

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.D-451-DB of 2010

Date of Decision : September 22, 2016

Paramjit Singh @ Pamma

....Appellant

VERSUS

State of Punjab

....Respondent

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

Present : Mr. H.S. Thiara, Advocate
for the appellant.

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

T.P.S. MANN, J.

Instant appeal has been filed by convict Paramjit Singh @ Pamma for challenging the judgment and order dated 19.1.2010 passed by learned Additional Sessions Judge, Jalandhar. Vide impugned judgment and order, the trial Court convicted the appellant under Section 302 IPC and sentenced him to undergo imprisonment for life and to pay a fine of Rs.10,000/- and in default of payment of fine, to further undergo rigorous imprisonment for one year.

According to the prosecution, on receipt of chit bearing dispatch No.746 dated 10.6.2008 scribed by the doctor of Civil Hospital, Nakodar that Charanjit Kaur, aged 35 years, wife of the appellant and resident of village Malri, had been admitted in the said hospital due to

burns, SI Sukhdev Singh, Incharge, Police Post City, Nakodar, alongwith other police officials, reached the hospital for taking action. He sought opinion from the doctor as to whether Charanjit Kaur was fit to make a statement or not. The doctor declared her fit to make a statement. Accordingly, SI Sukhdev Singh recorded the statement of Charanjit Kaur, who stated that she was resident of village Malri, Police Station Nakodar, District Jalandhar and doing house hold work. On that day, i.e. 10.6.2008 at 9.00 a.m. her husband Paramjit Singh, mother-in-law and father-in-law poured kerosene on her and set her ablaze. There used to remain quarrel in the house also and on that day they had set her ablaze. Her husband Paramjit Singh got her admitted in hospital, Nakodar. He had extinguished the fire. He had been making demand for dowry.

After recording statement Ex.PB of Charanjit Kaur on the aforementioned lines and obtaining her right thumb-impression, SI Sukhdev Singh forwarded her statement vide endorsement made at 12.10 p.m. to Police Station Nakodar, where on its basis FIR Ex.PG/1 was recorded by ASI Harjit Singh on 10.6.2008 at 12.20 p.m. under Sections 307/498-A IPC.

It is also the prosecution case that SI Sukhdev Singh then requested Shri Ashok Kapoor, Judicial Magistrate 1st Class, Nakodar through an application Ex.PD to record statement of Charanjit Kaur. Pursuant thereto Shri Ashok Kapoor reached Civil Hospital, Nakodar and

after obtaining certificate regarding fitness of Charanjit Kaur, recorded her statement Ex.PF/2, wherein she also reiterated the same version. During investigation of the case, SI Sukhdev Singh visited the place of occurrence and prepared rough site plan Ex.PH. He took into possession plastic container Ex.P1 lying in the courtyard and smelling of kerosene vide memo Ex.PG. The appellant was lying hospitalized at Civil Hospital, Nakodar with burn injuries. After he was discharged from the hospital on 12.6.2008, he was arrested. On 13.6.2008, Charanjit Kaur succumbed to her injuries and, accordingly, offence under Section 302 IPC was added in the case. On 14.6.2008, SI Sukhdev Singh carried out inquest proceedings on the dead body of Charanjit Kaur and prepared report Ex.PK. He moved an application Ex.PC and handed it over alongwith the dead body of Charanjit Kaur to Head Constable Mohan Lal and PHG Santokh Singh for getting post mortem conducted. He also recorded statements of the witnesses during all the stages of investigation and upon completion of investigation, final report under Section 173 Cr.P.C. was submitted only against the appellant. After commitment of the case, the appellant was charged for committing offences punishable under Sections 302 and 498-A IPC, to which he pleaded not guilty and claimed trial.

In support of its case, the prosecution examined a number of witnesses, including Avtar Singh, father of deceased Charanjit Kaur as PW3. Thereafter, the prosecution moved an application under Section 319 Cr.P.C. for summoning Malkiat Kaur and Subegh Singh, mother-in-

law and father-in-law, respectively of deceased Charanjit Kaur as additional accused. This application came to be allowed by the trial Court on 15.5.2009 and, accordingly, both Malkiat Kaur and Subegh Singh were summoned to face the trial alongwith the appellant. Upon their appearance, the trial Court charged them and the appellant under Sections 302 and 498-A IPC, to which they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined six witnesses.

