

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-D-1757-DB-2014
Reserved on : 11.03.2019
Date of decision : 14.03.2019

Mohinder Singh and another
... Appellants

Versus

State of Haryana
... Respondent

CORAM: *HON'BLE MR. JUSTICE RAJIV SHARMA*
HON'BLE MR.JUSTICE KULDIP SINGH

Present: Mr.J.S.Bedi, Senior Advocate with
Mr. Sunil Sihag, Advocate
for the appellants.

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

RAJIV SHARMA, J.

This appeal is instituted against the judgment dated 29.10.2014 and order dated 30.10.2014 rendered by the learned Additional Sessions Judge, Yamunanagar at Jagadhri, in Sessions Case No.83 of 2014 whereby the appellants, who were charged with and tried for offences punishable under Sections 328, 302, 201 read with Section 34 of the Indian Penal Code (in short 'IPC'), have been convicted and sentenced as under:-

Offence	Sentence
Under Section 328 read with Section 34 IPC	To undergo rigorous imprisonment for a period of 7 (seven) years and to pay a fine of Rs.3000/- (Rupees three thousand only) each. In default of payment of fine, to further undergo rigorous imprisonment for a period of four months each.
Under Section 302 read with Section 34 IPC	To undergo imprisonment for life and to pay a fine of Rs.10,000/- (Rupees ten thousand only) each. In default of payment of fine, to further undergo rigorous imprisonment for six months each.
Under Section 201 read with Section 34 IPC	To undergo rigorous imprisonment for a period of three years each and to pay a fine of Rs.2000/- (Rupees two thousand only) each. In default of payment of fine, to further undergo rigorous imprisonment for three months each.

All the sentences were ordered to run concurrently.

2. The case of the prosecution in a nutshell is that on 29.09.2013, on receipt of a telephonic message in police station regarding murder of a girl, namely, Manjeet @ Mannu by her own family members in village Bapa and the process for cremation of dead body being in process, Inspector Sandeep Kumar, the then Station House Officer, Police Station Radaur reached the spot. He found that a pyre was prepared. The dead body of the deceased was being cremated. The investigating officer with the help of his associates extinguished the funeral fire. He took out the half burnt dead body from the pyre. The pyre as well as half burnt dead body was photographed. One Amardeep got his statement recorded with the investigating officer to the effect that his father Sat Pal is chowkidar in village Bapa. About one week back, a girl of their village namely Manjeet @ Mannu had left her house in the company of a boy, namely, Jaswinder of their village. Thereafter parents came to know whereabouts of the girl. She was brought back from Punjab. In the morning of that day, i.e. 29.09.2013, the complainant came to know that Manjeet @ Mannu had died and her dead body was taken to the cremation ground by her family members for funeral. He suspected that Manjeet @ Mannu had been eliminated / killed by her family members since she had eloped with a boy, namely, Jaswinder. They were trying to destroy the evidence. FIR was registered. During course of investigation, place of cremation was got photographed. A plastic can containing kerosene, half burnt dung cake and ashes were taken into possession. Half burnt dead body was sent for post-mortem examination. The challan was put up after completion of all the codal formalities.

3. The prosecution examined a number of witnesses. Statements

of accused were also recorded under Section 313 Cr.P.C. They denied the case of the prosecution. The appellants examined one witness in his defence. The appellants were convicted and sentenced, as stated hereinabove. Hence this appeal.

4. Learned counsel appearing on behalf of the appellants has 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 prosecution case.

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

7. PW-1 Ram Kumar testified that on 02.10.2013, he along with Inspector Sandeep, SHO, Police Station Raduar visited the spot. He prepared rough notes of the place of occurrence. He also prepared scaled site plan Ex.PA of the place of the occurrence.

8. PW-2 Ved Parkash, Patwari, deposed that on 14.10.2013 he visited the place of occurrence. He prepared scale site plan Ex.PD.

