

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

RESERVED ON : 16th DECEMBER, 2017

DECIDED ON : 07th FEBRUARY, 2018

+ CRL.A. 1054/2015

HARPAL SINGH Appellant

Through : Ms.Saahila Lamba, Advocate.

versus

STATE Respondent

Through : Mr.Rajat Katyal, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

HON'BLE MR. JUSTICE C.HARI SHANKAR

S.P.GARG, J.

1. Challenge in this appeal is a judgment dated 22.04.2015 of learned Addl. Sessions Judge in Sessions Case No.59/1/12 arising out of FIR No.58/2012 at PS Rani Bagh whereby Harpal Singh - the appellant was held guilty for committing offence punishable under Section 302 IPC. By an order dated 28.04.2015, the appellant was sentenced to undergo imprisonment for life with fine ₹10,000/-.

2. Briefly stated, the prosecution case as reflected in the charge-sheet is that on 19.02.2012 at about 07.30 p.m. at 642, Ground Floor, Rishi Nagar, Delhi (Saya Beauty Parlour), the appellant committed murder of his wife Jaspreet Kaur by inflicting injuries on her body. The incident was conveyed to the police and DD No.32A (Ex.PW-4/C) came into existence on 19.02.2012 at 07.50 p.m. at PS Rani Bagh. The investigation was assigned to SI Kuldeep Singh who along with HC Jai Chand went to the spot. On enquiry, the

Investigating Officer came to know that the injured had already been taken to Bhagwan Mahavir Hospital by PCR. Leaving HC Jai Chand to guard the spot, SI Kuldeep went to Bhagwan Mahavir Hospital and collected victim's MLC; she was unfit to make statement. The Investigating Officer returned to the spot and lodged FIR after recording statement (Ex.PW-6/A) of one Raj, an employee at the beauty parlour. In the complaint, Raj gave detailed account as to how and in what manner, the appellant had inflicted injuries to Jaspreet Kaur on 07.30 p.m. that day. Crime team was summoned at the spot; scene of incident was photographed. Necessary proceedings were conducted at the spot and various exhibits including appellant's driving licence was recovered. Efforts were made to find out the appellant but he was untraceable. On the night intervening 19/20.02.2012, the victim succumbed to the injuries at AIIMS and Section 302 IPC was added. The investigation was taken over by Insp.Dheeraj Narang, SHO Police Station Rani Bagh. Post-mortem examination on the body was conducted. The appellant was arrested. Pursuant to his disclosure statement, certain recoveries were effected. During further investigation, statements of the witnesses conversant with the facts were recorded. The exhibits collected were sent to Forensic Science Laboratory for examination. Upon completion of investigation, a charge-sheet was filed against the appellant for commission of the offence punishable under Section 302 IPC. In order to establish its case, the prosecution examined twenty-five witnesses. In 313 Cr.P.C. statement, the appellant denied his involvement in the crime and pleaded false implication due to property

dispute with his brothers. No defence evidence was produced. After considering the rival submissions of the parties and on appreciation of the evidence, the appellant was convicted for commission of offence mentioned previously. Being aggrieved and dissatisfied, the instant appeal has been preferred.

3. We have heard the learned counsel for the parties and have examined the file. Admitted position is that the victim was the appellant's wife and they lived at WZ-592A, Rani Bagh, Delhi; they had two sons aged 6 years and 3 ½ years. It is also not at issue that the victim used to run a beauty parlour in the name and style of Saya Beauty Parlour at 642, Ground Floor, Rishi Nagar, Delhi and PW-6 (Raj) was an employee there. It is not at dispute that PW-5 (Surender Kaur) was earlier married to Gian Singh and had four children from the said marriage i.e. PW-15 (Malkeet Singh Bhullar), Sardara Singh, Manjeet Kaur and Daljeet Kaur. After the death of her husband Gian Singh, PW-5 (Surender Kaur) married his younger brother Gurdeep Singh and from the said marriage had a daughter Karamjeet Kaur and the accused Harpal Singh as son. It is not in controversy that the appellant owned a Maruti Zen car No.DL-8CJ-6987.

