

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

Crl. Appeal D-528-DB of 2010
Date of Decision : February 01, 2016

Ramjano

.....Appellant

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Tarundeep Kumar, Advocate
for the appellant.

Mr. Dhruv Dayal, Deputy A.G., Haryana

T.P.S. MANN, J.

Appellant-Ramjano, wife of Rattan Kumar, resident of village Surha, Police Station Jhajjar, has filed the present appeal for challenging the judgment and order dated 30.3.2010/1.4.2010 passed by learned Additional Sessions Judge (Fast Track Court), Jhajjar whereby she was convicted under Section 302 IPC and sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one year.

According to the prosecution, on 4.8.2008 at 11.30 a.m., complainant-Lillu Ram got recorded his statement Ex. P1 before SI/SHO Sat Narain on bridge of drain No. 8 in the area of

village Silani wherein he stated that he was resident of village Surha and doing labour work. He had three sons, namely, Rattan Kumar, Himmat and Jonny besides two daughters. Both of his daughters and sons Rattan Kumar and Jonny were married. Rattan Kumar alongwith his wife Ramjano (the appellant) was living in the Chaubara of his house. Rattan Kumar had a daughter aged about 6 years and a son aged about 4 years. The complainant's third son Himmat was unmarried. The appellant had illicit relations with his son Himmat. So much so that the appellant and Himmat had left the house and lived together twice. The complainant and his son Rattan Kumar had tried to make them understand. Though Himmat did not intend to live with Ramjano but it was Ramjano, who had been insisting upon living with him. On that day i.e. 4.8.2008 at about 7.30 a.m., the complainant and his wife Amana were sitting on a cot in the compound of their house whereas Himmat was sleeping in a large room on the ground floor. In the meantime, appellant-Ramjano while holding a kulhari in her hand came down from the Chaubara and, in their presence, she gave two blows with the kulhari on the neck of their son Himmat while he was still sleeping. The complainant and his wife went inside the room and tried to take care of Himmat. However, on account of the injuries received on his neck, he breathed his last. While carrying kulhari,

Ramjano left the house. Thereafter, the complainant went upstairs and called his son Rattan Kumar, who did not respond. The complainant went inside the Chaubara and saw that Rattan Kumar was lying dead and his dead body lying wrapped in a cloth sheet. There were marks of injuries with the sharp edged weapon on the back of his neck and a lot of blood had oozed out. According to the complainant, his two sons Rattan Kumar and Himmat had been done to death by Ramjano and, accordingly, he pleaded for taking action against her.

Further case of the prosecution is that as the statement of complainant-Lillu Ram disclosed the commission of offence under Section 302 IPC, SI Sat Narain after making endorsement Ex. P52 on statement Ex. P1, sent it to the Police Station for registration of a case through EHC Mahabir Singh. Accordingly, FIR No. 438 dated 4.8.2008 (Ex. P2) under Section 302 IPC was registered at Police Station Jhajjar at 12.05 p.m. Special report sent through Constable Satyawar was received by the Chief Judicial Magistrate, Jhajjar on 4.8.2008 at 12.30 p.m.

During the investigation of the case, SI Sat Narain inspected the spot and took into possession blood stained earth, blood stained bed sheet, blood stained pillow, blood stained strings of the cot and blood of both the dead bodies. Photographs of the dead bodies as well as of the spot were

obtained by calling a Photographer. FSL team also reached the spot. Inquest proceedings were conducted in respect of the two dead bodies and site-plan of the place of occurrence was prepared. The dead bodies were, thereafter, sent for post-mortem. Statements of the witnesses were recorded under Section 161 Cr.P.C. On the same day, appellant-Ramjano was arrested and her blood stained clothes were taken into possession. The appellant made disclosure statement pursuant to which she got recovered kulhari from the fodder room of her house. Site-plan of the place of recovery was prepared. Case property was deposited in the malkhana and, later on, sent to the Forensic Science Laboratory, Madhuban for analysis.

Upon completion of investigation and presentation of final report under Section 173 Cr.P.C., the case was committed to the Court of Sessions where the appellant was charged for the aforementioned offence to which she pleaded not guilty and claimed trial.

