

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

**Criminal Appeal D-410-DB of 2003
Date of Decision: December 1, 2016**

Parminder Singh @ Sonu		Appellant
	Versus	
State of Punjab		 Respondent

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

Present : Mr. Pardeep Goyal, Advocate
for the appellant.

Mr. S.S.Dhailwal, Additional Advocate General, Punjab.

T.P.S.MANN, J.

The appellant was tried for committing the offence punishable under Section 302 IPC on the allegations that on 3.6.2001 at about 9.00 a.m., he committed the murder of Chand Kaur wife of Gulzar Singh. Vide judgment and order dated 16.9.2002, learned Sessions Judge, Ludhiana, convicted him for the said offence and sentenced him to undergo rigorous imprisonment for life and to pay a fine of Rs.2,000/- and in default of payment of fine, to undergo further rigorous imprisonment for four months.

According to the prosecution, on 3.6.2001 at about 11.30 a.m., complainant Ravneet Pal Singh made statement

Ex.PW5/A before Assistant Sub-Inspector Sukhdev Singh at Chowk Dalla, village Kaunkey Kalan to the effect that he was resident of Badal Patti, Kaunkey Kalan and, at that time, resident of Kothi No. 132, Adarsh Colony, Barewal Road, Ludhiana. He had studied upto M.A. and working from his residence at Ludhiana. His grandmother Chand Kaur and uncle Pritpal Singh used to reside together in their ancestral house at village Kaunkey Kalan. On 2.6.2001, the complainant had come to the village to meet his grandmother and uncle Pritpal Singh. On 3.6.2001 at 8.00 a.m., the complainant after having breakfast went for a round of the village. He found his uncle Pritpal Singh sitting at the gate of his house. When the complainant returned at about 9.00 a.m., he alongwith his uncle Pritpal Singh went inside the house and saw that his grandmother Chand Kaur was lying on the ground in the fodder room of her house. There were injuries with the sharp edged weapon on her neck, chest, left bicep and mouth. She had already breathed her last. Her earrings were also missing. According to the complainant, his grand-mother Chand Kaur had been murdered by some unknown person with a sharp edged weapon after entering her house. Both her earrings had already been removed and taken away. The complainant then informed his father Pritam Singh and on his arrival in the village, he left him at the spot and proceeded to the

police station for lodging the report. He sought taking of necessary action.

Further case of the prosecution is that as the statement of complainant Ravneet Pal Singh revealed commission of a cognizable offence, Assistant Sub-Inspector Sukhdev Singh forwarded it to Police Station Jagraon through Constable Pritam Singh, where on its basis, FIR No. 105 dated 3.6.2001 under Sections 302 and 459 IPC was registered on the same day at 11.50 a.m. Special report sent through Constable Gurdeep Singh was received by the Sub-Divisional Judicial Magistrate, Jagraon on 3.6.2001 at 1.30 p.m.

Further case of the prosecution is that Assistant Sub-Inspector Sukhdev Singh, while accompanied by complainant Ravneet Pal Singh reached the place of occurrence, where the dead body of Chand Kaur was lying. He prepared inquest report Ex.PB and dispatched the dead body for postmortem. He also lifted the blood stained earth and simple earth from the place of occurrence, which were converted into two separate sealed parcels and taken into police possession. The clothes removed from the dead body by the doctor were also taken into police possession. On 10.6.2001, Joginder Singh, Sarpanch of village Kaunkey Kalan produced the appellant and, accordingly, he was arrested by Assistant Sub-Inspector Sukhdev

Singh. The appellant suffered disclosure statement Ex.PW3/A and in pursuance thereof, he got recovered a dagger, his own blood stained shirt and pair of gold earrings from underneath the parchhati of kitchen of his house. They were taken into police possession. During further investigation, Assistant Sub-Inspector Sukhdev Singh recorded the statements of Jasbir Singh and Jagdev Singh and on completion of investigation, he prepared final report under Section 173 Cr.P.C. The case was, thereafter, committed to the Court of Sessions, where the appellant was charged for the offence under Section 302 IPC, to which, he pleaded not guilty and claimed trial.

