

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

CRA-D-574-DB-2011 (O&M)
Reserved on : May 23, 2019
Date of Decision: July 17, 2019

Jagbir Singh ...Appellant

Versus

State of Haryana ...Respondent

2. CRA-S-2871-SB-2011 (O&M)

Pushpa Rani ...Appellant

Versus

Karambir and another ...Respondent

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. Deepinder Singh Brar, Advocate for the appellant
in CRA-D-574-DB-2011.

Mr.Gagandeep Singh Wasu, Additional
Advocate General, Punjab.

punishable under Sections 302, 201, 328/34 of the Indian Penal Code (in short 'IPC') along with Karambir. For the offence under Section 302 IPC the appellant has been sentenced to imprisonment for life and fine of Rs.5000/- and in default of payment of fine to undergo further RI for three months. For offence under Section 201 IPC he has been sentenced to rigorous imprisonment for three years and fine of Rs.2000/- and in default of payment of fine to undergo further RI for one month. Under Section 25 of the Arms Act he has been sentenced to undergo rigorous imprisonment for three years and fine of Rs.2000/- and in default of payment of fine to undergo further RI for one month. The sentences were ordered to run concurrently. Karambir was acquitted.

3. Criminal Appeal No.CRA-S-2871-SB-2011 has been filed by Pushpa Rani widow of Tej Pal for enhancement of sentence of the convict Jagbir as also challenging the acquittal of Karambir.

4. The case of the prosecution in a nutshell is that on 17.12.2017 complainant Dharam Raj (PW7) moved written complaint Ex.PE to Station House Officer, Police Station Kotwali Dehat, Saharanpur (U.P.), wherein, he alleged that he was working in Haryana Police and was posted in the office of Superintendent of Police, Yamuna Nagar. His brother Tej Pal (deceased) son of Nar Singh resident of Barara was Commando in Haryana Commando Police (Naval) Karnal as M.H.C. After taking casual leave for three days i.e., from 15.12.2007 to 18.12.2007 he had come to village Barara. On 16.12.2007 Tej Pal took his son Bharat Chauhan to the house of his Bahnoi (sister's husband) Jagbir Singh at village Dosarka, District Ambala at about 3.30 PM where he stayed for 5-10 minutes and then left his son there. He

return. Tej Pal did not return till 10.00 PM whereupon his father Captain Nar Singh Chauhan enquired from Jagbir who told that Tej Pal had left saying that he was proceeding to Ambala and had not returned and that Bharat Chauhan was with them. Efforts were made to contact Tej Pal on his mobile phone but his phones were found switched off. They searched for Tej Pal and then made report in P.S. Barara. Around 11.00 AM a telephone call was received from SHO Saharanpur that a white colour Ford Fiesta car bearing No.HR-01-U-2123 was standing without its driver at the bank of a canal at Saharanpur. After about 15-20 minutes another call was received that a dead body was lying in the Dikki of the said car. His father sent him for the identification of dead body to Saharanpur. He identified the dead body as that of Tej Pal his brother. He also mentioned that Tej Pal was managing Angel Public School, Barara in the name of his wife. A loan amount of Rs.24 lacs was due against said School, recoverable by Punjab National Bank and deceased was busy in arranging money to deposit instalment of the loan amount as told to him by his brother-in-law Jagbir. He also alleged that as per his knowledge, Tej Pal had no enmity with any particular person. Regarding his creditors and debtors enquiry could be made from the Managing Committee of the School. He sought legal action.

5. His statement Ex.PE was recorded by the police at Dehat Kotwali, Saharanpur. On the basis thereof formal FIR No.442/965 dated 17.12.2007 Ex.PE/1 was registered at Saharanpur. The postmortem was conducted the same evening. Inquest proceedings Ex.PG were conducted.