PW1 Avtar Singh, father-in-law of deceased Charanjit Kaur deposed that Charanjit Kaur was married with Paramjit Singh 5/6 years ago, who turned out to be a liquor addict and an idler, who would beat Charanjit Kaur regularly. He used to settle disputes between Charanjit Kaur and Paramjit Singh. On 10.6.2008, he was telephonically informed at about 10.00 a.m. that Charanjit Kaur was lying hospitalized in Civil Hospital, Nakoar in burnt condition. He rushed to Civil Hospital, Nakodar where Charanjit Kaur got her statement Ex.PB recorded with SI Sukhdev Singh in his presence. He admitted himself to be one of the attesting witnesses of Ex.PB, adding that on the same day another statement of Charanjit Kaur was recorded by a Magistrate. He also stated that as the condition of Charanjit Kaur deteriorated, she was referred to Civil Hospital, Jalandhar where she succumbed to her injuries on 13.10.2008.

PW2 Santokh Singh deposed that he was a co-villager of Avtar Singh. He further deposed that there used to remain bickering

between Charanjit Kaur and her husband Paramjit Singh. She often returned to her parental house and resided there for long spells including a spell of three years. Upon a complaint made by Avtar Singh with police, the respectable from both sides including him had gathered and Charanjit Kaur was taken back to matrimonial house by Paramjit Singh. He also stated that Charanjit Kaur used to tell him that Paramjit Singh and her parents had been asking her to make her father to sell his land and give 1/6th share of sale proceeds to Paramjit Singh. He also stated that he was one of witnesses of inquest proceedings conducted on the dead body of Charanjit Kaur.

PW3 Dr. Surjit Singh, Medical Officer, Civil Hospital, Nakodar has deposed that on 10.6.2008 Charanjit Kaur was brought to Civil Hospital, Nakodar by her husband Paramjit Singh with burn injuries and he intimated her arrival to SHO, Police Station, Nakodar, vide memo Ex.PA. He also stated that on the same day, upon an application moved by SI Sukhdev Singh Ex.PC, he declared her fit vide Ex.PC/1, whereafter SI Sukhdev Singh recorded statement of Charanjit Kaur Ex.PB whereupon he had made an endorsement Ex.PB/1 to the effect that Charanjit Kaur remained fit all through recording of her statement. He further stated that on the same day, Shri Ashok Kapoor, Judicial Magistrate, Nakodar visited Civil Hospital, Nakodar at about 12.35 p.m., alongwith Investigating Officer and he declared Charanjit Kaur fit to make statement vide Ex.PD/1 whereafter Shri Ashok Kapoor recorded statement of Charanjit Kaur. All through her statement being so recorded by Shri Ashok Kumar Judicial Magistrate, she remained fit.

PW4 Dr. H.S. Lamba, Medical Officer, Civil Hospital, Jalandhar had conducted post mortem on the dead body of Charanjit Kaur on 14.6.2008 and found superficial burns on whole of the body except perineum, lower buttocks and both feet. Pus was oozing out from the wounds. The hair were charred and matted in the frontal region of scalp. He also found stitched wounds on the upper portion of left arm and on left ankle joint. According to him, the cause of death was hypovolaemic and septicaemic shock due to extensive burns which were ante-mortem and sufficient to cause death in ordinary course of nature. He also proved copy of post-mortem report of Charanjit Kaur as Ex.PB.

PW5 Shri Ashok Kapoor, Sub Divisional Judicial Magistrate, Nakodar deposed that pursuant to application Ex.PD moved by the Investigating Officer, he visited the Civil Hospital, Nakodar and after obtaining certificate of fitness Ex.PF/1 from PW3 Dr. Surjit Singh recorded statement Ex.PF/2 of Charanjit Kaur, who admitted its contents to be correct and affixed her right thumb-impression on it.

PW-6 SI Sukhdev Singh testified about the various steps taken by him during the investigation of the case. He deposed that on receiving intimation regarding hospitalization of Charanjit Kaur in a burnt condition, he reached Civil Hospital Nakodar and moved application Ex.PC before the attending doctor. The doctor declared her fit to make statement, whereupon he recorded statement of Charanjit Kaur Ex.PB in the presence of PW-1 Avtar Singh and PW-2 Santokh Singh. After

making endorsement Ex.PG on her statement, he forwarded it to Police Station Nakodar, where on its basis FIR Ex.PG/1 was registered. On the same day, he also moved application Ex.PF before Judicial Magistrate requesting him to visit Civil Hospital, Nakodar for recording statement of Charanjit Kaur. On his request, learned Judicial Magistrate visited the aforesaid hospital and recorded statement of Charanjit Kaur. He prepared rough site plan Ex.PH of the place of occurrence and took into possession plastic container Ex.P1 smelling of kerosene lying in the courtyard of the house vide recovery memo Ex.PJ and deposited plastic container Ex.P1 with MHC, Police Station Nakodar on the same day. He arrested accused Paramjit Singh vide arrest memo Ex.PK. Inquest report Ex.PK on the dead body of Charanjit Kaur was prepared by him. Dead body of Charanjit Kaur was handed over to HC Mohan Lal and PHG Santokh Singh along with application Ex.PL for getting post mortem conducted.