In support of its case, the prosecution examined PW1 Dr. Harinder Sharma, Medical Officer, Civil Hospital, Jagraon, who deposed that on 3.6.2001 at 4.30 p.m., he conducted postmortem on the dead body of Chand Kaur and found the following injuries:-

- “1. An incised wound 1 cm. long x 0.2 cm. wide and muscle deep, present 1 cm. below lower lip and was present in centre and transversely in position. On dissection, the wound was muscle deep and muscle fiber cut.
2. An incised wound 4 cm. x 0.2 cm. wide was present just below the left ear pinna and on probing it came out with a wound of 1 cm. x 0.3 cm. wide with everted margins at angle of

mandible on right side. Another wound 3 cm. long and 0.1 cm wide was present and was muscle deep on left side of neck, present just below above injury. Another wound 1 cm. x 0.1 cm. x muscle deep was present on left neck just below above wound. Another wound 1 cm. x 0.1 cm. x muscle deep on left neck on lateral side in centre.

3. An incised wound 1 cm. x 0.2 cm x muscle deep transverse on right cheek in centre.
4. An incised wound 1 cm. x 0.3 cm. x 1 cm. deep on the right side of neck on lateral side in middle. On dissection, underlying vessels and other structures were cut.
5. An incised wound 1.5 cm. x 0.4 cm. x muscle deep right side 1 cm. below clavicle in middle.
6. An incised wound 1 cm. x 0.4 cm. and 1 cm. in centre of thorax in left and in middle at entry. On dissection, all the vital structures were cut.
7. An incised wound 4 cm. x 0.2 cm. x muscle deep on left side, 2 cm. below left ear transverse.
8. An incised wound 1 cm. x 0.2 cm. and muscle deep on left shoulder top and in longitudinal.
9. An incised wound 1 cm. x 0.2 cm. x muscle deep on left arm in middle, horizontally. Bones were intact on dissection.
10. An incised wound 1 cm. x 0.1 cm. on left chest just below left mammary gland in centre. On dissection, heart was having 2 cm. x 0.3 cm. incised wound on left ventricle with a cut by the

wound. Another incised wound 1 cm. x 0.4 cm. present on left chest 4 cm. below left nipple. On dissection, the stomach was punctured by this wound with 1 cm. x 0.2 cm. in size. Blood was present in peritoneal cavity.

11. Lacerated wound 1 cm. x 0.1 cm. x muscle deep on left thigh on back in midline just below buttock. Scalp, skull and vertebrae, membranes, brain, spinal cord were healthy.”

The doctor further testified that the time that elapsed between injury and death was sudden and between death and postmortem, it was between 6 to 12 hours. In his opinion, the cause of death was due to injuries which led to sudden death because of massive bleeding. He also opined that kirch Ex.P1 could cause the injuries found on the dead body of Chand Kaur.

PW2 Jagdev Singh testified that on 3.6.2001 at about 8.30 a.m., when he was passing in front of house of Chand Kaur, he found the appellant there who was holding kirch in his hands, which had blood stains and blood was also there on his shirt. When he inquired from the appellant about the same, he replied that he had culled a chicken for meal. However, the appellant was frightened and believing what the appellant had stated to him, the witness left for his place of work. When he returned in the evening, he learnt that Chand Kaur had been murdered and the appellant was also not available at his house.

PW3 Joginder Singh, Sarpanch of village Kaunkey Kalan deposed that on 10.6.2001 at about 3.00 p.m., the appellant came to him and stated that he had committed a mistake by killing Chand Kaur in greed of gold by giving her kirch blows. He also deposed that the appellant had told him about removing the gold rings from the ears of the deceased after killing her. Accordingly, he produced the appellant before the police. He further deposed that the appellant was interrogated by Assistant Sub-Inspector Sukhdev Singh in his presence and pursuant to the disclosure statement made by him, got recovered kirch Ex.P1, his blood stained shirt Ex.P4 and earrings Ex.P5 and Ex.P6 in the parchhati under cow dung cakes at his house.

PW4 Jasbir Singh deposed that he was resident of village Kaunkey Kalan and running a cycle repair shop at Adda Nanaksar in the village. On 3.6.2001 at about 9.00 a.m., the appellant came running to him. He was feeling frightened and stated that his brother had suffered injuries and, accordingly, he borrowed a cycle from him, after which he never returned.

PW5 Ravneet Pal Singh, complainant in the case deposed on the lines of his statement Ex.PW5/A, which he had made before Assistant Sub-Inspector Sukhdev Singh on the day of the occurrence. He also proved recovery memo Ex.PW5/B vide which the Investigating Officer had lifted the blood stained earth

and simple earth from the spot and taken the same into police possession.

PW6 Constable Gurdeep Singh testified that he had delivered the special report of the case to the Ilaqa Magistrate on 3.6.2001.

