

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

**Crl. Appeal No.D-544-DB of 2003 (O&M)
Date of Decision: February 27, 2018**

Sahi Ram

...Appellant

VERSUS

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE A.B.CHAUDHARI
HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Rivayat Hayer, Advocate
for the appellant.

Mr.Kuldeep Tiwari, Addl. Advocate General, Haryana
for the respondent-State.

Mr.P.R.Yadav, Advocate
for the complainant.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant challenging the judgment of conviction dated 09.05.2003 and order of sentence dated 13.05.2003 passed by learned Sessions Judge, Narnaul, whereby he was convicted and sentenced to undergo life imprisonment and to pay a fine of ₹1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month under Section 302 IPC.

The brief facts of the case are that on 21.05.2002, complainant Santra got recorded her statement to SI Kurda Ram. It was stated by the complainant in her statement that her husband Bhola Ram owns three killa of land within the revenue estate of Mohindergarh Salimabad. Vegetables

have been sown in half killa of that land. To keep watch, her husband used to sleep during night in the field in which vegetables have been sown. One day earlier, i.e. on 20.05.2002, at about 8.00 p.m., she along with her son Arvind aged about 17/18 years, had gone to the field for delivering food to her husband. At that time, Sahi Ram, whose field and residential house are adjacent to their field, had been sitting in the field with her husband and was consuming liquor. After giving food, she returned to her house. On that day i.e. 21.05.2002, at about 5.00-5.15 a.m., she and her son Arvind reached the field for plucking vegetables and saw that her husband having injuries and smeared with blood, was lying on the barbed wire fenced around the field. Complainant and her son lifted him from there and laid down on the cot and found him dead. He was having many injuries on his chest, mouth and blood was also there. Besides, hawai chappals (flip-flops) of her husband, hawai chappals of Sahi Ram, out of which, one is broken and a plastic bottle of liquor containing little quantity of liquor left in the same and blood stained shirt of her husband, in torn condition were also lying near that place. The mosquito net along with its bamboo sticks, which was used by her husband during the night before sleep was missing from the spot. Complainant further stated that about one year ago, Sahi Ram had given beatings to her brother-in-law (devar) Yashwant in a quarrel, regarding which, her husband reprimanded Sahi Ram. On account of this grudge, Sahi Ram committed murder of her husband by causing injuries after administering him liquor in the night. On the basis of this statement, ruqa was sent, upon which, FIR was registered. Inquest proceedings were conducted. Rough site plan was prepared. Dead body was sent for post-mortem examination. Accused was arrested and as per his disclosure

statement, four bamboo sticks, mosquito net and *Kassiya* were recovered, which were taken into police possession. After necessary investigation, challan was presented against the accused-appellant.

On presentation of challan, copies of challan and other documents were supplied to the accused-appellant under Section 207 Cr.P.C. Finding prima facie case, the appellant was charge-sheeted under Section 302 IPC, to which he pleaded not guilty and claimed trial.

In support of its case, the prosecution examined PW-1 Surender, who proved the photographs Ex.P1 to Ex.P6 and negatives thereof Ex.P7 to Ex.P12. PW-2 Rajpal proved the scaled site plan Ex.PA. PW-3 Constable Mahesh deposed that after post-mortem examination on the dead body on 21.05.2002, he received sealed parcel from the doctor, which he gave to MHC Satbir and it was taken into possession by SI Kurda Ram vide recovery memo Ex.PB. PW-4 UGC Manohar Lal, who is formal witness, tendered into evidence his affidavit Ex.PC. PW-5 MHC Satbir tendered into evidence his affidavit Ex.PD and also deposed regarding recording of formal FIR Ex.PF. PW-6 Constable Karan Singh, who is also formal witness, tendered into evidence his affidavit Ex.PG. PW-7 Satyavir Singh mainly deposed that on 21.05.2002, he had gone to his tube-well in the revenue estate of village Salimabad. He heard someone crying and reached at the place of occurrence. He saw that Santra Devi was crying. Her son Arvind was also crying with her. He saw dead body of Bhola Ram lying there with several injuries on his face, eye, neck and chest. He, then informed the police station, Mahendergarh on telephone regarding murder of Bhola Ram. The police came there at about 9.00-10.00 a.m. and recorded statement of Santra in his presence. He also deposed regarding inquest

proceedings conducted by the police. PW-8 Dr.Gajraj Singh, Medical Officer, mainly deposed that he conducted post-mortem examination on the dead body of Bhola Ram on 21.05.2002 and found following injuries:-

1. *A bruise of size 5x5cm was present on left side of face adjoining to the left eye. Bleeding from conjunctiva of left eye was present.*
2. *A lacerated wound of size 1x.5cm was present on the pinna of left ear.*
3. *A lacerated wound of size 4x.5cm was present on left side of chin.*
4. *A lacerated wound of size 3x.5cm was present on the middle of the chin.*
5. *A bruise of size 5x4cm was present on right side temperozygomatic region with bleeding from the conjunctiva of right eye.*
6. *A bruise of size 11x8cm was present on left side neck, slightly on the right side. Haemorrhage on underlying subcutaneous tissues and muscles was present.*
7. *Multiple bruises of variable sizes. Some of them rounded in shape present on both shoulders anteriorly and chest anteriorly. The rounded bruises were mainly present near the nipple and other parts of left side of chest anteriorly. On opening the chest fracture of 5th and 6th rib was present which was injuring the pleura, pericardium and puncturing the heart of left chamber. Hemothorax was present.*
8. *A bruise of size 4.5x1.5 cm was present on the left inguinal region.*

