

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

**CRA-D-339-DB of 2003
Date of decision :-20.3.2017**

Nirmal Singh

....Appellant

Versus

State of Punjab

....Respondent

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

Present : Mr. J.S. Bains, Advocate
for the appellant.

Mr. S.S. Dhaliwal, Additional A.G., Punjab.

H.S. MADAAN, J.

This appeal has been preferred against the judgment and order dated 26.2.2003 passed by the Court of learned Sessions Judge, Ludhiana vide which accused Nirmal Singh was convicted for the offence under Section 302 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.10,000/- and in default thereof, to further undergo rigorous imprisonment for six months.

The accused-convict, who is appellant before this Court prays that the appeal be accepted, the impugned judgment of conviction and sentence be set aside and he be acquitted of the charge framed

against him.

Briefly stated, the prosecution story, which can be gathered from the record, is that on 30.9.1999 HC Des Raj and HC Jagroop Singh of Railway Protection Force were on duty in the railway yard of Railway Station, Ludhiana in connection with checking of up and down trains. At about 6:30 p.m., Nirmal Singh – accused and his wife Kuldeep Kaur – deceased were observed crossing the wall near *lakkad* bridge from Court compound side while quarrelling with each other. Nirmal Singh accused was hurling abuses upon his wife Kuldeep Kaur and when they were to pass through the washing line in T.X.R. Office, Nirmal Singh took out a *toka* (chopper) from the bag which he was carrying in his left hand and he gave a push to Kuldeep Kaur and made her to lie on the slab of the line. Thereafter, Nirmal Singh started giving her blows on the neck with the *toka*. Complainant HC Des Raj and HC Jagroop Singh rushed towards them and nabbed accused Nirmal Singh along with the *toka*. Nirmal Singh disclosed that his wife Kuldeep Kaur was not bearing good moral character, as such on finding an opportunity, he had killed her. The complainant gave information regarding the incident to police station of Govt. Railway Police, Ludhiana on telephone. Kuldeep Kaur had succumbed to the injuries suffered by her in the incident.

On receipt of such information, Inspector Bahadur Singh/SHO, GRPS, Ludhiana (hereinafter referred to as the Investigating Officer/IO) along with other police officials went to the spot i.e. Railway Yard Washing Line. There, HC Des Raj and HC Jagroop Singh produced Nirmal Singh accused before the Investigating

Officer. The Investigating Officer recorded statement of HC Des Raj – complainant as Ex.PG. The said statement was signed by the complainant and his signatures were attested by the Investigating Officer. The Investigating Officer appended his endorsement Ex.PG/1 below that statement and sent ruqa to police station through Constable Gian Chand, on the basis of which formal FIR Ex.PG/2 was recorded at Police Station GRP, Ludhiana by SI Resham Singh. The Investigating officer prepared rough site-plan of the place of incident as Ex.PW9/A. He summoned a photographer to the spot, who clicked snaps of the dead body and the place of incident. The Investigating officer carried out inquest proceedings with regard to dead body of Kuldip Kaur, preparing a report Ex.PE in that regard. The blood stained *toka* was taken into possession vide recovery memo Ex.PH attested by HC Des Raj and HC Jagroop Singh. Small pieces of bricks which had become blood stained were picked up and placed in a tin box. It was converted into a parcel sealed with seal of the Investigating Officer. Then that parcel was taken into possession vide recovery memo Ex.PK attested by witnesses aforesaid. The accused was made to take off his *chola* (a long shirt type robe) which was blood stained and it was taken into possession vide recovery memo Ex.PJ. The *jhola* (a bag made of plastic threads) being carried by accused was seized by the Investigating Officer vide memo Ex.PL. The Investigating Officer recorded statements of witnesses and on return to the police station, he deposited the case property with MHC and put the accused in lock-up.

On the next day, on arrival of relatives of deceased Kuldip

Kaur, her dead body was sent for the purpose of post-mortem examination. PW12 SI Resham Singh was deputed for that purpose and an application in that regard as Ex.PB was handed over to him by the Investigating Officer. After post-mortem examination, Constable Gian Chand produced clothes of the deceased given to him by the doctor before SI Resham Singh, who converted those clothes into a parcel sealing that with his seal and parcel was taken into possession vide recovery memo Ex.PW12/A. During the course of investigation, the Investigating Officer recorded statements of witnesses and took into possession photographs Ex.P5 to Ex.P9 along with negatives Ex.P10 to Ex.P14 vide memo Ex.PW12/B.

After completion of investigation and other formalities, challan against accused was prepared and filed in the Court of Judicial Magistrate Ist Class, Ludhiana.

On presentation of challan in the Court of Judicial Magistrate Ist Class, Ludhiana, he supplied copies of documents relied upon in the challan to the accused free of costs as provided under Section 207 Cr.P.C. Then finding that offence under Section 302 IPC is exclusively triable by Court of Sessions, learned Judicial Magistrate Ist Class, Ludhiana vide his order dated 1.12.1999 committed the case to the Court of learned Sessions Judge, Ludhiana from where it was entrusted to the Court of learned Additional Sessions Judge, Ludhiana.