4. At the outset, it may be mentioned that the prosecution had placed reliance on the testimony of an eye witness to the incident i.e. PW-6 (Raj) and the FIR was lodged by the Investigating Officer on her statement (Ex.PW-6/A). Certain articles were also recovered and seizure memos prepared in that regard contained her signatures. In her Court statement, however, she opted not to support the prosecution and resiled from the statement given to the police at the

first instance. She completely exonerated the accused and came up with the plea that at the time of occurrence, she was not present at the spot. She reasoned that due to some physical ailment, she had left the parlour at around 04.00 p.m. Learned APP sought Court's permission to cross-examine her due to her hostile statement. In the cross-examination by the learned APP, she reiterated that the crime was not committed by the appellant in her presence. She disclosed that 4 – 5 blank papers were signed by her at the Police Station at the asking of the police.

5. Since PW-6 (Raj) did not implicate the appellant for the crime and did not claim herself to be present at the spot at the time of incident, her testimony is of no consequence or beneficial to the prosecution and cannot be relied upon. It is to be noted that when the Investigating Officer rushed to the spot on receipt of DD No.32A (Ex.PW-4/C), PW-6 (Raj) was not present there. The Investigating Officer was fair enough to state that on his arrival at the spot, he did not find any eye witness. The Investigating Officer thereafter went to Bhagwan Mahavir Hospital and admittedly, no eye witness was available there. Only on return to the spot from hospital, the Investigating Officer recorded the statement of PW-6 (Raj) and it formed basis of registration of the FIR. The statement does not disclose as to where the witness had gone soon after the crime and what had prompted her to return to the spot again to lodge her statement. Presence of this witness at the spot is suspect as she did not make any telephone call to the police regarding the crime; she did not accompany the victim to the hospital.

6. Learned Trial Court, however, came to the conclusion that there were several incriminating circumstances proved against the appellant and all such circumstances, if read together, lead to one and only one irresistible conclusion that it was the appellant and appellant alone who had committed victim's murder.

7. It has come on record that relations between the appellant and the victim were strained and there used to be frequent quarrels between the two. The victim had lodged complaints against the appellant even prior to the occurrence. Testimony of appellant's mother Surender Kaur is very crucial. She deposed that before 5 / 6 years prior to the incident, the appellant became drug addict and due to that, he used to quarrel with her and Jaspreet Kaur; he used to beat his wife Jaspreet Kaur and the complaints were lodged by Jaspreet Kaur but no action was taken against him, it being a family dispute. Jaspreet Kaur had also made complaints in Women Cell against the appellant who used to remain out of the house for number of days; he did not look after the children. The appellant used to spend money in consuming drugs and put pressure upon Jaspreet Kaur to give money or else he would desert her. She further disclosed that the appellant used to remain out of the house and sleep in the car. For about fifteen days prior to the incident, the appellant was absent from his house. On the day of incident i.e. 19.02.2012 in the morning, the appellant had picked up a quarrel with Jaspreet Kaur on phone. She was apprised about it by the deceased Jaspreet Kaur regarding the threats extended by the appellant to kill her. On the day of incident at about 07.00 P.M. Jaspreet Kaur informed her that the appellant intended to

come at home but she was going out after locking the gate from outside to avoid the appellant to harass her and children and she would talk with him (the appellant) in the parlour. Thereafter, Jaspreet Kaur left for her beauty parlour. At about 07.30 p.m., one Raj working at the beauty parlour telephonically informed her “Bhaiya Hapral ne didi ko maar wa kaat diya hai”. On that, she informed the police at 100. In the cross-examination, she reiterated that Jaspreet Kaur used to weep when the appellant gave her beating and scolded her. On the day of incident, Jaspreet Kaur left the house at about 10.00 a.m. but came back in the afternoon to serve food to them. Again, she left and came back at the parlour at 07.00 p.m. She further disclosed that Jaspreet Kaur used to lock them daily while leaving for the beauty parlour so that the appellant might not harass them. She denied that the accused never picked up quarrel with Jaspreet; or consumed any drug and never demanded any money from her.