In support of its case, the prosecution examined complainant-Lillu Ram as PW1, who deposed about the ocular account of the occurrence. Amana, wife of Lillu Ram, who was projected as another eye-witness apart from Lillu Ram, was examined as PW8 but she did not support the case of the prosecution. However, she admitted the presence of

complainant-Lillu Ram at the spot. PW9 Dr. Anju Bala, who was posted as Medical Officer in Government Hospital, Jhajjar on 5.8.2008 testified that on that day she conducted post-mortem on the dead body of Himmat. She proved post-mortem report Ex.P36. In her opinion, the cause of death was shock and haemorrhage due to the injuries of major vessels at neck and of trachea. The injuries were ante-mortem in nature and sufficient to cause death. She further testified that on the same day, she also conducted post-mortem on the dead body of Rattan Kumar. She proved post-mortem report Ex. P39. In her opinion, the cause of death was shock and haemorrhage due to injuries of major vessels at neck. The injuries were ante-mortem in nature and sufficient to cause death. She also testified that on 19.8.2008 on application Ex. P41 moved by the police, she opined that injuries No. 1 to 3 on the dead body of Himmat and injury No.1 on the dead body of Rattan Kumar could have been caused by the kulhari. All the injuries were incised in nature. PW11 Anoop Singh deposed before the trial Court that he had identified the dead bodies of Himmat and Rattan Kumar, who were his cousins in General Hospital, Jhajjar. The investigation part of the case was deposed to by PW2 SI Ramesh Kumar, PW3 HC Jai Chand, PW4 ASI Surender Kumar, PW5 EHC Satyawar, PW6 Constable Surender Kumar, PW7 HC Kuldeep Singh, PW10 HC Murari Lal,

PW12 ASI Pardeep Kumar and PW13 SI/SHO Sat Narain. The prosecution also tendered in evidence report Ex. P42 of the Forensic Science Laboratory.

When examined under Section 313 Cr.P.C., the appellant stated that she was innocent and falsely implicated in the case.

The trial Court, after hearing learned counsel for the parties and on going through the evidence brought on the record, came to the conclusion that the prosecution had successfully proved the charge under Section 302 IPC against the appellant and, accordingly, convicted and sentenced her, as mentioned above.

Learned counsel for the appellant has submitted that PW1 Lillu Ram was an interested witness, being father of the two deceased and, thus, not a reliable witness. There is no corroboration to his testimony by PW8 Amana, who was none else but his wife. Said Amana had testified as PW8 that when her husband had asked her to bring milk, she went for the said purpose to a shop which was situated in the middle of the village and when she returned, she saw her sons Himmat and Rattan Kumar having been murdered by some one. She further deposed that she had not seen as to who had murdered her sons. She

also deposed that the appellant was not the one, who had murdered her sons in her presence.

It is true that PW1 Lillu Ram is father of the two deceased, namely, Rattan Kumar and Himmat but that by itself is not sufficient to hold that he was interested in falsely naming the appellant as the accused, and committing the murder of his two sons. PW1 Lillu Ram was present in his house at the time of occurrence and had seen the appellant coming down from the Chaubara and holding a kulhari. At that time, Himmat was lying asleep in a large room on the ground floor of the house. In the presence of PW1 Lillu Ram, the appellant gave two kulhari blows on the neck of Himmat. PW1 Lillu Ram and his wife Amana went inside to take care of Himmat but on account of the injuries which Himmat had received on his neck, he breathed his last. In the meantime, the appellant left the house. PW1 Lillu Ram then went to the Chaubara of his house and called his other son i.e. Rattan Kumar but there was no response from him. When Lillu Ram looked inside the Chaubara, he found Rattan Kumar lying dead and his dead body wrapped in a piece of cloth. There were marks of injuries with sharp edged weapon on the back side of his neck and blood was oozing out. The occurrence in question had taken place inside the house of PW1 Lillu Ram where his presence would be natural and probable. The presence of PW1

Lillu Ram at the spot is further corroborated by prompt reporting of the matter with the police. Immediately after the occurrence, PW1 Lillu Ram had left for the Police Station and came across PW13 SI Sat Narain on the bridge of drain No. 8 on Gurgaon road in the area of village Silani before whom he got recorded his statement Ex. P1 on 4.8.2008 at 11.30 a.m. On its basis, FIR Ex.P2 came to be recorded by PW2 ASI Ramesh Kumar at Police Station Jhajjar on 4.8.2008 at 12.05 p.m. Special report was, thereafter, entrusted to PW5 EHC Satyawar, who delivered the same to the Chief Judicial Magistrate, Jhajjar soon thereafter i.e. on 4.8.2008 at 12.30 p.m. While in the witness box, PW1 Lillu Ram withstood the cross-examination and the defence was not able to shatter his testimony. Merely because, he had not made any complaint regarding appellant-Ramjano having illicit relations with his younger son Himmat will not be sufficient to discard his testimony.

