

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. CRA-D-415-DB of 2013 (O&M)
Date of decision : 20.11.2018

...

Satbir Singh

.....Appellant

vs.

State of Punjab

.....Respondent

2. CRA-D-454-DB of 2013 (O&M)

...

Kamaljit Kaur

.....Appellant

vs.

State of Punjab

.....Respondent

**Coram: Hon'ble Mr. Justice A.B. Chaudhari
Hon'ble Mr. Justice H.S. Madaan**

Present: Mr. Ajay Pal Singh Rehan, Advocate
for the appellant in CRA-D-415-DB-2013

Ms. Sushma Chopra, Advocate
for the appellant in CRA-D-454-DB-2013

Mr. H.S. Grewal, Additional Advocate General,
Punjab

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H.S. Madaan, J.

Vide this judgment, we propose to dispose of two

appeals bearing CRA-D-415-DB-2013 filed by Satbir Singh and CRA-D-454-DB-2013 filed by Kamaljit Kaur, against the judgment and order dated 1.4.2013 passed by Additional Sessions Judge, Jalandhar, vide which he had convicted accused Kamaljit Kaur and Satbir Singh for offences under Sections 120-B, 302 IPC and sentenced them as under:-

<i>Name of the convict</i>	<i>Offence</i>	<i>Sentence</i>
Kamaljit Kaur	U/s 120-B IPC	Rigorous imprisonment for a term of life and to pay fine of Rs.1,000/-.
	U/s 302 IPC	Rigorous imprisonment for a term of life and to pay fine of Rs.1,000/-.
Satbir Singh	U/s 120-B IPC	Rigorous imprisonment for a term of life and to pay fine of Rs.1,000/-.
	U/s 302 IPC	Rigorous imprisonment for a term of life and to pay fine of Rs.1,000/-.

Both the sentences were ordered to run concurrently.

Both the accused-convicts pray that the appeals filed by them be accepted, the impugned judgment of their conviction and sentence be set aside and they be acquitted of the charge framed against them.

Briefly stated, the facts of the case, as per the prosecution story are that criminal machinery in this case was set into motion by complainant Dilbagh Singh s/o Udham Singh of Jat community, r/o village Baghela, Police Station Mehatpur, District Jalandhar, aged about 51 years, who in his statement got recorded with the police on 19.12.2010, stated that his nephew Kuldip Singh s/o Gurbachan Singh had been residing in Italy for the last 13-14

years; that Kamaljit Kaur w/o Kuldeep Singh, had also been residing in that village alongwith her two children, i.e. son Satinderjit Singh, aged about 10 years and daughter Jaswinder Kaur aged 2 ½ years; that on 17.12.2010 at about 9.15 A.M. Sukhwinder Singh driver of mini bus belonging to Punjab Public School, Umrewal Billa, alongwith Balwant Singh @ Billa and Madam Jasbir Kaur handed over Satinderjit Singh to his mother Kamaljit Kaur in front of house of Kuldeep Singh, saying that the child was ill. According to the complainant, he went there and enquired from Satinderjit Singh as to what had happened to him. In the meanwhile, Kulwant Kaur w/o complainant Dilbagh Singh, Balbir Kaur daughter-in-law of elder brother of complainant namely, Gurbachan Singh, also came there. Satinderjit Singh told him that his mother had given him a tablet to swallow and thereafter gave him one chapati and then made him board the school bus. In the meanwhile, health of Satinderjit Singh started deteriorating, observing which Jaspreet Kaur and Kamaljit Kaur took him to Civil Hospital, Mehatpur for treatment, from there they took him to Pasricha Hospital, Jalandhar. However, Satinderjit Singh died there on 17.12.2010 at about 10.30 A.M. In such statement, complainant narrated that Satinderjit Singh had been killed by his mother Kamaljit Kaur, by giving poison for the reason that Kamaljit Kaur had developed illicit relations with Satbir Singh accused, in the absence of her husband and her son Satinderjit Singh knew about that. Kamaljit Kaur and Satibir Singh suspected that Satinderjit Singh would talk about their affair with outsiders and would tell his father; that he had informed his father regarding the

illicit relations between Kamaljit Kaur and Satbir Singh in past also, as such both the accused had killed the child by administering poison to him.