8. On perusal of the statement of this witness who is close to the appellant being his mother, it reveals that she has attributed specific motive to the appellant to inflict injuries on the victim’s body at the beauty parlour. No valid reasons exist to discard the statement of appellant’s mother who suspected the appellant to have committed the victim’s murder. It is to be noted that marriage between the appellant and Jaspreet Kaur was a love marriage to the disliking of the family members at Arya Samaj Mandir in 2005. Her family members even had not participated at the time of the said marriage. Nothing was suggested to the witness in the cross-examination if she had any animosity or grudge against the appellant to make a false statement

against him. It was not suggested to her if there existed any property dispute between the brothers. This witness rather informed that she was owner of house no. WZ-656, Sri Nagar, Rani Bagh; it was purchased by her in the name of Daljeet Kaur and Harpal Singh (the appellant). Later on, the appellant and Jaspreet Kaur got transferred the same in the appellant's name. She further disclosed that the appellant had sold the said house for a sum of ₹85 lacs about 3 ½ years before the incident and out of the sale proceeds, he purchased plot No. A-592, Third Floor, Rishi Nagar and a shop No. 642, Rishi Nagar, the rest of money was kept by him.

9. Similar is the testimony of PW-15 (Malkeet Singh Bhullar), appellant's brother. He informed that they all the three brothers including the appellant and three sisters used to live at House No.WZ- 656, Gali No.1, Sri Nagar. In 2005, the appellant married Jaspreet Kaur. On 24.04.2006 after taking his share, he started living separate at house No.WZ-110, First Floor, Gali No.13, Gurunanak Nagar on rent. PW-15 (Malkeet Singh Bhullar) also deposed that the appellant had become drug addict and used to quarrel with his wife. It has not been explained by the appellant as to why his mother and brother would make a false statement against them. In 313 Cr.P.C. statement, the appellant did not elaborate as to what property dispute existed with his brothers. He did not produce any evidence to substantiate this aspect. Moreover, the appellant himself did not lodge any complaint against any individual to have committed the murder of his wife.

10. The Trial Court noted another incriminating circumstance i.e. conduct of the appellant. The appellant denied his presence at the spot at the time of commission of horrible crime whereby his wife was stabbed brutally and she suffered fatal injuries. However, the appellant avoided to disclose as to where he was present at the time of occurrence or soon thereafter. He did not claim if at the relevant time, he was present at his residence or some other specific place for a particular purpose. The prosecution has established that the appellant avoided his apprehension after the crime. PW-5 (Surender Kaur) testified that in the night 01.30 – 02.00 a.m., her son Malkeet Singh Bhullar who was away to Manali told her on phone that the appellant had come to his house at Chander Vihar and was knocking at the door. She advised Malkeet Singh Bhullar not to open the door. She made a call at 100 informing the police that the appellant had come at House No.100A, B-Block, Chander Vihar. After some time, again her son Malkeet Singh Bhullar made a call intimating that the appellant had gone at the first floor of his house. She was further informed that the police had apprehended the appellant. PW-10 (Kamaljeet Kaur) corroborated her version and stated that on 19.02.2012, her husband Malkeet Singh Bhullar was away to Manali. She conveyed the information about the incident to her husband on phone. She apprised him of the victim's death at 08.30 p.m. At about 01.30 a.m., the appellant came to her house but due to fear she did not open it. She made a call to her husband who in turn contacted her mother-in-law. In the meantime, Malkeet Singh @ Rinku came down, opened the door and took the appellant upstairs with him. As her husband had

telephonically informed her mother-in-law Surender Kaur, she gave a call at 100 and after some time, the police arrived at B-Block, Chander Vihar and took the appellant with him. Similar is the testimony of PW-13 (Malkeet Singh Bhullar) who deposed that on the night intervening 19/20.02.2012 at around 01.30 a.m. on hearing the sound of knocking of the door, he came down at the gate and saw the appellant at the door. At that time, the appellant told him that he had met with an accident and was knocking the door for a long time and was not feeling well. He offered the appellant to take him to hospital but he avoided it on the pretext that he would go to the hospital later on. After that, he knocked the door of the house of Malkeet Singh Bhullar, there was no response. He thereafter brought the appellant up-stairs and made him to sleep. After half an hour Kamaljeet Kaur along with the police came to his house and the appellant was apprehended by the police and taken with them.

