

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. **Criminal Appeal No. D-752-DB of 2002**
Date of Decision : February 24, 2015

Pal Singh

.....Appellant

VERSUS

State of Punjab

.....Respondent

2. **Criminal Appeal No.D-467-DB of 2003**

Balbir Kaur @ Manjit Kaur

....Appellant

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE GURMIT RAM

Present : Mr. N.P.S. Mann, Advocate
for appellant Pal Singh

Mr. R.K. Gupta, Advocate
for appellant Balbir Kaur @ Manjit Kaur

Mr. Rajesh Bhardwaj, Additional A.G., Punjab.

T.P.S. MANN, J.

Both the aforementioned appeals are being disposed of by one judgment as each of the appellants is challenging the judgment and order dated 27.7.2002 passed by the Additional Sessions Judge, Hoshiarpur, whereby they were convicted under Section 302 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 undergo rigorous imprisonment for a period of one year.

The case of the prosecution, in nutshell, is that Amrinder Singh @ Raja, aged about 24 years and resident of Ward No.6, Garhshankar, was having illicit relations with Balbir Kaur @ Manjit Kaur appellant, who was resident of village Sona, District Nawanshahr. Surinder Pal Singh and Surjit Kaur, the parents of Amrinder Singh @ Raja used to prevent him from doing so. At this, Amrinder Singh @ Raja left the house of her parents and started residing with Balbir Kaur @ Manjit Kaur, first at village Dadial, thereafter, at Saila Khurd and finally at village Darapur. About six months before his murder, he was living with Balbir Kaur @ Manjit Kaur at village Denowal Khurd by constructing a house. The parents of Amrinder Singh @ Raja prevented him from residing with Balbir Kaur @ Manjit Kaur but the latter restrained him from coming to their house. So much so, Balbir Kaur @ Manjit Kaur filed a case against the parents of Amrinder Singh @ Raja.

Further case of the prosecution is that the plot underneath the house, which was constructed by Amrinder Singh @ Raja, was in the name of Balbir Kaur @ Manjit Kaur, who sold the house about 15/20 days ago and on that account, a dispute arose between Balbir Kaur @ Manjit Kaur and Amrinder Singh @ Raja. From that day onwards, Amrinder Singh @ Raja started residing with his parents, while Balbir Kaur @ Manjit Kaur started living in the house of Pal Singh, who was a Panch of village Denowal Khurd. On 7.2.2000, in the evening, Balbir Kaur @ Manjit Kaur called Amrinder Singh @ Raja to village Denowal Khurd by making a telephone call saying that the dispute regarding the sale price of the house was to be settled.

Amrinder Singh @ Raja went to village Denowal Khurd on bicycle but did not return. At about 9.00 p.m., the father and mother of Amrinder Singh @ Raja went to the house of Pal Singh appellant in village Denowal Khurd, where they found Balbir Kaur @ Manjit Kaur and Pal Singh arguing with Amrinder Singh @ Raja, who was saying that he had spent money for constructing the house and, accordingly, demanding that money from them. Balbir Kaur @ Manjit Kaur and Pal Singh told him that they would settle the account in the morning. The parents of Amrinder Singh @ Raja asked him to accompany them but Balbir Kaur @ Manjit Kaur and Pal Singh prevented Amrinder Singh @ Raja from going with them and asked him to stay there so that they could settle the accounts and he could go back in the morning. Accordingly, Amrinder Singh @ Raja stayed behind for settling the accounts and his parents returned to their house.

It is also the prosecution case that on 8.2.2000 at about 9.00 a.m., some unidentified person informed the father of Amrinder Singh @ Raja on telephone that the dead body of Amrinder Singh @ Raja was hanging with the bridge of canal in the area of village Ibrahimpur. Both, Surinder Pal Singh and Surjit Kaur, parents of Amrinder Singh @ Raja, while accompanied by Rana Joginder Singh, resident of Garhshankar reached the spot and saw the dead body of Amrinder Singh @ Raja hanging from the canal bridge and a parna tied around his neck. After leaving his wife Surjit Kaur and Rana Joginder Singh near the dead body of Amrinder Singh @ Raja at the spot, Surinder Pal Singh went to Police Station Garhshankar for lodging the report. He suspected the involvement of Balbir Kaur @

Manjit Kaur and Pal Singh appellants, who, alongwith others, had murdered his son Amrinder Singh @ Raja in order to misappropriate the sale proceeds of the house. Accordingly, FIR Ex.PA was recorded by SI Mangal Singh, Additional Station House Officer, Garhshankar on 8.2.2000 at 9.30 a.m., which was completed at 10.25 a.m. The special report was received by the Sub Divisional Judicial Magistrate, Garhshankar on the same day at 1.45 p.m.

