

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-D-159-DB of 2003

DATE OF DECISION: FEBRUARY 13, 2015

KEHAR SINGH

...APPELLANT

VERSUS

STATE OF HARYANA

...RESPONDENT

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

1. Whether the judgement should be reported in the digest? Yes

PRESENT: MR. SANJEEV SHARMA, ADVOCATE FOR THE APPELLANT.
MS. TANISHA PESHAWARIA, DAG, HARYANA.

M. JEYAPPAUL, J.

1. Accused Kehar Singh has challenged the judgement of conviction and sentence passed by the trial Court under Section 302 IPC.

2. The entire case of the prosecution has been focused through the testimony of PW7 Surinder Kumar. He deposed that he was the nephew of deceased Babu Ram. Babu Ram employed accused Kehar Singh for harvesting his sugarcane crop. On 13.4.2000 at about 3.00 p.m. when he was chatting with Babu Ram at his baithak, accused Kehar Singh came over there and demanded his labour charges. Babu Ram asked him to come later as his son had been to Jathlana. Accused Kehar Singh having insisted to pay the labour charges, hurled abuses at Babu Ram. Thereafter, Kehar Singh left the place wielding a threat that he would teach a lesson to Babu Ram. On the same day at 5.30 p.m. when PW7 Surinder Kumar and his cousin Ghanshyam were present in his bara, they heard a noise 'Maar Diya –

Maar Diya'. They scaled the wall of their bara and proceeded towards the baithak of Babu Ram. They witnessed accused Kehar Singh beating Babu Ram on the head, mouth and hands with an iron rod. They made an attempt to catch hold of Kehar Singh, but he ran away towards the fields. Babu Ram died on the spot. PW7 proceeded to the police station Jathlana and reported the occurrence and based thereupon, an FIR Ex.PG was registered.

3. PW6 Dr.Vinay Chaudhary conducted post mortem examination on the dead body of Babu Ram aged 70 years on 14.4.2000. He found the following injuries on the dead body of Babu Ram:-

- “1. There was a lacerated wound on the size 5 x 1cm bone deep on forehead. Blood clots were present. Underlying frontal bone was fractured. Intracerebral haemorrhage was seen.*
- 2. There was a lacerated wound 4 x 1cm x bone deep in fronto parietal region. Underline bones were fractured.*
- 3. There was a lacerated wound 3 x 1cm x bone deep on left side of head in occipital region.*
- 4. There was a defuse swelling on left temporal region behind left ear.*
- 5. There was a lacerated wound 8 cm x 1 cm x bone deep on base of the nose and orbits. Right orbit was crushed.*
- 6. Right arm was deformed. Right humerus was fractured.*
- 7. There were multiple contusion of 2 x 2cm to 4 x 4cm on both wrists, dorsum of hands and shoulder.*

8. *There was lacerated wound 2 x 1 x ½ cm on right ear clots were present.*

9. *There was redish contusion on right upper chest anteriorly.”*

4. PW6 opined that Babu Ram had died due to injuries on the brain which was ante mortem in nature and sufficient to cause death in the normal course of life. He had also opined that the injuries found on the dead body of Babu Ram could have been caused by the iron rod which was shown to him.

5. PW9 ASI Lajja Ram was the Investigating Officer in this case. On 15.4.2000, he arrested the accused and in the presence of PW8 Virender Kumar, he interrogated the accused and recorded disclosure statement Ex.PH. Based on the disclosure statement suffered by accused Kehar Singh, an iron rod Ex.P1 was recovered from the sugarcane fields of Naresh Kumar.

6. FSL report Ex.PO would disclose that blood stains were found on the iron rod Ex.P1 sent for examination.

7. In the statement under Section 313 Cr.P.C., the accused has stated that he was innocent, but a false case was foisted on him.

8. The trial Court having relied upon the evidence of PW7 Surinder Kumar, the eye witness in this case and the recovery of iron rod in the presence of PW8 at the instance of the accused, the FSL report which disclosed that blood stains were found on the iron rod Ex.P1 and the medical evidence on record, returned a verdict of conviction and sentence as

against the accused.

9. Learned counsel appearing for appellant Kehar Singh would submit that another eye witness Ghanshyam who was allegedly present at the scene of crime, was not examined. There was no independent witness to support the evidence of PW7 who was a relative of the deceased. PW7 was interested in the outcome of the criminal case launched as against the accused. It is his submission that the verdict of conviction passed by the trial Court, just based on the uncorroborated testimony of PW7, is vitiated.

10. We heard the submissions made by learned DAG, Haryana appearing for the State supporting the verdict of conviction and sentence passed by the trial Court.

11. PW7 Surinder Kumar was the son of the brother of deceased Babu Ram. But it is a well settled proposition of law that the evidence of an eye witness cannot be completely discarded by the Court, when his presence at the place of occurrence is found to be natural and his testimony passes the test of trustworthiness and credibility.

12. PW7 Surinder Kumar had a bara adjacent to the house of deceased Babu Ram. Infact, PW7 had to scale the wall from his bara to enter into the baithak of Babu Ram on hearing the voice 'Maar diya – Maar diya'. The presence of PW7 at the scene of occurrence is found to be quite natural. He being the close relative had a chat with Babu Ram about 2½ hours prior to the occurrence. He had witnessed the accused wielding a threat to Babu Ram who was not in a position to part with the labour charges demanded by the accused instantly. Thereafter, PW7 having heard

the voice 'Maar diya – Maar diya' from the house of Babu Ram, scaled the wall and then witnessed the whole occurrence. His testimony is found to be credible and trustworthy.

13. It is not the quantity of evidence, but the quality that matters. It is not necessary for the prosecution to examine a number of witnesses to establish its case. If the qualitative evidence of one witness could establish the case of the prosecution, there was no need for searching for any more corroboration.

14. PW7 Surinder Kumar has deposed that he alongwith Ghanshyam witnessed the occurrence. Ghanshyam was not examined by the prosecution. Non-examination of Ghanshyam does not weaken the case of the prosecution.

15. The medical evidence would go to establish that Babu Ram had died due to the injuries sustained by him on his vital organ, namely, brain. PW6 Dr.Vinay Chaudhary who performed autopsy had categorically opined that iron rod Ex.P1 could have caused the injuries found on the person of the deceased. Thus, the medical evidence also supports the case of the prosecution.

16. The evidence of PW8 Virender Kumar establishes the recovery of iron rod Ex.P1 at the instance of accused based on the disclosure statement suffered by him. The weapon was found with blood stains as per the FSL report Ex.PO. The above evidence on record also lends corroboration to the case of the prosecution.

17. In view of the above facts and circumstances, we have no

hesitation to conclude that the prosecution has established beyond reasonable doubt that it was the accused-appellant who committed the murder of Babu Ram. We do not find any infirmity in the judgement passed by the trial Court. Therefore, the judgement of conviction and sentence passed by the trial Court stands confirmed and the appeal is dismissed.

(M. JEYAPPAUL)
JUDGE

February 13, 2015
Gulati

(DARSHAN SINGH)
JUDGE