

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

**CRA-D-734-DB of 2003
Date of Decision: 25.07.2017**

Bachan Singh

... Appellant

Versus

State of Punjab

... Respondent

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

Present: Mr. Raj Kumar Garg, Advocate,
for the appellant.

Mr. Jagmohan Ghumman, D.A.G., Punjab.

MAHABIR SINGH SINDHU, J.

Sole appellant has preferred the present appeal against the impugned judgment of conviction and order of sentence dated 21.08.2003 passed by the Court of learned Sessions Judge, Patiala, vide which he has been convicted under Section 302 of Indian Penal Code (for short 'IPC') and sentenced to undergo imprisonment for life and to pay fine of ₹10,000/-, in default, to further undergo rigorous imprisonment for one year.

Brief facts of the case are that an FIR No.184, dated 27.08.2001 was registered under Section 302 at Police Station Banur, District Patiala, on the basis of a statement made by complainant-Khushdeva Singh son of Babu Singh,(PW-6) (brother of the deceased) to the effect that he is resident of Ward No.5, House No.11, Banur, Police Station Banur, District Patiala, and is an agriculturist. It was

stated by the complainant that they are three brothers. Pritam Singh is the eldest, younger to him Harbhajan Singh and he is the youngest. They are living separately. On 27.08.2001 at about 12.15 P.M, when he was coming back to his house from Banur Barrier on Tepla Road, his brother Pritam Singh (since deceased) came out from his house and had started going towards his fields on foot. When the complainant was a little short of the passage leading towards the Marrian (cremation ground), then the appellant-accused while driving truck bearing No.PAH-6266 came from Tepla side and hit his brother Pritam Singh. Due to hitting, his brother Pritam Singh fell down on the footpath of the road. The truck driver-accused, going ahead a little, stopped the truck and while alighting from the truck came towards his brother Pritam Singh. He was identified as Bachan Singh (appellant) son of Munsha Singh, resident of Ward No.5, Banur, near ITI Banur. Bachan Singh (truck driver) standing in anger, near his brother Pritam Singh, stated "Pritama mein tenu bade chir da kah riha si ke tu meri gharwali da khehda chhaad de par tu baaj nahi aaya, is karke aaj mainu eh aak chabna peya" (Pritam I have been telling you many times to end illicit relations with my wife, but you did not stop from doing so, therefore, I have to take this step). After saying so, Bachan Singh accused left the place after sitting in the aforesaid truck. Bant Singh son of Rikhi Ram Saini and Jagdish Singh son of Sant Singh Saini, who had also come at the spot had witnessed this occurrence. After some time, many other people of the area gathered there. Thereafter, Khushdeva Singh-complainant took Pritam Singh in injured

condition to Civil Hospital, Banur, where the doctor referred him to Government Medical College and Hospital, Sector 32, Chandigarh. Thus, Pritam Singh was admitted in the Government Medical College and Hospital, Sector 32, Chandigarh, and after 2-2½ hours, he was further referred to PGI, Chandigarh. On reaching PGI, Pritam Singh expired at about 5.00 P.M. After leaving the family members of Pritam Singh and Jagdish Singh with his dead body in PGI, he along with Bant Singh started for Police Station in order to lodge the report, but when they reached near Banur barrier, Inspector Paramjit Singh met him before whom, he (Khushdeva Singh- complainant) made his statement Ex.PE. After sending the statement to the Police Station, the Inspector reached the place of occurrence, prepared the rough site plan Ex.PK with marginal notes, lifted the pieces of glass of the head light of truck and took the same into possession vide recovery memo Ex.PF. Then on 28.8.2001 he reached PGI Chandigarh where the relatives of Pritam Singh had shifted Pritam Singh from Sector 32 Hosptial, Chandigarh and where he succumbed to the injuries and moved an application Ex.PH for conducting post mortem examination on the dead body of the deceased. He also prepared inquest report Ex. PJ. The doctor handed him a parcel of clothes after post mortem examination, which was taken into possession by him vide recovery memo Ex. PL. Thereafter, he arrested the accused and took truck No.PAH-6266 into possession vide recovery memo Ex.PM. He got the said truck mechanically tested and obtained the report Ex.PC. He also got the truck photographed and found that the left front head-light of

the truck was in broken condition. He removed the said head-light of the truck Ex.P13 and took the same into possession along with the pieces of glass (Ex.P12), which were lying in it vide recovery memo No.Ex.PN. He also took into possession the driving licence of the accused Ex.P2 and registration certificate of the truck Ex.P1 vide recovery memo Ex.PD. He also got prepared a scaled site plan of the place of occurrence Ex.PO. He also got verification of the driving licence from DTO Patiala vide application Ex.P1 and obtained the report Ex. PQ/1. He also got verified the registration certificate of the truck vide application Ex. PR and obtained the report Ex.PR/1. On receipt of the report from the Forensic Science Laboratory Ex.PS and on completion of the investigation, report under Section 173 Cr.P.C. was presented against the accused in the Court.

