

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

(1) CRA-D-752-DB of 2011

Ram Mehar alias Kala

.... APPELLANT

Versus

State of Haryana

..... RESPONDENT

(2) CRA-D-937-DB of 2011

Kulwanti Devi alias Babli

.... APPELLANT

Versus

State of Haryana

..... RESPONDENT

Reserved on : 09.05.2019

Date of decision : 13.05.2019

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

Present: Ms. Neel Kamal, Advocate, for
Mrs. Ritam Aggarwal, Advocate,
for the appellant in CRA-D-752-DB of 2011.

Mr. K.D.S. Hooda, Advocate,
for the appellant in CRA-D-937-DB of 2011.

Mrs. Shubhra Singh, Addl. A.G., Haryana.

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RAJIV SHARMA, J.

1. Since common questions of law and facts are involved in both the appeals, i.e. CRA-D-752-DB of 2011 and CRA-D-937-DB of 2011, therefore, these are taken up together and being disposed of by a common

judgment.

2. Both these appeals are instituted against judgment and order dated 10.06.2011, rendered by learned Sessions Judge, Jind, in Sessions Trial No. 81 dated 16.12.2010. Appellants Ram Mehar alias Kala and Kulwanti Devi alias Babli were charged with and tried for the offences punishable under Sections 364, 302 and 201 read with Section 34 IPC. They were convicted thereunder and sentenced as under :-

Under Section 302 read with Section 34 IPC	To undergo rigorous imprisonment for life and to pay a fine of ₹ 5,000/- each. In default of payment of fine to undergo rigorous imprisonment for a further period of one year.
Under Section 364 read with Section 34 IPC	To undergo rigorous imprisonment for life and to pay a fine of ₹ 5,000/- each. In default of payment of fine to undergo rigorous imprisonment for a further period of one year.
Under Section 201 read with Section 34 IPC	To undergo rigorous imprisonment for a period of three years and to pay a fine of ₹ 3,000/- each. In default of payment of fine to further undergo rigorous imprisonment for a period of six months.

3. The case of the prosecution, in a nutshell, is that on 03.09.2010, Dalel Singh presented a complaint along with both the accused before the SHO, Police Station Sadar Narwana, stating therein that on that day, they were discussing the Panchayat matters in the house of Sarpanch Reshma Devi. Accused Kulwanti Devi alias Babli and Ram Mehar alias Kala came. Kulwanti Devi alias Babli told that on 23.08.2010, she had gone to her

father's house in village Naiwala on the eve of 'Raksha Bandhan'. Thereafter, on 31.08.2010, she along with her children, namely Satnam Singh aged 5 years and Pargati aged 3 years, came to Narwana for going to her in-laws' house in village Julehera. She and Ram Mehar had illicit relations with each other. On 23.08.2010, they had planned to move out from the village. According to their plan, Ram Mehar also came at Bus Stand Narwana. They eloped with the children, namely Satnam Singh and Pargati. They came to village Naiwala. Roshan and other villagers of village Naiwala had brought them to village Julehera. They confessed their crime before the Panchayat to the effect that they had killed the children. The FIR was registered against the appellants. Both the accused were arrested. The investigation was completed and challan was put up after completing all the codal formalities.

4. 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. According to them, they were falsely implicated in the case and their signatures were obtained on blank papers. They were convicted and sentenced, as noticed here-in-above. Hence, this appeal.

5. Learned counsel appearing on behalf of the appellants have vehemently argued that the prosecution has failed to prove its case. Learned counsel appearing for the State has supported the judgment and order of the learned Court below.

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

7. PW.2 Sukhi Ram, PW.3 Jangir Singh, PW.4 Sudhan Ram, PW.5 Hawa Singh, PW.6 Brij Lal and PW.7 Dalel Singh did not support the case of the prosecution.

8. PW.8 Dharambir is the husband of appellant Kulwanti Devi alias Babli. He testified that his marriage was solemnized with Babli accused on 07.04.2002. His wife had developed illicit relations with one Naresh Kumar son of Phulia Ram. The matter was resolved. Thereafter, two children, namely Satnam and Priti, had born out of their wed lock. About 3-4 months back from the date of occurrence, his wife had talked on mobile no. 97285 89297 belonging to one Kala from his telephone No. 273308. A quarrel took place between him and his wife. On 23.08.2010, his wife went to her parental home at village Naiwala on the eve of 'Raksha Bandhan'. On 31.08.2010, he came to know that Ram Mehar co-accused was also absent from the village. He visited village Naiwala to take his wife back on 01.09.2010. She was not present there. However, on 03.09.2010, co-villagers of village Naiwala brought both the accused in village Julehera at the house of Sarpanch. They were already holding meeting. Dalel Singh, Mahipal, Jangir Singh, Hawa Singh and Sudhan Singh also attended the proceedings. Both the accused confessed before them that they had thrown the dead bodies of his children after murdering them in the bushes, near Railway Station, Ambala Cantt. An application Ex.PB was submitted to the police. On 03.09.2010, the police recovered a mobile phone from accused Ram Mehar. It was taken into possession vide memo Ex.PG. Accused made disclosure statements. They were taken to Ambala by the police. They identified and disclosed the place, from where dead bodies of both the