9. PW-3 HC Amit Kumar deposed that on 29.09.2013 he was posted in Police Station Radaur. An information was received in the police station on that day that a girl was killed in village Bapa and was being cremated in order to destroy evidence. He along with other police official reached in village Bapa where the dead body was being cremated. The dead body was taken out in semi burnt condition. The investigating officer took into possession half burnt dung cake and ash vide memo Ex.PE. The investigating officer also took into possession one plastic container vide memo Ex.PF. The memos were attested by him and SI Suresh Kumar. The

post-mortem was got conducted in PGI Rohtak. Accused were interrogated on 30.09.2013. In pursuance to the disclosure statement, accused were taken to village Bapa. The accused got the place demarcated. Accused Mohinder Singh got recovered a poison bottle from a tubewell room which was taken into possession vide memo Ex.PM. In his cross-examination, he deposed that when they went to cremation ground, 25/30 persons were present on the spot. When they reached, pyre was burning. After making inquiry from the public for about five minutes, the funeral pyre was got extinguished completely. The dead body was taken out. The place of recovery of poison bottle was situated at a distance of about 150-200 meters from the village. The poison bottle was got recovered from the left side of the tubewell room.

10. PW-4 Constable Rakesh Kumar has produced his evidence vide his affidavit Ex.PN. According to the contents of affidavit, on 17.10.2013 MHC Manish Kumar had handed over to him the case property, one plastic can of black colour with one seal of SK on its mouth, one parcel of half burnt dung cake sealed with seal of SK, one parcel of ash of pyre, one parcel with writing PME-13/9/79 dated 30.09.2013, burnt piece of clothes, one parcel of viscera of deceased. He deposited the case property with FSL Madhuban vide RC No.364 dated 17.10.2013.

11. PW-5 CI Sukhdev Singh deposed that on 29.09.2013 MHC Munish Kumar had handed over to him special reports of this Court for being delivered to Illaqa Magistrate. On 01.10.2013 he joined investigation. Accused Mahindro made disclosure statement Ex.PO to the effect that on 23.09.2013 her daughter, namely, Manjeet @ Mannu went Ludhiana with Jaswinder. The mother of Jaswinder made telephonic call to her and told her that her daughter had come to Ludhiana. She told her to take her daughter

back. The daughter was brought back. The daughter started putting pressure to go to Ludhiana. During the night of 28/29.09.2013 she in connivance with her husband administered some poisonous substances (insecticide) to her daughter. Thereafter her husband pressed throat of Manjeet @ Mannu and killed her. They told the villagers that Manjeet @ Mannu suffered heart attack. The body was taken for cremation. The disclosure statement was attested by him and Lady Constable Manjeet Kaur. Thereafter the accused took the police party to the cremation ground. Accused Mohinder in pursuance of disclosure statement took the police party to a tubewell room. He got recovered a plastic bottle Ex.MO-4.

12. PW-7 Raj Kumar had taken the photographs Ex.MO-5 to Ex.MO-9.

13. PW-8 Amardeep deposed that both the accused present in Court were his co-villagers. About five months ago, Manjeet Kaur @ Mannu daughter of Mohinder Singh, resident of village Bapa, District Yamuna Nagar died due to some mental disease. On 29.09.2013 she was taken to cremation ground by her family members. He along with other co-villagers went to attend her cremation. In the meantime police came on the spot. Police obtained his signatures on some blank papers. He had denied that Manjeet Kaur was killed by her parents. He was declared hostile and cross-examined by the learned Public Prosecutor. In his cross-examination, he admitted his signatures on statement Ex.PQ. Volunteered he had not made any such statement before the police at any point of time. He had not told the police that about one week ago, Manjeet @ Mannu daughter of Mohinder Singh resident of village Bapa, aged about 19 years had gone with Jaswinder son of Banti, resident of village Bapa and that on knowing

about her, her parents brought her back from Punjab in healthy state of mind and he came to know that Manjeet @ Mannu died and her parents took Manjeet @ Mannu to cremation ground. He was confronted with portion A to A of statement Ex.PQ where it is so recorded. He had not told the police that he had doubt about the death of Manjeet @ Mannu because she had gone with Jaswinder and due to this reason her parents killed her. They cremated her body in order to cause disappearance of evidence of death of Manjeet @ Mannu. He was confronted with portion B to B of statement Ex.PQ where it is so recorded.

14. PW-9 Pargat Singh deposed that the accused, who were present in Court, had not killed their daughter. He was declared hostile and was cross-examined by the learned Public Prosecutor. In his cross-examination, he denied the contents of his statement Ex.PR. He denied that Manjeet @ Mannu daughter of Mohinder Singh, aged 19 years, resident of village Bapa went to Punjab with Jaswinder; she was brought back by her parents; there was rumour in the village that Manjeet @ Mannu was adamant to go with Jaswinder; he came to know that Manjeet @ Mannu had expired; and her family members took her body in cremation ground. He was confronted with portion A to A of statement Ex.PR where it is so recorded. He was also confronted with portion B to B of statement Ex.PR.

