in the case were charge-sheeted on 7.12.1998 on the allegations that they on 10.10.1995 in the area of village Majri Chamiaran with the common intention to commit the murder of Amarjeet Kaur and in furtherance of their common intention, they all committed the murder of Amarjeet Kaur by causing her death and thereby they all committed an offence punishable under Section 302 read with Section 34 IPC. Secondly,

on the same date and place, they all knowing that the offence of murder of Amarjeet Kaur which is punishable with death or punishment for life had been committed did cause the disappearance of her dead body with the intention of screening themselves from legal punishment and thereby committed an offence under Section 201 IPC which was within the cognizance of the Court. The accused were directed to be tried. The charge was read over to the accused in simple Punjabi which they heard and understood. They pleaded not guilty to the charge and claimed trial. The learned trial Court after considering the evidence and material that was led has acquitted Mito and Giano by giving them the benefit of doubt. However, Lachhman Singh (appellant) has been held guilty for the offences under Sections 302 and 201 IPC. He has been sentenced to undergo life imprisonment for the offence under Section 302 IPC; besides, rigorous imprisonment for three years and pay a fine of Rs.2000/- and in default thereof undergo rigorous imprisonment for three months for the offence under Section 201 IPC. Aggrieved against the same, the appellant has filed the present appeal.

Learned counsel for the appellant has submitted that the FIR in the case has been registered after more than two years of the incident that had occurred from 10.10.1995 to 17.10.1995 when Amarjeet Kaur (deceased) had gone missing and her dead body was found. It is submitted that the appellant has been wrongly convicted and sentenced as there is no evidence on record to record a finding of guilt. There is no eye witness account and the circumstantial evidence does not remotely draw an inference that the appellant had committed the murder of Amarjeet Kaur. It is

submitted that at the most it can be said that Amarjeet Kaur committed suicide, however, that by itself in the absence of any evidence would show that the appellant in any manner had abetted the commission of suicide.

In response, learned counsel for the State has submitted that the prosecution has proved and established its case beyond shadow of reasonable doubt against the appellant. The chain of circumstances, it is submitted, is so complete to draw an inference of only guilt of the appellant. Besides, the learned trial Court having recorded a clear finding of guilt against the appellant which is based on cogent and convincing evidence is not liable to be upset.

We have given our thoughtful consideration to the contentions of the learned counsel appearing for the parties and with their assistance gone through the records of the case.

The prosecution in order to prove its case examined complainant Mohinder Singh (PW-1) who reiterated the version as given in his complaint. It is stated that the accused used to beat Amarjeet Kaur and send her to his house. With the intervention of the Panchayat, they used to send her back to the house of her husband. Amarjeet Kaur used to inform them that the accused were demanding Rs.10,000/-. They were also saying that her parents were poor and they did not give sufficient dowry at the time of marriage. He gave the names of the Panchayat members which were 20 to 25 persons in all. Amarjeet Kaur was saying that she should not be sent back to the house of the accused as she feared danger to her life. The Panchayat members of Majri i.e. the in-laws of his daughter had assured that they would not misbehave with his

daughter. His daughter was killed in October 1995. He narrated the sequence of events relating to the death of Amarjeet Kaur and recovery of the dead body on 16.10.1995. In cross-examination, it is stated, that dispute arose after three months of the marriage. It was stated as incorrect that there was no dispute or that Panchayat was not held or that Amarjeet Kaur was living happily. It is stated that he had narrated the whole story to the police which he had narrated in Court on that day in his examination-in-chief. Attention of the witness was drawn to the statement mark A wherein it was not so recorded. He was cross-examined at a considerable length. It is stated as incorrect that Amarjeet Kaur was suffering from disease 'Sangrahi' (Sprue).

Amrik Singh (PW-3) is a witness of last seen. He inter alia stated that he was coming from Ghanauli on his cycle to his village Amarali on 10.10.1995 at 6.00 a.m. When he reached near village Majari in some daylight he saw two women and a person holding a dead body. He knew those persons who were present in Court. They were carrying the dead body of Amarjeet Kaur wife of Lachhman Singh (appellant). After seeing the accused, he retraced his steps. He thought that the accused would rebuke him. In the circumstances, he returned to Ghanauli on account of fear. The accused threw the dead body of Amarjeet Kaur in the canal and he saw them throwing her dead body in the canal. On account of fear, he went to Chandigarh. When he came to know that the case had been registered against the accused then he came to the village and narrated the incident to Mohinder Singh. Mohinder Singh brought him to the police on 14.9.1998. He met the police at the old Bus Stand at Ropar where he gave his statement. In cross-

examination it is stated that Mohinder Singh was their neighbour and was his uncle. It is stated as incorrect that he had deposed falsely because of his relationship with Mohinder Singh. He was cross-examined at considerable length.

