

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

Criminal Appeal S-75-SB of 2004

Date of Decision : May 5, 2016

Rajbir Singh	Versus	Appellant
The State of Haryana		 Respondent

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

Present : Mr. B.S.Saroha, Advocate
for the appellant.

Mr. Dhruv Dayal, Deputy Advocate General, Haryana.

T.P.S.MANN, J. (Oral)

The appellant was tried for committing offence punishable under Section 307 IPC on the allegations that on 5.1.2002 at about 2.00/2.30 p.m., he after beating his wife Smt. Geeta Devi, sprinkled kerosene over her and set her ablaze. Vide judgment and order dated 6/7.10.2003, learned Additional Sessions Judge (Fast Track Court), Bhiwani, held him guilty of the aforementioned offence and sentenced him to undergo rigorous imprisonment for seven years and to pay a fine of Rs.1,000/- and in the event of non-payment of fine, to further undergo simple imprisonment for a period of six months. The

period of custody already undergone by him was ordered to be set off against the sentence awarded to him. Hence, the present appeal.

The case of the prosecution has been stated by the learned trial Court in para 2 of its judgment, which is reproduced hereinbelow:-

“Prosecution case, in brief, is that on 5.1.2002 a V.T. Message was received from police post, General Hospital, Bhiwani at Police Station Badhra, wherein, Smt. Geeta Devi was stated to have been admitted in General Hospital, Bhiwani in burnt condition. Upon receiving the information Dalip Singh ASI with Constable Ram Bilas went to General Hospital, Bhiwani. After obtaining ruqa and M.L.R., an application was moved for recording the dying declaration of Smt. Geeta Devi by Duty Magistrate, Bhiwani and the Duty Magistrate obtained the opinion of the doctor and in the presence of the doctor her statement was recorded, in which, she had stated that her marriage was solemnized with Rajbir about 4/5 years back. Since the day one, Rajbir used to

consume liquor and also used to beat her and torture her. Her in-laws were residing separately. On that day, at around 2.00-2.30 p.m., Rajbir the husband of Smt. Geeta had abused and beaten her and he brought a kerosene oil from the house of his mother, which was situated nearby and sprinkled it over her. He also set her ablaze and also ran away. There was nobody else present in her house at that time. When she raised hue and cry, from the neighbourhood her sister Babita reached the spot and extinguished the fire. She was having no child and her husband was maltreating her. On this statement, formal FIR was registered. Statements of witnesses under Section 161 Cr.P.C. were recorded. After completion of necessary investigation, challan was put up in the Court of learned Ilqa Magistrate, who after resorting to necessary formalities regarding supply of copies etc. committed to the court of Sessions for trial of the accused under Section 307 IPC vide commitment order dated 4.4.2002 ”.

At the trial of the case, the prosecution examined

Ms. Roopam, the then learned Judicial Magistrate 1st Class, Bhiwani as PW1, Dr. Arjun Chander Yadav, Medical Officer, General Hospital, Bhiwani as PW2, Parshant Kumar as PW3, Assistant Sub Inspector Ram Chander as PW4, Satbir Singh Draftsman as PW5, Smt. Geeta as PW6, Smt. Babita as PW7, Assistant Sub Inspector Raghbir Singh as PW8, Head Constable Surender Singh as PW9, Constable Karambir as PW10 and Dr. R.P.Sharma, Senior Medical Officer, General Hospital, Bhiwani as PW11.

When examined under Section 313 Cr.P.C. the petitioner denied all the allegations leveled against him and stated that he had been falsely implicated. In defence, he examined Smt. Ghillori as DW1, Krishana as DW2 and Dr. Vijay Malik as DW3.

After hearing learned counsel for the parties and on going through the evidence brought on the record, the trial Court accepted the prosecution case and convicted and sentenced the appellant, as mentioned above.

Having heard learned counsel for the parties and on scanning the record with their able assistance, this Court finds that the appellant was married to Smt. Geeta Devi about 4/5 years earlier to the incident. Since the very first day of their marriage, the appellant used to consume liquor and beat and

torture her. On 5.1.2002 at about 2.00/2.30 p.m. the appellant abused Smt. Geeta Devi and gave beatings to her. He then went to nearby house of his mother and brought kerosene, which he sprinkled over her and set her ablaze. He managed to run away from the spot after the incident. Later on, Smt. Babita, sister of Geeta Devi, who lived in her neighbourhood reached the spot and extinguished the fire. Smt. Geeta Devi was then taken to General Hospital in burnt condition. Her statement was recorded by PW1 Ms. Roopam, Judicial Magistrate 1st Class, Bhiwani, on the basis of which, formal FIR No. 9 dated 7.1.2002 was registered against the appellant at Police Station Badhra. The aforementioned testimony of PW6 Smt. Geeta Devi has been duly supported by her sister Smt. Babita, who stepped into the witness box as PW7. In order to prove the burn injuries noticed on the person of Smt. Geeta Devi, the prosecution had examined PW2 Dr. Arjun Chander Yadav, Medical Officer, General Hospital, Bhiwani, who testified that he had found burns, superficial to deep over both lower limbs and upper limbs and on front part of the abdomen. The burns were about 40%. Burnt skin peeled off at many places and vesicles at places. The nature of injury was reported as grievous and caused within probable duration of 24 hours. The investigation part of the case has been brought on record by the prosecution by examining PW4 Assistant Sub Inspector Ram

Chander, PW5 Satbir Singh, Draftsman, PW8 Assistant Sub Inspector Raghbir Singh, PW9 Head Constable Surender Singh and PW10 Constable Dharambir. The prosecution had also examined Dr. R.P.Sharma, SMO, General Hospital, Bhiwani as PW11, who testified that he had declared Smt. Geeta Devi fit to make the statement vide opinion Ex.PB.

After going through the testimonies of the various witnesses, this Court is of the considered view that the appellant has been rightly held guilty of the charge under Section 307 IPC.

As regards the quantum of sentence, it may be noticed that the appellant has been facing the agony of criminal prosecution for the last about fourteen years. The appellant is stated to be a poor person and also required to look after his old parents. He is not shown to be a previous convict. As per the custody certificate produced by the learned State counsel, he has already undergone an actual sentence of three years. Besides, he has earned remission of five months and eleven days. There is no allegation that subsequent to his release on bail pursuant to order passed by this Court on 10.1.2005, he has misused the concession in any manner.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the appellant behind the bars, once again,

for undergoing his remaining sentence of imprisonment. Ends of justice would be suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, fine imposed upon him by the trial Court can be enhanced so that the same may be paid to injured Smt. Geeta Devi, as compensation.

Resultantly, the conviction of the appellant under Section 307 IPC is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. However, fine of Rs.1,000/- is enhanced to Rs.25,000/-. The fine be deposited by him with the trial Court within a period of three months from today. In the event of non-payment of fine, the appellant shall undergo simple imprisonment for a period of one year. The entire amount of fine, if deposited by the appellant, be disbursed to complainant Smt. Geeta Devi as compensation.

The appeal is, accordingly, disposed of.

May 5, 2016
amit rana

(T.P.S. MANN)
JUDGE