

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

Reserved on : 30.11.2018

Date of decision : 17.1.2019

1. CRA-D No. 1547-DB of 2014 (O&M)

Vajinder Paul Appellant

versus

U. T. Chandigarh Respondent

2. CRA-D No. 1604-DB of 2014

Renu Bains ... Appellant

versus

U. T. Chandigarh ... Respondent

**Coram: Hon'ble Mr. Justice Rajiv Sharma
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present Mr. Ashok Kumar Sharma, Advocate, for the appellant
in CRA-D No. 1547-DB of 2014 and
Mr. V. D. Sharma, Advocate, for the appellant
in CRA-D No. 1604-DB of 2014.

Mr. Kuldeep Tiwari, Additional Public Prosecutor
U. T. Chandigarh.

Rajiv Sharma, J.

1. Since common questions of law and facts are involved in these appeals bearing CRA-D No. 1547-DB of 2014 and CRA-D No. 1604-DB of 2014, the same are being disposed of by a common judgment.

2. These appeals are instituted against the judgment dated 26.8.2014 and order dated 29.8.2014 rendered by Additional Sessions Judge, Chandigarh, in Session Case No. 275 of 26.10.2012, whereby accused Vajinder Paul and Renu Bains were charged with and tried for the offence under Sections 302, 201, 34 IPC. Criminal Appeal bearing CRA-D No. 1547-DB of 2014 – Vajinder Paul vs U. T. Chandigarh has been filed

by accused Vajinder Paul and CRA-D No. 1604-DB of 2014 – Renu Bains
vs U. T. Chandigarh, has been filed by accused Renu Bains. They were
convicted and sentenced as under:-

<i>Name of the accused</i>	<i>Offence under section</i>	<i>Period of sentence (RI)</i>	<i>Fine imposed in ₹</i>	<i>Period of sentence in default of payment of fine (SI)</i>
Vajinder Paul	302/34 IPC	Life imprisonment	50,000/-	One year
	201/34 IPC	Three years	20,000/-	Three months
Renu Bains	302/34 IPC	Life imprisonment	50,000/-	One year
	201/34 IPC	Three years	20,000/-	Three months

3. The case of the prosecution in a nutshell is that complainant PW1 Prem Chand son of Shakti Chand lodged a complaint to the effect that his younger sister Suresh Kumari @ Pooja was married with appellant Vajinder Paul in July, 2007. On 14.7.2012 at about 6.00 A.M. in the morning, he received a phone call from Balwinder Pal father-in-law of his sister, asking about whether Suresh Kumari @ Pooja had come to his house. He replied in negative. He told him that she was missing since 13.7.2012. He firstly called Pooja and then Vajinder Paul on their phones but could not contact them. Then he asked on phone from Pooja's father-in-law that whether some quarrel had taken place in the home. He told that trivial quarrel usually took place at home. He further told that on 13.7.2012 at about 10.15 A.M., Vajinder Paul went to Jalandhar in his car and after 10-15 minutes Pooja came out of house to go to Khuda Ali Sher where she worked. He came to know that Pooja has not reached her place of work. Balwinder Pal lodged the missing report on 13.7.2012. The call details of Vajinder Paul were taken into possession. On 17.7.2012, Vajinder Paul was interrogated. He confessed his crime. It is in these circumstances, FIR was registered. The investigation was completed and the challan was put up after completion of all the codal formalities.

4. The prosecution examined a number of witnesses in support of its case. The statements of the accused were recorded under Section 313 Cr.P.C. They denied the case of the prosecution. Appellant Vajinder Paul examined two witnesses in defence. The appellants were convicted and sentenced as noticed above. Hence, the present appeals.

5. Learned counsel appearing on behalf of the appellants vehemently argued that the prosecution has failed to prove its case. Learned counsel appearing for the State vehemently argued that the prosecution has proved its case beyond reasonable doubt and 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. PW1 Prem Chand Sharma deposed that his younger sister Suresh Kumari was married with Vajinder Paul in July, 2007. It was love-cum-arranged marriage. He received phone on 14.7.2012 at about 6.00 A.M., from Balwinder Pal father of accused Vajinder Paul, asking him whether Pooja had come to his house. He told that she had not come to his house. He told that Pooja was missing since 13.7.2012. He tried to contact Pooja and Vajinder Paul but he could not contact them. He made further enquiries. He was told by Balwinder Pal that on 13.7.2012 at about 10.30 A.M. Vajinder Paul had gone to Jalandhar in his car. His sister had gone to Khuda Ali Sher, however, she did not reach there. Thereafter, the matter was reported to the police. Accused Vajinder Paul was arrested on 17.7.2012. He told the police that on 13.7.2012, he took his wife from dividing road of Sector 19/20, in a car. He put some intoxicants in cold drink. After consuming drink, she became unconscious. Thereafter, he