The Investigating Officer appended his endorsement below such statement of Dilbagh Singh and sent *ruqa* to the Police Station, on the basis of which formal FIR was recorded.

The investigation in the case started. Accused were arrested in this case. Post mortem examination on the dead body of Satinderjit Singh was got performed. During the course of investigation, on being interrogated, accused Satbir Singh and Kamaljit Kaur suffered disclosure statements to the effect that on 17.12.2010 a small container (*Dabbi*) of Celphos tablets had been given to Kamaljit Kaur by Satbir Singh, for administering the same to her son Satinderjit Singh. Such tablets had been purchased a few days earlier by Satbir Singh from the shop under the name and style of 'Aman Pesticides' at Mehatpur. Kamaljit Kaur had administered a tablet of Celphos to her son and put the remaining tablets in that *Dabbi* and thereafter they concealed the same under the bags of *bajri* (stone crusher) placed for climbing to the house of Kamaljit Kaur from the house of Satbir Singh, about which they knew and could get the same recovered. Separate disclosure statements of both the accused were recorded. Thereafter, such accused while in police custody, in pursuance of the disclosure statements, got recorded by them, got effected recovery of Celphos tablets, which were taken into police possession.

After completion of investigation and other formalities,

challan against the accused was prepared and filed in the Court of Sub Divisional Judicial Magistrate, Nakodar, who supplied copies of documents relied upon therein to the accused free of cost, as provided under Section 207 Cr.P.C. and then the case was committed to the court of Sessions Judge, Jalandhar vide order dated 4.3.2011 from where it was entrusted to the Court of Additional Sessions Judge, Jalandhar, who after finding that prima facie charge for offence under Sections 302 and 120-B IPC was disclosed, charge sheeted both the accused accordingly, to which they pleaded not guilty and claimed trial.

The case was fixed for evidence of the prosecution, during the course of which, the prosecution examined 20 witnesses, i.e. PW-1 Dilbagh Singh complainant, PW-2 Kulwant Kaur, PW-3 Jaspreet Kaur, PW-4 Dr. Nitin Gupta, PW-5 Dr. Jatinder Kumar, PW-6 Swaran Kaur, PW-7 HC Jaswinder Singh, PW-8 HC Kulwinder Singh, PW-9 Wassan Singh, PW-10 Baldev Singh, PW-11 Gurbhej Singh, PW-12 Gurmej Singh, PW-13 Ramesh Chander, PW-14 Kuldip Singh, PW-15 Balraj Singh, PW-16 Gurdeep Singh, PW-17 Dr. Ajay Kumar, PW-18 SI Bimal Kant, PW-19 ASI Nirmal Singh and PW-20 HC Mandeep Singh.

After closure of prosecution evidence, statements of the accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against such accused were put to them, but they denied the allegations pleading false implication and innocence. Accused Kamaljit Kaur took up the plea that she is residing separately and not in a joint family; that she has a separate

mess; that her husband had gone to Italy; that she had great love and affection with her deceased son; that she had no relations with Satbir Singh accused nor he had ever come to her house; that she had not given poison to her son Satinderjit Singh nor she had made any extra-judicial confession or any confession before the police; that she was happily living with her husband and son; that her son had no talk with Dilbagh Singh, Jaspreet Kaur and Kulwant Kaur.

Accused Satbir Singh took up the plea that his sister Gurjit Kaur was married with Kamaljit Singh r/o Baghiarpura; that her in-laws used to maltreat her on account of dowry; that entire family of Dilbagh Singh PW was helping Kamaljit Singh and on account of this reason a quarrel had taken place between him and family of Dilbagh Singh; that therefore they were on inimical terms and not even on talking terms with family of co-accused Kamaljit Kaur. He stated that he had not made any extra judicial confession before anybody and family of Dilbagh Singh, who is an influential person and has got him falsely implicated in this case. He has further stated that he had not made any disclosure statement and had not got effected any recovery.