It is, however, to be noticed that in respect of the incident that had occurred on 10.10.1995, Amrik Singh (PW-3) got his statement recorded with the police after registration of the FIR on 26.5.1998. This period of time does not inspire confidence with regard to the veracity of the deposition of Amrik Singh (PW-3).

Karamjit Kaur (PW-4) is the sister of deceased Amarjeet Kaur and married to Angrej Singh, who is the brother of appellant Lachhman Singh. She has stated that her mother-in-law used to say that they i.e. both the sisters had not brought good dowry and they belonged to a poor family. It is stated that all the accused who were present in Court used to taunt them by saying this. At times they used to beat Amarjeet Kaur and turn her out of the house. They used to demand dowry and taunt them for bringing less dowry. They were going back to Majri with the intervention of the Panchayat. From the side of the in-laws, Rattan Singh, maternal uncle, Parkash, cousin brother of Lachhman Singh used to come in the Panchayat. A Panchayat was convened by the father and accused Lachhman Singh (appellant) assured in the Panchayat that he would not demand dowry and would not beat her on account of dowry. Amarjeet Kaur used to say that she would not go to her in-laws house as they beat her. Amarjeet Kaur was at village Amarali when the Panchayat had gone to bring her back. She was at village Majri at that time. Amarjeet Kaur had been killed about four and a half years earlier to her deposition in Court. She was

residing separate from Amarjeet Kaur and her in-laws. Her house was at a distance of one or one and a half 'killas' (measurement of distance in acres) from the house of Lachhman Singh (appellant). It is stated that her mother came to village Majri on 10.10.1995 and she told her that her sister was not in the house of her in-laws. While they were talking, Lachhman Singh came there and her mother enquired from him the whereabouts of Amarjeet Kaur. He told her that Amarjeet Kaur had gone to village Amarali to see her. Then her mother immediately returned to village Amarali. Her parents searched for Amarjeet Kaur in the neighbourhood and in relations but she was not found. The dead body of Amarjeet Kaur was found near the Salempur siphon of Bhakra canal on 16.10.1995. In cross-examination, it is stated that Amarjeet Kaur was not thrown in the canal by the accused. At the time of 'Bhog' ceremony of Amarjeet Kaur, all the accused attended it and they told them that Amarjeet Kaur was thrown in the canal. It was resolved by the members of the Panchayat at the 'Bhog' ceremony that action be taken against the accused. She had formed the opinion and was fully sure that the accused had killed her sister and she knew the habits of the accused as she had remained in the house of her in-laws for seven years. She stated that the fact that Amarjeet Kaur was killed by the accused was on her belief as the dead body was taken out from the canal. At that time there was a string on her neck, so she presumed that she had been killed by throttling her.

The evidence which is necessary to determine the cause of death in the case is that of Dr. Om Parkash Verma, Medical Officer, Civil Hospital, Ropar (PW-8) who conducted the postmortem

on the dead of Amarjeet Kaur. The doctor observed the dead body to be that of young female very well. It was swollen and was 'foul smelling', covered with mud and grass. The tongue was swollen and protruding out of the oral cavity. Eyes were closed and swollen. The skin of the body as a whole especially of hand and feet was corrugated and swollen hands were empty and no mud or sand was there under the finger nails. Rigor mortis was present. No froth was present at the mouth and nostril, even on the complexion of chest. The skin of the whole body was peeled off. Hence no external mark of injury could be seen. Stomach and its contents were sent for chemical examination. Large intestine and their contents were healthy and containing gases. A portion of the faecal matters was sent for chemical examination. The cause of death was deferred till the receipt of the report of the Chemical Examiner. The time between death and postmortem was mentioned to be between five to seven days. The copy of the postmortem report was Ex.PE which was signed by him. He along with Dr. Ripjit Dhillon and Dr. Sunil Dhawan had conducted postmortem on the dead body of Amarjeet Kaur. After receipt of the report of the Chemical Examiner Ex.PG he gave his opinion that drowning in the case was post mortem and the cause of death was not due to drowning and the possibility of 'asphyxia' death could not be ruled out. His report was Ex.PH. He had seen the Court file. Pages No.1, 2, 7 and 8 marked by him were missing. Then said pages 1 and 2 were on the file. He had seen only pages 1 to 10 in the Court file out of 22 which he had handed over to the police after initialing the same. It is stated that it was a fact that the dead body and its skin had peeled off and it was impossible to identify the dead body.

The external injury marks could not be seen as the skin of the whole body had peeled off and there was swelling on the body also. It is stated as correct that they were not sure about the cause of death and as such, it was deferred. Asphyxia can be caused by different modes i.e. if one sits in a dark room which is not provided with air. Ligature marks were bound to come in case of 'asphyxial' death but in the case they could not notice any external marks on the dead body as there was swelling and the skin was peeled off. It is stated as a fact that in fact they could not determine the exact cause of death as the skin had peeled off and there was a swelling.