6. The prosecution examined number of witnesses in its support. The statement of the accused under Section 313 Cr.P.C. was recorded. He

stated that the deceased owed money to several persons and on account of this he might have been killed by someone. He had absolutely no animosity with the deceased. He further stated that he was a share holder in the school to the extent of 1/3rd. The deceased was his brother-in-law (sala) as deceased's sister is his wife. Had he committed the murder of Jagbir, the latter's sister would have been the last person to reside with him. The entire case has been falsely foisted on him. There was no litigation between him and Jagbir. He never suffered any disclosure statement nor got any recovery affected. He stated that false recoveries had been planted on him. The country-made revolver was planted by the Saharanpur Police from their own Malkhana. The prosecution case had not been supported by anyone on the point of motive. The alleged *Gajar Ka Halwa* used for committing the crime had also not been proved by any of the witnesses. He stated that his co-accused Karambir had also been wrongly roped in by the Police. Since he had not committed any crime, he would have been the last person to summon Karambir to help him to remove the dead body from the car to the dicky (boot). However, he did not lead any evidence in his defence.

7. The appellant was convicted and sentenced as referred to above. Hence, this appeal.

8. We have heard learned counsel for the parties and have gone through the judgment and record.

9. PW1 Pushpa Rani stated that on 16.12.2007 her son Bharat and her husband Tej Pal had come to her school (Angel Public School). When her husband was in the school he received a telephonic call from Jagbir accused. Her son Bharat and her husband went to the house of Jagbir at

alighted from car at the house of Jagbir. Tej Pal and Jagbir went away in the car. She made two-three telephone calls to her husband around 6.00 PM on both his phone numbers. The call was received but later on the phone was switched off. Thereafter she could not contact him. She, her father-in-law Nar Singh and Sushil Kumar went to the house of Jagbir Singh in a car at 11.30 PM. Sanesh Pal, the brother of Jagbir opened the main door of the house and parked the car in it. Sanesh locked the door from inside. They enquired about the whereabouts of her husband from the wife of Jagbir who was her husband's sister. She informed that a short while ago Jagbir was there but now he was not. They took tea there. Then Jagbir entered the house by climbing a wall. On enquiry Jagbir told her that he had left Tej Pal at Dosarka and he had gone to Ambala. Then she came back home along with her son and father-in-law. Jagbir, her father-in-law and Sushil Kumar left in search of Tej Pal. The next day they lodged a report with the police that her husband was missing. Her husband was commando in the police. Jagbir was a partner in the school. Jagbir and her husband had a tiff a couple of times regarding money. Both of them were engaged in property dealing and their relations had become strained. This also gave rise to a tiff between them. After that she along with her father-in-law and others went to Dosarka where they met Munish Kumar, a servant of Karanwal who informed that he had seen Jagbir Singh driving the car and Tej Pal was sitting by the side and eating something. Satish informed that Jagbir and Tej Pal had taken 'Gajar ka Halwa' of Rs.25/- and then both of them left. Thereafter the dead body of her husband was found in the big canal located on Ambala-Saharanpur road. Her son had also told her that Jagbir had

10. In cross-examination she stated that the school was being run by her under the name and style of 'Angel Public School'. In the School 1/3rd share was of Jagbir, 1/3rd of Dharamraj and 1/3rd belonged to her and her husband. The school is running properly for the last about eight years. In her statement dated 10.3.2008 to the Police she had stated that they had enquired about the whereabouts of her husband from the wife of Jagbir to which she replied that a short while ago Jagbir was here, but now Jagbir is not here. She was confronted with her statement Ex.DA wherein, it was not so recorded. In her statement before the police on 10.3.2008 she had got recorded that Jagbir had informed that he had left her husband at Dosarka and he had gone to Ambala. She was confronted with statement Ex.DA where it was not so recorded. She had also recorded in her statement dated 10.3.2008 that after 11.30 PM Jagbir came to the house after climbing the wall and on enquiry he told about Tej Pal having gone to Ambala. She was confronted with her statement Ex.DA wherein it was not so recorded. She had got recorded before the police that her husband and Jagbir were dealing in property and their relations had become strained on that account. She was confronted with her statement Ex.DA wherein it was not so recorded. There was a dispute between her husband and Jagbir in 2005 but there was a settlement between them. She admitted that her husband Tej Pal and her brother Dharamraj were not on speaking terms for the last many years. Dharamraj had withdrawn his share from the school about two years ago.

11. PW2 Satish Kumar transporter of Barara stated that he was sitting in the shop of Pahwa Sweet House, at Dosarka. There is a huge rush at the shop thus he could not tell who had come. He did not know if the