11. On perusal of the statements of these material witnesses, it stands established that the appellant had reached to them in the night intervening 19/20.02.2012 at about 01.30 a.m. He had pretended to have met with an accident but did not elaborate as to how and in what manner, he met with any accident. He did not get any treatment for any injuries suffered by him in any such accident. Apparently, the appellant has not furnished correct facts. No plausible explanation was offered during trial as to what had forced the appellant to knock door of PW-13 (Malkeet Singh Bhullar) at odd hours and where he was before that. He did not offer any reason as to why he did not prefer to go to his house. This post-event conduct of the appellant

points an accusing finger against him. It has come in evidence that before going to the parlour, the victim had informed her mother-in-law PW-5 (Surender Kaur) that she was going to the parlour where the appellant would come at around 07.00 p.m. She had deliberately gone to the parlour to avoid appellant's visit to the house so that he might not harass her and the children; she preferred to talk with him at the parlour. However, after the incident the appellant was not found at the parlour. The circumstance of abscondance after the occurrence is a material circumstance to show the appellant's guilty conscious.

12. The prosecution has further placed reliance on the circumstance of recovery of the appellant's driving licence at the spot. PW-22 (SI Kuldeep) on receipt of DD No.32A (Ex.PW-4/C) reached the spot. He summoned the crime team who inspected the spot and photographed it. Crime team prepared its report (Ex.PW-7/A). PW-22 (SI Kuldeep) deposed that one bloodstained licence (Ex.P1) in the name of the appellant was found lying in the beauty parlour behind the display board and it was seized vide seizure memo Ex.PW-6/C. It was urged that this driving licence was planted subsequently and its recovery did not find mention in the rukka (Ex.PW-22/A). This aspect has been dealt with by the Trial Court in the impugned judgment minutely. In fact, no article recovered at the spot was reflected in the rukka. No ulterior motive was assigned to PW-22 (SI Kuldeep) to concoct a false story to implicate the accused whose wife had met with horrible death. PW-7 (SI Devender), Incharge crime team supported his version and stated that when he reached the spot, he saw a lot of blood lying on the floor; he also saw mobile phone, ladies sandle, pair

of black sleeper and one bloodstained driving licence of the accused. He proved his report (Ex.PW-7/A). PW-12 (Const.Subhash) had taken photographs (Ex.PW-12/1 to Ex.PW-12/14), its negative being Ex.PW-12/15 to Ex.PW-12/28 and one such photograph was that of the driving licence of the accused. These police officials, who did not nurture any grievance against the appellant prior to the incident and were not familiar with him, are not believed to fabricate a story to implicate an innocent one. Possibility of the appellant to have dropped the licence at the time of commission of the crime cannot be ruled out. The appellant did not explain as to how and in what manner his driving licence came into possession of the police, and if so, when and where. Recovery of the bloodstained driving licence at the spot confirms the appellant's visit to the spot at the time of incident.

13. Another incriminating circumstance relied upon by the prosecution against the appellant is the recovery of the car and crime weapon at his instance. The victim was stabbed repeatedly and she suffered several injuries on her body. She was medically examined by PW-2 (Dr.Ajay Dalal) at Bhagwan Mahavir Hospital, Pitam Pura; number of injuries on the body were noted in the MLC (Ex.PW-2/A). Considering the critical condition of the patient, she was referred to SR (Surgery) for further management and treatment. The victim succumbed to injuries sustained by her. Post-mortem examination on the body was conducted by PW-16 (Indresh Kumar Mishra). PW-24 (Dr.Adarsh Kumar) proved the post-mortem examination report prepared in this regard (Ex.PW-24/A and 24/A-1). Cause of death was given as shock and hemorrhage due to ante-mortem injuries

to head and neck consequent to sharp weapon impact. Injury Nos. 3 and 4 were individually and cumulatively opined as sufficient to cause death in ordinary course of nature. Time since death was given as in between 24 to 48 hours. The witness further stated that subsequent opinion Ex.PW-24/B was given by Dr.S.Janani after preparation of the sketch of crime weapon and it was opined that injuries found on the body were possible with the said weapon. This witness was not tested in the cross-examination. Apparently, the victim had sustained injuries by sharp weapon.