picked up Renu from her house in Sector-20. They went towards Mohali side. On the way by making rope of a cloth piece lying in the car, he along with Renu strangled Pooja. Thereafter, they took the body in the forests of Hoshiarpur, where after pouring petrol on the body of his sister, they put her on fire. He further told that he could get recovered the dead-body. His disclosure statement is Ex.PB. Vajinder Paul took them to the forest area but the body could not be recovered. He told the police that his girl friend Renu could get the dead-body recovered. Thereafter, the police party went to village Bharatpur, District Hoshiarpur, from where accused Renu was arrested. She told to the police that on 13.7.2012, when she was present in her house in Sector-20, Vajinder Paul, with whom she was having relations, told her to get ready as he was to remove hurdle in their relations. He told her that his wife was lying unconscious in his car. She went to accused and sat in his car. His wife was lying unconscious. She told that by making the rope of a cloth, she along with accused Vajinder Paul murdered Pooja by strangulating her. Thereafter, the body was taken to forest area of Hoshiarpur. The body was burnt by pouring petrol. Her statement was recorded vide Ex.PD. The police took her to forest area of Nasrala *choe* of Hoshiarpur and got recovered the burnt body of his sister. The body was identified by him, his wife and Balwinder Singh. Memo, Ex.PF, to this effect was prepared. From near the body one soil stained cloth piece and blood stained hair of deceased were taken into possession. In his cross-examination, he admitted that his brother Bhuvnesh Kumar used to consume liquor and he immolated himself and while saving him, his mother also suffered burn injuries and expired. He further deposed that he used to talk with Pooja frequently on phone. He also used to talk with Vajinder Paul

occasionally.

8. PW2 HC Yashpal deposed that he along with Constable Shiv Kumar and Tarsem Singh, Ex-Sarpanch of village Meghowal, District Hoshisarpur, went to the place of occurrence. He undertook the demarcations and prepared the draft notes.

9. PW3 ASI Balram deposed that he along with Tarsem Singh and Constable Shiv Kumar went to choe Nasrula wherefrom the body of deceased Pooja was found on 19.7.2012. The accused had thrown the body from their car and thereafter burnt the same. Some dust and sand was taken into possession by him on that day from that place in order to compare the same with the dust and sand found in the said car.

10. PW4 Anil Kumar Dahiya, Project Director, National Highway Authority of India, supplied the toll crossing data of vehicle No. CH-01 AE 7245, vide Ex.PU, to the police party vide letter dated 26.7.2012, Ex.PV.

11. PW5 Jatinder Sekhon is the formal witness.

12. PW7 Sheilza is the wife of PW1 Prem Chand Sharma. She has corroborated the statement of PW1 and the manner in which her sister-in-law was killed and the body was got recovered by the accused.

13. PW8 Dr. Parijat has taken the blood sample of female child Rytham on 19.7.2012.

14. PW10 Dr. Dasari Harish along with Dr. Deepak Sharma and Dr. Jyoti had conducted the post-mortem examination. According to the doctor, blood sample could not be retrieved because of advanced decomposition. Sternum was preserved for DNA in a separate container with one seal. He proved PMR, Ex.PW/10A. The dead-body was brought to the hospital on 17.7.2012. The post-mortem was conducted on 18.7.2012 at

3.15 P.M. Since the neck structures including the soft tissues of the larynx and trachea were missing, hence, it was not possible for the post-mortem team to opine whether there were any injuries on the neck structures or not.

15. PW12 HC Sat Pal is formal witness.

16. PW13 Dr. Aanchal Dwivedi has proved CFSL report, Ex.PW13/A.

17. PW14 Dr. Sunita Verma has proved report, Ex.PW14/A.

18. PW15 B. Singh, Senior Scientific Officer, CFSL, Chandigarh, deposed that he performed tests including Gas liquid chromatographic analysis with the samples. Based on the examination, he concluded that residues of petroleum origin were detected in sample. He prepared the report, which is Ex.PW15.

19. PW16 deposed that he was Sarpanch of village Meghowal from the year 2002 to 2007. On 17.7.2012, he was present at his house. He came to know that Chandigarh Police had come to the jungle area. As he was Ex-Sarpanch of his village, he also reached the spot where police party headed by Inspector Harjit Kaur met him and disclosed about murder of Pooja wife of Vajinder Paul, by Vajinder Paul and Renu. Both the accused were also present and got recovered the burnt dead-body. It was identified by father-in-law, brother and sister-in-law of the deceased. He again on 19.7.2012 joined investigation and went to the spot from where body of deceased Pooja was recovered. From the spot some dust and sand was taken into possession by ASI Balram after converting the same into sealed parcel.

