

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-D-1541-DB-2015(O&M)
Reserved on :03.10.2019
Date of decision : 16.10.2019

Nihal Singh and another

... Appellants

Versus

State of Punjab

... Respondent

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

Present: Mr.S.P.S.Sidhu, Advocate
for the appellants.

Mr.H.S.Grewal, Addl.A.G. Punjab.

RAJIV SHARMA, J.

This appeal has been instituted against the judgment and order dated 29.09.2015 rendered by the Additional Sessions Judge, Fazilka, in Sessions Trial no.73 of 2015 whereby the appellants were charged with and tried for offences punishable under Sections 364, 302/34 of the Indian Penal Code (in short 'IPC'). The appellants were convicted and sentenced as under:-

Name of Convict	Offence under Section	Rigorous imprisonment	Fine	In default of payment of fine, further R.I.
Nihal Singh	364/34 IPC	Five years	Rs.5000/-	Six months
-do-	302/34 IPC	Life	Rs.10,000/-	One year
Lachhman Singh	364/34 IPC	Five years	Rs.5000/-	Six months
	302/34 IPC	Life	Rs.10,000/-	One year

Both the sentences were ordered to run concurrently.

2. The case of the prosecution, in a nutshell is that on 23.07.2014, SI Harinder Singh along with ASI Baldev Singh and others were present near the gate of Mandi Roranwali. Nanak Singh met them. He got his statement recorded to the effect that he was a labourer by profession. On 22.07.2014 at about 10.30 P.M. he along with his father Jugraj Singh were coming back to their home. When they reached Sandhu Petrol Pump Chowk in the area of village Halimwala, his father expressed his desire to consume liquor. He stopped his motor cycle. His father got down. He got a bottle of liquor from nearby liquor shop. He started drinking the same. In the meantime, Nihal Singh and Lacchman Singh sons of Harnam Singh came out of their house. Hot words were exchanged with his father by them. The complainant tried to pacify them. However, Nihal Singh and Lacchman Singh also consumed the liquor and brought *dandas* from their home. They started administering beating to his father with *dandas*. His father collapsed on the ground. His father was dragged to their house. He tried to save his father. Accused tried to administer beating to him. He ran towards his house. He narrated the incident to his mother. His mother narrated the incident to his uncle Gurcharan Singh. Thereafter, they rushed to the house of Nihal Singh. The father of the complainant was found lying in the courtyard of the accused. Blood was oozing out from his mouth, head and ears. Inquest report was prepared. Body was sent for post-mortem examination. Investigation was completed. Challan was put up in the Court after completing all the codal formalities.

3. Prosecution examined a number of witnesses. The statements of

appellants were also recorded under Section 313 Cr.P.C. They have denied the case of the prosecution. The appellants have also produced two defence witnesses. The appellants were convicted and sentenced as noticed hereinabove. Hence this appeal.

4. Learned counsel appearing for the appellants have vehemently argued that the prosecution has failed to prove the case against the appellants.

5. Learned counsel appearing on behalf of the State has supported the judgment and order of the learned trial Court.

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

7. PW-1 Dr.Anmol Grover had conducted the post-mortem examination. He had noticed the following injuries on the dead body of Jugraj Singh:-

“1. There was multiple abrasions of variable sizes present on face.

2. Diffuse swelling was present on right parietal region of the head. On dissection underlying scalp hematoma was present. Underlying parietal bone was fractured. Extra dural hematoma of 10 x 3 cm was present on left temporo parietal region.

3. A contusion measuring 12 x 4 cm was present on right lateral surface of chest on lower part and adjoining part of abdomen. On dissection underlying ribs were fractured. Plural cavity contains blood. Right lung was lacerated. In abdomen peritoneal cavity was filled with blood. Liver was lacerated.”

In his opinion, the cause of death was shock as a result of haemorrhage

which was sufficient to cause death in ordinary course of nature. The probable time that elapsed between injury and death was immediate and between death and post-mortem examination was 12-24 hours. He also proved post-mortem report.

8. PW-2 Harmeet Singh has prepared site plan Ex.PC.

9. PW-3 Nanak Singh is an eye witness. According to him, on 22.07.2014 he along with his father Jugraj Singh at about 10.30 P.M. was coming back to their house. When they reached near Sandhu Petrol Pump Chowk, his father wanted to take drink. He got down from the motor cycle. He went to liquor shop. The house of Nihal singh and Lachhman Singh was adjoining to the liquor shop. They started quarreling with his father. They brought *dandas* from their house. They administered beating to his father. They were also under the influence of liquor. They took his father to their house and tried to chase him. He ran away from the spot. He narrated the incident to his mother. His mother narrated the incident to his uncle Gurcharan Singh. His statement was got recorded by the police vide Ex.PD. In his cross-examination, he admitted that he was a vegetable vendor. Gurcharan Singh was also vegetable vendor. His father took half a bottle of liquor. He consumed the liquor at the liquor vend itself. He did not recollect the name of liquor vend. He admitted that paddy season was on when the incident had taken place. The people of area were also buying diesel and petrol. The houses of Lachhman Singh and Nihal Singh were separate. Police stayed at the spot for two hours. He specifically denied the suggestion that his father reached the house of Nihal Singh after meeting with an accident and expired in the compound of Nihal Singh.