During their defence evidence, the accused examined DW-1 Gurpreet Singh, DW-2 Inderjit Singh, DW-3 Munish Gupta, DW-4 Amrik Singh, DW-5 Sadhu Singh, DW-6 Joginder Singh and closed their evidence.

After hearing the arguments, learned trial Court convicted and sentenced accused Kamaljit Kaur and Satbir Singh, as mentioned above, which left them aggrieved and they have filed the

present appeals.

We have gone through the judgment of conviction and order of sentence passed against both the accused-appellants and we find that the appeals lack merit, since there is no illegality or infirmity with the impugned judgment or order of sentence. The trial Court on appreciation of evidence led before it, had returned a definite finding that both the accused had entered into a conspiracy to commit murder of Satinderjit Singh, in as much as, accused Satbir Singh had procured Celphos tablets and handed over the same to his co-accused Kamaljit Kaur for administering a tablet to Satinderjit Singh, who was proving to be an obstacle in their extra marital relationship. Kamaljit Kaur accordingly did so and then both of them concealed the remaining Celphos tablets placed in a *Dabbi* at a place close to their houses, which was within their knowledge only and further that due to the poisonous Celphos tablet, which Kamaljit Kaur made Satinderjit Singh to consume, in pursuance of the conspiracy hatched by both the accused i.e. she and Satbir Singh, Satinderjit Singh became unwell and subsequently died. It is not in dispute that Satinderjit Singh used to reside with his mother Kamaljit Kaur accused. It is established on the record that in the morning Kamaljit Kaur had made Satinderjit Singh take a tablet alongwith breakfast, while he was to leave for school in a school bus and she herself made him sit in the bus, where his condition had deteriorated.

Statement of PW-15 Balraj Singh is very important, who used to travel with the deceased in the school van, being his schoolmate and on the fateful day was also there. He is aged about

13 years, a student of 8th class. The trial Court after putting questions to him found him to be a competent witness. In his statement he stated that he used to go to school in a school van and many other children used to go in that van; that on 17.12.2010 at about 8.30 A.M., he alongwith other children boarded the school van; that at a distance of 3-4 houses, mother of Satinderjit Singh had come alongwith him for boarding the van; that mother of Satinderjit Singh made him board the van and then she returned; that Satinderjit Singh sat with him; that when he sat with him foul smell was coming from him; that he did not consume anything in the van; that after about 10-15 minutes they reached the school and while getting down from the school van he vomited partly in the van and partly outside. Going further the witness stated that he went to his class; that earlier mother of Satinderjit Singh never accompanied the child for boarding the bus. This statement is very crucial and goes a long way in establishing the guilt of the accused. Why did accused Kamaljit Kaur bring Satinderjit Singh to the school van on that day especially when she never did so in the past, is a big question, which craves for being answered by the accused side. The accused have failed to give any satisfactory reply to the same. Further foul smell coming from the mouth of Satinderjit Singh, while he sat in the van; he without consuming anything while in the van; and after 10-15 minutes of reaching the school premises vomiting in the van, as well as, outside , goes to show that the poison had been given to him at his house. This can be so inferred using the principle of res gestae in terms of Section 6 of the Evidence Act, which provides that “ facts which, though not

in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places. In terms of Section 106 of the Evidence Act, also the accused get nailed. It was for Kamaljit Kaur to explain as to how and under what circumstances, poison was consumed by Satinderjit Singh, which she could not do, though she has tried to create some confusion, stating that the colour of the tablet so taken was red, whereas the colour of Celphos tablet is brown. But such type of things do not have much effect. One thing becomes crystal clear that no other person had any reason or occasion or for that matter, chance to administer poison to the deceased during the intervening period. From the record, an irresistible conclusion to be drawn is that it was Kamaljit Kaur who had administered poison to Satinderjit Singh and she did so in conspiracy with her paramour and co-accused Satbir Singh and that an innocent child died as a result of poison so administered to him.