It is true that PW8 Amana, who is wife of complainant-Lillu Ram and mother of the two deceased, did not testify about killing of her two sons by appellant-Ramjano but at the same time, she did depose in her examination-in-chief that on 4.8.2008 her husband Lillu Ram was sitting in the compound at 7.00 a.m. and asked her to fetch milk from a shop and, accordingly, left and when she returned home, she saw her two sons lying murdered

by some one. Meaning thereby that her husband Lillu Ram had remained present in the house and, thus, would be the best person who could say as to who had murdered his two sons. Therefore, the testimonies of PW1 Lillu Ram and PW8 Amana also to the extent that she stated about the presence of Lillu Ram in the house at the time of the occurrence are acceptable and not liable to be discarded merely for the reason that they were closely related to the deceased.

Learned counsel for the appellant has submitted that there was no satisfactory explanation as to why there was delay of 40 days in sending the parcels to the Forensic Science Laboratory for analysis. Infact, the delay had been used by the prosecution for fabricating the evidence. However, from the testimonies of PW6 Constable Surender Kumar and PW7 HC Kuldeep Kumar, who tendered in evidence their respective affidavits Exs. P32 and P33 to the effect that neither they tampered with the parcels nor they allowed any one to do so, it is made out that there was no fabrication of evidence by the prosecution. In the FSL report Ex. P42, it stands mentioned that the parcels bore the seals of the doctor which were found intact when the parcels were received in the laboratory.

It is further submitted by leaned counsel for the appellant that the recovery of kulhari (Ex. PA) at the instance of

the appellant pursuant to suffering of disclosure statement (Ex.P49) is nothing but a case of crude padding. On the one hand, the prosecution case is that after committing the murder of Himmat, the appellant fled from the house alongwith the kulhari whereas pursuant to disclosure statement Ex. P49 suffered by the appellant, the kulhari Ex. PA was got recovered vide recovery memo. Ex.P51 from the fodder room of her house itself.

It is the prosecution case that after committing the murder of Himmat, the appellant fled from the house while carrying kulhari with her. However, before the appellant could have left the house alongwith kulhari, both PW1 Lillu Ram and PW8 Amana were attracted to the place where their son Himmat was lying dead. While they must be taking care of Himmat, the appellant would have thrown the kulhari in the fodder room of the house. The same must not have come to the notice of Lillu Ram and Amana as they had initially seen the appellant carrying kulhari while coming down from the Chaubara. They must be under an impression that she had carried the kulhari with her while leaving the house. There was no ample time with Lillu Ram and Amana to find out as to whether the appellant had actually carried the kulhari with her while leaving the house as without losing any time, PW1 Lillu Ram had left for reporting the matter to the police.

Another argument of the learned counsel for the appellant is that the prosecution could not prove the origin of the blood found on the lady's shirt and dupatta of the appellant as is clear from the report of FSL Ex. P42. However, as the appellant had left the house immediately after the occurrence, she could have washed her dupatta and shirt. The salwar of the appellant was also taken into possession and human blood was detected on the same. Thus, on this ground also, no benefit can be extended to the appellant.

The prosecution has been able to establish that the appellant had first caused the murder of her husband Rattan Kumar in the Chaubara of the house and even made an attempt to wrap the dead body so as to carry it to some other place during the course of the day. After committing the murder of her husband, the appellant came down stairs and reached the room where Himmat was lying asleep. She gave a couple of kulhari blows to Himmat on his neck as a result of which he died at the spot. The prosecution has also established through the testimony of PW1 Lillu Ram that the appellant, though married to Rattan Kumar, used to have illicit relations with Himmat, who was unmarried. So much so that on two occasions, both of them had left the house and stayed together. It has also in evidence that it was Himmat who was not eager in having illicit relations, rather it

was the appellant, who wanted to have illicit relations with Himmat that the appellant thought it proper to eliminate her husband Rattan Kumar and brother-in-law Himmat.

In view of the above, no case is made out for any interference in the impugned judgment of conviction and order of sentence passed by the trial Court.

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

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

February 01, 2016
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**(GURMIT RAM)
JUDGE**