

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

Reserved on : 5.12.2018

Date of decision : 21.12.2018

1. CRA-D No. 704-DB of 2005 (O&M)

Ranjit Kaur and others		 Appellants
	versus	
State of Punjab		... Respondent

2. CRA-D No. 760-DB of 2005 (O&M)

Ranjit Singh and another		 Appellants
	versus	
State of Punjab		... Respondent

3. CRR No. 2273 of 2005 (O&M)

Gurkirpal Singh		 Petitioner
	versus	
Ranjit Kaur and others		... Respondents

Coram: **Hon'ble Mr. Justice Rajiv Sharma**
 Hon'ble Mr. Justice Harinder Singh Sidhu

Present Mr. Vishal Garg, Advocate, for appellant nos. 2 and 3
 in CRA-D No. 704-DB of 2005,
 Mr. Narinder Singh, Advocate, for the appellants
 in CRA-D No. 760-DB of 2005.

 Mr. Kapil Aggarwal, Advocate, for the petitioner
 in CRR No. 2273 of 2005.

 Mr. Rajesh Bhardwaj, Sr. Deputy Advocate General, Punjab.

Rajiv Sharma, J.

1. This Judgment will dispose of three cases bearing CRA-D No.

704-DB of 2005, CRA-D No. 760-DB of 2005 and CRR No. 2273 of 2005.

2. The present appeals and criminal revision are instituted against the judgment and order dated 10.9.2005, rendered by Additional Sessions Judge, Sangrur, in Sessions case No. 15 dated 16.10.2002, vide which the accused Ranjit Kaur, Gurmel Kaur, Tripatinder Pal Singh, Ranjit Singh and Jatinder Singh were charged with and tried for the offence punishable under Section 307, 302, 148, 149 IPC. Accused Ranjit Kaur and Gurmel Kaur were convicted and sentenced under Section 302 IPC to undergo imprisonment for life and to pay fine of ₹ 5,000/- each and in default whereof to further undergo rigorous imprisonment for six months. Accused Tripatinder Pal Singh, Ranjit Singh and Jatinder Singh were convicted and sentenced under Section 302/149 IPC to undergo imprisonment for life and to pay fine of ₹ 5,000/- and in default whereof to further undergo rigorous imprisonment for six months. All the accused were also convicted and sentenced to undergo rigorous imprisonment for three months under Section 143 IPC. All the sentences were ordered to run concurrently.

3. We have been informed at the bar that appellant Ranjit Kaur has died. Appeal qua her is abated.

4. The case of the prosecution in a nutshell is that on 21.4.2002, ASI Pritam Singh received ruqa from Civil Hospital, Sangrur, regarding admission of Gurmeet Kaur with burn injuries. ASI Pritam Singh along with HC Gurmel Singh, Constable Krishan Singh and PHG Gobinder Singh went to Civil Hospital. They met Constable Pawan Kumar at the gate of emergency. He moved an application before the doctor seeking opinion as to whether the patient was fit to make the statement. The doctor declared the patient fit to make the statement. Head Constable Gurmel Singh was sent to the Duty Magistrate to get statement of injured recorded. Bikramjit Singh

Shergill, Assistant Commissioner (General), Sangrur reached Civil Hospital, Sangrur. He after obtaining the opinion of the doctor that the injured was fit to make the statement, recorded the statement of injured Gurmeet Kaur. The Executive Magistrate made his endorsement on the statement. He handed over the same to ASI Pritam Singh. ASI Pritam Singh was present outside the room. ASI also made his endorsement and sent the same to the police station through Constable Krishan Singh. FIR was registered on the basis of this endorsement. The police party went to the spot. Gurlaljit Singh and Prabhjeet Singh were also present at the spot. Rough site plan was prepared. He recovered one plastic bottle, containing about one quarter of kerosene oil, a match box and three pieces of burnt clothes. These were taken into possession. Recovery memos were prepared. The accused were arrested. Recoveries were made at their behest. On 21.4.2002 the injured was referred to Rajindera Hospital, Patiala, however, she was admitted in DMC, Ludhiana. She died in the hospital on 27.6.2002. Wireless message was given to the police regarding death of Gurmeet Kaur. Head Constable Mukhtiar Singh was sent to DMC, Ludhiana on 28.6.2002 alongwith the file of the case. The inquest report was prepared. The post-mortem was also conducted. Investigation was completed and challan was put up after completion of all the codal formalities.

