

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-D No.948-DB of 2003

Date of decision:4.3.2015

Darshan Singh and another

....Appellants

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Harpreet Kaur Dhillon, Advocate for the appellants.

Mr. Manoj Bajaj, Additional Advocate General, Punjab.

HEMANT GUPTA, J.(Oral)

The present appeal is directed against an order dated 14.11.2003 convicting the appellant-Darshan Singh for an offence under Section 302 of Indian Penal Code (for short 'IPC') and appellant-Ranjit Kaur for an offence under Section 302 read with Section 34 IPC. The appellants were sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.10,000/-, in default of payment of fine to further undergo rigorous imprisonment for a period of six months under Section 302 read with Section 34 IPC.

Learned counsel for the appellants has pointed out that appellant No.1-Darshan Singh, when on bail, has been murdered, therefore, the appeal qua him stands abated.

In view thereof, the arguments have been addressed by learned counsel for the appellants regarding the conviction of appellant No.2-Ranjit Kaur for an offence under Section 302 with the aid of Section 34 IPC.

The appellant No.1 Darshan Singh and Chamkaur Singh are two brothers. Ranjit Kaur- appellant is wife of Darshan Singh. Deceased-Manjit Kaur is wife of Chamkaur Singh. It was on 30.11.2001 at about 3.30 PM a statement was made by Chamkaur Singh to Balbir Singh Sub Inspector (for short 'SI')/Station House Officer, Police Station Dhaka. It is stated that his brother Darshan Singh has taken life of his wife Manjit Kaur and in such process wife of Darshan Singh has actively participated.

Chamkaur Singh, in his statement Ex.PA, stated that his wife Manjit Kaur hails from Sheikh Daulat, Police Station Sidhwan Bet and they have a daughter aged about two years. His father Sadhu Singh resides with his elder brother Darshan Singh. On 30.11.2001, when he along with his wife and daughter were sitting in the room at about 2:30 PM, he heard the abuses hurled by his brother Darshan Singh. His wife Manjit Kaur went out of the room. He followed her. Then he saw his sister-in-law Ranjit Kaur, who was standing in the Varandah, catching hold of his wife from hair of tail. She dragged her in the courtyard and then his brother Darshan Singh gave two spade (kahi) blows on the head of his wife Manjit Kaur. She fell down and died. His brother Darshan Singh and sister-in-law Ranjit Kaur went away saying that the complainant would not have a son and the land would devolve upon their son. He went away from his house out of fear lest they should not kill him. The motive of taking life is said to be that he has only a daughter, whereas his brother Darshan Singh has a son. It was stated that daughter would not be allowed to sow the land, therefore, Darshan Singh and Ranjit Kaur (appellants) have

taken life of his wife Manjit Kaur so that there is no son from his wedlock with Manjit Kaur.

SI Balbir Singh completed the investigation and put up report under Section 173 of the Code of Criminal Procedure (for short 'Cr.P.C.') against Darshan Singh putting the name of Ranjit Kaur in column No.2. It was during trial, on an application under Section 319 of Cr.P.C., Ranjit Kaur was summoned as an accused and made to stand trial.

Apart from the formal witnesses such as PW6 Dr. S.K. Sharma, Medical Officer, Civil Hospital, Ludhiana, who conducted post-mortem examination, the prosecution relied upon statement of Chamkaur Singh, husband of the deceased and brother of appellant-Darshan Singh, who appeared as PW1. He supported the allegations levelled against the appellants in the initial statement Ex.PA. In cross-examination, he admitted that he did not intervene personally to save his wife Manjit Kaur as he was holding his daughter in his lap. He admitted that his tubewell is situated at a distance of 1 K.M. from his house but denied the suggestion that he was not present at the time when the occurrence had taken place. He denied the suggestion that he was called from his tubewell after the occurrence. He admitted that he came back at the place of occurrence after about 4/5 minutes after he left that place and that his in-laws live in village Sheikh Daulat which is at a distance of 25 K.M. from his village. He denied the suggestion that appellant Ranjit Kaur had gone to Halwara at the time of occurrence. It is admitted that there was a complaint lodged by accused and their other brother against him though initially, he stated

that it was he who complained to the police before the present occurrence in the year 1999.

The statements of both the accused under Section 313 Cr.P.C. were recorded. In his statement under Section 313 Cr.P.C., Darshan Singh (since deceased) stated that the witnesses have deposed falsely against him and his wife as he has enmity with his brother Chamkaur Singh. On the other hand, appellant-Ranjit Kaur in her statement under Section 313 Cr.P.C. denied the prosecution allegations and stated that witnesses have deposed falsely against her and his husband as they have enmity with Chamkaur Singh.

Learned counsel for the appellants has vehemently argued that the conduct of Chamkaur Singh is that of an unreliable person, as it is unbelievable that a person who is said to be a witness of hitting of his wife with spade, but would not react and in fact walk away from the place of occurrence soon after. Therefore, the allegation that he saw appellant-Ranjit Kaur dragging his wife with hair is to cast the net wide so as to involve the near relations in prosecution. It is argued that though the clothes of Darshan Singh were blood-stained but there were no blood-stains found on the clothes of Ranjit Kaur. If Ranjit Kaur was dragging Manjit Kaur with hair, the spade (kahi) blow was bound to have left blood-stains on her clothes as well being in close proximity with the deceased. Though number of persons were said to be present soon after the occurrence, but none has been examined. In fact, the place of occurrence is in the thick of the residential locality. Therefore, the non-examination of the independent witness goes a long way to prove that appellant-Ranjit Kaur has been falsely implicated.

On the other hand Mr. Manoj Bajaj, Additional Advocate General, Punjab, submitted that the testimony of eye-witness Chamkaur Singh is trustworthy. Apart from the suggestion that Ranjit Kaur was away to Halwara, there is no evidence of her not being available in the village. Therefore, the evidence of Chamkaur Singh cannot be brushed aside more so when the same has been relied upon by learned trial Court.

We have heard learned counsel for the parties and find that appellant-Ranjit Kaur is entitled to benefit of doubt of the allegations that she was present at the time of occurrence. We find that if appellant-Ranjit Kaur was present at the time of occurrence, it was impossible that her clothes will not have blood-stains as the clothes of Darshan Singh were found to be blood-stained as per the FSL Report Ex.PL.

The testimony of eye-witness Chamkaur Singh that he was the person present at the place of occurrence does not inspire any confidence. As per his testimony, he has seen his wife being dragged by Ranjit Kaur but he did not intervene and stop Ranjit Kaur from dragging his wife. He did not intervene when Darshan Singh is said to have inflicted two spade (kahi) blows. In fact, after death of Manjit Kaur he walked away from the place of occurrence rather than to save Manjit Kaur or to take her to the hospital. Such improbable human conduct soon after the occurrence leaves serious doubt on the veracity of the statement made. Thus, we find that prosecution has failed to prove the charges against the appellant beyond reasonable doubt.

Consequently, we accept the present appeal qua appellant-Ranjit Kaur and set her at liberty by granting her benefit of doubt.

(HEMANT GUPTA)
JUDGE

MARCH 4, 2015
‘D. Gulati’

(LISA GILL)
JUDGE