10. PW-4 Gurcharan Singh deposed that he was present in his

house on 22.07.2014 at about 10.30 P.M. Nanak Singh and his mother came to him. They told him that Nihal Singh and Lachhman Singh have forcibly taken away Jugraj Singh to their house. He along with them went to the house of Nihal Singh and Lachhman Singh. He saw Jugraj Singh lying on the ground. Blood was oozing from the ear, head and mouth of Jugraj Singh. He had died. In the next morning, they informed the police. In his cross-examination, he denied the suggestion that motive of murder was dispute over the property. He admitted that he was a vegetable vendor.

11. PW-5 Bachan Kaur is wife of the deceased. According to her, her husband and son were coming back to their house. They reached near Sandhu Petrol Pump at about 10.30 P.M. where Nihal and Lachhman Singh gave beatings to her husband. Her son Nanak Singh tried to rescue him. However, Nihal Singh and Lachhman Singh took her husband to their house. Her son narrated the incident to her. Thereafter, they went to the house of Gurcharan Singh.

12. PW-8 SI Harinder Singh deposed that he was posted as SHO Police Station Arniwala on 23.07.2014. Nanak Singh got his statement recorded before him. FIR was registered. He also prepared inquest report. He also lifted blood stained earth from the spot. Accused were arrested. They made disclosure statements Ex.PW8/K and PW8/L. In his cross-examination, he deposed that both *dandas* were not stained with blood. He admitted that there was police post in Mandi Roranwali. He admitted that the buses ply on the road between Arniwala to Fazilka. He denied the suggestion that Jugraj Singh met with an accident and he received injuries in front of the house of Nihal Singh by vehicular accident. He denied the suggestion that Jugraj Singh reached the house of Nihal Singh and collapsed

in the courtyard.

13. PW-10 HC Lakhwinder Singh deposed that accused were arrested. They made disclosure statements. Accused Nihal Singh got recovered one *danda* from the place he disclosed, with his own hand. It was taken into possession. Lachhman Singh also got recovered *danda* from the disclosed place.

14. DW-1 Baljinder Singh deposed that he was a member panchayat in the previous panchayat of village Haleemwala. Nihal Singh and Lachhman Singh were pressing their mother to get half share. However, Gurcharan Singh and Jugraj Singh were not ready to give share of their mother. Panchayat was also convened at the request of Nihal Singh and Lachhman Singh. He joined the panchayat.

15. DW-2 Keshar Chand deposed that he knew the accused. 1½ years ago, Gurcharan Singh and Jugraj Singh sold the land to Maghar Singh son of Gulab Singh. Nihal Singh and Lachhman Singh were pressing their mother to get ½ share. They were also demanding the share in the amount but Gurcharan Singh and Jugraj Singh were not ready to give their share.

16. PW-1 Dr. Anmol Grover has opined that cause of death was shock as a result of haemorrhage. He has noticed three injuries on the body of Jugraj Singh. Probable time elapsed between the injury and death was immediate and between death and post-mortem examination was 12-24 hours. PW-3 Nanak Singh had seen the accused giving beatings to his father. His father was given beating with the *dandas* brought by the accused from their house. Nanak Singh tried to save his father. His father was also dragged to the house of accused. He narrated the incident to his mother. He and his mother thereafter went to the house of Gurcharan Singh PW-4.

17. The defence taken by the appellants is that the deceased met with an accident. He reached their house and collapsed. This version cannot be believed. This suggestion was also put to PW-3 Nanak Singh as well as I.O. PW-8 Harinder Singh. The dead body was recovered from the house of the appellants. It was for them to explain as to how the dead body was found in their courtyard. The defence taken by the appellants that the deceased met with an accident and collapsed in the compound cannot be believed for the simple reason that if that was so, they should have taken the injured to the hospital. They should have informed the family members of the deceased. However, neither he was taken to the hospital nor his family members were informed. Even the police was not informed.

18. According to the FSL report, exhibit in parcel A, i.e. soil was stained with human blood. According to the site plan Ex.PW8/D as well Ex.PC, the dead body was found in the house of the appellants. According to Ex.PC, the dead body was found at point A in the house of Nihal Singh. As far as the defence taken by the appellants that there was dispute qua landed property is concerned, the appellants have not led any evidence to this effect. Neither any sale deed nor the details of the land given by the appellants.

19. Accordingly, there is no merit in the appeal and the same is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

October 16, 2019.

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No