15. Similarly PW-10 Ranjit Singh did not support the case of prosecution and had denied the contents of his statement Ex.PS. He was confronted with portion A to A as well as B to B of statement Ex.PS.

16. PW-11 Ramesh Kumar deposed that on 29.09.2013 he was at his shop and came to know about the death of Manjeet @ Mannu. He was informed about her death by his brother. He reached Civil Hospital, Yamuna

Nagar where dead body of Manjeet @ Mannu was lying. He identified the dead body. There was apprehension that she was murdered as honour killing by the accused persons and that is why her semi burnt body was taken into possession by the police. He was declared hostile and was cross-examined by the learned Public Prosecutor. He denied the statement Ex.PW11/B. He was confronted with portion A to A1 of statement Ex.PW11/B.

17. PW-12 Chander Shekhar deposed that on 29.09.2013 on request of SHO, P.S. Radaur, he along with his team inspected the body of the deceased in the mortuary of Civil Hospital, Yamuna Nagar. He visited the spot of occurrence. He advised the I.O. to collect the plastic can, partially burnt debris, cloth piece from the spot and send them to FSL, Madhuban along with remnant clothes of the deceased. He also advised the I.O. to request the doctors to retain the viscera of the deceased during autopsy and send it to FSL, Madhuban.

18. PW-13 Jaswinder Singh deposed that he did not know deceased Manjeet @ Mannu. He had no love affair with her. He was also declared hostile and was cross-examined by the learned Public Prosecutor. In his cross-examination, he denied the statement Ex.PW13/A. He admitted that village Bapa, P.S. Radaur, District Yamuna Nagar was his native village where there were their old houses. He had not stated to the police that deceased Manjeet @ Mannu was friend of Aman, daughter of his uncle (Tau) Charanjeet and Manjeet @ Mannu was on visiting terms with his Tau Charanjeet and she used to visit Ludhiana also and they became friends. He was confronted with portion A to A1 of statement Ex.PW13/A where it was so recorded. He did not tell the police that he had met with an accident and deceased Manjeet @ Mannu had come to see him on 23.09.2013 and her

mother Manjeet Kaur had informed her parents telephonically and they came to their house on the same day and took her with them in an healthy condition. He was confronted with portion B to B1 of statement Ex.PW13/A where it is so recorded. He did not tell the police that he came to know that on the intervening night of 28/29.09.2013 parents of Manjeet @ Mannu had administered her some poisonous medicine and killed her and in order to destroy the evidence, they were cremating the dead body. He was confronted with portion C to C1 of statement Ex.PW13/A where it was so recorded. He did not tell the police that this was the case of honour killing and therefore legal action be taken against Mohinder Singh and Mahindro Devi parents of Manjeet @ Mannu. He was confronted with portion D to D1 of statement Ex.PW13/A where it was so recorded.

19. PW-14 Manjeet Kaur also did not support the case of the prosecution. She was declared hostile and was cross-examined by the learned Public Prosecutor. She denied the statement Ex.PW14/A. She had not stated before the police that deceased Manjeet @ Mannu was friend of Aman, daughter of his brother-in-law (*jeth*) and she used to visit Ludhiana also to meet Aman. She was confronted with portion A to A1 of statement Ex.PW14/A where it was so recorded. She did not state before the police that during those days, her son Jaswinder had met with an accident and Manjeet @ Mannu daughter of Mohinder Singh had come to their house to see him and she informed her parents and they took her back with them on the same day. She was confronted with portion B to B1 of statement Ex.PW14/A where it was so recorded. She also did not tell the police that after some days she came to know that the parents of Manjeet @ Mannu had killed her and legal action be taken against the culprits. She was confronted

with portion C to C1 of statement Ex.PW14/A where it was so recorded. She also did not tell the police that they came to know that on the intervening night of 28/29.09.2013 parents of Manjeet @ Mannu had administered her some poisonous medicine and were cremating the dead body. She was confronted with portion D to D1 of statement Ex.PW14/A where it was so recorded.

20. PW-15 Babu Ram has also not supported the case of prosecution. According to him, Manjeet @ Mannu was mentally sick and was under the influence of some supernatural powers. She under that effect consumed some poisonous substance and died. No one killed her. She was not having love affair with any body namely Jaswinder nor she was killed by any one. He was declared hostile and was cross-examined by the learned Public Prosecutor. He had denied the statement Ex.PW15/A.