During the investigation of the case, SI Mangal Singh prepared inquest report and sent the dead body of Amrinder Singh @ Raja for post mortem. In the opinion of the Medical Board, which was headed by Dr. Reeta Dhami, the cause of death was asphyxia as a result of ante-mortem strangulation, which was sufficient to cause death in the ordinary course of nature. The Investigating Officer got the place of occurrence photographed. One car and one motorcycle were taken into possession. During further investigation, it was revealed that the murder of Amrinder Singh @ Raja was committed by Balbir Kaur @ Manjit Kaur appellant, Surinder Singh @ Chhinda, Harnek Singh @ Rana, Surjit Singh and Harvinder Singh @ Rana, whereas Pal Singh was found innocent. Accordingly, challan was submitted against Balbir Kaur @ Manjit Kaur appellant and four others under Sections 120-B and 302 IPC. The case was committed to the Court of Sessions where charges under Sections 120-B and 302 IPC were framed against Balbir Kaur @ Manjit Kaur and four others. This was followed by PW1 Surinder Pal Singh, father of the deceased, testifying before the trial Court that Pal Singh appellant was also involved in the commission of murder of his son Amrinder Singh @

Raja. This led to filing of an application by the prosecution under Section 319 Cr.P.C., which was allowed and Pal Singh appellant was summoned to face trial, alongwith Balbir Kaur @ Manjit Kaur appellant and four others. Pal Singh appellant was, accordingly, arrested. This was followed by the Additional Sessions Judge, Hoshiarpur framing charges against both the appellants, namely, Pal Singh and Balbir Kaur @ Manjit Kaur as well as other four co-accused under Sections 120-B and 302 IPC, to which they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined nine witnesses. PW1 Surinder Pal Singh and PW2 Surjit Kaur, father and mother, respectively, of deceased Amrinder Singh @ Raja testified about the motive due to which the appellants and their co-accused committed the murder of their son. They also testified about their son Amrinder Singh @ Raja leaving for the house of Balbir Kaur @ Manjit Kaur in village Denowal Khurd. They further testified that when their son did not return uptill 9.00 p.m., they went to the house of Pal Singh and found Balbir Kaur @ Manjit Kaur and Pal Singh exchanging hot words with their son, who was demanding money from them. They also stated that though they asked their son to accompany them yet Balbir Kaur @ Manjit Kaur and Pal Singh wanted him to settle the accounts during the night and, accordingly, they returned to their house. On the next morning, they learnt about the dead body of their son hanging from the bridge of the canal and a piece of cloth tied around the neck. Later on, Surinder Pal Singh left for the Police Station and lodged the report Ex.PA.

PW3 Parminder Singh @ Pinda, who was witness of the criminal conspiracy hatched by the accused, did not support the case of the prosecution and on request made by the Additional Public Prosecutor he was declared hostile. During cross-examination by the Additional Public Prosecutor, this witness denied making any statement before the Investigating Officer. PW4 Bikkar Singh, resident of village Denowal Khurd testified about seeing one woman and three persons carrying some load on their shoulders at about 1.30 a.m. on the intervening night of 7/8.2.2000. He, however, stated that he could not recognize them nor could he say what they were carrying. He further stated that though the woman and three persons were saying that they had murdered Amrinder Singh @ Raja yet he could not recognise them from their voices. This witness was also got declared hostile and cross-examined by the Additional Public Prosecutor. During cross-examination by the Additional Public Prosecutor, he testified that he had made statement before the police on 11.2.2000 but he had not stated about seeing Balbir Kaur @ Manjit Kaur, Surinder Singh @ Chhinda and two others coming from the house of Balbir Kaur @ Manjit Kaur. He also denied that he had seen those persons hanging the dead body from the angle iron of the bridge and proclaiming that they had killed Amrinder Singh @ Raja and, thereafter, proceeded to village Denowal Khurd.

