

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

CRA-D-1183-DB of 2012 (O&M)

Reserved on : 28.05.2019

Date of decision : 30.05.2019

Gurwinder Singh alias Bagga

.... Appellant

Versus

State of Punjab

..... Respondent

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Inderjit Sharma, Advocate,
for the appellant.

Mr. S.P.S. Tinna, Addl. A.G., Punjab.

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RAJIV SHARMA, J.

1. This appeal is instituted against judgment dated 05.11.2012 and order dated 07.11.2012, rendered by learned Additional Sessions Judge, Barnala, in Sessions Case No. 49 dated 20.12.2010. Appellant Gurwinder Singh alias Bagga along with his parents, namely Baldev Kaur and Dalbara Singh, was charged with and tried for the offences punishable under Sections 304-B/498-A/302 IPC. He was convicted and sentenced under Section 302 IPC to undergo imprisonment for life and to pay fine of ₹ 10,000/- and in default of payment of fine, to further undergo rigorous

imprisonment for one year. He was also convicted and sentenced under Section 498-A IPC to undergo rigorous imprisonment for two years and to pay fine of ₹ 5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for three months. Both the sentences were ordered to run concurrently. Co-accused Baldev Kaur and Dalbara Singh were acquitted of the charges framed against them.

2. The case of the prosecution, in a nutshell, is that Veerpal Kaur, aged about 26 years, daughter of complainant Gurcharan Singh, was married with accused Gurwinder Singh alias Bagga, in the month of March, 2004. Accused Dalbara Singh was father-in-law and accused Baldev Kaur was mother-in-law of deceased Veerpal Kaur. Sufficient dowry was given to Veerpal Kaur by the complainant at the time of her marriage. One son and one daughter were born from the wed-lock. Accused Gurwinder Singh used to harass his wife. After the birth of female child, he used to force Veerpal Kaur to bring money from her parents. Complainant arranged ₹ 20,000/- and went to the house of accused along with Baldev Singh. The amount was paid to accused Gurwinder Singh, Dalbara Singh and Baldev Kaur. He requested them not to harass his daughter. Thereafter, Gurwinder Singh started demanding motor cycle. He used to beat Veerpal Kaur. Complainant arranged ₹ 10,000/- and went to the house of accused along with Mohinder Singh. He paid the same to the accused. From the last 3-4 days before the occurrence, Veerpal Kaur had been continuously calling the complainant on telephone. She informed that her husband was again harassing her. He used to beat her with demand of more dowry from her parents. On 22.08.2010 at about 8.00 AM, he along with his neighbour Mohinder Singh went to the

house of the accused. He saw his daughter lying dead. Her body was placed on a cot in the courtyard of the house of the accused. Froth was coming out of her mouth. She had injury marks around her neck. Foul smell was coming from her mouth, which was probably due to poison. The villagers were present. However, the accused were missing from their house. FIR was registered. The dead body was sent to Civil Hospital, Barnala for post mortem examination. The post mortem was conducted by Dr. Neera Chopra. Viscera was preserved. It was sent to the office of Chemical Examiner. Torn clothes of the deceased along with one vial of poison were got recovered at the instance of accused Gurwinder Singh. These were sent for FSL examination. Chlorpyrifos was detected on torn clothes and the plastic container bearing label "Naag" insecticide. The investigation was completed and challan was put up after completing all the codal formalities.

3. The prosecution examined a number of witnesses in support of its case. The accused were also examined under Section 313 Cr.P.C. They denied the case of the prosecution. They examined as many as seven witnesses in support of their defence. Accused Gurwinder Singh alias Bagga was convicted and sentenced, as noticed here-in-above. Hence, this appeal.

4. Learned counsel appearing on behalf of the appellant has vehemently argued that the prosecution has failed to prove its case against his client. Learned counsel appearing on behalf of the State has supported the judgment and order of the learned Court below.

5. We have heard learned counsel for the parties and gone through the judgment and record very carefully.

6. PW.6 Dr. Neera Chopra conducted post mortem examination

on the body of Veerpal Kaur. She tendered her evidence by filing affidavit Ex.PW.6/A. She had noticed following injuries on the neck of the deceased :-

1. On right cheek near mandibular angle on lower side impression of three fingers (index, middle and ring finger) extending down to neck on right side.
2. Multiple abrasions of varying sizes on right side of neck (5 x 4 x 3 x 2 x 0.5 cm in size).
3. Multiple abrasions of varying sizes on left side of neck (5 x 4 x 3 x 2 x 0.5 cm in size)

The cause of death was due to throttling of neck leading to congestion, cyanosis and asphyxia. In her cross-examination, she deposed that she had given the opinion after going through the report of the Chemical Examiner, Ex.D2.

