

In the High Court of Punjab & Haryana at Chandigarh.

**Date of decision: 09.08.2017.
CRA-D-1544-DB-2013**

Parminder Singh Appellant.

VS.

State of Haryana Respondent.

(2) CRA-D-445-DB-2014

Rinkal Singh Appellant.

VS.

State of Haryana and another Respondents.

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present: Mr.S.S.Behl, Advocate
for the appellant in CRA-D-1544-DB-2013 and
for respondent No.2 in CRA-D-445-DB-2014.

Ms. Savita Rana, Advocate
for the appellant in CRA-D-445-DB-2014.

Mr. Praveen Bhadu, Asstt. A.G.Haryana.

MAHABIR SINGH SINDHU,J.

This judgment shall dispose of the aforesaid two appeals
arising out of common judgment dated 16.09.2013 passed by learned

Additional Sessions Judge, Ambala, whereby, learned trial Court has convicted appellant-Parminder Singh (Appellant in CRA-D-1544-DB-2013) under Section 302 of the Indian Penal Code (for short 'IPC') and sentenced him on 20.09.2013 to undergo life imprisonment alongwith fine of ₹10,000/-with default clause, for committing the murder of his wife, namely, Rajni, whereas acquitted his co-accused Daya Ram of the charge.

Aggrieved against the order of acquittal of Daya Ram, complainant-Rinkal Singh filed an appeal bearing CRA-D-No.445-DB of 2014.

Brief facts of the case are that on the basis of statement (Ex.P2) made by Rinkal Singh, an FIR No. 149 dated 17.05.2010 was registered under Section 304-B/34 IPC at Police Station Baldev Nagar, District Ambala and English translation of the statement reads as under:-

“He is doing MA, they are three brothers-sisters, his elder sister Rajni was married on 03.02.2005 with Parminder Singh alias Pammi, they had given sufficient dowry in the marriage according to their capacity, Pulsar motor cycle was also given to the boy (Parminder Singh) as per his demand, but the in-laws of his sister were not satisfied with the dowry articles and they started taunting for bringing insufficient dowry and they used to demand car from them. When they could not meet their demand of dowry, they started harassing the girl. They several times made them understand. During this period, his sister was blessed with a a son who is now aged about four years. For the last several months, the husband and parents-in-law of his sister were demanding Rs.50,000/- from his sister and forcing her to sell the house/kothi here at Ambala and to shift at Panchkula. He with a view to settle his sister in the

matrimonial home on 15.05.2010 sent/deposited Rs.15,000/- in the bank account of Parminder in Punjab National Bank, Yamuna Nagar and assured him to pay the remaining amount soon after the arrangement is made for the same, but the husband and in-laws of his sister were not satisfied with the amount. Today i.e. 17.05.2010 at about 1.00 O'clock in the night Parminder telephonically intimated him that Rajni has fallen ill on which he advised him to show her to the doctor, thereafter at about 4.00 a.m. he (Parminder) gave intimation that Rajni has died. Thereafter, he reached Ambala and saw dead body of his sister lying on the floor in the drawing room of her matrimonial home, blood was oozing out of her nose and mouth and there were bluish marks on her left arm. Thereafter, his parents and other relatives also reached there, they have full suspicion that his sister Rajni has been killed by her husband Parminder, father-in-law Daya Ram and mother-in-law Shiksha Devi due to non-fulfillment of the demand of dowry or she has killed herself due to their harassment, he thus prayed that legal action be initiated against them."

During investigation, Shiksha Devi, mother-in-law died on 17.09.2010 in PGI, Chandigarh, on account of some illness. After investigating the matter, police submitted the report under Section 173 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") against Parminder Singh and Daya Ram. Finding the offence punishable under Sections 304-B/302 IPC exclusively triable by the Court of Sessions, thereafter, the case was committed to the Court of learned Sessions on 01.09.2010.

Learned trial Court *prima facie* found that both the accused have committed offence punishable under Section 304-B/34 IPC and thus, were charge-sheeted on 14.09.2010, to which they pleaded not guilty and claimed trial. Later on, vide order dated 10.12.2010, learned trial Court added the charge under Section 302/34 IPC as well.

To prove its case, prosecution has examined 21 witnesses.

