

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRA-D-350-DB-2004

Reserved on: 22.11.2018

Date of decision : 11.12.2018

Parbodh Chand

... Appellant

Versus

State of Punjab

... Respondent

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU**

Present: Mr.P.S.Ahluwalia, Advocate
for the appellant.

Mr. Rajesh Bhardwaj, Sr.DAG, Punjab.

RAJIV SHARMA, J.

This appeal is instituted against the judgment and order dated 24.11.2003 rendered by the learned Additional Sessions Judge (Ad hoc), Fast Track Court, Patiala, in Sessions Case No.9 dated 04.03.2003 / 133T dated 26.08.2003 whereby the appellant was charged with and tried for offence punishable under Section 302 IPC. He has been convicted and sentenced thereunder to undergo life imprisonment and to pay fine of Rs.5000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one year.

2. The case of the prosecution in a nutshell is that on 24.10.2002 Rajwinder Singh SHO, Police Station Julkan along with policy party was present on the turning of Chhana Devigarh. Puran Singh met SI Rajwinder Singh. He made his statement to the effect that on 20.10.2002 his son Hardeep Singh alias Babbu along with the village *Sangat* had gone to Jor

Mela of Baba Peer Bhikam Shah Gharam under the supervision of Pandit Parbodh Dera Khalsa on tractor trolley and mini truck. On 21.10.2002 in the morning Pandit Parbodh had informed him that his son Hardeep Singh was missing. Thereafter Puran Singh along with Sarpanch Iqbal Singh and Balbir Singh went in search of Hardeep Singh. The villagers told him that the dead body of child was lying in a well near the motor in the fields of Harbans Singh. He identified the dead body of his son. FIR Ex.P27/3 was recorded by ASI Sucha Singh. The body was sent for post-mortem examination. The investigation was completed and the challan was put up after completing all the codal formalities.

3. The prosecution examined a number of witnesses. Statement of accused was recorded under Section 313 Cr.P.C. He denied the case of prosecution. According to the appellant, he was falsely implicated. The appellant has examined three witnesses in his defence. The appellant was convicted and sentenced, as noticed hereinabove. Hence the appeal.

4. Learned counsel appearing on behalf of the appellant has vehemently argued that the statement made before PW-6 Iqbal Singh is not admissible. He has also argued that Hardeep Singh was murdered by nephews of Puran Singh and he had also moved application to this effect before the higher authorities.

5. Learned counsel appearing on behalf of the State has supported the prosecution case.

6. We have heard learned counsel for the parties and have gone through the judgment and record very carefully.

7. PW-3 Satnam Singh Patwari has prepared the scaled map Ex.P3.

8. PW-4 Jaskaran Singh has taken the photographs Ex.P5 to P12 of the dead body.

9. PW-5 Dr.Karamjit Singh has conducted the post-mortem examination. He has proved the post-mortem report. He has noticed the following injuries on the body of the deceased:-

“1. Bruises on front and side of neck were present oval shaped one deep and other four obliquely placed on left side of neck and one deep bruise and other four obliquely placed on right side of neck. Bruises were of size of thumb tip and finger tip. On dissection of neck extravasated blood beneath the bruises was present. The superior horns of thyroid cartilage were fractured and haemorrhage below the fractured site was present on the dissection of base of tongue bruises and haemorrhages were present.

2. Reddish brown abrasion over right shoulder joint 3 cm x 2 cm was present.

3. 5 cm x 3 cm red abrasion over the left arm lateral part was present.

4. 5 cm x 3 cm contusion on left side of chest in midaxillary line lateral to left nipple was present.

5. Reddish brown abrasion 4 cm x 4 cm on left side of forehead was present.

6. Reddish brown abrasion on the right side of right leg in upper lateral part was present.

7. 2 cm x 2 cm reddish brown abrasion on left knee joint was present.

8. A zone of bruising around the anal canal was present.

9. Laceration of anal canal was present. 2 anal and one perianal swab was taken for presence of semen oblique spermatozoa and was sent for chemical examination.”

According to him, probable time between injury and death was immediate and between death and post-mortem was two to five days. The cause of death in his opinion was asphyxia due to throttling and the rest of the opinion was to be given on the receipt of the chemical examiner's report. The post-mortem report is Ex.P22.

10. PW-6 Iqbal Singh is the material witness. He was the Sarpanch of the Gram Panchayat. Puran Singh had told him that his son Hardeep Singh went missing on 21.10.2002. Thereafter they went in search of Hardeep Singh. On 21.10.2002 Pandit Parbodh Chand gave telephonic message at the house of Puran Singh that his son had lost. He along with co-villagers went in search of Hardeep Singh. The villagers of village Gharam told that the dead body of one boy was lying in the well of Harbans Singh. They went to the well and found that Hardeep Singh was lying dead in the well. On 20.11.2002 Parbodh Chand Pandit came to him and told him that he had sacrificed Hardeep Singh. Parbodh Chand Pandit had admitted that he had taken Hardeep Singh with him to Dera of Bhikam Shah. Parbodh Chand Pandit was produced before the police.

11. PW-7 Puran Singh is father of the deceased. He deposed that on 20.10.2002 his son had gone with other co-villagers to Baba Pir Bhikam Shah Gharam on a Jor Mela on tractor trollies and mini truck. He was informed by Parbhod Chand Pandit that his son was missing. Then he along with Iqbal Singh and Harbans Singh went in search of Hardeep Singh. The villagers told them that dead body of a child was lying in the well. The body was fished out. He was cross-examined at length. He reiterated in his cross-examination that he had received a telephonic message in his house at 7.00 A.M. He had categorically deposed that he had no dispute with his nephews.

He had not tried to frame his nephews.

12. PW-8 Jarnail Singh also deposed that during mid night of 20.10.2002 accused took away Hardeep Singh to pay obeisance at Dera Fazal Singh Dargah.

13. PW-9 Kali Ram is another material witness. He had seen the accused along with Hardeep Singh. The accused and Hardeep Singh went to Dargah of Bhikam Shah. After some time the accused and Hardeep Singh started from the Dargah of Bhikam Shah. He saw the accused coming out from the Bajra fields. In the morning of 21.10.2002 hue and cry was raised. Hardeep Singh was not traceable.

14. PW-10 Rajwinder Singh SI recorded statement of Puran Singh vide Ex.P27. FIR was recorded by ASI Sucha Singh. He went to the spot. He took blood stained earth from the well and one handkerchief. He recorded the statement of Joginder Singh on 14.11.2002. Iqbal Singh produced the accused on 20.11.2002.

15. What emerges from the evidence led by the prosecution is that Hardeep Singh was taken by the appellant to the Dargah of Bhikam Shah. He was last seen in the company of accused by PW-8 Jarnail Singh and PW-9 Kali Ram. He was seen coming out from the Bajra field by PW-9 Kali Ram. The appellant had made extra judicial confession before PW-6 Iqbal Singh. Iqbal Singh was Pardhan of village Julmath. He was a man of authority. He has no enmity with the appellant. The appellant had made disclosure statement to the effect that he had taken away Hardeep Singh and sacrificed him. The cause of death as per statement of PW-5 Dr.Karamjit Singh was asphyxia due to throttling.

16. Now as far as the application moved by Puran Singh Ex.D1 is

concerned, the name of the appellant is also mentioned along with other persons. The matter was enquired by the Superintendent of Police, (Headquarters), Sangrur. He had given clean chit to other suspects. The prosecution has proved the case against the appellant beyond reasonable doubt. There is no merit in the appeal and accordingly the appeal is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

December 11, 2018.
Davinder Kumar

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