14. As observed above, the appellant was not found present at the spot soon after the crime. He suddenly emerged at odd hours at the residence of his relatives and on getting information about his presence, he was apprehended in the morning hours from there by the police. PW-22 (SI Kuldeep) in his deposition before the court informed that after lodging FIR, he along with HC Jai Chand left the spot to find out the accused. He further claimed that on the night intervening 19/20.2.2012 at around 3.30 a.m. he received telephonic information from Inspt. Dheeraj Narang about the appellant's arrest and he being taken to SGM hospital for medical examination. PW-25 (Inspt.Dheeraj Narang) deposed that at 3.30 a.m. he received information from the Police Control Room that the appellant wanted in the case was apprehended by the police officials of Police Station Nihal Vihar and was being taken for medical examination at SGM Hospital, Mangolpuri. Pursuant to the said information, he along with his staff reached SGM Hospital and found the appellant along with HC Mahavir Singh of Police Station Nihal Vihar. The appellant was

arrested vide arrest memo Ex.PW-17/A. The appellant was interrogated and he recorded disclosure statement Ex.PW-17/C. The appellant took the police team at various places for recovery of weapon of offence but it could not be traced. On 21.02.2012, the appellant was again taken out from the lock-up and was inquired about the presence of the car and the crime weapon. The appellant did not give satisfactory response to it. He further deposed that after post-mortem examination, the appellant took the police team to Peeragarhi, Nangloi Road to search the car but no clue was found. Subsequently, the appellant took the police team to Mangol Puri Industrial Area where he had left the car. At about 8.30 p.m. the appellant recovered the car from near Chara Samittee Gate, Mangol Puri Industrial Area, Phase-II near Chara Samittee Gate. The car was without registration number plate. Its Front portion including wind screen was found in damaged condition. The crime team was summoned at the spot and the car was photographed. On search of the car, a chopper having blood-stains was recovered from beneath the front left side seat. It was kept on a plain paper and its sketch Ex.PW-17/E was prepared. It was seized vide seizure memo Ex.PW-17/F. The Maruti car was also seized vide seizure memo Ex.PW-17/G. In the cross-examination, the witness fairly admitted that despite efforts till 12.00 mid night on 20.02.2012, neither the chopper nor the car could be recovered. He volunteered to add that the recovery was effected in between 8/8.30 p.m. on 21.02.2012. He denied that the crime weapon was planted and it was not recovered from the car.

15. This court finds no sound reasons to discard the testimony of PW-25 (Insp.Dheeraj Narang) who did not nurture any ill-will or animosity against the appellant prior to the incident to falsely implicate him in the crime for murder of his own wife. It has come on record that the appellant owned a car bearing No.DL-8CJ-6987. PW-9 (Sushil Kumar Sharma) from Transport Authority also produced the record pertaining to the Maruti Zen car No.DL-8CJ-6987. As per the record, the said vehicle was registered in the name of the appellant on 8.12.2013 and it was in his name at the time of its recovery. The appellant did not, however, explain the movement of the car on the day of incident. This fact was in the special knowledge of the appellant and it was expected that he should divulge as to where he had left the car before reaching at night hours at the house of his relatives. The appellant, however, did not furnish any such explanation and avoided to disclose as to where the car in question was left. The car was found in damaged condition; the registration documents pertaining to the ownership of the car were not there in the car. It is relevant to note that the appellant had informed his relatives at the time to seek shelter that he had met with an accident. Soon after his apprehension, the appellant was taken to SJM Hospital where he was medically examined by PW-11 (Dr.Bina) by MLC Ex.PW-11/A. Certain superficial injuries were found on his body. Clothes and shoes of the patient were taken along with his blood sample and handed over to the Investigating Officer after seal. The appellant did not explain as to how and in what manner he had sustained injuries on his body. He

did not give details as to how the car had met with an accident and if so when and where.