21. PW-16 SI Suresh Kumar deposed that police received information. They went to cremation ground. After extinguishing the fire, the body was taken out of the pyre in semi burnt condition. Half burnt dung cake and ash of dead body were taken into possession. One plastic can of kerosene was also taken into possession. Body was sent for post-mortem examination to the Civil Hospital, Yamuna Nagar. Accused suffered disclosure statements. They got the room demarcated where the crime was committed. Memo to this effect was prepared.

22. PW-18 Inspector Sandeep deposed that he along with other police officials reached at the spot. Half burnt body was taken into possession. FIR was registered. He went to the house of the accused and inspected the place of occurrence. He prepared rough site plan Ex.PW18/C.

Accused were arrested.

23. PW-17 Dr. Tarun Dagar had conducted the post-mortem examination. The post-mortem report is Ex.PW17/A. He was of the opinion that cause of death in this case was glyphosate isopropylamine poison. It was a herbicide poison.

24. The FSL report is Ex.PX. Residues of kerosene were detected in exhibit-1 and 4, i.e. an empty greyish black coloured plastic can without lid and small bunch of partially burnt damp cloth pieces. Petrol, kerosene, diesel or their residues could not be detected in exhibit 2 and 3. Glyphosate, Isopropylamine salt (a Herbicide) was detected in exhibit-5a, 5b, 5c, 5d, and 7, i.e. Stomach and its contents; loops of small and large intestines; pieces from liver, spleen and kidney; blood approximately 1 ml.; and some light brown coloured liquid approximately 200 ml. contained in a plastic bottle labelled as "*Uttam KLEENO, Herbicide, Glyphosate-41% SL, isopropyl amine salt of Glyphosate, 1 litre*". According to FSL report Ex.PY, human semen was detected on exhibit-6a (slides) and exhibit-6b(vaginal swab).

25. The police swung into action on the basis of statement of PW-8 Amardeep. The statement is Ex.PQ. Though he has denied the contents of Ex.PQ but he has admitted his signatures on Ex.PQ. PW-13 Jaswinder Singh had love affair with Manjeet @ Mannu. She had gone to Ludhiana. The mother of PW-13 Jaswinder Singh informed the parents of Manjeet @ Mannu. She was brought back. Thereafter her body was put on pyre. Police came on the spot and half burnt body was recovered. It was sent for post-mortem examination.

26. Though PWs 8, 9, 10, 11, 13, 14, 15 were declared hostile but they were confronted with their previous statements made.

27. According to opinion of PW-17 Dr.Tarun Dagar, the cause of

death was glyphosate isopropylamine poison. Empty bottle was recovered at the instance of one of the appellants. It was also sent for FSL examination. According to report Ex.PX Glyphosate, Isopropylamine salt (a Herbicide) was detected in exhibit 7.

28. Learned counsel appearing on behalf of the appellants has vehemently argued that the deceased was not mentally stable. She was under the influence of supernatural powers. We do not see any merit in the contention. There is no medical record to establish that she was not mentally stable. Though it was recorded in statements of accused under Section 313 Cr.P.C. that their daughter was under treatment but no record has been produced. The appellants have not taken any step to get her treated. It was the case of unnatural death. They had not informed the police. They tried to burn the body in order to destroy the evidence. She had died in their house. The place of occurrence was demarcated. The cremation ground was also demarcated. Since she had died in the house of the appellants it was for them to explain the circumstances under which she had died. There is no explanation by the appellant as to how their daughter died in their house under Section 106 of the Indian Evidence Act.

29. Their Lordships of Hon'ble the Supreme Court in ***Trimukh Maroti Kirkan vs State of Maharashtra, 2006 (10) SCC 681*** observed that in view of Section 106 of the Evidence Act, the law does not enjoin a duty on the prosecution to lead evidence as to how the crime was committed.