In the Chemical Examiner report (Ex.PG), it is mentioned that no poison was detected in the contents of exhibit No.I to V. The contents of exhibits are as follows:-

- I. A sealed jar said to contain stomach with contents.
- II. A sealed jar said to contain pieces of small and large intestines with contents.
- III. A sealed jar said to contain pieces of liver, spleen and kidney.
- IV. A sealed jar said to contain blood.
- V. A sealed jar said to contain preservative.

In the opinion Ex.PH given by the doctors, the cause of death was mentioned that drowning in the case in their opinion was post mortem and the possibility of asphyxial death could not be ruled out.

According to Modi's Medical Jurisprudence and Toxicology, 22nd Edition page 210 it has been mentioned that death is said to have taken place from asphyxia when the respiratory

function due to deprivation of oxygen, stops before the heart ceases to act. The brain is very sensitive to oxygen deprivation.

It may, therefore, be noticed that Dr. Om Parkash (PW-8) while appearing in the witness box stated cause of death was due to drowning and the possibility of asphyxia death could not be ruled out. However, in the report (Ex.PH) it is mentioned that drowning in the case was post mortem. It is on the said basis that drowning was post mortem that investigations in the case were conducted which is evident from the report Ex.PJ/1 conducted by Superintendent of Police (City), Ropar. It appears that while recording the evidence of Dr. Om Parkash Verma (PW-8), the fact that drowning in the case was post mortem was inadvertently not recorded and it has been recorded that cause of death was due to drowning. In fact drowning being postmortem is clearly stated in the report (Ex.PH), which is signed by Dr. Om Parkash Verma (PW-8), Dr. Ripjit Dhillon, Medical Officer, Civil Hospital, Ropar and Dr. Sunil K. Dhawan. The death, however, was due to asphyxia. The other aspects relating to cause of death due to asphyxia which has been noticed by the aforesaid doctors conducting the postmortem examination and mentioned by Dr. Om Parkash Verma (PW-8) are that the dead body was swollen and was foul smelling. It was covered with mud and grass. The tongue was swollen and protruding out of the oral cavity. The eyes were closed and swollen. The skin of the body as a whole specially hand and feet were corrugated and swollen. Hands were empty and no mud or sand was there under the finger nails. The skin of the whole body had peeled off and no external marks of injury could be seen. The

doctors in their report Ex.PH have stated that death was due to asphyxia.

The said features of the postmortem report evidently show that the cause of death was not natural. Amarjeet Kaur (deceased) was in the house of her in-laws and therefore, it was for them to explain as to how she had died. The appellant by virtue of his special knowledge is liable to offer an explanation which can lead the Court to draw an inference as to how the death had occurred. However, the fact that the death is unnatural by itself would not show that the appellant had committed the murder. Nevertheless, keeping in view the evidence and material on record as has been deposed by Mohinder Singh, complainant (PW-1) that Amarjeet Kaur (deceased) was beaten in her in-laws house and demand of Rs.10,000/- was raised; besides, the evidence of Karamjeet Kaur (PW-4) who is the sister of deceased Amarjeet Kaur and married to Angrej Singh, the brother of the appellant has clearly stated that the accused used to taunt them and beat them in connection with demand for dowry, it can be safely inferred that Amarjeet Kaur had committed suicide and the appellant had abetted the commission of suicide by Amarjeet Kaur (deceased), which is also one of the contention raised by learned counsel for the appellant.

In the circumstances, it is held that Amarjeet Kaur (deceased) had committed suicide, which was abetted by the appellant Lachhman Singh. The appellant has two children and he is liable to compensate them by paying Rs.50,000/- i.e. Rs.25,000/- to each of his children as compensation for causing the abetment of suicide.

The learned Counsel for the State has filed affidavit of Sh. Raman Deep Singh Bhangu, PPS Deputy Superintendent, Central Jail, Patiala mentioning the period of imprisonment undergone by the appellant Lachhman Singh. In terms of the said affidavit, the appellant has undergone actual imprisonment of five years, eleven months and twenty-four days as on 16.4.2008; with remissions he has undergone imprisonment of six years, ten months and twenty days. He was released on bail in the present case by this Court on vide order dated 2.4.2008. Therefore, in the facts and circumstances it would be just and expedient to sentence the appellant for the period of imprisonment already undergone by him for the offence under Section 306 IPC.

Accordingly, the appeal is partly allowed and the conviction and sentence of the appellant for the offence under Section 302 IPC is set aside and he is instead convicted for the offence under Section 306 IPC and sentenced to the period already undergone. Besides, the appellant shall pay compensation of Rs.50,000/- to his two children i.e. Rs.25,000/- to each of his children.

(S.S. Saron)
Judge

(Surinder Gupta)
Judge

18.03.2015
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