7. PW.2 Buta Singh testified his niece Veerpal Kaur daughter of Gurcharan Singh was married with Gurwinder Singh. His brother gave sufficient dowry. Gurwinder Singh had started harassing Veerpal Kaur. His brother Gurcharan Singh tried to make the accused understand. Veerpal Kaur gave birth to a female child. Gurcharan Singh gave ₹ 20,000/- to in-laws of Veerpal Kaur in his presence. Thereafter, accused Gurwinder Singh demanded motor cycle. His brother Gurcharan Singh paid ₹ 10,000/- to him and came back. Veerpal Kaur told her father about the harassment being caused to her and beating given to her. It was told by her two three days prior to the incident. On the day of occurrence, his brother Gurcharan Singh along with Mohinder Singh went to the house of in-laws of Veerpal Kaur.

When they reached there, dead body of Veerpal Kaur was lying on the cot in the courtyard of the house. White colour froth was coming out from the mouth of Veerpal Kaur. There were abrasions on her neck and injuries on her right cheek. There was mark of injury near the chin. On the right side of her forehead, there was also mark of injury. Poisonous smell was coming from near the dead body. In his cross-examination, he deposed that Gurwinder Singh accused had raised demand of motor cycle after the birth of male child. Male child was named as Gagandeep.

8. PW.3 ASI Iqbal Singh deposed that accused Gurwinder Singh and Dalbara Singh were arrested. Gurwinder Singh made disclosure statement. According to him, he had kept concealed plastic vial of poisonous substance and torn clothes i.e. Kameez, Salwar, one black dori, one plastic kuppi and red colour cotton yarn by putting in a plastic envelope. His statement is Ex.PW.3/A. He got recovered these articles. These were converted in a parcel, except poisonous vial, the parcel of which was prepared separately by SI Sumit Sood. It was sealed with the seal 'SS'. SI Sumit Sood also arrested accused Baldev Kaur on 25.08.2010.

9. PW.4 Joginder Singh prepared the scaled site plan Ex.PW.4/A.

10. PW.5 Mohinder Singh testified that Veerpal Kaur daughter of Gurcharan Singh was married with Gurwinder Singh on 08.02.2005. Gurcharan Singh had spent lot of money and gave sufficient dowry to the in-laws of his daughter. However, the accused started harassing her after some time of the marriage. Father of Veerpal Kaur made arrangement of ₹ 20,000/- and paid the same to Gurwinder Singh. Accused Gurwinder Singh again raised demand of motor cycle. Gurcharan Singh gave ₹ 10,000/- to in-

laws of Veerpal Kaur. Prior to 3-4 days of the occurrence, Gurcharan Singh received telephone calls from Veerpal Kaur regarding harassment and beatings to her by her in-laws on account of dowry. On 22.08.2010, he along with Gurcharan Singh reached the in-laws house of Veerpal Kaur. Dead body of Veerpal Kaur was lying on cot. White coloured froth was coming out from her mouth. There was injury mark on her neck. None of the accused was present there but villagers were present. Nirmal Singh son of Gurcharan Singh died prior to death of Veerpal Kaur. The accused raised demand of share from the agricultural land.

11. PW.7 Gurcharan Singh is the complainant. According to him, the marriage of his daughter Veerpal Kaur was solemnised with Gurwinder Singh on 08.02.2005. He spent lot of money to give dowry to her in-laws beyond his capacity. After some time, accused Gurwinder Singh started harassing his daughter for bringing more dowry. He used to administer beatings to her. The accused also demanded cash. He along with his brother Buta Singh after making arrangement of ₹ 20,000/- went to the house of in-laws of his daughter. Gurwinder Singh, his mother Baldev Kaur and father Dalbara Singh were present. He handed over ₹ 20,000/- to Gurwinder Singh. He requested the accused not to harass his daughter. After one year, Veerpal Kaur gave birth to a son Gagandeep. Gurwinder Singh raised demand of motor cycle. He gave ₹ 10,000/- in the presence of Mohinder Singh. Three-four days prior to the occurrence, he used to receive telephone calls from Veerpal Kaur. She used to tell him that the accused were demanding dowry and she was also given beatings. On 22.08.2010, he along with Mohinder Singh reached the village of in-laws of his daughter. He saw

the dead body of his daughter on a cot in the courtyard. White colour froth was coming from her mouth. There were signs of scratches at her neck. There was sign of injury on the left side of her chin. Foul smell was coming from her mouth. He made statement Ex.PA.

