

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

CRA-S-2263-SB of 2013(O&M)

Date of Decision: August 04, 2018

Gurlal Singh @ Lali

..... Appellant

Versus

State of Punjab

..... Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Ashwani Bhardwaj, Advocate
for the appellant.

Ms. Seena Mand, DAG., Punjab

LISA GILL, J (Oral).

Appellant has been convicted for the offences punishable under Section 304-B IPC by the learned Additional Sessions Judge, Bathinda, vide impugned judgment dated 17.04.2013 and by order dated 17.04.2013, he has been sentenced to undergo rigorous imprisonment for seven years.

Aggrieved therefrom, present appeal has been filed by the appellant.

Brief facts necessary for the adjudication of the case are that FIR No. 53 dated 08.06.2012 (Ex.P-9) was registered on the statement (Ex.P-2) of the complainant-Malkit Singh son of Mohinder Singh (father of the deceased). Complainant stated that he is a labourer. His daughter Mamta Rani (deceased) aged about 24-45 years was married four or five years prior to the occurrence to appellant-Gurlal Singh @ Lalli. A son was born out of this wedlock, who was 3 ½ years old. It is further stated that the complainant had incurred expenses as per his capacity on the said marriage. However, after some time of the marriage, the complainant's son-in-law (appellant) started maltreating his daughter-Mamta Rani for bringing more dowry. The appellant, his father-Jarnail Singh and mother-in-law-Rani Kaur started

physically abusing his daughter. His daughter being fed up with the ill-treatment, informed the complainant about the ill-treatment meted out to her specifically on the demand of a motorcycle. The matter was disclosed by the complainant to his brothers-in-law- Baldev Singh and Beant Singh. Panchayat was convened on a number of occasions at the village of the appellant. Accused used to rehabilitate his daughter every time, but again things would revert to the same situation. It is stated that about 25 days prior to the occurrence, the complainant's daughter was turned out of the matrimonial home after being beaten up. Few days prior to the occurrence, appellant-Gurlal Singh @ Lali along with his parents and other respectables of the village came to the complainant's house and took back his daughter after giving assurances. The complainant's brother-in-law-Baldev Singh informed the complainant on 07.06.2012 that he received a telephonic call from Avtar Singh (mother's sister husband), uncle of Gurlal Singh @ Lali disclosing that Mamta Rani had passed away. Complainant along with his brother-in-law Baldev Singh went to the appellant's village and saw the dead body of his daughter lying on a cot in a room. After leaving some respectables near the dead body, the complainant along with his brother-in-law Baldev Singh, came back to their village to bring back some more respectables from their village. The complainant along with his brother-in-law-Baldev Singh and other respectable persons reached the Civil Hospital, Bathinda on 08.06.2012. It was alleged that the complainant's daughter-Mamta Rani had been murdered by strangulating her by the appellant and his parents.

Formal FIR (Ex.P-9) was registered on the statement of the complainant (Ex.P-2) recorded by ASI Rajwinder Singh. Inquest report Ex.P-10 was prepared. Postmortem was conducted. Postmortem report Ex.P-

24 is on record. Rough site plan Ex.P-16 was prepared. The appellant was arrested on 11.06.2012 and he suffered a disclosure statement Ex.P-14, wherein he disclosed that the rope with which he strangled Mamta Rani and the sickle by which the rope was cut into pieces were kept concealed. This fact was in his exclusive knowledge and he can get the same recovered. Pursuant to the disclosure statement, the rope and sickle were recovered and taken in police possession vide recovery memo Ex.P-15. Pictorial site plan Ex.P-18 of the place of recovery was prepared.

During investigation, accused-Jarnail Singh and Rani Kaur i.e. parents of the appellant were found innocent. Final report under Section 173 Cr.P.C., was presented after completion of investigation and the case was committed to the Court of Sessions on 13.10.2012.

Charge under Section 304 IPC was framed on 05.11.2012 to which accused pleaded not guilty and claimed trial.

It is relevant to note, at this stage, that accused-Jarnail Singh and Rani Kaur were summoned to face trial as additional accused on an application under Section 319 Cr.P.C., vide order dated 04.01.2013. Charge under Section 304-B IPC was framed against all the accused on 31.01.2013 and subsequently charge was amended vide order dated 01.03.2013 while adding the offence punishable under Section 302 IPC in alternate.

