

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-4309-SB-2014

Date of Decision:- 29.11.2016

Rajinder Kumar

....Appellant

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. B.S. Bairagi, Advocate,
for the appellant.**

RITU BAHRI, J. (Oral)

Appellant-complainant has filed the present appeal against judgment dated 21.08.2014, passed by learned Additional Sessions Judge, Faridkot, whereby accused, namely, Pawan Kumar, Naresh Kumar, Kuldip Kaur and Sukhdev Ram (respondent Nos.2 to 5), have been acquitted, after extending the benefit of doubt of charge levelled against them.

Briefly, the facts of the case are that on 03.06.2012 the appellant along with his sister Renu Bala had to go Bathinda to see new born baby boy of his youngest sister Harpreet Kaur. Regarding that he made a telephone call at about 8.30 AM at the house of his sister Renu Bala and he came to know that she got burn injuries and was taken to Hospital. When he reached Bus Stand of his village, then he received phone call from his brother-in-law Pawan Kuamr that Renu Bala was taken to Ludhiana, as

her condition is serious and she has been referred to Ludhiana. Then,

appellant alongwith his mother started waiting while standing at the Bus Stand of village Rajeana, which fall in the way of Kotkapura to Ludhiana. Thereafter, appellant and his mother Kamlesh Rani accompanied the accused in the same vehicle in which Renu Bala was being taken to Ludhiana and on the way deceased Renu Bala told to his brother and mother that all the accused used to harass and taunt her on the pretext that she had given birth to two girl children. Thereafter, father-in-law handed over match box to the sister of appellant and mother-in-law placed *keresone* oil stove before the deceased and asked her to pour *keresone* oil on herself and should die by lighting herself, then sister of appellant set herself on fire. Thereafter, the deceased became unconscious and died while reaching CMC, Hospital, Ludhiana.

Thereafter, on the basis of statement made by the complainant, *ruqa* through HC Jasvir Singh, was sent to the police station for registration of FIR for the commission of offence punishable under Section 306 IPC against all the accused. Accordingly, FIR No.59 dated 03.06.2012, under Section 306 IPC was registered at Police Station Sadar Kotkapura and further investigations were carried out. Inquest report of the dead-body was prepared and autopsy of the dead body of Renu Bala was got conducted from Civil Hospital, Ludhiana. Thereafter, investigating officer was visited the place of occurrence and took into possession Stove, match box and burnt pieces of plastic. Site plan was prepared. Statements of witnesses were recorded under Section 161 Cr.P.C. Accused Pawan Kumar was arrested on 13.06.2012 where other accused were summoned by the Court on application under Section 319 Cr.P.C. of the prosecution.

After completion of the investigation, final report under Section 173 Cr.P.C. was submitted in the Court. After order of the committal Court, the charge under Section 306 IPC was framed against the accused. As they pleaded not guilty and claimed trial, therefore, the case was slated for evidence of the prosecution.

Thereafter, the prosecution, in order to substantiate the crime against the accused, has examined PW1 Rajinder Kumar complainant, who reiterated the entire facts, as enumerated in his statement Ex.PA recorded by the investigating officer. Then, the prosecution examined PW2 Dr. Ish Kumar Garg,, who tendered into evidence his affidavit Ex.PW2/A, wherein he deposed that on 03.06.2012 injured Renu Bala was admitted in Burns unit at 11.27 AM and on examination 95% total body surface area deep burns were noted. The patient was conscious, oriented, as per history she was making tea on *keresone* stove, which bursted and patient's clothes caught fire and patient had expired on 03.06.2012 at 2.25 PM. He has brought the bed-head ticket/treatment record of the patient Renu Bala (Ex.PW2/D). He has also sent information to the SHO, vide memo Ex.PW2/B and injury report Ex.PW2/C.

Prosecution further examined PW3 Kamlesh Rani wife of Sat Pal Sharma, who stated that she and her son Rajinder Kumar accompanied the accused in the same vehicle in which Renu Banla was being taken to Ludhiana. On the way her daughter told them that her husband, father-in-law Sukdhev Ram, mother-in-law Kuldip Kaur and brother-in-law (*Deor*) Meshi used to harass and taunt her that she had given to two girls and she should die. She further told them that Kuldip Kaur placed a stove of *keresone* oil in front of her and Sukhdev Ram accused

handed over match box to asking her to pour *keresone* oil on herself and should die and on his instigation her daughter herself set fire by pouring *keresone* oil on her.