Kanwar Pal (PW1), who is the father of Rajni (since deceased), Rinkal Singh (PW2), brother of deceased, Ashok Kumar (PW3), uncle of the deceased, Dharam Pal Singh (PW9), relative of the deceased, Amar Nath (PW10), Manager, Punjab National Bank, Model Town, Ambala City, Yoginder Chauhan (PW12), Chief Manager, Punjab National Bank, Jagadhri Road, Yamuna Nagar, Gurdeep Singh (PW16), Dr. Sanjay (PW17), Medical Officer, Trauma Centre, Ambala City and Gulshan Rai (PW19), Deputy Director, Forensic Science Laboratory, Haryana, Madhuban. Remaining PWs are the police officials i.e. Constable Jagseer Singh (PW4), prepared the scaled site plan Ex. P8, Constable Satya Narayan (PW5), delivered the special report to learned Area Magistrate, SP and DSP Ambala on 17.05.2010, Constable Ram Phal (PW6), who has deposited the articles with FSL, Karnal on 18.06.2010, Constable Mahavir Singh (PW7), who had taken sealed parcel of case property including clothes and viscera of deceased as well as sample seal to FSL, Madhuban, Karnal on 17.05.2010 & 16.06.2010. SI Pardeep Kumar (PW8), got conducted post-mortem examination on the dead body of deceased-Rajni and handed over the parcel of viscera and clothes of deceased alongwith one envelop in the name of Chemical Examiner to the Investigating Officer, Inspector Sheetal Singh (PW13), prepared the report under Section 173 Cr.P.C. on 08.08.2010, SI

Sat Pal (retired) (PW14), recorded the formal FIR (Ex. P17) and made his endorsement Ex. P18, Head Constable Naresh Kumar (PW15), MHC at Police Station Baldev Nagar, with whom the case property was deposited in *malkhana* by Inspector/SHO Ravinder Kumar and, thereafter, sent to FSL, Madhuban, for chemical examination, ASI Balwant Rai (PW18), initially remained associated with investigation alongwith Inspector/SHO Ravinder Kumar and subsequently on 18.06.2010, investigation was entrusted to him, collected the statement of account regarding deposit of ₹15,000/- in the bank account of appellant-Parminder Singh, on 30.07.2010, obtained copy of voucher from Punjab National Bank, Yamuna Nagar and arrested accused-Daya Ram. Inspector Ravinder Kumar, (retired) (PW20), he is the investigating officer. He prepared the report under Section 174 Cr. P.C.(Ex. P23), rough site plan (Ex. P40), got conducted post-mortem examination on the dead body of deceased vide application Ex. P22. He arrested accused Parminder Singh on 18.05.2010 who suffered disclosure statement (Ex. P10) and in pursuance thereof got recovered two suicide notes (Ex. P11 and Ex. P12).

After closure of the prosecution evidence, statements of accused under Section 313 Cr.P.C. were recorded in which they claimed themselves to be innocent and pleaded false implication.

Appellant-Parminder Singh, while giving his explanation under Section 313 Cr.P.C., stated as under:-

“I am innocent. I have been falsely implicated. I was having very co-ordial relations with my wife. The allegation of demand of money and shifting of house to Panchkula is fabricated by complainant alongwith Ashok Kumar. I had intimated to my in-laws about the ill health

of Rajni but no body bother to come in the night. In the morning Ashok Kumar and complainant etc. brought police to my house where myself and my father were present. Police had taken into possession our mobile phone and under the pressure of Ashok Kumar kept me in legal confinement and later on a false case under section 304-B IPC was registered against me. My parents were residing in Panchkula alongwith my sister and my father had even executed a will in which he had given one share to Rajni as well.”

In defence, the accused examined 05 witnesses in their defence. Yaman Paul (DW1), Ajit Kumar Ahluwalia (DW2), Madhu Sharma (DW3), Deputy Record Keeper, Dr. Sangeeta Jain (DW4), Vardhman Hospital and Dr. Manju Bansal (DW5), Bansal Nursing Home, Ambala City. In addition thereto, the accused had produced death report (Ex.DY) of the child of appellant-Parminder Singh and deceased Rajni.

Learned trial Court, after taking into consideration the entire material available on record, came to the conclusion that appellant-Parminder Singh is guilty of offence under Section 302 IPC but acquitted Daya Ram by giving him benefit of doubt on account of the fact that his presence at the time of occurrence was not proved.

Heard learned counsel for the parties and perused the entire material available on record.

Learned counsel for Parminder Singh-appellant has argued that the learned trial Court has wrongly convicted appellant-Parminder Singh under Section 302 IPC as there is neither any allegation nor any evidence available on record to prove that the appellant has committed the offence punishable under Section 302 IPC. It is further argued that occurrence is

alleged to have taken place in House No. 312, Sector-7, Amabla City, which is a thickly populated area, but no independent witness has been associated during investigation of the case and only family members and interested persons have been associated with the case and thus there is no fair investigation at all.

