

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

CRA-A-S-No.2254-SB-2016

Date of Decision:17.02.2018

Muni Lal

.....APPELLANT

V/S

State of Punjab

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.Parminder Singh, Advocate for the appellant.

Ms.Seena Mand, DAG, Punjab.

RITU BAHRI J. (ORAL)

This appeal has been preferred against the judgment of conviction and order of sentence dated 25.09.2014 passed by learned Sessions Judge, Hoshiarpur, vide which the appellant has been held guilty under Section 304 Part-1 of Indian Penal Code. He was sentenced to undergo RI for 10 years and to pay fine of Rs.5,000/- and in default of payment of fine to further undergo RI for one year.

The FIR was registered on the basis of statement made by complainant Asha Rani, who is aged about 63 years and is resident of Noorpur, Police Station Maqsoodan, District Jalandhar. She stated that for the last one year she was working as domestic helper at the house of Gurmit Singh son of Thakur Singh, resident of Darapur and the whole family of said Gurmit Singh was residing abroad. Daughters of Gurmit Singh were already married. Accused Muni Lal a migrant labourer, aged about 50 years was also working at the house of said Gurmit Singh for the last 35 to 40 years. Muni Lal was

alleged to be of feeble mind and gullible. Accused Muni Lal used to reside with Gurmit Singh like a family member. Complainant-Asha Rani further stated that on 13.11.2013 at about 08.15 P.M., she was cooking meals in a closed shed situated in the courtyard of house, where Gurmit Singh was sitting in front of the hearth for heating himself. Accused Muni Lal was sitting in the shed nearby and was taking meals. Suddenly dispute took place between Gurmit Singh and Muni Lal on matter as to who is to go for feeding fodder to the cattle herds. Muni Lal after drawing wood from the hearth, gave 2/3 blows of the same in forehead of Gurmit Singh, due to which he fell down on the ground. Even more injuries were inflicted on the mouth of Gurmit Singh by accused Muni Lal, when Gurmit Singh was still lying on the ground. Complainant raised hue and cry and thereafter accused kept on standing near the hearth after putting the wood in the hearth again. Many persons gathered on the spot. Death of Gurmit Singh took place on the spot itself on account of sustenance of injuries.

After registration of the FIR and completion of investigation, challan against the accused was presented and after complying with the requirements of Section 207 Cr.P.C. and finding prima-facie case, this case was committed to Sessions Court vide order dated 22.01.2014 passed by the Court of Shri R.S. Nagpal, learned Judicial Magistrate Ist Class, Dasuya.

After appearance of the accused in the Court, he was heard and finding prima facie case, charge qua commission of offence punishable under Section 302 was IPC framed, to which the accused pleaded not guilty and claimed trial and as such, prosecution was required to adduce evidence.

Prosecution to prove its case examined PW1 Dr. Neeraj Bisht(who conducted postmortem of dead body of Gurmit Singh and submitted report Ex.P5 alongwith pictorial diagram Ex.P6); PW2 Arjun Khanna, Draftsman(who prepared scaled map Ex. P7 of place of occurrence.); PW3 Balbir Singh (who snapped photographs Ex.P8 and Ex.P9 with his digital camera of place of occurrence); PW-4 Jasbir Singh (who identified deadbody of Gurmit Singh and took the same after postmortem through receipt Ex.P10.); PW5 HC Sikander Singh(MHC with whom blood stained clothes of deceased alongwith other articles deposited); PW6 Asha Rani (complainant of the case); PW7 SI Karnail Singh(Investigation Officer of the case) and PW8 Balwinder Singh(who also identified deadbody of Gurmit Singh). Thereafter public prosecutor closed the prosecution evidence.

Incriminating material appearing against the accused was put to him. In his statement under Section 313 Cr.P.C., he refuted allegations of prosecution case by claiming himself to be falsely implicated. Accused claimed to have not committed the offence in question. No defence was led despite grant of opportunity and as such, after defence evidence was closed, arguments were heard.

The present case is not a case in which accused was having knowledge that the act done by him is likely to cause death, but the present case in which injuries inflicted by the accused were sufficient in ordinary course of nature to cause death and as such, accused held guilty qua commission of offence punishable under Section 304 Part-I IPC.

