

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

CRA-S-868-SB-2004

Date of Decision :15.05.2019

Jinder Pal Kaur

.... Appellant

versus

State of Punjab

.... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by: Mr. N.S.Boparai, Advocate
for the appellant.

Ms. Jaspreet Kaur, AAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The instant appeal has been preferred against the impugned judgment of conviction and order of sentence dated 29.03.2004 passed by Addl. Sessions Judge (ad hoc), Fast Track Court, Ludhiana vide which the accused-appellant was convicted under Section 304 Part-II IPC and sentenced to undergo rigorous imprisonment for a period of five years and also to pay a fine of ₹ 1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for three months.

2. The prosecution case was set in motion on a written complaint to the police by PW-2 complainant Lakhbir Singh, father of deceased Jagroop Singh, in which he stated that on 08.07.2002, his deceased son while attending school was punished by his teacher i.e. the appellant by making him stand in the sun and hold his ears through his legs for not carrying with him one of his notebooks. It was further alleged by the

complainant that the appellant had inflicted stick blows on the person of his deceased son including one on the head of the deceased as a result of which, he had fallen on the ground. As per the complainant, the school authorities tried to brush the whole incident under the carpet by making it out to be a case of fainting due to excessive heat and as a result of which, valuable time had been lost by them in not rushing his injured son to the nearest doctor for his treatment. In fact, it was his daughter-Gurvinder Kaur (PW-3), a student of the same school, who disclosed to the complainant that she had rushed to the rescue of her deceased brother when he was being beaten up by the appellant and on her trying to save her brother from the wrath of the appellant, she was reprimanded by her and sent away. On the basis of this statement of the complainant, a case under Sections 337 and 338 IPC was registered against the appellant, which was later on converted to Section 304 IPC after the deceased succumbed to his injury on 12.07.2002.

3. The investigation thereafter was set in motion, accused was arrested and finally she was charged under Section 304 IPC to which she pleaded not guilty and claimed trial.

4. In support of their case, the prosecution examined as many as 09 witnesses including PW-1 Dr. Sandeep Sharma, Medical Officer of Arora Neuro Centre, Ludhiana, PW-5 Dr. U.S.Sooch, Civil Hospital, Ludhiana, who conducted the postmortem on the dead body of the deceased Jagroop Singh and PW-3 Gurvinder Kaur and tendered all the relevant documentary evidence.

5. The accused when examined under Section 313 Cr.P.C. denied all the incriminating evidence, which had come on record against her. The

appellant rather stated that it was a concocted case and in fact pressure was being exerted on her by the complainant and political parties to extract huge amount of money from her. She also pleaded that she was suffering from disability to the extent of 90% in one of her arms.

6. In defence, the accused/appellant examined DW-1 Naresh Kumar Garg, Draftsman, DW-2 Gurcharan Singh, Physical Training Teacher and DW-3 Ranjit Singh, Clerk.

7. Learned counsel for the appellant vehemently argued that the learned trial Court failed to appreciate that PW-3 Gurvinder Kaur, the alleged eye-witness, was none other than the real sister of the deceased Jagroop Singh and hence, an interested witness. He further argued that there was no independent witness to corroborate the ocular testimony of PW-3 Gurvinder Kaur, which cast a serious doubt on the veracity of the prosecution case. Learned counsel drew my attention to the evidence of DW-1 Naresh Kumar Garg, Draftsman, who prepared the scaled site plan Ex.D-1 of the Government Senior Secondary School, Pakhowal wherein the alleged occurrence had taken place to urge that it could not have been possible for PW-3 Gurvinder Kaur to have witnessed the alleged occurrence from her class room since her view would have been blocked because of the intervening blocks of school building. Learned counsel also referred to the testimony of DW-2 Gurcharan Singh, Physical Training Teacher, who deposed that in his presence, when the deceased complained of giddiness, he was asked by the appellant to sit down on a bench but instead he fainted and fell down. Learned counsel for the appellant further argued that the testimony of the complainant and PW-3 Gurvinder Kaur rather was at

variance with each other qua the motive, which created a dent in the prosecution version. While drawing my attention to the testimony of PW-1 Dr. Sandeep Sharma as well as PW-5 Dr. U.S. Sooch, who conducted the postmortem, learned counsel submitted that the trial Court failed to appreciate that the deceased died due to brain haemorrhage and even as per the postmortem report, there was no external injury on the person of the deceased. He concluded by urging that the learned trial Court erred in not appreciating that the medical evidence fully corroborated the version given by DW-2 Gurcharan Singh, Physical Training Teacher.

8. Learned State counsel on the contrary prayed for dismissal of the appeal by urging that the presence of PW-3 Gurvinder Kaur was most natural and could not be doubted. She further submitted that in the absence of any animosity having been alleged, there was no reason for the complainant party to falsely implicate the appellant in the instant case.

9. I have given my anxious consideration to the submissions advanced by both the parties as well as gone through the evidence on record.

10. I do not find any perversity or infirmity in the findings recorded by the learned trial Court in the impugned judgment. The presence of PW-3 Gurvinder Kaur at the relevant time of occurrence was most natural and could not be doubted as both she and her deceased brother were studying in the same school. As far as the argument of the learned counsel for the appellant that PW-3 Gurvinder Kaur could not be relied upon being an interested witness is concerned, the same deserves to be discarded as no animosity has been alleged between the parties to fabricate an embroidered

version to implicate the appellant in the instant case.