16. On search of the car, the crime weapon i.e. chopper was recovered; it was bloodstained and seized vide seizure memo Ex.PW-17/F. Certain inconsistencies regarding recovery of the crime weapon were highlighted by the learned defence counsel during trial. These were discussed and dealt with minutely by the learned trial court in the impugned judgment and this Court finds no valid reasons to differ from the said conclusion. Recovery of the car in question and the crime weapon at the appellant's instance is another incriminating circumstance to connect him with the crime.

17. Another crucial circumstance is the recovery of the bloodstained clothes which the appellant was wearing at the time of commission of the crime. As noted above, at the time of medical examination by Dr.Bina (PW-11), the appellant's shoes and wearing clothes i.e. jacket and lower (pant) were taken along with his blood sample and were sealed. These were handed over to the investigating officer who seized them vide seizure memo (Ex.PW-19/A). All these exhibits were subsequently sent to Forensic Science Laboratory for examination and as per FSL report (Ex.PW-16/A) human blood was detected on these clothes and it matched with the blood of the deceased. The appellant did not deny seizure of wearing clothes at the time of medical examination in the cross-examination. He did not furnish any explanation as to how the blood of the deceased happened to be there on his wearing clothes. It confirms the appellant's presence at the spot at the time of crime.

18. Another decisive and significant piece of circumstance is DNA report (Ex.PW-23/A) proved by PW-23 (L.Babyto Devi). She examined the exhibits biologically. As per her examination, blood was detected on Ex.4 (blood in gauze of the deceased), Ex.6 (Jacket of accused), Ex.7 (T-shirt of accused), Ex.8 (Lower of accused) and Ex.11 (chopper). DNA profile (STR) analysis were performed on Ex.4, 6, 7, 8 and 11 to conclude that DNA profiles generated from the source of Ex.6 (Jacket of accused), Ex.7 (T-shirt of accused), Ex.8 (Lower of accused) and Ex.11 (chopper) were matching with DNA profile generated from the source of Ex.4 (blood in gauze of the deceased).

19. This report confirms that the clothes which the appellant was wearing at the time of commission of offence were stained with the blood of his wife. No explanation was offered by the appellant as to how his wife's blood appeared on his clothes, in case he was not present at the spot. It is not the appellant's case that any time after the crime, he had visited the victim at the spot or had taken her to hospital. As observed above, the appellant avoided to disclose the place of his presence at the time of occurrence.

20. No plausible explanation has since been offered by the appellant in 313 Cr.P.C.statement and he has maintained complete silence. He merely alleged that his false implication was due to property dispute with his brothers. However, he did not produce any clinching evidence to show as to which property was the bone of contention between him and the family members. The very fact that the appellant had approached his close relatives after the commission

of the crime falsifies the plea that there was any annoyance on account any property dispute. The appellant did not lodge any complaint against any individual for committing the brutal murder of his wife on account of any such property dispute. Nothing has been brought on record to substantiate that the deceased was running any committee or there were any financial transactions between the wife and appellant's family, as alleged. The appellant did not produce any evidence in defence to falsify the incriminating circumstances proved against him.

21. The prosecution was, thus, able to establish beyond doubt that it was the appellant and appellant alone who had committed the murder of his wife.

22. This Court is of the view that the circumstances, from which the conclusion of guilt has been drawn, have been fully established; the circumstances are of conclusive nature and tendency as they excluded every possible hypothesis except the one to be proved. The impugned judgment based upon proper appreciation of the evidence warrants no intervention.

23. The appeal being unmerited is dismissed.

24. Trial court record be sent back forthwith along with the copy of the order.

(S.P.GARG)
JUDGE

(C.HARI SHANKAR)
JUDGE

FEBRUARY 07, 2018 / tr/sa