Learned counsel for accused Satbir Singh argued that there is no evidence to show the involvement of Satbir Singh in the incident and he has been wrongly convicted and sentenced. However, such contention is absolutely without any force. As a matter of common knowledge, conspiracy is always shrouded by secrecy and it is difficult to get direct evidence thereof. Conspiracy is to be inferred from the circumstances. Here the circumstances of the case and evidence available on the file clearly points out that Satbir Singh had developed illicit relations with Kamaljit Kaur and finding Satinderjit Singh a teenager of 13 years to be an obstacle in their such relations,

they tried to finish him off. There is enough oral evidence available on the record in the form of statement of PW-1 Dilbagh Singh complainant, PW-2 Kulwant Kaur wife of Dilbagh Singh, PW-3 Jaspreet Kaur, PW-9 Wassan Singh, PW-10 Baldev Singh, PW-11 Gurbhej Singh, PW-14 Kuldip Singh husband of Kamaljit Kaur.

Statement of PW-14 Kuldip Singh, husband of Kamaljit Kaur is quite important, in which he stated that behaviour of Kamaljit Kaur was not good towards him and she used to quarrel with him; that she wanted to marry Satbir Singh, the boy living in the neighbourhood and she wanted to take him to Italy. For that reason she wanted divorce from him. The witness further stated that he had made an enquiry from his deceased son about his wife, who told him that Satbir Singh used to visit their house at night time and Kamaljit Kaur used to sleep with him in naked condition. That goes a long way in proving the illicit relations between the two accused.

Thus involvement of Satbir Singh in the crime cannot be nullified in such a manner. One more important thing in this case is the oral dying declaration of the deceased, which was proved by PW-1 Dilbagh Singh, who stated that he had enquired from the child as to what had happened to him and the child told him that his mother had given some tablet and gave food to eat and then he boarded the bus. PW-2 Kulwant Kaur also deposed in that regard, so did PW-3 Jaspreet Kaur.

Then there is extra judicial confession of Kamaljit Kaur before PW-10 Baldev Singh, an uncle of Kamaljit Kaur, who stated that marriage of Kamaljit Kaur with Kuldip Singh was arranged

through him as a mediator and on death of Satinderjit Singh, he had gone to her house, took Kamaljit Kaur to one side and she told him that she was in love with a boy living in the neighbourhood for the last four months namely, Satbir and both of them wanted to marry. Satinderjit Singh and Kuldip Singh were hurdle between them; that she had consulted Satbir Singh that the boy/child had seen their relations with each other, on which Satbir Singh brought Celphos tablets, gave those to Kamaljit Kaur and the same were given to the child. Kamaljit Kaur requested him that he should help her in solving the matter. In his cross examination he could not be shattered. This extra judicial concession also goes a long way in proving the criminal liability of the accused.

Though learned counsel for the appellants had raised a plea that there is delay in reporting the matter to the police, but keeping in view the totality of circumstances, we find that delay in lodging the case is not of much value in absence of any strong motive for the complainant to involve the accused in this case falsely.

Another contention put forward was that Buta Singh has not been examined. However, we fail to understand the logic in making this contention. It is for the prosecution to see as to which witness is to be examined and the accused cannot find fault with the prosecution story in such a way, when otherwise it is proved on record in a cogent and convincing manner.

We find that the judgment 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 judgment does not require any interference as regards conviction of the accused and their sentence.

The appeals are found to be without any merit and are dismissed accordingly.

(A.B. CHAUDHARI) (H.S. MADAAN)
JUDGE JUDGE

20.11.2018
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Whether speaking / reasoned Yes / No

Whether reportable Yes / No