Learned counsel for the convict has further argued that in this case, cause of death is head injury as opined by Dr. Sanjay (PW17); but there is neither any external injury visible; nor any weapon of offence recovered by the police. He has also argued that there is no radiological examination of the head injury and the so called opinion of the doctor is based on the Chemical Examiner Reports (Ex. P24 and Ex. P25) which is inconclusive and not a definite expression of opinion regarding cause of death. He has also argued that there is no sign of struggle or assault on the body of the deceased, as per post-mortem report. It is also argued that even Daya Ram, father-in-law of the deceased, had executed a Will (Ex.D1) dated 22.10.2008 thereby bequeathing equal share to the deceased as well. He has also argued that the entire case is twisted after reaching Ashok Kumar (PW3), who is working in Haryana Police and he has manipulated the entire investigation as per the convenience of the prosecution. It is also argued that the deceased and appellant-Parminder Singh were having very cordial relationship and there is no question of committing offence by the appellant. It is further argued that deposit of ₹15,000/- by Rinkal Singh in the account of appellant is not on account of demand of dowry; but this amount was returned out of ₹50,000/- which were given by the appellant to Rinkal Singh for opening of mobile shop, but the same could not be finalized and out of ₹50,000/-, Rinkal has returned only ₹15,000/- and as

such, the learned trial Court has wrongly given undue weightage to deposit of ₹15,000/- in the account of the convict/appellant. The recovery of suicide notes by the police is also alleged to be manipulated by Ashok Kumar (PW3).

On the other hand, learned State counsel and learned counsel for the complainant have vehemently opposed the arguments of the appellant and submitted that the present case is duly proved against the appellant and learned trial Court has rightly convicted and sentenced him under Section 302 IPC.

This is an undisputed fact that appellant-Parminder Singh gave information to Rinkal Singh (PW2) at about 1:00 A.M. in the intervening night of 16/17.05.2010 that Rajni (since deceased) had fallen ill; but he did not make any effort to take the deceased to some hospital or doctor and she ultimately died at 4:00 A.M. There is no dispute that at the time of occurrence, appellant-Parminder Singh was very much present in the house where the deceased had died.

Rinkal Singh (PW2) specifically levelled allegations against appellant-Parminder Singh and his family members and his statement during investigation as well as deposition before the learned trial Court is consistent with the initial statement (Ex. P2), therefore, the allegation that the entire investigation was manipulated at the instance of Ashok Kumar (PW3), who is the close relative of the deceased, is without any substance and the same is not acceptable. Although, Ashok Kumar (PW3) was working in Haryana Police and also relative of the deceased; but merely on that count, it cannot be presumed that he has twisted the case to suit the prosecution and has caused any prejudice to the appellant-Parminder Singh

as ultimately the criminal trial is decided by Court(s) and not by police.

Kanwar Pal Singh (PW1), who is the father of deceased Rajni, has corroborated the testimony of Rinkal Singh (PW2) regarding the harassment and demand of dowry by the accused as well as cruelty on account of non-joining of the dance school in Panchkula. This witness has further deposed that accused wanted to sell their house in Ambala City and insisted the deceased to shift to Panchkula but she objected and consequently faced harassment. PW1 has also supported the allegation of bringing ₹50,000/-.

Ashok Kumar (PW3), who is no doubt the relative of the deceased but supported the prosecution case and nothing adverse to prosecution was culled out from his cross-examination.

Constable Ram Phal (PW6) has deposed that he had taken the sealed parcel of case property including the pant of accused and clothes of deceased and subsequently deposited the same in Forensic Science Laboratory, Karnal on 18.06.2010.

Dharam Pal Singh (PW9) is another witness who has supported the prosecution case as well as confessional statement Ex. P10 made by convict-Parminster Singh on 20.05.2011 to the effect that he had got drafted suicide notes (Ex.P11 and Ex.P12) himself as well as from the deceased and placed it on the Refrigerator.

Amar Nath (PW-10) and Yoginder Chauhan (PW-12), Manager and Chief Manager respectively at Punjab National Bank have proved the entry of ₹15,000/- on 15.05.2010 in the account of convict by Rinkal Singh (PW2).

Gulshan Rai (PW-19), Deputy Director, FSL, Madhuban, has

submitted his report Ex.P38 regarding writing/signatures of convict-
Parminder Singh and of deceased Rajni.