PW7 Head Constable Baljit Singh testified that he stood posted as MHC at Police Station Jagraon and on 3.6.2001, the case property was deposited with him and on 28.6.2001, he sent the same to the Forensic Science Laboratory through Constable Pritam Singh.

PW8 Smt. Gurmail Kaur, daughter of deceased Chand Kaur testified that on 28.7.2001, she went to Police Station Jagraon, where she identified gold earrings Ex.P5 and Ex.P6 from amongst 6/7 pairs, which belonged to her mother Chand Kaur. She also proved memo Ex.PW8/A prepared in this regard.

PW9 Constable Kuldip Singh testified that he had taken dead body of Chand Kaur for postmortem. He also stated that after postmortem the doctor had handed over the clothes removed from the dead body to him, which he further produced before Assistant Sub-Inspector Sukhdev Singh.

PW10 Constable Pritam Singh testified that on 27.6.2001, he got issued docket from S.S.P. and on 28.6.2001, HC Baljit Singh deposited sealed parcels of the case property

with the Forensic Science Laboratory, Chandigarh.

PW11 Assistant Sub-Inspector Sukhdev Singh testified that complainant Ravneet Pal Singh made statement Ex.PW5/A and, accordingly, he made an endorsement Ex.PW5/C and on its basis formal FIR Ex.PW5/D was recorded by Sub-Inspector Nahar Singh. He further stated that he had accompanied the complainant to the place of occurrence in village Kaunkey Kalan, where the dead body of Chand Kaur was lying and he prepared inquest report Ex.PB. He dispatched the dead body with his request Ex.PA for postmortem. He also lifted the blood stained earth and simple earth from the spot vide memo Ex.PW5/B. He prepared rough site plan Ex.PW11/A of the place of occurrence and took into police possession the clothes removed from the dead body of Chand Kaur. He recorded the statements of the witnesses and when the appellant was produced before him on 10.6.2001 by Joginder Singh Sarpanch, he interrogated him. The appellant suffered disclosure statement Ex.PW3/A, pursuant to which, he got recovered kirch Ex.P1, blood stained shirt Ex.P4 and gold earrings Ex.P5 and Ex.P6, which were taken into possession vide memo Ex.PW3/C. He also proved memo Ex.PW8/A regarding PW8 Gurmail Kaur identifying gold earrings to be that of her mother Chand Kaur.

The prosecution also tendered in evidence report

Ex.PX of the Forensic Science Laboratory to the effect that kirch Ex.P1, shirt Ex.P4 and earth were found stained with human blood.

After hearing learned counsel for the parties and on going through the evidence, the trial Court came to the conclusion that the circumstances brought on record by the prosecution formed a complete chain, which pointed towards the guilt of the appellant and, thus, there was no escape but to hold that the murder of Chand Kaur was committed by the appellant and none else. Accordingly, the appellant was held guilty under Section 302 IPC and sentenced, as mentioned above.

This Court has heard Mr. Pardeep Goyal, Advocate for the appellant and Mr. S.S.Dhaliwal, Additional Advocate General Punjab and with their able assistance, scanned the evidence minutely.

Learned counsel for the appellant has submitted that Pritpal Singh, who was son of deceased Chand Kaur and was shown to be present at the door of the house, in which, the occurrence had taken place was not examined by the prosecution in support of its case. So much so, he was not even joined in the investigation of the case. Said Pritpal Singh, being a material witness was required to be associated with the investigation right

from the beginning. As it was not done, the entire investigation becomes suspicious and doubtful and, thus, the appellant deserves the benefit of doubt.

It is the case of the prosecution that when complainant Ravneet Pal Singh, after taking breakfast went to have a round of the village, he found his uncle Pritpal Singh sitting in the gate of his house and later on when the complainant returned to the house, in which, his grandmother Chand Kaur and uncle Pritpal Singh resided, he along with his uncle, went inside and saw his grandmother lying dead in a pool of blood. The reason as to why Pritpal Singh was neither associated in the investigation was stated by complainant Ravneet Pal Singh when he appeared as PW5 and deposed that said Pritpal Singh was mentally not sound. It is true that the factum of Pritpal Singh not being mentally sound, was not stated by him before the police but that is not sufficient to hold that Pritpal Singh was a normal person. The defence also did not take any step to produce Pritpal Singh as its witness, which further confirms the fact that Pritpal Singh was not mentally sound. As such, Investigating Officer did not find it appropriate to associate Pritpal Singh in the investigation of the case. As he was not joined in the investigation, his name was not cited in the list of witnesses attached with the final report under Section 173 Cr.P.C.