children were recovered by the police vide Ex.PK. He identified his children. He identified the accused in the court. In his cross-examination, he deposed that his wife had gone for one day. He had also reported the matter to the police on 01.09.2010. However, the police did not take any action on the missing report of his wife.

9. PW.9 Pirthi deposed that on 03.09.2010, he along with Hawa Singh, Brij Lal, Sudhan and Dharambir etc. was sitting in the house of Sarpanch of their village. In the meantime, Panchayat of village Naiwala reached there along with both the accused. The accused confessed before them that they had murdered both the children of Dharambir and threw them in the bushes near Railway Station, Ambala. Accused Kulwanti also confessed that she had gone to village Naiwala for tying 'Rakhi' on 23.08.2010. She went to Bus Stand, Narwana, where accused Ram Mehar met her as per their plan. Thereafter, both of them went to Ambala along with the children. Accused Ram Mehar caught hold of the legs and hands of the children and accused Kulwanti strangled both the children. Accused further disclosed that they threw the dead bodies of the children in the bushes near Railway Station, Ambala. Thereafter, both the accused were produced in Police Station, Sadar Narwana. Application Ex.PB was moved. His statement was recorded by the police.

10. PW.10 Surrender deposed that at the instance of the accused, the dead bodies were recovered.

11. PW.11 Jita Ram is the father of one of the appellants, namely Kulwanti Devi alias Babli. According to him, his daughter Kulwanti was married with Dharambir about nine years ago. Two children, namely Satnam

aged 5 years and Priti aged 3 years, were born. His daughter Kulwanti along with her both children came to him on the eve of 'Raksha Bandhan' on 23.08.2010 from village Julehera. She went back on 31.08.2010 but did not reach village Naiwala. On 02.09.2010, accused Kulwanti along with co-accused Ram Mehar came to his house. She did not have children with her at that time. They enquired from her about both the children. Both the accused disclosed that after murdering the children, they had thrown their bodies in bushes in Ambala. On 03.09.2010, he along with both the accused and Panchayat consisting of Roshan Lambardar, Ramesh Sarpanch, Dharampal and Ramdiya went to village Julehera. The accused were produced before the Panchayat. Thereafter, they were produced before the police. In his cross-examination, he reiterated that the accused had confessed that they had murdered both the children and threw their bodies in the bushes at Ambala. He went to Ambala along with the police to get the bodies of the children. He knew about the illicit relationship of accused Kulwanti with one Naresh and Ram Mehar accused.

12. PW.17 Kuldeep Gupta prepared site plan Ex.PS.

13. PW.18 Shakti Singh proved the call details of mobile phone No. 97285 89297 from 15.08.2010 to 04.09.2010 vide Ex.PT.

14. PW.20 Ram Avtar deposed that accused Ram Mehar made a disclosure statement that he had offered to disclose the place where he and Babli alias Kulwanti had killed her children and where they had thrown the dead bodies in Ambala. His disclosure statement is Ex.PH. Thereafter, accused Babli alias Kulwanti also made disclosure statement vide Ex.PJ. They identified the place where the dead bodies of Pargati alias Priti and

Satnam were lying. The dead bodies were taken into possession. The post mortem was got conducted.

15. PW.21 Bhim Singh deposed that he met the Panchayat of village Julehera and village Naiwala on 03.09.2010. The Panchayat had submitted an application Ex.PB. He made endorsement Ex.PB/1. He recorded the statements Ex.PA of Sukhi Ram, Ex.PC of Jangir Singh, Ex.PD of Sudhan Ram and Ex.PE of Hawa Singh. He also recorded statements of Dalel Singh, Jita Ram, Roshan and Dharambir. Accused Ram Mehar also produced mobile with SIM No. 97285 89297. Accused Kulwanti also made a disclosure statement vide Ex.PJ. Thereafter, accused Ram Mehar also made disclosure statement vide Ex.PH. The accused were taken to Ambala in Government vehicle. The bodies were got recovered. The place from where bodies were recovered was demarcated. He prepared rough site plan Ex.PAA of the place, from where bodies were recovered. The post mortem was got conducted.