Inspector Ravinder Kumar (Retd.) (PW-20) was the
Investigating Officer of the case and prepared the inquest report under
Section 174 Cr.P.C. as well as arrested the convict on 18.05.2010. This
witness has also recovered the above-said two suicide notes i.e. Ex.P11 and
Ex.P12 in pursuance of disclosure statement (Ex.P10) made by convict-
Parminder Singh. This witness has further identified the case property
including pant of Parminder Singh (Ex.MO/8) and from the pocket thereof
the poisonous substance i.e. Aluminum Phosphide was also recovered.

As per the inquest proceedings conducted under Section 174
Cr.P.C., it has been noticed by the Investigating Officer that the dead body
was lying on the floor of the drawing room of the house and blood was
oozing out of mouth and nose and there were bluish mark on the left arm,
black stains on the left palm and fingers of the right hand. It was also
observed that no physical injury was visible on the body.

In this case, medical evidence being very crucial is discussed
here as under:-

Dr. Sanjay (PW17), Medical Officer, Trauma Centre, Ambala
City alongwith Dr. Rajni conducted the post-mortem examination (Ex.P21)
on the dead body of deceased on 17.05.2010 at about 4:30 P.M. She was
brought in the hospital with the alleged history of poisoning and head injury
by husband and having bad relationship for the last six months and found
following injury:-

*“A swelling of size of 4X2 c.m. on left side of scalp on opening
of the head, there was 100 ml. of blood alongwith clotted blood on left side*

of brain.”

In the opinion of the doctor, the cause of death in this case was due to swelling of 4X2 CM on the left side of the head with underlying bleed and clot, but the final opinion was kept pending till receipt of Chemical Examiner Report and the opinion reads as under-

“In our opinion, the cause of death in this case was due to swelling of 4X2 CM on the left side of the head with underlying bleed and clot. Patient can also die of head injury and its sequelae.

Final opinion was kept in abeyance subject to aforesaid report of chemical examination Karnal.”

The duration between injury, death and postmortem was within twelve hours.

Thereafter, reports of Chemical Examiner were placed on the record as Ex. P24 and Ex. P25.

A perusal of report Ex. P24 reveals that there was a negative test for common poison and ethyl alcohol on Exhibits 1 to 4 and the relevant part of the report reads as under:-

“ Exhibits:

- 1. one sealed jar said to contains sample of stomach, small and large intestine.*
- 2. ” “Lungs, Liver, Spleen and Kidney.*
- 3. ” “Blood from heart.*
- 4. ” “Preservative.*

The result was as follows:-

- Content of the all above exhibits gave negative test for common poison and ethyl alcohol.”

Further, a perusal of report Ex. P25 reveals the result of Ex. P1 to Ex. P6 and the relevant part of the report reads as under:-

“ *Exhibits:*

- 1. One sealed packet said to contain a kameej greenish in colour with green & brown flowering design, a brown salwar and grey colour underwear bearing C.S.Seal.*
- 2. One sealed packet said to contain a bed sheet light brown in colour with brown flowering print bearing R.K.Seal.*
- 3. One sealed packet said to contain a salwar and kameej of magenta colour bearing R.K.Seal.*
- 4. One sealed packet said to contain a navy blue colour pant right pocket containing greyish powder bearing R.K.Seal.*
- 5. One sealed packet said to contains a piece of checkdar cloth (white and yellowish brown) bearing R.K.Seal.*
- 6. One sealed packet said to contain a piece of green colour salwar bearing B.R.Seal.*

The result was as follows:-

- Content of the exhibit No.1 & 6 gave negative test for common poison.*
- Content of the exhibit No. 2,3,4 & 5 gave positive test for Aluminium Phosphide.*

After taking into consideration the Chemical Examiner Reports, the doctor was of the opinion that the cause of death was due to “head injury and its sequelae”. During cross-examination, he has admitted that there was no mention of head injury in column No. 10 of the inquest report and there was no external mark of injury on the head so as to indicate the presence of Haematoma and he has self stated that he had observed a swelling on the head which was hidden under scalp hair. However, this witness has admitted that there was no fracture/depressed fracture or compression of any type below the above said swelling. This witness has denied the suggestions that the above said injury can possibly be sustained in normal course if a