Prosecution examined as many as seven (07) witnesses to prove its case. PW-2-Malkit Singh, the complainant reiterated the version as disclosed in his statement Ex.P-2. PW-4-ASI Rajwinder Singh, the Investigating Officer in this case testified regarding the details of the police investigation. PW-6-Rachhpal Singh, photographer, proved the photographs of the dead body taken by him on 07.06.2012 i.e. Ex.P-19 to Ex.P-22. PW-7-Dr. Satish Jindal, proved the postmortem report Ex.P-24, which was

submitted after the postmortem examination conducted by him along with Dr. Monika Gupta.

The appellant in his statement under Section 313 Cr.P.C., while denying the incriminating evidence put to him, pleaded innocence and false implication.

Four (04) witnesses were produced in defence evidence. DW-1- Shaminder Singh, deposed that the parents of the appellant were living separately from the appellant and the deceased. Appellant-Gurlal Singh @ Lali, it was stated was indulging in thefts and was a drug addict. DW-2- Dr. Vijay Mal, deposed that the appellant was admitted in his hospital on 07.06.2012 for spray poisoning. He was discharged on 11.06.2012. Copy of the treatment record Ex.D-3 was proved by him. DW-3-Bhagwant Singh, proved Ex.D-4 i.e. an application regarding innocence of the parents of the appellant-Gurlal Singh @ Lali. DW-4, Baljeet Singh-DSP, proved his inquiry report as Ex.D-4, wherein the parents of the appellant were found innocent.

Learned trial Court, while taking into consideration the evidence on record as well as the entire facts and circumstances of the case concluded that the prosecution had failed to prove its case against the parents of the appellant-Gurlal Singh @ Lali. They were acquitted of the charges framed against them. However, appellant-Gurlal Singh @ Lali was found guilty of the offence punishable under Section 304-B IPC. Consequently, appellant-Gurlal Singh @ Lali, was convicted and sentenced as detailed in the foregoing paras.

Aggrieved therefrom, the present appeal has been filed.

Learned counsel for the appellant vehemently argues that the unexplained delay in filing of the FIR is clearly indicative of the falsity of

the prosecution version. It is contended that Monika Rani had passed away on 07.06.2012. Admittedly, intimation was received by the complainant and his family on the same date. It is further admitted that the complainant along with Baldev Singh had come to the appellant's home on 07.06.2012. Thus, there was no occasion for the complainant to have gone back to his village and thereafter returned on 08.06.2012 and lodged the present FIR. Furthermore, demand of dowry by the appellant is not proved. No specific allegations have been raised and neither substantiated by the evidence on record. Moreover, the complainant (PW-2) has admitted in his cross-examination that he was not averse to the younger sister of the deceased being married to the younger brother of the appellant. This indicates that relations between the family were cordial. In case, there had been any demand of dowry by the appellant or his family, there was no question of the complainant being ready to marry his younger daughter in the same family. It is thus prayed that judgment and order dated 17.04.2013 be set aside and the appellant be acquitted of the charge against them.

Per contra, learned counsel for the State submits that there is clear and cogent evidence on record, which points to the guilt of the appellant. Learned trial Court has convicted the appellant after considering the evidence on record vide a well reasoned and logical judgment. It is submitted that there is thus no ground to interfere with the same. The appeal, it is thus prayed, be dismissed.

I have heard learned counsel for the parties and have gone through the record of the case with their assistance.

The complainant-Malkit Singh, father of the deceased, specifically stated that his daughter-Mamta Rani was married to the appellant four/ five years prior to the occurrence. The couple was blessed

with a child, who was 3 ½ years old at the time of the occurrence. It is revealed that the complainant came to know about the ill-treatment meted out to his daughter after the birth of the child. The complainant's daughter was turned out of the matrimonial home on a number of occasions. Various Panchayats were convened. Each time, the complainant's daughter was left at the matrimonial home after assurance being given by the appellant regarding her safety and well-being. It is specifically stated by the complainant that about 25 days prior to the occurrence, the complainant's daughter was turned out of the matrimonial home after being beaten up. She had come to her parental home. It is only few days prior to the occurrence that the appellant along with his parents along with respectables of their village had come to the complainant's home and taken his daughter back to the matrimonial home after convincing her. It is categorically stated by the complainant-PW-2 as well as Baldev Singh PW-3 that the appellant raised a demand for a motorcycle. She was being ill-treated on account of bringing less dowry. Therefore, it cannot be said that no specific allegations regarding demand of dowry have been raised. Allegations of demand of dowry against the appellant soon before the death of the complainant's daughter are clear and categoric.