On finding a prima-facie case against the accused, the trial Court framed the charge under Section 302 IPC on 05.2.2002 but the appellant pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

During trial, prosecution has examined PW-1 Dr. S.M. Viridi, Medical Officer, Civil Hospital, Banur; PW-2 C. Manjit Singh; PW-3 Gurdip Singh, Mechanic; PW-4 Ram Sarup, owner of truck No.PAH-6266; PW-5 Charan Singh; PW-6 Khushdeva Singh-complainant; PW-7 Bant Singh, PW-8 Dr. Yoginder Singh Bansal and PW-9 Inspector Paramjit Singh, Investigating Officer.

Statement of accused was recorded under Section 313 Cr.P.C., and he denied the allegations by saying that he is innocent

and had been falsely involved in this case.

During his defence evidence, accused examined Dr. Sanjay Gupta, Senior Resident of Surgery (General) PGI, Chandigarh as DW1 to prove the bed head ticket pertaining to the deceased maintained in the PGI. He also proved the patient ticket Ex.D1 and then closed his defence.

After hearing both sides and perusal of record, learned trial Court convicted and sentenced the appellant for the offence as mentioned above. Feeling aggrieved by the impugned judgment of conviction and order of sentence, the appellant has filed the present appeal.

It is argued on behalf of the appellant that the findings recorded by the trial Court are based on surmises and conjectures and thus, the same are not legally sustainable and liable to be set aside. It is also argued that the death of Pritam Singh was merely as a result of an accident and there was no intention of the appellant to commit his murder. Learned counsel for the appellant has even argued that the alleged truck bearing Registration No. PAH-6266 was not involved in the accident and it was only the Maruti Car as is clear from Out Patient Ticket (Ex. D-1).

On the other hand, learned State counsel has argued that the present appellant has committed the murder of Pritam Singh with the clear intention of killing him by hitting him with truck No.PAH-6266 on account of the grudge that Pritam Singh (deceased) was having illicit relations with his wife. It is further argued that Ex.D-1 duly

explained by Dr. Sanjay Gupta (DW-1) in his cross-examination while stating that the history of the case was told by one Ranbir Singh resident of Banur to the doctor and not by the patient and he cannot identify the writing at Mark A of Ex.D-I, where name of Ranbir Singh resident of Banur, was written.

Heard learned counsel for both the parties and after going through the record of the case, we find that there is no infirmity or illegality with the impugned judgment of conviction as well as order of sentence of the appellant for offence under Section 302 IPC.

The argument of learned counsel for the appellant that this was merely an accident and there was no intention on the part of the appellant, is not substantiated by tangible evidence on record and he has even failed to extract anything from the cross-examination of eye witness Khushdeva Singh. There were rather two eye witnesses to the occurrence, namely, Khushdeva Singh and Bant Singh and both were examined as PW-6 and PW-7. PW-6 has very categorically supported the prosecution case to the effect that Pritam Singh was murdered by the present appellant by hitting him with truck No.PAH-6266 on account of his illicit relations with the wife of the appellant. It has also been stated that the occurrence was witnessed by Bant Singh son of Rikhi Ram Saini. PW-6 has also stated that initially the injured Pritam Singh was taken to Civil Hospital, Banur, but the doctor referred him to Government Medical College and Hospital, Sector 32, Chandigarh and after 2-2½ hours he was referred to PGI, Chandigarh and ultimately died there at about 5.00 P.M. The motive in this case is that Bachan

