

In the High Court of Punjab and Haryana at Chandigarh

Date of decision: 10.02.2016
CRA-S-554-SB-2003 (O&M)

Amarjit Kumar @ Nannu & Another Appellant

Vs.

State of Punjab Respondent

CRA-S-741-SB-2003 (O&M)

Pardeep Kumar @ Bobby Appellant

Vs.

State of Punjab Respondent

CORAM: HON'BLE MRS. JUSTICE RAJ RAHUL GARG

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Argued by: Mr. S.C.Chhabra, Advocate and
Mr. Rahul Vats, Advocate for the appellants.

Mr. Surjeet Singh Chaudhary, DAG, Punjab.

RAJ RAHUL GARG.J.

The aforesaid two appeals have been directed against the judgment dated 15.03.2003 rendered by learned Addl. Sessions Judge (Fast Track Court), Ferozepur, whereby the appellants-accused were held guilty for commission of offence under Section 306 of Indian Penal Code (for short 'IPC'). Vide order of sentence of even date, each one of the accused was sentenced to undergo rigorous imprisonment for 5 years and to pay a fine of ₹1,000/- each. In default of payment of fine to further undergo

rigorous imprisonment for 6 months each.

Brief facts of the case are like this; that Ashok Kumar-complainant lodged a report with the police on 03.12.2000 stating that he is a labourer. They are five brothers and sisters. His younger sister Reena is married to Maya Dass at Ludhiana. Younger to her namely Reeta is married to Amrit Masih at Ferozepur. Next one Ranjana is married to Symon at Panchkula whereas his youngest sister namely Manju was residing with him in House No.109, Church Road, Ferozepur Cantt. Both are unmarried. His parents have already died. Pardeep Kumar @ Bobby (appellant) is residing with his uncle Amarjit Kumar son of Suraj Parkash and aunt (Bhua) namely Sunita @ Babbly, daughter of Suraj Parkash, in Kothi No. 109, Church Road, Ferozpur Cantt adjoining to his residence. Pardeep Kumar was on visiting terms with them. Manju fell in love with him. They loved each other very much. He came to know about it a few days ago. His sister Manju and Pardeep intended to marry each other but uncle Amarjit Kumar @ Nannu and aunt Sunita @ Babbly were not happy with this proposal. They used to taunt Manju. Pardeep Kumar refused to marry her about a week ago. On 12.02.2000, he had gone to his sister Reeta's house and stayed there, that night. When he came back to his house the next morning and opened the gate of the house, he found that his sister Manju had committed suicide by hanging herself. He raised hue and cry. On hearing his cries, neighbourers, respectables and relatives collected there. His sister Manju committed suicide as Pardeep Kumar, Sunita and Amarjit did not want that marriage of his sister be performed with Pardeep Kumar. They used to taunt and defame his sister, so Manju committed suicide during the intervening night of 2/3-12-2000.

On this report, case was registered. Formal FIR was recorded. Police along with other police officials, complainant Ashok Kumar, Amrit and Barkat Masih had gone to the place of occurrence and prepared the rough site plan of the spot. Photographs of the spot were obtained. Inquest report was prepared. Post-mortem of dead body of Manju was got conducted. Three letters written by Manju, an exercise book and small table were taken into police possession from the place of occurrence vide separate memos in the presence of witnesses. Case property was deposited with the MHC of the police station. Accused Pardeep Kumar was arrested on 11.12.2000. Statements of witnesses were recorded. Accused Amarjit and Sunita were found innocent during investigations. Though, initially challan was put up in the Court against accused Pardeep Kumar but later on accused Amarjit and Sunita also faced trial being an additional accused.

Finding a *prima-facie* case against the accused for committing offence punishable under Section 306 IPC, accused were charge-sheeted to which they did not plead guilty and claimed trial. After taking entire prosecution evidence, statements of accused under Section 313 Cr.P.C. were recorded wherein they denied each prosecution allegation and pleaded their innocence. The defence taken by the accused is this; that they are innocent. They have been falsely implicated in this case. Deceased Manju had committed suicide of her own and there was no goading and abetment on their part to her, to commit suicide. Monika, daughter of Sunita, had love affair with maternal uncle of Ashok Kumar-complainant. Due to this grudge, the present case has been got registered falsely against them.

After hearing both the counsel for the parties and appraising the entire material and evidence on record, the learned trial Court recorded

the impugned judgment of conviction dated 15.03.2003 and order of sentence of even date, as set out in the earlier part of this judgment.

I have heard learned Shri S.C.Chhabra, Advocate and Mr. Rahul Vats, Advocate, counsel for the appellants and learned Shri Surjeet Singh Chaudhary, Deputy Advocate General, Punjab, besides going through the record of this case.

At the very outset, learned counsel for the appellants-accused contended that they do not assail the findings of learned trial Court recorded on merits of the case. They would feel satisfied if the sentence of the appellants-accused is reduced to the one already undergone. It was also contended by learned counsel for the appellants-accused that the alleged occurrence is dated 03.12.2000. For the last more than 15 years, the appellants-accused have been facing agony of protracted trial. In fact, appellants-accused Amarjit and Sunita were initially found innocent during the course of investigations. They are the uncle and aunt of Pardeep Kumar. There was no question of any kind of abetment to commit the present offence on the part of accused. Even if deceased was having love affair with Pardeep Kumar, he never instigated her to commit suicide.

Learned Shri Surjeet Singh Chaudhary, Deputy Advocate General, Punjab, has no serious objection in case the sentence of the appellants-accused is reduced to the one already undergone. He also admitted that the appellants-accused have faced the agony of protracted trial for the last more than 15 years.

As per custody certificate of appellant Sunita, she has undergone the sentence for a period of 3 years and 4 months where as per custody certificate of Amarjit Kumar, he has undergone the sentence for a

period of 3 years, 2 months and 11 days. Custody certificate, in respect of appellant-Pardeep Kumar, shows that he has undergone the sentence for a period of 2 years, 2 months and 26 days.

Keeping in view the young age of the accused and further that they faced the agony of protracted trial for a period of more than 15 years, I find that the ends of justice would be met in case the sentence of the appellants-accused is reduced to the one already undergone. So is ordered accordingly. However, the sentence of fine shall remain intact.

For the reasons recorded above, finding no merit in this appeal. The judgment of conviction dated 15.03.2003 recorded against all the appellants-accused is maintained. However, the order of sentence of the even date is modified only to the extent indicated above, thereby, reducing the sentence of the appellants-accused to the one already undergone whereas the sentence of fine shall remain intact.

Disposed of accordingly.

**(RAJ RAHULGARG)
JUDGE**

10.02.2016
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