When examined under Section 313 Cr.P.C., the accused denied the incriminating circumstances appearing against them in the evidence led by the prosecution. They reiterated their innocence and pleaded false implication.

In their defence, the accused examined DW1 Gurvinder Singh, who happened to be the son of accused Paramjit Singh and step son of deceased Charanjit Kaur. He testified that on 10.6.2008 at about 9/9.30 a.m., his father Paramjit Singh was washing clothes in the house,

his grandmother was attending the kitchen whereas he himself was carrying his grandfather Subegh Singh to the toilet. Charanjit Kaur returned home from the house of a neighbour and straightway entered into a room and after bolting it from inside, set herself ablaze. When she raised hue and cry, Paramjit Singh broke open the door after pushing it with his leg. He sustained burn injuries on his thighs and abdomen and even his beard got burnt in the process. He removed Charanjit Kaur to Civil Hospital, Nakodar for treatment. The witness also added that Charanjit Kaur was of quarrelsome nature and was not keeping good mental health. She would often beat him, his father and so also his grandparents.

After hearing learned counsel for the parties and on going through the evidence brought on the record, the trial Court acquitted Subegh Singh and Malkiat Kaur of all the charges against them. The appellant was also acquitted of the charge under Section 498-A IPC. However, he was convicted and sentenced for the offence under Section 302 IPC, as mentioned above.

Learned counsel for the appellant has submitted that same and similar evidence was examined by the prosecution in order to hold the appellant responsible for committing the offences punishable under Section 302 IPC as was against Malkiat Kaur and Subegh Singh, his parents. As Malkiat Kaur and Subegh Singh have been acquitted of the charges against them, the conviction of the appellant could not be sustained. It is also submitted that it was Charanjit Kaur herself who

had set her ablaze in a room of the house. On hearing her hue and cry, it was the appellant who broke open the door after pushing it with his leg. While extinguishing the FIR, the appellant sustained burn injuries on his thighs and abdomen and even his beard got burnt in the process. It was the appellant who removed Charanjit Kaur on a vehicle to Civil Hospital, Nakodar for her treatment. Accordingly, it has been prayed that the appeal be accepted and the appellant be acquitted of the charges against him.

On the other hand, learned State counsel has submitted that the prosecution case is based upon the two dying declarations made by victim Charanjit Kaur while she lay admitted in Civil Hospital, Nakodar. The first statement was made before SI Sukhdev Singh, whereas the other before Shri Ashok Kapoor, Judicial Magistrate. In both the statements, it had been categorically stated that it was the appellant who had set the victim on fire. It is also submitted that the two dying declarations are further corroborated by PW1 Avtar Singh, father of the victim who supported the prosecution case at the trial. It is further stated that merely because Malkiat Kaur and Subegh Singh had been acquitted of the charges against them is no ground to exonerate the appellant.

Having heard learned counsel for the parties and on going through the record, this Court finds that PW3 Dr. Surjit Singh, Medical Officer, Civil Hospital, Nakodar had deposed that on 10.6.2008 at 10.38

a.m. Charanjit Kaur was brought to the hospital with burn injuries. He intimated about her arrival in the Civil Hospital to the SHO, Police Station Nakodar vide Chit Ex.PA. He further deposed that on the same day, SI Sankokh Singh visited the hospital and moved application Ex.PC before him to find out fitness of Charanjit Kaur to make a statement. He made endorsement Ex.PC/1 to the effect that she was fit to do so. He also deposed that on the same day Shri Ashok Kapoor, Judicial Magistrate visited the hospital alongwith the Investigating Officer at about 12.35 p.m. He declared Charanjit Kaur fit to make statement vide endorsement Ex.PD/1. Thereafter in his presence, Shri Ashok Kapoor recorded statement of Charanjit Kaur. She remained fit all through the period her statement Ex.PF/2 was being recorded. In cross-examination, he deposed that Charanjit Kaur was brought to the hospital by her husband Paramjit Singh. He had asked him to bring medicines for Charanjit Kaur which he duly brought. Charanjit Kaur had 90% burn injuries on her person. He further deposed that shortly after her admission in the hospital, relatives of Charanjit Kaur had arrived there and they were present when SI Sukhdev Singh and, thereafter, Shri Ashok Kapoor had recorded her statements. He denied the suggestion that Charanjit Kaur was not fit to make any statement. He also denied the suggestion that she did not make any statement before SI Sukhdev Singh or Shri Ashok Kapoor, Judicial Magistrate.