5. The prosecution examined a number of witnesses in support of the case. The statements of the accused were also recorded under Section 313 Cr.P.C. They denied the case of the prosecution. The accused examined seven witnesses in defence. The accused were convicted and sentenced, as noticed above. The appeals have been filed by the appellants against the judgment and order of the learned trial Court. Petitioner Gurkirpal Singh

husband of deceased Gurmeet Kaur filed the aforesaid criminal revision for enhancement of sentence and fine.

6. Learned counsel appearing on behalf of the appellants vehemently argued that the prosecution has failed to prove its case. Learned counsel appearing for the State vehemently argued that the prosecution has proved its case beyond reasonable doubts and supported the judgment and order of the learned Court below, whereas learned counsel for the petitioner submitted that sentence may kindly be enhanced.

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

8. PW1 Dr. Sumandip Kaur Grewal had medico legally examined Gurmeet Kaur. She was 40 years of age. She was brought to the hospital by Kaushalaya and Jaswant Kaur. She gave opinion, Ex.PB/1, on the application of police, Ex.PB, that patient Gurmeet Kaur got about 70% to 80% burns. She sent ruqa, Ex.PC, to the SHO, Police Station, Sangrur. She had also given opinion on 21.4.2002 at 4.00 P.M. on the application of the police that patient Gurmeet Kaur was fit to make statement. She had made the endorsement on Ex.PE. In her cross-examination, she admitted that Gurmeet Kaur was brought by the police accompanied by two ladies to whom she had already mentioned in the MLR. She proved MLR.

9. PW2 Dr. Sanjeev Hans conducted the post-mortem examination on 28.6.2002. He noticed the following injuries on the body of Gurmeet Kaur:-

“Injuries:

1. There were superficial to deep burn marks on right side of face, neck, front and back of trunk, front and back of both upper extremities, front and back of

right lower extremities, left thigh upto knee, scalp left side of face, top of both shoulder and left leg was spared including premium and low pelvic area outlining underwear and dorsum of feet, burns on right side of face had healed showing erythema. Rest of the burns were deep showing infected granulation tissues. Epidermis in toto was absent from these wounds at places fresh pus was present.”

10. The cause of death in his opinion was septicaemic shock as a result of extensive burns to the extent of 80%. These were sufficient to cause death in ordinary course of nature. Burns were ante-mortem in nature. The probable duration between injuries and death was about two months and six days and duration between death and post-mortem was about 18 hours. In his cross-examination, he specifically deposed that if proper treatment and medicines are administered to a person with 80% burn injuries or deep burn injuries, he can be conscious.

11. PW4 Prabhpreet Singh is a minor witness. His statement was got recorded after adjudging his ability to answer the questions correctly. He is the eye-witness. He testified that on 21.4.2002, it was Sunday. He was present in the house. At about 3.00 P.M., he along with his mother Gurmeet Kaur was present in his house. Her mother was cleaning the utensils in the kitchen. His Grand-mother Ranjit Kaur came into the kitchen. He recognised Ranjit Kaur in the court. She was holding a bottle containing kerosene oil. She sprinkled kerosene oil on her mother Gurmeet Kaur. My paternal aunt Gurmel Kaur, to whom he recognized in Court, set his mother on fire by throwing burning match stick. Kerosene oil sprinkled on the clothes of his mother Gurmeet Kaur caught fire. She tried to run out of the kitchen. His uncle Tripatinder Pal Singh, to whom he also recognized in the

Court, was standing in the door of the kitchen. He stopped his mother and pushed her back into the kitchen. He also cried. Ranjit Singh and Jatinder Singh, to whom he recognized in the Court, raised a *lalkara* that she may not be spared. On hearing noise, one neighbourer came. He put a blanket on her to put off the flames. According to him, the motive to kill his mother by the accused was that there was property dispute qua 5 *bighas* of land. His father and mother used to demand their share in the said land. His *dadi* (grand-mother) and uncle Tripatinder Pal Singh were reluctant to give share to his father. Jaswant Kaur and Kaushalya Devi and HC Pawan Kumar rushed his mother to Civil Hospital, Sangrur. His statement was recorded by the police. In his cross-examination he deposed that distance between his house and that of Gurlal Singh was about half a minute. His mother was taken to Civil Hospital wrapped in the blanket. He admitted that Kaushalya and Jaswant Kaur were friends of his mother.

