

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

CRA-S-2548-SB-2012

Date of decision: 18.8.2018

Monu alias Maan Singh

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: None for the appellant

Mr.SK Saini, AAG, Haryana

JITENDRA CHAUHAN, J.

1. The present appeal is directed against the judgment and order dated 23/29. 11.2011 passed by the Additional Sessions Judge, Faridabad, (for short 'trial Court'), whereby the accused–appellant was convicted for the offences punishable under Section 306 of the IPC and was ordered to be sentenced to undergo rigorous imprisonment for a period of four years and to pay a fine of Rs.2000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of two months.

2. The trial Court noticed the facts of the present case in para No.1 the impugned judgment, which are as under:-

“As per the case of prosecution, Renu daughter of Bijjan was married to Man Singh @ Monu about 12 years ago. Monu was in habit of drinking and gambling. He, under influence of

liquor, used to beat Renu. About two months ago, Renu came to her parental home and on 13.10.2010 Monu took her with assurance that he would not beat her. Despite that Santu, brother in law, Chander Wati, mother in law and Monu husband of Renu used to beat her. On 17.10.2010 complainant received information that Renu had committed suicide by strangulation. The case was registered and investigation was carried out. The accused were arrested. Statements of witnesses under Section 161 Cr.P.C. were recorded.”

3. On completion of the investigation, the accused/appellant was charge-sheeted under Section 306 read with Section 34 of IPC, to which he pleaded not guilty and claimed trial.

4. To prove its case, the prosecution examined Bhagwan Dass, brother of deceased Renu, as PW1; Samundri, aunt (mausi) of deceased Renu as PW2; Dr.Ajaypal as PW3; Sarwan Kumar, draftsman, as PW4; ASI Dalbir Singh as PW5; HC Pardeep Kumar as PW6; Bijjan, father of deceased Renu, as PW7 and SI Parkash Chand as PW8.

5. After completion of the deposition made by the prosecution, the accused was examined under Section 313 of the Code of Criminal Procedure. The accused denied the circumstances appearing against him in prosecution evidence and pleaded innocence. He did not lead any defence evidence

6. After hearing learned counsel for both the parties, learned trial Court convicted and sentenced the accused as noticed at the outset of this

judgment.

7. Feeling aggrieved by the judgment/ order of the learned Trial Court, the appellant has preferred this appeal.

8. None has caused appearance on behalf of the appellant. In the grounds of appeal, it has been pleaded that the appellant was falsely implicated on the allegation that he was alcoholic and gambler and under influence of liquor, he used to beat his wife. The marriage of the appellant in question with deceased Renu was more than 12- year-old. It has been further averred that there is no instance of any domestic violence, complaint regarding ill treatment by the deceased during her life time. In the medical examination of the appellant, it has nowhere been found that he was an alcoholic. All the prosecution witnesses were the relative of the deceased Renu. No statement of any of the neighbour was recorded, which could substantiate or corroborate the version of the prosecution regarding the beating of deceased Renu. In fact the father of the deceased would force the appellant to allow the deceased to live with him.

9 On the other hand, learned counsel for State has argued that the case of the prosecution is proved beyond reasonable doubt and the learned trial Court has rightly convicted and sentenced the appellant.

10 I have heard learned counsel for the respondent-State and perused the record with their able assistance.

11. PW3 Dr. Ajaypal, who conducted the post mortem examination on the dead body of deceased Renu, has opined that the cause of death was asphyxia, as a result of hanging, which is ante mortem in nature and is

sufficient to cause death in ordinary course of nature. PW7 Bijjan, father of the deceased had deposed that accused Monu was an alcoholic and indulged in gambling and he used to give beatings to Renu under influence of liquor. From the matrimonial home, he took his daughter Renu alongwith him on 13.10.2010. On assurance by the accused that he will not beat Renu in future, she was sent to her matrimonial home. The said statement was corroborated by PW2 Samundri, the sister of mother of deceased Renu. He further deposed that on 17.10.2010, he got information that his daughter had died.

12. The deceased Renu was having three children and there was no reason for her to commit suicide only for the reason that her father used to compel her to live with him which led to quarrel between Renu and her husband i.e. accused Monu. No evidence has been led by the appellant with regard to false implication. There is cogent, convincing and reliable evidence on record to prove that the appellant used to beat up the deceased under the influence of liquor.

13. In **Waman v. State of Maharashtra 2011 AIR (SC) 3327**, Hon'ble the Supreme Court dealt with the case of a related witness (though not a witness inimical to the assailant) and held as under:

"20. It is clear that merely because the witnesses are related to the complainant or the deceased, their evidence cannot be thrown out. If their evidence is found to be consistent and true, the fact of being a relative cannot by itself discredit their evidence. In other words, the

relationship is not a factor to affect the credibility of a witness and the courts have to scrutinise their evidence meticulously with a little care."

14. In the instant case, the plea of the appellant that the prosecution witnesses are related and interested witnesses and as such, their testimony cannot be relied upon to base his conviction, is not tenable as the prosecution witnesses have given a vivid and clear picturesque of the chain of events. Inability of the prosecution witnesses to tell specific date and time of the incidents of alleged beatings given by the appellant to the deceased on a number of occasions earlier, is not *per se* fatal to the prosecution in the factual backdrop that the witnesses are rustic villagers. They have withstood the litmus test of cross examination and their evidence inspires full confidence of the Court.

15. In the circumstances, the case of the prosecution is fully established beyond reasonable doubt. The appellant has undergone 2 years, 1 month and 4 days (including remission) of actual sentence. The sentence of the appellant was suspended by this Court on 17.10.2012. The FIR in the instant case was registered in the year 2010. The appellant has suffered protracted trial of more than 8 years. He is poor labourer and having three children. Nothing has been pointed out by the learned counsel for the State that the appellant has misused the concession of bail during the pendency of the appeal, therefore, in my considered opinion, the ends of justice would be met if the sentence of imprisonment awarded to the petitioner is reduced to the period already undergone by him. However, the sentence of fine shall

remain the same.

16. The present appeal is partly allowed and the judgment and order of the learned trial Court stands modified to the extent indicated above.

18.8.2018
gsv

(JITENDRA CHAUHAN)
JUDGE

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