Singh-accused was suspecting Pritam Singh having illicit relations with his wife. This witness has also deposed that pieces of broken headlight of the truck lying at the place of occurrence were recovered from the spot and were taken in possession through recovery memo Ex. PF. These pieces were 10 in number, which were duly identified by PW-6 in the Court after opening the sealed envelop. The suggestion to the effect that these pieces were of a car and not of a truck, was specifically denied by PW-6. The suggestion was also denied by PW-6 that truck No.PAH-6266 had not hit his brother Pritam Singh or that Bachan Singh appellant was not driving the truck. Similarly Bant Singh (PW-7) has also supported the case of the prosecution in the same terms as PW-6. PW-4 Ram Sarup has deposed that truck No.PAH-6266 is owned by him and Bachan Singh-accused was its driver. He has stated that on 27.8.2001, the truck left from Rajpura towards Kharar in the evening and he further stated that he has received telephonic call from Bachan Singh that the truck has met with an accident. He has also stated that on 28.8.2001, he came to know that the appellant has committed the murder of Pritam Singh. The RC of truck and driving licence of appellant were produced as Ex.P1 & P-3 respectively. Thus, the statement of PW-4 also makes it apparently clear that the appellant was the driver of the truck in question and on 27.8.2001, he hit Pritam Singh and which resulted into his death. The FSL report (Ex. PS) duly proved that the glass pieces which were recovered from the spot were of the offending truck No.PAH-6266. The relevant part of the FSL report reads as under:-

**“Description of articles/exhibits received/
contained in parcels**

Parcel-C It contained a torn broken pieces of glass apparently of head light lamp cover stated to have been recovered from the scene of occurrence. These have been marked as C-1 to C-10 by this laboratory.

Parcel-T It contained a broken head light alongwith thirteen broken glass pieces of its head light cover stated to have been removed from the truck PAH-6266. The head light and the 13 broken glass pieces have been marked as TL and T-1 to T-13 respectively by this lab.

Note: Markings on parcels as above have also been done by this laboratory.

Result of Examination

- 1) Glass pieces C-1 to C-10 contained in parcel-C are similar to glass pieces T-1 to T-13 of head light TL contained in parcel-T as referred above.
- 2) Some glass pieces namely: C-1; (C-4 & C-5) and C-7 contained in parcel C have perfect mechanical fit with T-5; T-1 and (T-10, T-13 & T-9) respectively contained in parcel T as referred above.”

In view of above, it can be safely concluded that Pritam Singh was dashed by truck No.PAH-6266 driven by the appellant and not by Maruti car.

The motive in this case is clearly proved by both the eye witnesses. The utterances made by the appellant at the time of

occurrence regarding the illicit relation of deceased with his wife amounts to an extra judicial confession and more particularly in view of the fact that both PW-6 and PW-7 have deposed consistently in terms of the utterances made by the appellant at the time of commission of offence. There is no animosity attributed by the appellant against PW-6 and PW-7 for deposing against him and statements of both the witnesses are trustworthy and deserve to be accepted in view of the facts and circumstances of the present case. The law is well settled by the Hon'ble Supreme Court in the case **State of U.P. vs. M.K. Anthony**, (1985) 1 SCC 505, to the effect that if extra judicial confession comes from the mouth of the witness(es), who appears to be unbiased, not even inimical to the accused, and nothing is brought out to indicate that there is any motive for attributing an untruthful statement to the accused, the words spoken to by the witness are clear and convey that accused is the perpetrator of the crime then extra judicial confession can be accepted and can be the basis of a conviction. The operative part of para 15 of the judgment reads as under:-

“15. xx xx xx xx xx xx xx

If the evidence about extrajudicial confession comes from the mouth of the witness/witnesses, who appear to be unbiased, not even remotely inimical to the accused, and in respect of whom nothing is brought out which may tend to indicate that he may have a motive for attributing an untruthful statement to the accused, the

words spoken to by the witness are clear, unambiguous and unmistakably convey that the accused is the perpetrator of the crime and nothing is omitted by the witness which may militate against it, then after subjecting the evidence of the witness to a rigorous test on the touchstone of credibility, if it passes the test, the extrajudicial confession can be accepted and can be the basis of a conviction. In such a situation to go in search of corroboration itself tends to cast a shadow of doubt over the evidence. If the evidence of extrajudicial confession is reliable, trustworthy and beyond reproach the same can be relied upon and a conviction can be founded thereon.”

In view of the testimony of PW-6 and PW-7 and keeping in view the law laid down by the Hon'ble Supreme Court in *M.K. Anthony's case (supra)*, the present case cannot be termed merely an accident resulting into the death of Pritam Singh; rather the offence has been committed intentionally by the appellant on account of grudge emanating from the illicit relation of deceased with his wife. The appellant had the clear intention to commit the offence and there is no other view possible which can be taken by this Court. Therefore, the prosecution had successfully proved the case against the accused beyond a shadow of reasonable doubt. The judgment of conviction passed by the trial Court is well reasoned and based on proper appraisal of evidence as well as correct interpretation of law. There is no illegality or infirmity therein as well as order of sentence. The said

judgment of conviction and order of sentence are upheld whereas appeal is found to be without any merit and the same is dismissed accordingly.

(T.P.S. MANN)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

25.07.2017
monika

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No