12. PW5 Bikram Shergill had recorded the dying declaration made by the deceased. He testified that on 21.4.2002, he was posted as Executive Magistrate. He went to Civil Hospital, Sangrur, on the police request at about 4/4.15 P.M. He recorded the statement of Gurmeet Kaur in the hospital. She was having serious burn injuries. Before recording her statement, he obtained opinion from the lady doctor i.e. Dr. Sumandeep Kaur. She declared the patient fit to make statement. Thereafter, he recorded the statement. He read over and explained statement to her and she placed her thumb impression on her statement. The statement was also signed / attested by him. Statement is Ex.PL. Thumb impression of the patient on the statement is Ex.PL/1. His signature are Ex.PL/2. He made a request vide Ex.PE. The opinion of the doctor was Ex.PE1/. He deposed that when the

statement was made by the deceased, she remained conscious throughout. In his cross-examination, he deposed that statement was recorded by him in his own handwriting. When he recorded the statement of the deceased, doctor was not present. The doctor was standing outside. He took about one hour and ten minutes to record her statement.

13. PW6 HC Pawan Kumar deposed that on 21.4.2002, he was posted in Police Station City Sangrur. He along with PHG Gurmel Singh was present at Nabha Gate, Sangrur, in connection with patrolling duties. They heard some commotion in the nearby location. They reached at the spot. At the house number of persons were standing. Badly burnt Gurmeet Kaur was wrapped in a blanket. She was alive but in pain. Two ladies Kaushalya and Jaswant Kaur were present there. He removed Gurmeet Kaur to the Civil Hospital, Sangrur on a private jeep.

14. PW7 ASI Megh Raj went to DMC, Ludhiana. He prepared inquest report, Ex.PH. He recorded the statements of Gurkirpal Singh and Paramjit Singh. He took the dead-body for post-mortem examination.

15. PW8 Gurkirpal Singh deposed that Ranjit Kaur was his mother. Tripatinder Pal Singh was his brother. Gurmel Kaur was wife of Tripatinder Pal Singh. Ranjit Singh was real brother of Gurmel Kaur. Jatinder Singh was the husband of sister of Gurmel Kaur. His mother inherited 5 *bighas* of land from her father. He used to demand his share in that land from his mother. She was reluctant. On 21.4.2002, when he came back, he came to know about the incident. He went to Civil Hospital, Sangrur. She was referred to Rajindera Hospital, Patiala, but he took her to DMC, Ludhiana.

16. PW9 SI Pritam Singh deposed that he met Dr. Suman Grewal. He obtained opinion of the doctor Ex.PD/1. The doctor declared the injured

fit to make statement. He deputed HC Gurmail Singh to bring Executive Magistrate for recording her statement. PW5 Bikram Shergill came to the hospital. He recorded the statement of Gurmeet Kaur. He was present outside the room. Dying declaration, Ex.PL, was handed over to him. At the foot of the statement, he made endorsement Ex.PL/4. The accused were arrested by him. He recovered one plastic bottle containing about one quarter of kerosene oil, Ex.P1, a match box, Ex.P2 and three pieces of burnt clothes, Ex.P3.

17. What emerges from the evidence discussed herein above is that Gurmeet Kaur was married to PW8 Gurkirpal Singh. Her mother-in-law Ranjit Kaur had inherited 5 *bighas* of land from her father. There was dispute between the brothers about this land. Gurmeet Kaur was cleaning the utensils in the kitchen on 21.4.2002 at about 3.00 P.M. Her son Prabhpreet Singh (PW4) was also present. Ranjit Kaur sprinkled kerosene oil on Gurmeet Kaur. Gurmeet Kaur set her on fire by throwing burning match stick. Her clothes caught fire. She tried to escape. Tripatinder Pal Singh blocked her exit. Ranjit Singh and Jatinder Singh were also present. They raised *lalkara* that she be not spared. She was taken to Civil Hospital, Sangrur. She had received 70 to 80% burns. She was medically examined by Dr. Sumanpreet Kaur Grewal. PW5 Bikram Shergill recorded the dying declaration of the deceased. Before recording her statement, PW5 Bikram Shergill obtained opinion of the doctor whether Gurmeet Kaur was fit to make statement. He recorded her statement and thumb marked the same vide Ex.PL. She died on 27.6.2002. According to post-mortem report, Gurmeet Kaur died due to septicemia shock as a result of extensive burns about 80%. These injuries were sufficient to cause death in ordinary course