At this stage, it is relevant to note that PW-7-Dr.Satish Jindal, has proved the postmortem report Ex.P-24. Affidavit of Dr. Satish Jindal-PW-7 is on record as Ex.P-23. As per postmortem report, the following injury was found on the person of the deceased:-

“ligature mark 27x10mm in its max width, dry brownish, 3 cm below hyoid present, going obliquely upwards towards left ear upto 2 cm from post hair line, otherwise encircling whole of neck. Larynx and trachea showing hypermia and few haemorrhages. On dissection, petechial hg present in

subcutaneous tissue and dry parchment like white glistening fascia present.”

Cause of death as per the doctor's opinion was asphyxia as a result of hanging.

I have carefully perused the report and examined the photographs Ex.P-19 to Ex.P-22, especially the photograph-Ex.P-21, which shows the ligature mark encircling the neck of the deceased. Much stress has been laid by learned counsel for the appellant on the fact that the appellant himself consumed poison and was admitted in the hospital, therefore, there was no question of him being the cause of death of his wife. Though, the said argument appears attractive at first instance, but the same is devoid of merit in the factual matrix of the case. Merely because the appellant was admitted to a private hospital i.e. Sukhmani Nursing Home, Goniana, due to poisoning, cannot absolve him of the offence in question. At this stage, it is useful to refer to the testimony of DW-1-Shaminder Singh. Though, he has stated that the parents of the appellant were living separately, DW-1 specifically stated that the present appellant-Gurlal Singh @ Lali was indulging in thefts and was a drug addict. He has not stated anything about the admission of the appellant to the hospital after consuming of poison. Furthermore, statement of the appellant under Section 313 Cr.P.C., is indicative of acrimony between the couple. An effort has been made to give a different colour to the situation while trying to project that the deceased was depressed due to the rude behaviour of the complainant and thus hanged herself. The same is not substantiated by any evidence on record. It is admitted that about a month prior to the occurrence, the deceased was at her parental home due to ill-treatment by the appellant on account of demand of a motorcycle. She had been brought back to the matrimonial home a few days prior to the occurrence. The defence evidence primarily seeks to

display the innocence of the parents of the appellant by bringing on record that they were living separately from the appellant and his wife and had nothing to do with this dispute. The learned trial Court has acquitted the parents of the appellants.

Similarly, there is no merit in the argument that there is an unexplained delay in the registration of the FIR. The mere fact that the FIR in question was registered on 08.06.2012 in respect to the incident which took place on 07.06.2012, is not a material circumstance to falsify the prosecution case. The circumstances have been duly explained by the complainant. The same does not cast any cloud on the prosecution case and is not fatal.

Argument raised by learned counsel for the appellant that the presumption under Section 113-A of the Indian Evidence Act, has been successfully rebutted, is not borne out from the record. It is not in dispute that the complainant's daughter died an unnatural death in the matrimonial home within seven (07) years of her marriage. The allegations of demand of dowry and cruelty meted out to the deceased soon before her death are clearly proved on record. All the ingredients of Section 304-B IPC, are present in this case.

In my considered opinion, the appellant has been rightly convicted by the learned trial Court for the offence punishable under Section 304-B IPC. Prosecution has indeed succeeded in proving its case beyond reasonable doubt against the appellant-Gurlal Singh @ Lali.

No other arguments has been raised.

Learned counsel for the appellant is unable to point out any illegality, infirmity or perversity in the impugned judgment of conviction and order of sentence dated 17.04.2013, passed by the learned Additional

Sessions Judge, Bathinda. The said judgment and order dated 17.04.2013 passed by the learned Additional Sessions Judge, Bathinda, are accordingly upheld.

Consequently, this appeal is dismissed.

As the appellant's is on bail, his bail bonds and surety stands forfeited. Necessary steps be undertaken to take him in custody.

August 04, 2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.