In her first statement Ex.PB, which was recorded by SI Sukhdev Singh, the victim had stated that she was set ablaze by her

husband Paramjit Singh, mother-in-law and father-in-law on that day at 9.00 a.m. She also stated that the appellant had been making demand for dowry. She had further stated that it was her husband Paramjit Singh, who had extinguished the fire and got her admitted in Civil Hospital, Nakodar. In the second statement made before Shri Ashok Kapoor, Judicial Magistrate, Charanjit Kaur had stated that she had been set on fire by her mother-in-law and father-in-law and husband who had been quarrelling with her and asking her to bring dowry. She had further stated that on seeing her burning, it was the appellant who had poured water upon her. However, she reiterated that it was the appellant who had set her on fire. Further, her mother-in-law and father-in-law had also set her on fire.

From the record, it is made out that Malkiat Kaur and Subegh Singh were quite old. They were in their seventies/eighties when the occurrence had taken place. In paragraph 23 of the judgment, the learned trial Court noticed the advanced ages and physical state of both Malkiat Kaur and Subegh Singh. They were described as fragile, lean and immobile. Each one of them used to be carried to the Court by two persons, like a child is carried in the lap. In such a situation, there could not be any involvement on their part to even make an attempt to set ablaze their daughter-in-law Charanjit Kaur. In the first statement Ex.PB, it was specifically stated that it was the appellant who had set her ablaze. Only vague allegations were levelled that her mother-in-law and father-in-law had also set her ablaze. Moreover, neither Malkiat Kaur nor

Subegh Singh would have benefited from any dowry which was being demanded by appellant Paramjit Singh from his wife Charanjit Kaur. Moreover, they were found innocent during investigation of the case and, later on, summoned under Section 319 Cr.P.C. as additional accused. Under these circumstances, merely because Subegh Singh and Malkiat Kaur stood acquitted of the charges against them on the same and similar evidence led by the prosecution as was against the appellant is no ground to exonerate the appellant of the charge against him.

It is the case of the parties that the appellant was earlier married. From that marriage DW1 Gurvinder Singh was born. Subsequently, the appellant married deceased Charanjit Kaur. According to DW1 Gurvinder Singh, on 10.6.2008 at about 9/9.30 a.m. his father i.e. the appellant was washing clothes in the house, his grand-mother was working in the kitchen whereas he himself was carrying his grand-father Subegh Singh to the toilet in the house. He also deposed that his step mother Charanjit Kaur returned home from the house of a neighbour and straightaway entered into a room and after bolting it from inside set herself ablaze. Hue and cry raised by her attracted his father Paramjit Singh, who broke open the door after pushing it with his leg. In the process of extinguishing the fire, his father sustained burn injuries. Later on, his father removed his step mother Charanjit Kaur to Civil Hospital, Nakodar. However, there is no material on the record which might indicate that the door of the room in which the deceased was said to have received burn injuries, stood broken. Even no question was

asked from PW6 SI Sukhdev Singh about the condition of the door of the room where Charanjit Kaur had allegedly received burns. Further, DW1 Gurvinder Singh admitted in his cross-examination that he did not tell about the incident to his natural maternal uncle. He also admitted that though Bhog ceremony of Charanjit Kaur performed by her yet he himself did not attend the same. Besides, he had not filed any complaint or submitted any representation before any Court or police officer alleging false implication of his father.

As regards the appellant extinguishing the fire and, thereafter, removing his wife Charanjit Kaur to Civil Hospital, Nakodar where he himself was also hospitalized on account of burn injuries, that circumstance by itself is not sufficient to conclude that he had no role to play in the commission of the crime. On the other hand, after noticing that his wife was on fire, he must have second thoughts and started making an attempt to extinguish the fire and in that process, received burn injuries. From the rough site plan Ex.PH, it is made out that Charanjit Kaur was set ablaze at point 'A' which was in the courtyard of the house and not inside any room. At point 'B' which was at a short distance, was found lying plastic can which was taken into possession by the Investigating Officer vide memo Ex.PJ. The can contained small amount of kerosene. These facts lend independent corroboration to the case of the prosecution that it was the appellant who had set his wife Charanjit Kaur ablaze.

In view of the above, this Court has no other option but to hold that it was the appellant who had set his wife on fire. No case is, thus, made out for any interference in the impugned judgment of conviction and sentence.

The appeal is without any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

(GURMIT RAM)
JUDGE

September 22, 2016
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Whether speaking/reasoned : YES/NO

Whether reportable : YES/NO