

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CRA-D-613-DB-2012

Date of decision: 27.01.2018

Mana Ram and another

..... Appellants.

vs.

State of Haryana

..... Respondent

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI**

Present: Mr. Pawan Kumar Hooda and
Mr. Ashwani Bhardwaj, Advocates,
for the appellants.

Mr. D.Khanna, Additional Advocate General, Haryana.

RAJ SHEKHAR ATTRI, J.

Deceased-Deepak had entered into the house of accused on the intervening night of 25/26.08.2009. His dead body was recovered from the house of accused in the next morning.

Accused-Mana Ram and Anil Kumar have taken a specific plea that in fact the deceased had stealthily come to meet the daughter of said Mana Ram on that night and he started outraging her modesty, therefore, his daughter had given him beatings with a *danda* and bludgeoned him to death.

On the next day, FIR (Ex.P44) was lodged by the father of deceased, namely, Panna Lal @ Babu Lal, on the allegations that he received information regarding death of his son Deepak in the house of accused, therefore, he alongwith other persons had entered their house and found the dead body of his son. Autopsy was conducted twice; firstly by Medical

Board of Civil Hospital, Tohana and secondly by PGI, Rohtak. From the perusal of post-mortem conducted in PGI, Rohtak, it transpires that dead body bore 15 injuries; all with blunt weapons. However, injury No.14 on the scrotum was found to be fatal. Inquest report (Ex.P31) was prepared.

Learned counsel for the appellants has submitted that in fact accused committed criminal trespass by wrongly and illegally entering the house of the appellants at mid night stealthily and then he started outraging the modesty of Reena daughter of Mana Ram, and it was she who had given blows with blunt weapons and Deepak died at the spot. Further, that in fact appellants came to know of the incident only in the morning and they themselves informed the father of the deceased but father of the deceased, in connivance with the police had twisted the matter and got lodged false report against them and that the learned trial Court has failed to appreciate the evidence.

On the other hand, learned State counsel has submitted that although the appellants had admitted the gist of the crime yet they did not produce the daughter of Mana Ram to substantiate the defence plea and the onus has been shifted upon them that the dead body was recovered from their house, therefore, an adverse inference stands drawn against them. He supported the findings of learned trial Court and urges for dismissal of the appeal.

We have given our thoughtful consideration to the rival contentions and carefully examined the evidence on the record.

This case is based upon circumstantial evidence. Panna Lal @ Babu Lal, had not witnessed the occurrence; he simply stated that when he received information with regard to death of his son, he alongwith other

persons had entered into the house of appellant-Mana Ram and found that dead body of the deceased was lying in his house. Appellant Mana Ram has taken a specific plea as under:-

Statement of accused-Mana Ram under Section 313 Cr.P.C.

“ I am innocent. I have been falsely implicated in this case. On the night of 25/26.08.2009, deceased Deepak trespassed into my house and entered the room where my daughter Reena was sleeping. Deepak attempted to molest my daughter and my daughter Reena gave injuries to Deepak with dandas lying in the room to save her modesty. I, my sons and my wife were sleeping in separate rooms. I gave information to the father of Deepak and I also informed the police about the incident. I did not cause injuries to Deepak and I have been falsely implicated in this case by the complainant party.”

Appellant Anil Kumar also took similar plea.

Both appellants Mana Ram and Anil Kumar, are residing in the same house and dead body was recovered therefrom. This was their duty to explain the circumstances having in their specific knowledge. Their explanation that it was only Miss Reena, who gave injuries to Deepak with *danda* (stick) which was lying in the room, but they failed to substantiate their plea mainly due to the following reasons:-

(1):- They had not produced Reena;

(2):- They did not inform the police or co-villagers regarding this incident and they, first time, took this plea during trial and

(3):- Apart from it, deceased suffered 15 injuries.

In the circumstances, it is not believable that Reena had inflicted so many injuries especially when no *danda* has been recovered from her possession.

It seems that both the appellants had concealed the true facts but one fact is undisputed that dead body has been recovered from the house of the appellants which was under their possession. Their explanation that Reena had inflicted injuries on the deceased, is not believable rather found to be an afterthought.

Thus, inference stands drawn against them that either they themselves had committed murder or concealed the real facts.

As a result thereof, this appeal is devoid of merits and the same stands dismissed. The judgment of conviction and order of sentence stand upheld. The sentence imposed upon the appellants stands maintained.

(MAHESH GROVER)
JUDGE

(RAJ SHEKHAR ATTRI)
JUDGE

27.01.2018
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1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No