20. PW17 Inspector Harjit Kaur was the Investigating Officer. During investigation on 17.7.2012, accused Vajinder Paul was interrogated. He made disclosure statement, Ex.PB. On the basis of disclosure statement

suffered by the accused Vajinder Paul, he took the police party towards the jungle area of Nasrula Choe, Hoshiarpur. He further disclosed that co-accused Renu was resident of area of Hoshiarpur and conversant with the area. She took the police party towards the house of accused Renu. Accused Renu was picked up from the house. Accused Renu was arrested. During interrogation, she voluntarily suffered a disclosure statement, Ex.PD, and took the police party to the jungle area i.e. Nasrula Choe, Hoshiarpur. She also took photographs. Car was also taken into possession vide seizure memo, Ex.PW17/D. Post-mortem report is Ex.PW10/A. The dead-body was handed over to PW1 Prem Chand Sharma. She also moved an application, Ex.PT, to the Project Director, NHAI, Haryana, for supply of CCTV footage of vehicle No. CH-01AE 7245. Anil Dahiya, Project Director, handed over the information to her. She also moved an application, Ex.PX, to the Duty Doctor, General Hospital, Sector-16, Chandigarh, for taking blood sample of Prem Chand and Rytham daughter of the deceased for DNA comparison with deceased. She also obtained report of ownership of Swift Car in question, Ex.PW/1, from the Registratioin and Licensing Authority.

21. The precise case of the prosecution is that Pooja had gone missing on 13.7.2012. Her father-in-law Balwinder Pal had lodged the missing report, vide DDR No. 48 dated 13.7.2012. According to him, Pooja did not reach her place of work. He also told PW1 Prem Chand Sharma that his son Vajinder Paul had gone to Jalandhar. Thereafter, brother of the deceased lodged report suspecting Vajinder Paul husband of the deceased. The appellant Vajinder Paul was arrested on 17.7.2012. He made disclosure statement Ex.PB. He disclosed the manner in which he along with Renu had committed the murder of his wife. He took the police party to the forest

areas of District Hoshiarpur. However, the body could not be traced. He told that co-accused Renu is well conversant with the area. Thereafter, accused Renu was arrested. She took the police to the place and got recovered the burnt body. She had also made disclosure statement, Ex.PD. The police had also taken into possession from near the body one soil stained cloth piece and blood stained hair of deceased. Police had also taken movement of the vehicle, vide Ex.PU. It was duly proved that car No. CH-01 AE 7245, had crossed the toll plaza. PW1 Prem Chand Sharma and PW7 Sheilza deposed that appellant Vajinder Paul was having extra-marital relations with other women. His relations with his wife were not cordial.

22. Learned counsel for the appellants argued that strangulation marks were not present. It has come in the statement of PW10 Dr. Dasari Harish that since the neck structures including the soft tissues of the larynx and trachea were missing, thus, it was not possible to opine whether there were any injuries on the neck structures or not. The probable time between death and post-mortem examination was about 4-5 days.

23. According to FSL report, Ex.P13/A, prepared on the basis of physical and chemical analysis including Density Gradient, Microscopic and Loss of Ignition techniques, the exhibits Ex-2 (mud/sand), was found to be similar with exhibit-1 (mud/sand). According to DNA report, Ex.PW14/A, a DNA profile foreign to deceased was developed from the evidence sample (GPL 408/12 item (s) #- Ex. 4086301, Sternum Bone). As per the results, the unidentified donor of the DNA profile from GPL 408/12 item(s) #- Ex. 4086301, Sternum Bone, could not be excluded as the biological mother of Rydham. Thus, the body had been duly identified to be of the deceased with the help of DNA examination. This report has been

duly proved.

24. According to viscera report, no poison was detected in exhibits 1, 2, 3 and 4. The prosecution had seized from near the body one soil stained cloth piece and blood stained hair of deceased. As per FSL report, residues of petroleum origin had been detected in Ex.1 a bunch of black coloured hair, vide report, Ex.PW15/A. It has been duly proved. Thus, the prosecution version has been proved that Pooja was killed and thereafter her body was burnt with the help of petroleum product.

25. The appellants have made disclosure statement, Ex.PB, and Ex.PD, respectively, on the basis of which the burnt dead-body was recovered. The dead-body was identified in the presence of Ex-Sarpanch of the area PW16 Tarsem Singh. The statements made by the appellants are not hit by Section 25 and 27 of the Evidence Act. The recoveries have been got made by them. The statement of the appellants that one of the appellants had given Pooja some intoxicants in cold drink and thereafter killed her is not admissible but the remaining part, which led to the recovery of burnt dead-body, burnt cloth and sand dust, were admissible as per Section 27 of the Evidence Act. It was also for appellant Vajinder Paul to explain how the dead-body reached at Hoshiarpur, when his wife was living with him at Chandigarh. Similarly, the statement made by appellant Renu is admissible under Section 27 of the Evidence Act. Missing report should have been lodged by the husband in case she was not traceable.

26. According to PW10 Dr. Dasari Harish sample of scalp hair was preserved and sent for chemical examination. The ocular statements are duly supported by the medical evidence.

27. The chain in the present case is complete. All the circumstances exclusively prove towards the guilt of the appellants. Accordingly, the appeals filed by the appellants are dismissed. The judgment and order of the trial court are upheld.

28. Appellant Renu Bains is on bail. The order of her suspension of sentence is revoked. She is ordered to surrender before the trial Court to undergo her remaining sentence of imprisonment imposed by the trial Court vide order dated 29.8.2014.

(Rajiv Sharma)
Judge

17.1.2019
vs

(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No