11. Coming to the next argument of the learned counsel for the appellant that PW-3 Gurvinder Kaur could not have possibly witnessed the alleged occurrence wherein her deceased brother was beaten up by the appellant, the same too is bereft of any merit. A minute perusal of the deposition of PW-3 Gurvinder Kaur comes across as convincing and believable. She has categorically deposed that her history teacher was on leave on the fateful day, so she was outside her classroom. It was due to this reason that she was able to see her brother being beaten up in the open ground by the appellant. Moreover, her attendance/presence in the school on the fateful day has gone unchallenged. Still further not only was the site plan Ex. D-1 on which learned counsel for the appellant tried to place a great deal of reliance, prepared at the instance of the appellant herself but as per DW-1 Naresh Kumar Garg himself, the same was prepared without consulting the approved site plan of the school.

12. Be that as it may, the ocular testimony of the star witness PW-3 Gurvinder Kaur finds full corroboration with the medical evidence as well. The abrasions found on the person of the deceased as per the injury report Ex.PB prepared by PW-1 Dr. Sandeep Sharma corroborates the factum of the deceased having been inflicted stick blows by the appellant as the age of the injuries as per postmortem report found on the person of the deceased coincided with the time of occurrence. The argument of the learned counsel for the appellant that there was no external injury on the person of the deceased and that he had died due to brain haemorrhage thus deserves to be rejected rightaway. As per PW-5 Dr. U.S. Sooch, there was defused sub

dural hematoma 6” x 4” on the left temporo-parietal area, which was extending across and mid line on the right parietal area. The doctor categorically deposed that the cause of death was due to close head injury resulting in intracranial hematoma, which was sufficient to cause death in the ordinary course of nature. Had the deceased actually fainted due to excessive heat, the same would have definitely found reflection in the autopsy report. A suggestion was given to PW-1 Dr. Sandeep Sharma that the deceased had in fact died due to brain haemorrhage on account of his tender age or due to some hereditary characteristics, which he emphatically denied.

13. It would be pertinent to observe that the primary role of a teacher no doubt is to impart education and to teach the students to train in a socially acceptable way as also to inculcate a sense of discipline in them. However, one must not forget that a teacher plays the role of a second parent to her pupils. In fact, the two most important tenets of a sound education system are (i) compassion and caring (ii) discipline irrespective of which part of the globe one may come from. It is not formal educational qualification alone which guarantee the making of an ideal teacher but it is the maternal instinct, which makes a teacher out of a person. Coming to the instant case, what kind of a teacher was the appellant to have let loose the devil in her to such an extent that a young life was snuffed out cruelly and callously! The appellant, who was supposed to be a mentor to her students, became a tormentor. Callousness and cruelty of the appellant is clearly reflected in the severity of the blow inflicted by her with a “danda” on the head of the deceased Jagroop Singh resulting in intracranial hematoma

leading to his death.

14. Thus, I have no hesitation in holding that it has been established beyond reasonable doubt that the appellant had indeed inflicted stick blows leading to the death of the deceased Jagroop Singh. As a sequel to the above discussion, the conviction of the appellant under Section 304 II IPC is hereby upheld and maintained.

15. On the point of quantum of sentence, learned counsel has prayed that the appellant has undergone the agony of a long protracted trial of about 15 years and at present, she is about 75 years old coupled with the fact that she is suffering from disability to the extent of 90% in one of her arms, hence, a lenient view may be taken by extending the benefit of probation or in the alternative, she may be sentenced to the period already undergone by her.

16. After giving my anxious consideration to the facts and circumstances of the case leading to the death of a young student at the hands of the appellant, who was none other than his teacher, I am not inclined to extend the benefit of probation to the appellant. However, since the occurrence pertains to the year 2002 and that the appellant has faced a protracted trial as also the fact that she is now nearing 75 years of age, having no criminal antecedents, I am inclined to modify the order of sentence and as a result thereof, I reduce her sentence to the period already undergone. Further, the fine of ₹ 1000/- imposed by learned trial Court shall remain intact, which shall be paid by the appellant within one month from the date of receipt of certified copy of this order.

17. In my opinion, no amount of monetary compensation can even come close to equalling or diminishing the untold grief of the hapless parents. The Hon'ble Supreme Court in *Hari Kishan and State of Haryana vs. Sukhbir Singh & others, 1988(2) RCR (Crl.) 394 (SC): AIR 1988 Supreme Court 2127* held that the provision relating to the awarding of compensation to the victims while imposing sentence has seldomly been invoked. Hon'ble Supreme Court further held that in addition to the conviction, the Court could order the accused to pay some amount of compensation to the victims, who would have suffered due to the act of the accused as it was in a way to lend re-assurance to the victims that their agony and grief had not been forgotten in the criminal system.

18. Considering the peculiar facts and circumstances of the case, the ends of justice would be met by directing the appellant to pay a compensation of ₹ 50,000/- to the victims/legal representatives of deceased Jagroop Singh within one month from today. In case, she fails to do so, she shall undergo the remaining part of her sentence as awarded by the learned trial Court. It is however, clarified that this decision is passed in the peculiar facts and circumstances of the case, which may not be treated as a precedent.

19. The appeal stands disposed of in the above terms.

(MANJARI NEHRU KAUL)
JUDGE

May 15, 2019
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Whether speaking/reasoned?	Yes / No
Whether Reportable?	Yes / No