12. PW.9 Inspector Sumit Sood deposed that Gurcharan Singh made a statement, Ex.PA, before him. FIR Ex.PA/2 was recorded. He reached on the spot. The dead body of Veerpal Kaur was lying on the cot in the courtyard of the house of accused Gurwinder Singh. He prepared inquest report Ex.PA/3. The body was sent for post mortem examination. Accused Gurwinder Singh and Dalbara Singh were arrested from nearby bus stand of village Dhaula. Gurwinder Singh accused made a disclosure statement. He got recovered Kameej, Salwar, black dori, kuppi plastic and cotton yarn of red colour. Kameej, Salwar, black dori and cotton yarn of red colour were converted in a parcel and sealed with seal "SS". Plastic bottle of poison and kuppi plastic were also converted in separate parcel sealed with seal "SS".

13. DW.1 Labh Singh deposed that about three months prior to the death of Veerpal Kaur, her brother had died due to accident. Veerpal Kaur had one son. Her mental condition was not well after the death of her brother. Her head used to reel. She was suffering from depression. Her death was natural. Darbara Singh and Baldev Kaur were living separately from Veerpal Kaur. In his cross-examination, he admitted that neither he moved application about it to any authority nor any resolution was passed in the village Panchayat that Veerpal Kaur was suffering from any disease or that she died due to that disease.

14. DW.2 Bhola Singh testified that about three months prior to the

death of Veerpal Kaur, her brother had died due to accident. Veerpal Kaur had only son. Mental condition of Veerpal Kaur was not well after the death of her brother. She was suffering from depression. Her death was natural. In cross-examination, he deposed that he never moved any application about it to any authority nor any resolution was passed in the village Panchayat that Veerpal Kaur was suffering from any disease or that she died due to that disease.

15. DW.3 Hardev Singh proved photo copy of ration cards of Gurwinder Singh and Dalbara Singh vide Ex.DW.3/A and Ex.DW.3/B. Dalbara Singh accused was residing separately from Gurwinder Singh accused. About three months prior to the death of Veerpal Kaur, her only brother died in an accident. Veerpal Kaur was under heavy mental tension due to death of her only brother. She was suffering from depression. In his cross-examination, he deposed that he never moved any application about it to any authority nor any resolution was passed in the village Panchayat that Veerpal Kaur was suffering from any disease or that she died due to that disease.

16. DW.4 Jagraj Singh deposed that Veerpal Kaur deceased was known to him. She was married to Gurwinder Singh accused. Veerpal Kaur had only one brother. Her only brother died in an accident, prior to her death. Veerpal Kaur was under depression. She died natural death. In his cross-examination, he admitted that he never moved any application about it to any higher authority nor any resolution was got passed in the village Panchayat that Veerpal Kaur was suffering from depression or any other kind of disease.

17. DW.5 Maghar Singh deposed that Veerpal Kaur was married to Gurwinder Singh. She had only one brother. Veerpal Kaur's only brother died in an accident. Veerpal Kaur came under depression. She died natural death. He also admitted in his cross-examination that he had never moved any application about the version given by him in his examination-in-chief to any higher authority nor any resolution was got passed in the village Panchayat that Veerpal Kaur was suffering from depression.

18. DW.6 DSP Mukhtiar Singh testified that in the inquiry conducted by him, accused Dalbara Singh was found innocent. He proved the inquiry report Ex.DW.6/C.

19. DW.7 Gurcharan Singh deposed that he was Lambardar of the village. Veerpal Kaur was having one brother. He had died in an accident. Veerpal Kaur came under depression. In his cross-examination, he admitted that he never moved any application to any senior police officer that Veerpal Kaur used to remain under depression.

20. PW.7 Gurcharan Singh is father of the deceased. He categorically deposed that his daughter Veerpal Kaur was being harassed by the appellant for bringing more dowry. He had already paid ₹ 20,000/- to her in-laws in the presence of his brother Buta Singh. He gave another sum of ₹ 10,000/- to the accused persons in the presence of Mohinder Singh. Three-four days prior to the incident, he was getting telephone calls of his daughter Veerpal Kaur that she was being harassed and forced to bring more dowry. She was also administered beatings. He went to the house of in-laws of his daughter. The dead body of his daughter was lying on the cot. White colour froth was coming from her mouth. There were signs of scratches on