In his opinion, the cause of death in this case was syncope i.e. excessive loss of blood due to injury No.7 which was sufficient to cause death in the ordinary course of nature. All the injuries were ante-mortem in nature. The duration between injuries and death was within few minutes to half an hour and duration between death and post-mortem examination, was

within 24 hours. PW-9 Santra, complainant deposed as per prosecution version. She also deposed that her husband was not taking liquor as he never takes it. PW-10 Arvind also deposed as per prosecution version. PW-11 SI Kurda Ram, Investigating Officer, deposed regarding investigation conducted by him in the present case and also deposed regarding recovery of mosquito net, four bamboo sticks and *Kassiya*, which were taken into police possession after preparing sealed parcels. After tendering FSL report, learned Public Prosecutor closed the evidence of the prosecution.

At the close of prosecution evidence, the accused-appellant was examined under Section 313 Cr.P.C. He was confronted with the evidence of the prosecution and he denied the correctness of the evidence and pleaded himself as innocent.

No witness was examined in defence.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellant as stated above.

Aggrieved from the above-said judgment of conviction and order of sentence, present appeal has been filed.

At the time of arguments, learned counsel for the appellant argued that it is a case of circumstantial evidence and in the case of circumstantial evidence, chain of circumstances should be complete and point towards the guilt of the accused and none else. She further argued that in the present case, chain of circumstances is incomplete, which creates reasonable doubt in the prosecution version. She next argued that there is only last seen evidence as per complainant but that last seen evidence is a weak type of evidence and it alone does not complete the chain of circumstances. Learned counsel for the appellant further contended that as

per prosecution version, four bamboo sticks which were used for tying mosquito net and *Kassiya* were got recovered but the injuries on the person of the deceased are with blunt weapon, whereas *Kassiya* is a sharp edged weapon. If the accused is to commit the murder, then he would have caused the injury with sharp side of *Kassiya*. She also argued that version of the prosecution is improbable that accused took away bamboo sticks as well as mosquito net with him. It is further argued by learned counsel for the appellant that as per PW-8 Dr.Gajraj Singh, no liquor was found in the body of the deceased at the time of post-mortem examination. She next contended that the weapon and bamboo sticks were not blood-stained and therefore, cannot be connected with the crime and same have been planted upon the accused. Learned counsel for the appellant, therefore, argued that there being merit in the present appeal, the same should be allowed and accused-appellant should be acquitted.

On the other hand, learned State counsel as well as learned counsel for the complainant argued that case of the prosecution has been duly proved by the PWs, who have deposed consistently regarding prosecution version. The chain of circumstances is complete. They further argued that medical evidence also supports the prosecution version. Neither there is any improbability nor material contradictions in the version of the prosecution. Learned State counsel as well as learned counsel for the complainant, therefore, argued that there being no merit in the present appeal, the same should be dismissed.

After hearing learned counsel for the parties as well as learned State counsel and after going through the record, we find that it is a case of circumstantial evidence. In the case of circumstantial evidence, the chain of

circumstances should be complete and should point towards the guilt of the accused only and none else. In the present case, occurrence took place on the night of 20/21.05.2002. Complainant Santra had seen the accused taking liquor with the deceased. Though Santra, while appearing in the Court, improved her version by stating that her husband Bhola Ram was not taking liquor but it is not mentioned so in the FIR. PW-8 Dr.Gajraj Singh has stated in his statement that no liquor was found in the body of the deceased at the time of post-mortem examination. In the case of circumstantial evidence, there should be some strong motive for causing occurrence. In the present case, no strong motive has been proved by the prosecution for committing murder of Bhola Ram by the accused. Even if it is taken that there was some dispute between accused and brother of Bhola Ram but that had occurred one year back and motive would have been against the brother and not against Bhola Ram. Furthermore, even if it is presumed that there were some inimical relations, then Bhola Ram would not have allowed Sahi Ram to sit in his fields and take liquor. In the present case, no strong motive for causing the occurrence by the accused has been proved by the prosecution.

As regarding the fact that accused-appellant got recovered bamboo sticks and mosquito net, it looks improbable. Why the accused would take those articles with him to create evidence after the occurrence. The weapon of offence was not blood-stained. Otherwise also, it also looks improbable that a person, who is committing the occurrence and killing a person, would give injury with the blunt side instead of sharp-edged side of weapon.

circumstances is not complete and does not point towards the guilt of the accused. A reasonable doubt exists in the prosecution version and benefit of doubt always goes in favour of the accused. Therefore, giving benefit of doubt to the accused-appellant, he is acquitted of the charge framed against him.

In view of the above discussion, we find that the impugned judgment of conviction dated 09.05.2003 and order of sentence dated 13.05.2003, passed by learned Sessions Judge, Narnaul, are not as per evidence and law and the same are set aside.

Therefore, finding merit in the appeal, the same is allowed.

Since, appellant Sahi Ram, is on bail, his surety/bail bonds stand discharged.

(A.B.CHAUDHARI)
JUDGE

(INDERJIT SINGH)
JUDGE

February 27, 2018
Vgulati

Whether speaking/reasoned
Whether reportable

Yes
No