Counsel for the appellant submits that this appeal may be partly allowed.

Examination of Chief of complainant-Asha Rani (PW-6) shows that on 13.11.2013 at about 8.15 PM, She was preparing meal and Gurmit Singh was sitting in front of mud-stove and was enjoying its heat. Muni Lal was also sitting there and he was taking meal. Suddenly, quarrel took place in between Muni Lal and Gurmit Singh regarding serving of fodder to cattles. Muni Lal gave push to Gurmit Singh and picked wood stick from the mud stove and gave its two three blows on the head of the Gurmit Singh. Thereafter, Muni Lal again put said wood stick in the mud-stove.

In her cross Examination, she stated that accused Muni Lal was residing with Gurmit Singh for the last 35/40 years and it is correct that accused is mentally ill and he does not understand about good and bad. The fight was suddenly took place and at the time of alleged occurrence, accused was taking meal. After accused gave alleged blow on the head of Gurmit Singh, Gurmit Singh fell down on the ground with his face down.

Jasvir Singh son of Lashkar while appearing as PW-4 has stated in his cross-examination that deceased was my father-in-law. Offence was not committed in my presence. Accused is mentally weak persons. I reached at the spot at about 9/9.30 P.M., but police had already reached there before my reaching there. Wood was recovered near the dead body.

Balwinder Singh aged about 34 years son of malkiat Singh while appearing as PW-8 has further stated that deceased-Gurmit Singh was his maternal uncle and all the family members of deceased Gurmit Singh reside abroad. Accused was residing with deceased-Gurmit Singh in his house at village Darapur, as his domestic servant.

In his cross-examination, he stated that the accused is gullible Volt. He gullible to some extent.

The version of the PW4-Jasvir Singh and PW-8- Balwinder Singh, who are close relation with Gurmeet Singh have justified that accused-Muni Lal was a mentally weak person and even there is no medical evidence to this effect.

Keeping in view this fact the action of the accused is to be examined whether he had the intention to cause death and keeping in view the incident which took place on 13.11.2013 and the quarrel took on a very trivial issue as to how the fodder was served to the cattle heards. Muni Lal after drawing wood from the hearth, gave 2/3 blows of the same in forehead of Gurmit Singh, due to which he fell down on the ground. Accused Muni Lal being a person of weak mind, his case would fall under Section 304 part II of the IPC. Section 304 IPC reads as under:-

“304. Punishment for culpable homicide not amounting to murder-

Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death,

Or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.”

Classification of Offence

Para I. Punishment-Imprisonment for life, or imprisonment for 10

years and fine-Cognizable-Non-bailable-Triable by Court of Session-Non-Compoundable.

Para II. Punishment-Imprisonment for 10 years, or fine, or both-Cognizable-Non-bailable-Triable by Court of Session-Non-compoundable.

At best it cannot be a case that the accused had done the act with the knowledge that it was likely to cause death but he had no intention to cause death or to such cause bodily injury, as there is no evidence as given by the prosecution that the accused would have the intention to cause death of Gurmeet Singh, as quarrel took place on a very trivial issue of serving fodder to the animal.

In view of the above, conviction of the accused accused-appellant Munni Lal is converted from Section 304 Part-1 to 304 Part-II IPC, and he is held guilty under Section 304 Part II IPC.

Appeal stands partly allowed accordingly.

At this stage, learned counsel learned counsel for the appellant prays for reduction of sentence to the period already undergone.

In the facts and circumstances of the case, a lenient view can be taken on the quantum of sentence. In this case the FIR was registered on 13.11.2013 and the appellant has been facing the agony of a protracted criminal trial for the last more than 04 years. As per custody certificate dated 16.02.2018, accused-appellant Muni Lal has undergone total sentence, including remission, for a period of 07 years, 02 months and 07 days. Moreover he is not a previous convict. In these circumstances, the sentence of imprisonment awarded to the petitioner is reduced to the period already undergone.

With the above modification/direction, the present appeal stands disposed of.

(RITU BAHRI)
JUDGE

17.02.2018
Anjal

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