16. PW.19 Dr. Pawan Mittal conducted post mortem on the bodies of Pargati alias Priti and Satnam Singh on 05.09.2010. He tendered his evidence by way of affidavits Ex.PX and Ex.PY. According to him, the exact cause of death could not be ascertained in both the post mortem examinations as the bodies were in the advance stage of decomposition. However, as per the FSL reports Ex.PU and Ex.PU/1, no poison was detected in the viscera which was sent to FSL, Madhuban.

17. The case of the prosecution precisely is that appellant Kulwanti Devi alias Babli had eloped with appellant Ram Mehar alias Kala. The marriage of Kulwanti Devi was solemnised with PW.8 Dharambir on

07.04.2002. She left her matrimonial home on 23.08.2010 at village Julehera. She had gone to her parents home at Naiwala. Appellant Ram Mehar also met her. On 31.08.2010, she left her parents house for going to her matrimonial home. She did not go back to village Julehera. On 02.09.2010, she went to her parents house in the company of Ram Mehar. They both confessed that they had killed the children. The bodies were recovered at their instance on the basis of disclosure statements made by them. The bodies were sent for post mortem examination. PW.9 Pirthi has categorically deposed that on 03.09.2010, the Panchayat of village Julehera was in session. The members of the Gram Panchayat Naiwala had produced the accused before them. The accused had confessed their crime before them. Thereafter, they were produced before the police. PW.8 Dharambir is the husband of appellant Kulwanti Devi alias Babli. According to him, his wife had developed illicit relations with one Naresh Kumar. There used to be dispute between him and his wife. On 23.08.2010, his wife went to her parental house at village Naiwala. On 31.08.2010, he came to know that appellant Ram Mehar was also absent from the village. He visited village Naiwala on 01.09.2010. His wife was not present there. The co-villagers of village Naiwala had brought the accused to village Julehera on 03.09.2010. The accused confessed their crime. They made disclosure statements and got recovered the dead bodies of his son and daughter. He identified the dead bodies. The most material witness in the present case is the father of appellant Kulwanti Devi alias Babli, i.e. PW.11 Jita Ram. He deposed that his daughter Kulwanti along with her both children came to him on the eve of 'Raksha Bandhan' on 23.08.2010 from village Julehera. She went back on

31.08.2010, but did not reach village Julehera. On 02.09.2010, Kulwanti along with Ram Mehar came to his house. She was not accompanied with her children. He enquired about both the children. They disclosed that they had killed the children. Thereafter, he along with the accused and members of Gram Panchayat Naiwala went to village Julehera. The Panchayat of village Julehera and other members of the village produced the accused before the police.

18. The case of the prosecution is based on circumstantial evidence. In order to prove the case based on circumstantial evidence, chain must be complete. All the circumstances must point out towards the guilt of the accused. In the instant case, the chain is complete from the date Kulwanti Devi alias Babli left her matrimonial home in village Julehera on 23.08.2010 for her parents home in village Naiwala. She along with her son and daughter left village Naiwala on 31.08.2010. She did not reach village Julehera. On 02.09.2010, she along with appellant Ram Mehar alias Kala visited her parents home again. Children were not with her. Both the appellants made extra judicial confessions before PW.11 Jita Ram that they had killed the children. They were produced before the Panchayat of village Julehera by the members of Gram Panchayat of village Naiwala. They again made confessions before members of the Panchayat. PW.8 Dharambir, the husband of appellant Kulwanti Devi alias Babli, has also deposed that he visited village Naiwala on 01.09.2010, but his wife Kulwanti Devi was not present there. Thereafter, she along with appellant Ram Mehar alias Kala was produced before the Panchayat of village Julehera. They had made extra judicial confessions and made disclosure statements, on the basis of

which dead bodies of the children were recovered. Though they took the plea that their signatures were obtained on blank papers to get their disclosure statements, but they did not make any complaint to the higher authorities, including the court. The cause of death of both the children was not conclusive. But the fact remains that the children were in the company of their mother Kulwanti Devi alias Babli. She had to explain the circumstances, under which her children had disappeared. There was no occasion for father to falsely implicate his daughter.

19. In view of the above discussion, the prosecution has proved its case against the appellants beyond reasonable doubt. Thus, there is no occasion for us to interfere with the well reasoned judgment and order of the trial court. Accordingly, both the appeals are dismissed.

(RAJIV SHARMA)
JUDGE

May 13, 2019
ndj

(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No