Thereafter, prosecution examined PW4 ASI Narinder Singh, who got conducted post-mortem examination of the dead body of Renu Bala from the doctor. PW5 Sadhu Ram son of Brij Lal, has reiterated the version of the complainant and his mother.

PW6 Inspector Narinder Singh, who deposed that after the postmortem examination, the dead body of Renu Bala was handed over to Rajinder Kumar and Prem Kumar, vide receipt Ex.PC. Statements of the witnesses under Section 175 Cr.P.C. were recorded. After completion of the investigation, challan against accused Pawan Kumar was presented by him. Supplementary challan regarding the innocence of other accused was submitted by him as they were declared innocent.

Then, the prosecution examined PW7 Dr. Sumita Sahdev, Medical Officer, Civil Hospital, Jagraon, who tendered into evidence her affidavit Ex.PW7/A and conducted the postmortem of Renu Bala.

After closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. and denied the allegations and claimed that they have been falsely implicated in the present case.

Thereafter, the accused examined DW2 Romi Chhabra, who was driver of the Ambulance of Lok Sewa Society (Registered), Kotkapura. DW3 Gurpreet Singh Inspector, Food & Supply Department, Faridkot, who brought the relevant summoned record relating to ration card. DW4 Miss Parminder Sharma, daughter of Pawan Kumar Sharma. DW5 Lachhman Singh, who was neighbourer of accused Pawan Kumar. DW6 Tarun Kumar

Arora, Assistant Administrative Officer, LIC Office, Faridkot.

The trial Court after going through the evidence, has referred to the deposition of DW4 Miss Parminder Sharma, who is daughter of deceased Renu Bala, wherein she deposed that she along with her father and maternal aunty of her father and her grand-mother were accompanied the deceased in an ambulance from Kotkapura to CMC Ludhiana and categorically deposed that no one boarded in the ambulance on the way from Kotkapura to Ludhiana. The deposition of DW4 Parminder Sharma was further corroborated by DW2 Romi Chhabra, who was the driver of ambulance bearing registration No.PB04N-9755 whereby deceased was taken from Kotkapura to CMC Ludhiana. The said DW2 categorically deposed that when ambulance started its journey from Kotkapura, patient was accompanied by her husband Pawan Kumar, two ladies, one male person and one female child. He corroborated the deposition of DW4 Parminder Sharma.

In view of their deposition, the trial Court has accepted the deposition of DW4 Parminder Sharma, who is daughter of the deceased and in this backdrop, the story was propounded by Rajinder Kumar complainant in connivance with his mother and other relatives just to entangle the accused in the present false case. Moreover, the youngest daughter was approximately 9/10 years of age in the year 2012 and it was not probable that after 10 years the accused have started giving harassment for giving birth to second daughter. The version of the prosecution was not accepted on the ground that as per deposition of DW5 Lachhman Singh and DW7 Gurbax Singh, at the time of alleged occurrence, neither Pawan Kumar nor his brother Meshi were present whereas accused Sukhdev Ram and Kuldip

Kaur were also not present there as they have separate residence. Moreover, as per deposition of doctor, the patient was conscious, oriented and also disclosed the other factors i.e. the date of occurrence, time of occurrence, place of occurrence as well as LMP four days back “means last mensuration period”. In these circumstances, the trial Court after considering the prosecution version and defence version, giving benefit of doubt to the accused and acquitted them, vide judgment dated 21.08.2014.

After hearing the learned counsel for the parties, going through the judgment of acquittal, this Court is of the considered view that the appellant has miserably failed to produce any cogent evidence on record to prove the charges against the accused and accordingly no interference is warranted in the impugned judgment. Such judgment, containing valid reasons, cannot possibly be interfered with by this Court, unless and until, the same is illegal, perverse and without jurisdiction. Since, no such patent illegality or legal infirmity has been pointed out by the learned counsel for the appellant, so, the impugned judgment deserves to be and is hereby maintained in the obtaining circumstances of the case.

In the light of aforesaid reasons, as there is no merit, therefore, the instant appeal is hereby dismissed as such.

November 29, 2016
naresh.k

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No