PW5 Dr. Reeta Dhami testified that on 8.2.2000, she, alongwith Dr. Gian Chand conducted post-mortem on the dead body of Amrinder Singh @ Raja at 3.40 p.m. and observed as under :-

"A dead body of young male moderately nourished wearing stripe shirt, grey pyjama, green colour underwear, black shoes and safa tied around the neck. Both eyes half protruding out. Clotted blood present on both nostrils. Post mortem staining present on the back and anterio medial aspect of both eyes. Rigor mortis present throughout the body. On the dead body the following injuries were found:-

1. Ligature mark grooved present around the neck at the level of thyroid cartilage with noose present on the left side of the neck. Ligature mark was horizontal and through out the neck, breadth of ligature mark varies from 2.4 cm. to 3.1 cm. reddish blue in colour. Sub cutaneous haemorrhage were present below the ligature mark and the groove. On dissection larynx, trachea were congested and contained blood mixed with froth. Underlying soft tissues including muscles were lacerated.
2. Lacerated wound 1.5 cm. x 1 cm. on lateral 1/3 of lower lip, clotted blood present, swelling of neck on anterior aspect below the ligature mark.
3. Swelling of neck on anterior aspect below the ligature mark.
4. Bruise 3 cm. x 1.5 cm. on lateral 1/3rd on left clavical reddish brown in colour. Second bruise 2.5 cm. x 1 cm. reddish brown in colour 2 cm. below the first bruise.
5. Bruise reddish brown in colour 3 cm. x 2 cm. on the xiphisternum.

6. Abrasion 2.5 cm. in diameter on the lateral aspect of left wrist joint, reddish in colour, abrasion 2 cm. x 1 cm. lateral aspect of wrist joint at the base of left thumb reddish in colour.

7. Abrasion reddish brown in colour 4 cm. x 1 cm., 10 cm. below the right axilla.

8. Multiple abrasion on the back of the chest and lumber region varying in size 2 cm. to 8 cm. in length, reddish brown in colour."

The cause of death was given as asphyxia as a result of ante-mortem strangulation which was sufficient to cause death in ordinary course of nature. Probable time that elapsed between injury and death was within few minutes and between death and post-mortem within 24 hours.

PW6 SI Mangal Singh, PW8 Constable Gurmaninder Singh and PW9 Jasbir Singh, Station House Officer, Police Station Garhshankar testified about the various steps taken by them during the investigation of the case. PW7 Hari Singh, Draftsman proved the scaled site plan Ex.PM prepared by him.

When examined under Section 313 Cr.P.C., all the accused, including the appellants pleaded false implication. They stated that the deceased was notorious and a man of bad character, who used to visit women of bad character at village Ibrahimpur. He was having a number of enemies. It was a blind murder case and the complainant party cooked up a false story on account of its

relationship with Mr. Hundal, who was the then Superintendent of Police, Hoshiarpur.

After hearing learned Additional Public Prosecutor for the State, learned counsel for the complainant and learned counsel for the accused, the trial Court acquitted Surinder Singh @ Chhinda, Harnek Singh @ Rana, Surjit Singh and Harvinder Singh @ Rana accused of the charges framed against them. Only the appellants were held guilty under Section 302 IPC and sentenced, accordingly. At the same time, no separate conviction under Section 120-B IPC was recorded against the two appellants as they already stood convicted for the substantive offence.

Having heard Mr. N.P.S. Mann, Advocate for appellant Pal Singh, Mr. R.K. Gupta, Advocate for appellant Balbir Kaur @ Manjit Kaur, Mr. Rajesh Bhardwaj, Additional Advocate General, Punjab and scanning the evidence with their able assistance, this Court finds that in order to establish that the appellants had motive to commit the murder of Amrinder Singh @ Raja and the deceased having been last seen in the company of the two appellants, the prosecution has relied upon the testimonies of PW1 Surinder Pal Singh and PW2 Surjit Kaur. These two witnesses are none else but the parents of the deceased. Though both these witnesses testified that their son Amrinder Singh @ Raja, who was having illicit relations with Balbir Kaur @ Manjit Kaur appellant, had a dispute with her in respect of the house which was constructed by the deceased on the plot owned by Balbir Kaur @ Manjit Kaur and differences arose between them regarding sharing of