person strikes against an object while making efforts to stand up from sitting posture or by fall on an object. This witness has also stated that the head injury in the present case had damaged the left portion of the brain because of rupture of many vessels, but he cannot specifically name the said vessels/arteries and veins. However, this witness has admitted that he has not mentioned rupture of blood vessels while describing the injury, but ultimately stated that “in his opinion this injury could be possible by a hit injury”. It is further stated by this witness that injury is also possible if the head strikes against an object with a force and he has also explained the term “sequelae” which means the lethal consequences like the compression of brain, respiratory, heart failure and blood loss. The witness has further stated that the present is not a case of Cardiac failure. This witness has also stated that whole of the left side of the brain underlying the scalp was compressed underlying the injury 4X2 c.m. and he has denied the suggestion that it was not an injury sufficient to cause death or his opinion is vague and indefinite.

The cumulative examination of post-mortem report, Chemical Examiner Reports and deposition of Dr. Sanjay (PW17), make it apparently clear that cause of death in this case was “head injury and its sequelae” and the injury could be possible by a hit or if the head strikes against an object with force and the death was not as a result of high blood pressure or failure of any vital organ as argued by learned counsel for the appellant.

The present is the case of homicide on account of the head injury and its sequelae. Now the material question that arises is as to who has caused the injury to the deceased and that is to be explained by the appellant and none else as there is overwhelming evidence on record to

prove that at the time of death, the appellant, his wife Rajni (since deceased) and their minor son, aged about 4 years, were present in the house and as such, the provision of Section 106 of the Indian Evidence Act is attracted. Resultantly, the appellant is under an obligation to explain as to who had caused the head injury to the deceased on the fateful night. The appellant while giving his explanation under Section 313 Cr.P.C. has simply stated that he was having very cordial relation with his wife and the allegation of demand of dowry and shifting of house to Panchkula is fabricated. He has also stated that he had intimated about the ill health of Rajni, but no one came from his in-laws side to him in the night. Meaning thereby, he is not denying his presence at the time of occurrence. There is another important aspect of the matter to the effect that, admittedly, condition of wife of appellant deteriorated at 1.00 A.M. in the night and she died at 4.00 A.M i.e. after three hours but the appellant despite this factual position, and that he was living in the heart of the city, had not taken the helpless lady to any doctor for her treatment. This shows that appellant-Parminder Singh was not at all interested to save his wife rather he first caused injury and then left her to die for the reasons best known to him. Although, the prosecution has attributed twin motive in this case i.e.

(i)demand of dowry

(ii)to sell the house of Ambala and to shift to Panchkula to join the dance group run by Charan Singh, who was the relative of appellant.

So far as the allegation of demand of dowry is concerned, the same has not been accepted by learned trial Court while recording its conclusion in Paragraph 87 of the judgment to the effect that “ the essential

ingredients to constitute an offence under Section 304-B of IPC are not made out. But the facts of the case are relevant to assess the cruel behavior of the husband towards his wife and gave a strong motive to get rid of her.”

Still there is one important piece of evidence i.e. the Chemical Examiner Report Ex. P25 which clearly reveals that the poisonous powder i.e. Aluminum Phosphide was found in the right pocket of the pant of the appellant and he is not able to explain as to how the poisonous substance came in the pocket of his pant. This poisonous substance was recovered in pursuance of the disclosure statement of the appellant and which is duly proved. Consequently the irresistible conclusion is that the appellant had definite intention and strong motive to commit the murder of his wife, but he was trying to find an appropriate opportunity. Even otherwise, the disclosure of the appellant leading to the recovery of poisonous substance which is duly admissible under Section 27 of the Indian Evidence Act is a clear signal to gather the intention of the appellant for elimination of his wife in one way or the other, otherwise there is no occasion for the appellant to keep the Aluminum Phosphide in the pocket of his pant.

So far as the appeal filed by Rinkal Singh against acquittal of Daya Ram is concerned, there is no evidence on record to prove that he was present in the matrimonial house of the deceased on the fateful day at the time of incidence and he has been given benefit of doubt on account of the fact that his presence is not proved at the time of occurrence and perusal of record clearly reveals that finding recorded by the learned trial Court to the effect is legally sustainable and does not require any interference by this Court. Accordingly CRA-D-445-DB-2014 filed by complainant is dismissed.

So far as the appeal filed by appellant-Parminder Singh is concerned, this Court has no second opinion but to affirm the view taken by the learned trial Court and consequently the appeal (CRA-D-1544-DB-2013) filed by appellant-Parminder Singh is dismissed.

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

**(MAHABIR SINGH SINDHU)
JUDGE**

09.08.2017.
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No