her neck. There was sign of injury on the left side of her chin. Her mouth was emitting some poisonous smell. The accused had administered poison to her. The statement of PW.7 Gurcharan Singh is corroborated by PW.2 Buta Singh. According to him also, the accused used to harass Veerpal Kaur on account of demand of dowry. Gurcharan Singh had given ₹ 20,000/- to the in-laws of Veerpal Kaur in his presence. Thereafter, the appellant started demanding motor cycle. Gurcharan Singh gave another amount ₹ 10,000/- to the appellant. Gurwinder Singh, Baldev Kaur and Dalbara Singh were also demanding share from the land of Gurcharan Singh, when his only son Nirmal Singh died. PW.5 Mohinder Singh has deposed that the accused used to demand dowry from Veerpal Kaur. A sum of ₹ 20,000/- was given to appellant Gurwinder Singh. He also deposed that after the birth of male child to Veerpal Kaur, he accompanied Gurcharan Singh and amount of ₹ 10,000/- was paid to the appellant. Three-four days prior to the occurrence, Gurcharan Singh received telephone calls from Veerpal Kaur regarding harassment to her by her in-laws on account of dowry and beatings given to her. He along with Gurcharan Singh went to the house of in-laws of Veerpal Kaur. They found that dead body of Veerpal Kaur was lying on the cot. White colour froth was coming from her mouth. There were injury marks on her neck. The accused were missing. After the death of Nirmal Singh son of Gurcharan Singh, prior to the death of Veerpal Kaur, the accused were also demanding share from the agricultural land.

21. The statements of PW.7 Gurcharan Singh complainant, PW.2 Buta Singh and PW.5 Mohinder Singh are duly corroborated by the medical evidence of PW.6 Dr. Neera Chopra. In her affidavit Ex.PW.6/A, she

deposed that she noticed injury on right cheek near mandibular angle on lower side impression of three fingers (index, middle and ring finger) extending down to neck on right side; and multiple abrasions of varying sizes on right side of neck (5 x 4 x 3 x 2 x 0.5 cm in sizes). She also observed multiple abrasions of varying sizes on left side of neck (5 x 4 x 3 x 2 x 0.5 cm in sizes). According to her, the cause of death of Veerpal Kaur was due to throttling of neck leading to congestion, cyanosis and asphyxia. She has proved the post mortem report Ex.PW.6/B. It has come in the statements of PW.7 Gurcharan Singh complainant, PW.2 Buta Singh and PW.5 Mohinder Singh that the accused used to demand dowry. Gurcharan Singh had given ₹ 20,000/- to the appellant in the presence of PW.2 Buta Singh. After the birth of male child to Veerpal Kaur, he had paid another sum of ₹ 10,000/- to the appellant in the presence of PW.5 Mohinder Singh. It has also come in the statements of these witnesses that three-four days prior to the incident, Gurcharan Singh had received a telephone call from his daughter Veerpal Kaur. She told him that she was being beaten up and the accused were demanding more dowry.

22. Appellant Gurwinder Singh made disclosure statement Ex.PW.3/A and at his instance, clothes of the deceased as well as empty plastic kuppi containing poisonous substance administered to Veerpal Kaur were recovered. The site plan was also prepared. As per the Chemical Examiner report, Ex.D2, no poison was detected in the contents of exhibits I, II, III, IV and V.

23. Statements of DW.1 Labh Singh, DW.2 Bhola Singh, DW.3 Hardev Singh, DW.4 Jagraj Singh, DW.5 Maghar Singh and DW.7

Gurcharan Singh do not inspire confidence. They were totally strangers. According to them, after the death of her brother, Veerpal Kaur was suffering from depression. No medical evidence in this regard has been placed on record by the accused. All these DWs have also admitted that they neither moved any application to any senior police officer nor any resolution was passed in the village Panchayat that Veerpal Kaur was suffering from depression or any other disease.

24. The prosecution has proved beyond reasonable doubt that after some time of marriage of Veerpal Kaur with appellant Gurwinder Singh, there was demand of dowry. Veerpal Kaur was being harassed and beaten up on that account. Three-four days prior to the incident, Veerpal Kaur had told her father on telephone about the demand of dowry raised by the accused. Her father had already given ₹ 20,000/- and ₹ 10,000/- to the accused. As per the post mortem report, Ex.PW.6/B, the cause of death was due to throttling of neck leading to congestion, cyanosis and asphyxia. Further, as per the FSL report, Ex.PX, on the basis of analysis, chlorpyrifos, an insecticide, was found present in the contents of both the parcels, i.e. parcel No.1 containing one ladies suit (Salwar, Kameej), one black coloured dori and one red coloured cotton thread; and parcel No.2 containing one plastic container labelled as “Naag Insecticide” stained with blue coloured material giving a peculiar smell. The appellant had harassed his wife Veerpal Kaur and treated her with cruelty to bring more dowry. The demand of dowry was also raised 3-4 days prior to the incident.

25. Accordingly, the prosecution has proved its case against the appellant beyond reasonable doubt. There is no merit in the instant appeal

and the same is dismissed. The impugned judgment dated 05.11.2012 and order dated 07.11.2012 are upheld.

(RAJIV SHARMA)
JUDGE

May 30, 2019
ndj

(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No