Therefore, no benefit needs to be extended to the appellant on account of non-production of Pritpal Singh by the prosecution in support of its case.

Learned counsel for the appellant has further submitted that PW2 Jagdev Singh, who was said to have seen the appellant coming out of the house of Chand Kaur on 3.6.2001 at 8.30 a.m., while holding a blood stained kirch and his shirt was also blood stained, was a relative of the complainant as well as of the deceased and being an interested witness, his statement could not be acted or relied upon.

During his cross-examination, PW2 Jagdev Singh testified that the deceased was wife of his father's younger brother. However, that by itself is not sufficient to discard his testimony, more so, when despite being subjected to thorough cross-examination he stuck to his stand by deposing that on 3.6.2001 at about 8.30 a.m., when he was passing in front of house of Chand Kaur, he found the appellant holding a kirch in his hand, which was blood stained and blood was also present on his shirt. He also deposed that when he enquired from the appellant about the same, the latter told him that he had culled a chicken for meal. At that time, he noticed that the appellant was frightened but PW2 Jagdev Singh felt satisfied with the explanation given by the appellant and, accordingly, he left for his

place of work. In the evening, when he returned to the village, he learnt about the commission of murder of Chand Kaur and the appellant also not available at his house. Thus, the testimony of PW2 Jagdev Singh is worthy of reliance.

According to the prosecution, PW4 Jasbir Singh was running a cycle repair shop and on 3.6.2001 at about 9.00 a.m., the appellant came running to him and borrowed a cycle from him on the pretext that his brother had suffered injuries. The appellant was feeling frightened at that time and after borrowing the cycle, left his place and never returned. During his cross-examination, he had deposed that when the mother of the appellant informed him about the appellant not returning on 3.6.2001, he informed Harnam Singh, Member Panchayat about the appellant having borrowed a cycle from his cycle repair shop.

Learned counsel for the appellant has submitted that the testimony of PW3 Joginder Singh cannot be relied upon as he was a stock witness of the police. However, in his testimony as PW3, Joginder Singh stated that he was Sarpanch of the village and knew the appellant very well, who belonged to his village. He testified that on 10.6.2001 at about 3.00 p.m., the appellant came to his house and told him that he had committed a mistake by killing his grandmother Chand Kaur in greed of gold by giving her kirch blows. The appellant had also told him that after killing

Chand Kaur, he removed his earrings. When the appellant requested him to produce him before the police as he was acquaintance with the police, he took him to Police Post, Kaunkey Kalan where ASI Sukhdev Singh was present and he produced the appellant before him. There is no material on the record which could indicate that PW3 Joginder Singh was a stock witness of the police. Only a suggestion was put to PW3 Joginder Singh that he was a stock witness of the police but he denied the same. The defence has not brought any material, whatsoever, on the record which might indicate about PW3 Joginder Singh being at the beck and call of the police. Even otherwise being the Sarpanch of the village, he was a respectable person, in whom, the people could repose confidence. It appears to be probable and natural that the appellant contacted PW3 Joginder Singh and making extra judicial confession admitting his involvement in the crime and subsequent to his arrest, the appellant getting recovered earrings Ex.P5 and Ex.P6 which belonged to Chand Kaur. Those earrings were identified by PW8 Gurmail Kaur, daughter of deceased Chand Kaur. Besides, the appellant got recovered the weapon i.e., kirch Ex.P1, which was used in killing Chand Kaur. The kirch Ex.P1 was also subjected to chemical examination and was found to be stained with human blood. Even the shirt belonging to the appellant got recovered by him pursuant

to his disclosure statement was found to be stained with human blood. The place of occurrence also stands fixed as the blood stained earth when subjected to chemical examination was found to be stained with human blood.

In view of the above, this Court finds that the prosecution has led cogent and convincing evidence to sustain the charge of murder against the appellant. The evidence led by the prosecution stood appreciated by the learned trial Court in its proper perspective to come to the conclusion that it was the appellant and the appellant alone who had committed the murder of Chand Kaur. No case is made out for arriving at any other conclusion.

The appeal is bereft of any merit and, accordingly, dismissed.

**(T.P.S. MANN)
JUDGE**

December 1, 2016
amit rana

**(GURMIT RAM)
JUDGE**

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No