On receipt of case in the Court of learned Additional Sessions Judge, Ludhiana, observing that prima facie charge for offence under Section 302 IPC was disclosed against the accused, accused was

charge-sheeted accordingly, to which, he pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

Thereafter, case was transferred to the Court of learned Sessions Judge, Ludhiana, on 3.8.2000.

During the course of its evidence, the prosecution examined as many as twelve witnesses as per details below:

PW1 Dr.Jasbir Singh, Medical Officer, Civil Hospital, Ludhiana stated that on 1.10.1999, he along with Dr.Anil Verma conducted post-mortem examination on the dead body of Kuldip Kaur wife of Nirmal Singh, resident of House No.15369, Street No.2-S, Ram Nagar, Ludhiana; that as per information furnished by the police, the death was due to injuries to the neck with sharp edged weapon. Rigor mortis was present on the whole body. Post-mortem staining was present on the dependent parts of the body. This witness further stated that they had observed following injuries on the dead body:

- 1. Gaping incised wound cutting in whole neck at its base sparing only an area of 3" x 1 ½" on the right side of neck. Only skin tag was left. Wound was measuring 8" x 4" in diameter. The vertebral column, blood vessels, nerves, muscles, tendons all were cut.*
- 2. Multiple incised wound 6 in number was present on the dorsum and lower third of left forearm and hand and was cutting all the underlying muscles, vessels and bones.*

3. *The left little finger was cut at its base and was separated and lying with the body.*
4. *Two incised wounds measuring 2" x 1/3" each at the fronto parietal region of right side.*
5. *An incised wound 2 1/2" x 1/2" was present on the left lower posterior auricular region and was bone deep.*
6. *3 incised wounds measuring 1 1/2" x 1/3" each on the right shoulder on its back.*
7. *Two incised wounds 3/4" x 1/2" each on the lower part of left side of chin.*

All organs were healthy.

The cause of death in this case in their opinion was shock and haemorrhage as a result of multiple injuries, which were sufficient to cause death in ordinary course of nature. All the injuries were ante-mortem in nature. They handed over to the police, dead body after post-mortem, carbon copy of post-mortem report, police papers duly signed from pages 1 to 16 and clothes.

Probable time that elapsed between the injuries and death was immediate and between the death and post-mortem was about 18 hours.

He proved copy of the post-mortem report as Ex.PA and the pictorial diagram showing the seats of injuries as Ex.PA/1. He further proved the police request for post-mortem examination as Ex.PB, endorsement of SMO deputing Dr.Jasbir Singh and Dr.Anil Verma to do the needful as Ex.PB/1, inquest report as Ex.PC, copy of DDR No.24 as

Ex.PD, memo of personal search as Ex.PE and statement of Gurbachan Singh as Ex.PF. When toka Ex.P1 was shown to the witness, he stated that injuries on the person of deceased could be possible with blows from the *toka*.

PW2 HC Des Raj and PW3 HC Jagroop Singh provided eye-witness account of the incident.

PW4 HC Hakam Singh, PW5 MHC Harbans Singh, PW6 HC Gurmail Singh and PW7 Constable Gian Chand, all formal witnesses tendered in evidence their affidavits Ex.PW4/A, Ex.PW5/A, Ex.PW6/A and Ex.PW7/A, respectively, praying that those be read as a part of their respective statement.

PW8 ASI Daya Singh also placed on record his affidavit Ex.PW8/A.

PW9 Inspector Bahadur Singh, since promoted as DSP, who had carried out investigation in this case deposed in that regard proving various documents.

PW10 Inspector Pardeep Kumar from Food and Supply Department, Sahnewal, Ludhiana had brought the summoned record pertaining to ration card No.537772 in the name of Nirmal Singh accused stating that name of Kuldip Kaur is mentioned in the ration card, copy of which he proved as Ex.PW10/A.

PW11 HC Partap Singh, who in September, 1999 was posted at Railway Station, Ludhiana at RPF Post had brought the daily diary register of RPF Post, Ludhiana stating that as per entries in this register, on 30.9.1999 vide DDR No.40, HC Des Raj and HC Jagroop

Singh were put on duty in the Railway Yard for checking up and down trains and to supervise railway property. He proved certificate in that regard given by him as Ex.PW11/A.

PW12 SI Resham Singh, who on 30.9.1999 was member of the police party headed by Inspector/SHO Bahadur Singh deposed regarding what had transpired in his presence.

The Public Prosecutor tendered in evidence report of Forensic Science Laboratory as Ex.PX and then closed the evidence of prosecution.

Statement of accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against him were put to him but he denied the allegations contending that he is innocent and had been falsely involved in this case.