the proceeds. They also stated that on the evening of 7.2.2000, Balbir Kaur @ Manjit Kaur appellant called their son Amrinder Singh @ Raja who left on the bicycle to village Denowal Khurd, where Balbir Kaur @ Manjit Kaur lived. When he did not return home, the witnesses went looking for him at about 9.00 p.m. and on reaching the house of Balbir Kaur @ Manjit Kaur, they noticed Balbir Kaur @ Manjit Kaur and Pal Singh having arguments with Amrinder Singh @ Raja on the issue of sale proceeds. The two witnesses asked their son to accompany them but the appellants were able to impress upon him to stay there during the night and to go back on the next morning after settling the accounts. However, from the testimonies of PW1 Surinder Pal Singh and PW2 Surjit Kaur, it becomes apparent that Amrinder Singh @ Raja was their only son, who was aged about 24 years at the time of the occurrence. Said Amrinder Singh @ Raja had started living with Balbir Kaur @ Manjit Kaur appellant, who already had children from her first marriage and her husband had expired. Both of them continued to maintain illicit relations for a period of three years though his parents preventing him from residing with Balbir Kaur @ Manjit Kaur, but their son continued to live with Balbir Kaur @ Manjit Kaur at village Dadial, thereafter at Saila Khurd and finally at Darapur. So much so that the deceased even contributed towards construction of a house on a plot situated at village Denowal Khurd, which was owned by Balbir Kaur @ Manjit Kaur. This was not to their liking. Further, Balbir Kaur @ Manjit Kaur moved the Court by filing a complaint against the parents of the deceased and taking deceased with her forcibly. With that attitude of Balbir Kaur @ Manjit Kaur appellant as

well as of Amrinder Singh @ Raja, the parents of the latter had no other option but to dis-inherit him from their property, which fact was clearly stated by PW1 Surinder Pal Singh. He also stated that a case regarding theft of truck was registered against his son at Garhshankar vide FIR No.84 dated 16.8.1997. With that background, both PW1 Surinder Pal Singh and PW2 Surjit Kaur could not have possibly allowed their son to start living with them, once again. On the other hand, he would have continued to live with Balbir Kaur @ Manjit Kaur, who had, in the meantime, shifted to the house of Pal Singh appellant in village Denowal Khurd. The stand taken by PW1 Surinder Pal Singh during his cross-examination that after he had dis-inherited his son, he remained visiting him is highly improbable. If the parents of Amrinder Singh @ Raja were in touch with him, they would have recalled his dis-inheritance. They would also have known about his bank account and also about the business carried on by their son. Further, if the father and mother of the deceased had visited the house of Balbir Kaur @ Manjit Kaur in village Denowal Khurd and found Balbir Kaur @ Manjit Kaur and Pal Singh appellants arguing with his son, they would not have allowed him to stay with them for the night and to be allowed to go only on the next morning after settling the accounts. Their main anxiety, as is shown to be by the prosecution, was the welfare of their son as after noticing that he had not returned, they went to search for him and found him at the house of Balbir Kaur @ Manjit Kaur in village Denowal Khurd. They could have even stayed in the house of Balbir Kaur @ Manjit Kaur for the night and, thereafter, after settling the accounts taken their son with them and not allowed

him to stay on his own in the house of Balbir Kaur @ Manjit Kaur. It appears that once the parents of Amrinder Singh @ Raja learnt about his murder, they came up with a false and fabricated version of their son leaving for the house of Balbir Kaur @ Manjit Kaur and on his not returning within a reasonable time, going to the house of Balbir Kaur @ Manjit Kaur and finding their son there where the matter regarding settlement of accounts was being agitated between the appellants on the one hand and the deceased on the other. Reasons for the same could be that Balbir Kaur @ Manjit Kaur had already filed a complaint against the father and mother of the deceased of not allowing their son to visit her. Possibility cannot be ruled out that fearing some sort of reprisal at the instance of Balbir Kaur @ Manjit Kaur regarding the murder of Amrinder Singh @ Raja, who had been living with her and even spent money on the construction of a house over the land belonging to her, the parents of Amrinder Singh @ Raja may have come with a false version of having seen their son last in the company of the two appellants.