of nature. Burns were ante-mortem in nature. Post-mortem examination was conducted by Dr. Sanjeev Hans. PW4 Prabhpreet Singh was the eye-witness. He has given natural sequence of crime. He has disclosed the manner in which his mother Gurmeet Kaur was set on fire. He was minor witness, however, his statement was got recorded after adjudging his ability to answer the questions correctly. At that time he was about 15 years of age. Statement of minor witness can always be taken into consideration but with caution. It is not the case of the appellants that he was tutored by the prosecution.

18. PW6 HC Pawan Kumar had taken Gurmeet Kaur to Civil Hospital, Sangrur along with Kaushalya and Jaswant Kaur. PW1 Dr. Sumandeep Kaur Grewal has stated in her statement that two ladies had also accompanied when police brought the injured. The dying declaration was made by the deceased voluntarily. It is solitary dying declaration. PW5 Bikram Shergill has recorded the statement after obtaining the opinion of PW1 Dr. Sumandeep Kaur Grewal. Gurmeet Kaur had put left thumb impression on her statement recorded by Bikram Shergill. He had also signed the same.

19. PW8 Gurkirpal Singh has also deposed that there was dispute in the family qua the land inherited by his mother. Plastic bottle, containing about one quarter of kerosene oil, a match box and three pieces of burnt clothes were taken into possession by the police. Site plan was also prepared.

20. The appellants have also examined witnesses in defence. DW1 Jaspal Singh testified that he was Sarpanch of village Chananwal. There was dispute regarding land of Ranjit Kaur.

21. DW2 Balwinder Singh deposed that he knew Ranjit Singh. His sister Gurmel Kaur was married at Sangrur.
22. DW3 Balbir Singh has also made statement qua accused Ranjit Singh.
23. DW4 Gurpal Singh deposed that he knew Jatinder Singh. Similarly, DW5 Ajit Singh deposed that he knew Jatinder Singh.
24. DW6 Hem Raj deposed that he knew Tripatinder Pal Singh.
25. DW7 Surjit Singh Grewal, SP (D), Sangrur, had conducted the enquiry, vide Ex. DW7/A. Reliance has been placed on the enquiry report by submitting that Jatinder Singh and Ranjit Singh were found innocent. The fact of the matter is that there is overwhelming evidence against them. There is no merit in the contention of the appellants that the deceased had committed suicide. There was no occasion for her to commit suicide. The dying declaration made by her is voluntary and reliable. There is no unnecessary delay in lodging the FIR. Learned counsels for the appellants have also argued that Kaushalya and Jaswant Kaur were not examined. Their examination was not material in view of the statement of HC Pawan Kumar, who deposed that when Gurmeet Kaur was taken to hospital, Kaushalya and Jaswant Kaur had also accompanied the police. PW1 Dr. Sumandeep Kaur Grewal has also deposed that when Gurmeet Kaur was brought by the police, she was accompanied by two ladies. There was no need to record the dying declaration in question-answer form. Deceased had put her thumb impression on the dying declaration, Ex.PL/1, in the presence of Bikram Shergill. In the dying declaration, names of all the accused were mentioned.

26. The plea of alibi has rightly been rejected by the trial Court. The accused had constituted an unlawful assembly and committed the murder of Gurmeet Kaur with a common object. The prosecution has proved the motive. The appellants killed Gurmeet Kaur by sprinkling kerosene oil and throwing a burning match stick. Moreover, the person who takes the plea of alibi has to prove the same, failing which it will be presumed that the person was present at the spot.

27. As far as the prayer of the petitioner with regard to enhancement of sentence is concerned, the trial Court has awarded adequate sentence on the appellants. This case does not fall in the category of rarest of rare cases.

28. No interference is called for in the well reasoned judgment of the learned trial Court. There is no merit in the appeals as well as the criminal revision. The same are hereby dismissed.

29. All the appellants are on bail. Their bail bonds are cancelled. They be committed to jail to undergo their remaining part of sentence.

(Rajiv Sharma)
Judge

21.12.2018
vs

(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No