During the defence evidence, accused Nirmal Singh examined his son Damanpreet Singh, aged about 19 years as DW1, who stated that relations between his father Nirmal Singh and mother Kuldip Kaur became strained a year before her death; that he saw a few persons visiting their house, who had illicit relations with his mother; that he had disclosed this fact to his father and on that account his father abused his mother; that on 17.3.1999 his mother sent for her father Gurbachan Singh from Mandi Ahmedgarh who came and got Nirmal Singh arrested by the police in a false case alleging maltreatment of Kuldip Kaur by him. The witness further stated that from 17.3.1999 his mother had severed relations with him and his father and she never returned to their house; that on 30.9.1999 at about 5:30 p.m., the police came to their

house and took away his father Nirmal Singh; that at that time, Gurbachan Singh, father of Kuldeep Kaur was with the police party; that Nirmal Singh had been taken away by the police on the pretext that he was to identify the dead body of Kuldeep Kaur and later on he was involved in the murder case of Kuldeep Kaur.

DW2 Dilbagh Singh, a resident of the area, where accused had been putting up stated that his house is opposite to the house of accused; that there used to be quarrels between the accused and his wife Kuldeep Kaur; that the police had arrested accused in this case; that about six months earlier to the arrest of the accused, his wife Kuldeep Kaur had left the house after quarrelling with him and thereafter they did not live together.

With that evidence of the accused was closed.

After hearing arguments, learned trial Court convicted and sentenced the accused as mentioned supra, which left him aggrieved and he has filed the present appeal praying that the same be accepted, the impugned judgment of conviction and sentence be set aside and he be acquitted of the charge framed against him.

We have heard learned counsel for the appellant-accused-convict – Nirmal Singh and learned Additional Advocate General for the State of Punjab besides going through the record and we find that the appeal is devoid of any merit.

In the instant case, direct evidence of the incident is available in the form of statement of PW2 HC Des Raj and PW3 HC Jagroop Singh. Both of them supported the prosecution story on material

aspects categorically stating that it was accused Nirmal Singh who had inflicted injuries to his wife Kuldip Kaur on neck by giving her blows with *toka* repeatedly to which she had succumbed there at the spot itself; they had summoned the police to the place and then handed over accused along with blood stained *toka* to the Investigating Officer. Both the PWs were cross-examined at length on behalf of the accused but they could not be shattered on any material point. No cogent reason has been suggested or proved prompted by which these PWs might have deposed falsely against the accused. Although during the cross-examination, a suggestion had been put to PW Des Raj that the deceased had illicit relations with him and since later on deceased started blackmailing him, as such he along with other RPF officials murdered her finding her alone. But that suggestion appears to be just figment of imagination. No material has been brought on record to prove such assertions. Such assertions do not get proved *ipso facto*. However, a perusal of cross-examination of PW9 Inspector Bahadur Singh, since promoted as DSP, goes to show that he has not been cross-examined in that regard. If in fact the defence believed that there was some merit in the suggestions so given to PW2 HC Des Raj – complainant, then the Investigating officer should have been cross-examined on those lines giving him suggestion that as a matter of fact the murder had been committed by HC Des Raj with the help of HC Jagroop Singh and not by the accused. Merely by levelling such allegations, credibility of the true witnesses could not be shaken.

PW11 HC Partap Singh who had brought the daily diary

register of RPF Post, Ludhiana proving DDR No.40 stated that HC Des Raj and HC Jagroop Singh were put on duty in the railway yard for checking up and down trains on 30.9.1999. Therefore, their presence at the spot at the relevant time got confirmed. We also find the account given by both the witnesses to be creditworthy. As a matter of fact, the accused had been apprehended at the spot along with the weapon used by him in the incident and then handed over to the police. During the course of investigation, the *toka* (chopper) Ex.P1 had been sent to FSL, Punjab for the purpose of analysis and as per report received from the FSL Ex.PX, it was found to be stained with human blood. The medical evidence in this case corroborated the ocular evidence. The investigation of this case has been carried out in a fair and impartial manner. The Investigating Officer had no reason to involve the accused in this case wrongly, challan him falsely or to depose against him to secure his conviction. A strong motive for the incident was there since as it transpired from the record and even from the defence evidence adduced by the accused, that the accused doubted the moral character of his wife and frequent quarrels used to take place between them for the said reason.

Thus, the prosecution has successfully proved its charge against the accused for the offence under Section 302 IPC. The evidence adduced by the accused in defence does not inspire much confidence since no attempt is shown to have been made by the DWs to make representations to the higher police officers to the effect that accused was innocent and murder of Kuldeep Kaur had been committed by some

other person.

The judgment of conviction and sentence passed by the trial Court is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein. The said judgment is upheld whereas appeal is found to be without any merit and the same is dismissed accordingly.

Nirmal Singh appellant – accused is stated to be on bail granted to him by this Court vide order dated 1.5.2006 while suspending his sentence. His bail is cancelled. Chief Judicial Magistrate, Ludhiana is directed to issue arrest warrant to get him arrested so as to make him undergo the remaining sentence.

Necessary direction in that regard be issued to the quarter concerned.

	(T.P.S. MANN)	(H.S.MADAAN)
	JUDGE	JUDGE
20.3.2017		
Brij		

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No