According to the prosecution, on 8.2.2000 PW1 Surinder Pal Singh and PW2 Surjit Kaur learnt about the murder of their son Amrinder Singh @ Raja and his dead body hanging with the canal bridge and a parna tied around his neck. Immediately, on learning about the same, the parents of the deceased left for the canal bridge and found the dead body hanging there. The father of the deceased then left for the police station and lodged FIR Ex.PA at 9.30 a.m. It was followed by SI Mangal Singh, who had recorded the FIR,

accompanying Surinder Pal Singh to the canal bridge and getting the place of occurrence photographed besides taking into possession the dead body. He recorded the statements of Surjit Kaur and Rana Joginder Singh, besides preparing inquest report Ex.PB. The dead body was, thereafter, sent for post-mortem. However, PW1 Surinder Pal Singh testified that he, alongwith his wife Surjit Kaur and co-villager Rana Joginder Singh, reached the bridge at about 9.00 a.m. from where he left for the Police Station and in about 15 minutes he brought the police at the place where the dead body was hanging. After the spot was seen, PW1 Surinder Pal Singh was taken by the police to the Police Station where his statement was recorded. All this shows that when Surinder Pal Singh went to the Police Station for the first time, no such statement as Ex.PA was recorded. Instead, the police officer simply accompanied Surinder Pal Singh to the canal bridge, who after seeing the spot, took Surinder Pal Singh to the Police Station and recorded his statement. Possibility of the complainant party coining a false version and, that too, at the instance of the police cannot be ruled out.

In view of the above, it is held that the prosecution has miserably failed to establish that the appellants had motive to commit the murder of Amrinder Singh @ Raja or that they were last seen with Amrinder Singh @ Raja. The testimonies of PW3 Parminder Singh @ Pinda and PW4 Bikkar Singh cannot be relied upon to fix the involvement of the appellants in the commission of crime. According to the prosecution, Parminder Singh @ Pinda was to depose about

the criminal conspiracy hatched amongst the accused, pursuant to which, they were to commit the murder of Amrinder Singh @ Raja and share the proceeds of the house, which was built on the plot belonging to Balbir Kaur @ Manjit Kaur appellant and the construction was carried out by the deceased. Similarly, Bikkar Singh was to testify that at about 1.30 a.m. on the intervening night of 7/8.2.2000, he had seen Balbir Kaur @ Manjit Kaur and three others carrying some load on their shoulders and proclaiming that they had murdered Amrinder Singh @ Raja. However, both of them did not toe the line of the prosecution and were declared hostile at the request made by the Additional Public Prosecutor. Even during their cross-examination by the Additional Public Prosecutor, no material could be brought on record which could be made basis for finding the involvement of the appellants in the commission of the crime. Both these witnesses even denied making incriminating statements when they were examined by the Investigating Officer during the investigation of the case.

It is true that the medical evidence establishes the murder of Amrinder Singh @ Raja as his death was caused by asphyxia as a result of ante-mortem strangulation which was sufficient to cause death in ordinary course of nature. But that evidence is not conclusive of the fact that the appellants were the one who had committed the murder of Amrinder Singh @ Raja by strangulating him and, thereafter, hanging his dead body from the canal bridge. Similarly, the various steps taken by PW6 SI Mangal Singh, PW8 Constable Gurmaninder Singh and PW9 Jasbir Singh, Station House Officer

during the investigation are not sufficient to link the appellants with the crime. The testimony of PW7 Hari Singh, Draftsman, who had prepared the scaled site plan Ex.PM, is innocuous.

Resultantly, it is held that the prosecution has not been able to prove its case beyond reasonable doubt. Accordingly, Criminal Appeal No.D-752-DB of 2002 filed by Pal Singh and Criminal Appeal No.D-467-DB of 2003 filed by Balbir Kaur @ Manjit Kaur are accepted, impugned judgment of conviction and sentence is set aside and the appellants are acquitted of the charges against them.

The appellants are on bail. Their bail bonds and surety bonds shall stand discharged.

(T.P.S. MANN)
JUDGE

(GURMIT RAM)
JUDGE

February 24, 2015
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