Their Lordships held as under:-

“12. If an offence takes place inside the privacy of a house and in such circumstances where the assailants have all the opportunity to plan and commit the offence at the time and in circumstances of their choice, it will

be extremely difficult for the prosecution to lead evidence to establish the guilt of the accused if the strict principle of circumstantial evidence, as noticed above, is insisted upon by the Courts. A Judge does not preside over a criminal trial merely to see that no innocent man is punished. A Judge also presides to see that a guilty man does not escape. Both are public duties. (See Stirland v. Director of Public Prosecution 1944 AC 315 quoted with approval by Arijit Pasayat, J. in State of Punjab v. Karnail Singh (2003) 11 SCC 271). The law does not enjoin a duty on the prosecution to lead evidence of such character which is almost impossible to be led or at any rate extremely difficult to be led. The duty on the prosecution is to lead such evidence which it is capable of leading, having regard to the facts and circumstances of the case. Here it is necessary to keep in mind Section 106 of the Evidence Act which says that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Illustration (b) appended to this section throws some light on the content and scope of this provision and it reads:

(b) A is charged with traveling on a railway without ticket. The burden of proving that he had a ticket is on him."

Where an offence like murder is committed in secrecy inside a house, the initial burden to establish the case would undoubtedly be upon the prosecution, but the nature and amount of evidence to be led by it to establish the charge cannot be of the same degree as is required in other cases of circumstantial evidence. The burden would be of a comparatively lighter character. In view of Section 106 of the Evidence Act there will be a corresponding burden on the inmates of the house to give a cogent explanation as to how the crime was

committed. The inmates of the house cannot get away by simply keeping quiet and offering no explanation on the supposed premise that the burden to establish its case lies entirely upon the prosecution and there is no duty at all on an accused to offer any explanation.

13. A somewhat similar question was examined by this Court in connection with Section 167 and 178-A of the Sea Customs Act in Collector of Customs, Madras & Ors. v. D. Bhoormull (1974) 2 SCC 544, and it will be apt to reproduce paras 30 to 32 of the reports which are as under :

30. It cannot be disputed that in proceedings for imposing penalties under Clause (8) of Section 167 to which Section 178-A does not apply, the burden of proving that the goods are smuggled goods, is on the Department. This is a fundamental rule relating to proof in all criminal or quasi-criminal proceedings, where there is no statutory provision to the contrary. But in appreciating its scope and the nature of the onus cast by it, we must pay due regard to other kindred principles, no less fundamental, of universal application. One of them is that the prosecution or the Department is not required to prove its case with mathematical precision to a demonstrable degree; for, in all human affairs absolute certainty is a myth, and as Prof. Brett felicitously puts it - "all exactness is a fake". El Dorado of absolute proof being unattainable, the law, accepts for it, probability as a working substitute in this work-a-day world. The law does not require the prosecution to prove the impossible. All that it requires is the establishment of such a degree of probability that a prudent man may, on its basis, believe in the existence of the fact in issue. Thus, legal proof is not necessarily

perfect proof; often it is nothing more than a prudent man's estimate as to the probabilities of the case.

31. The other cardinal principle having an important bearing on the incidence of burden of proof is that sufficiency and weight of the evidence is to be considered - to use the words of Lord Mansfield in Blatch v. Archer (1774) 1 Cowp. 63 at p.65 "according to the proof which it was in the power of one side to prove, and in the power of the other to have contradicted". Since it is exceedingly difficult, if not absolutely impossible for the prosecution to prove facts which are especially within the knowledge of the opponent or the accused, it is not obliged to prove them as part of its primary burden.

32. Smuggling is clandestine conveying of goods to avoid legal duties. Secrecy and stealth being its covering guards, it is impossible for the Preventive Department to unravel every link of the process. Many facts relating to this illicit business remain in the special or peculiar knowledge of the person concerned in it. On the principle underlying Section 106, Evidence Act, the burden to establish those facts is cast on the person concerned; and if he fails to establish or explain those facts, an adverse inference of facts may arise against him, which coupled with the presumptive evidence adduced by the prosecution or the Department would rebut the initial presumption of innocence in favour of that person, and in the result prove him guilty. As pointed out by Best in 'Law of Evidence', (12th Edn. Article 320, page 291), the "presumption of innocence is, no doubt, presumptio juris; but every day's practice shows

that it may be successfully encountered by the presumption of guilt arising from the recent (unexplained) possession of stolen property", though the latter is only a presumption of fact. Thus the burden on the prosecution or the Department may be considerably lightened even by such presumption of fact arising in their favour. However, this does not mean that the special or peculiar knowledge of the person proceeded against will relieve the prosecution or the Department altogether of the burden of producing some evidence in respect of that fact in issue. It will only alleviate that burden, to discharge which, very slight evidence may suffice."

(Emphasis supplied)

The aforesaid principle has been approved and followed in Balram Prasad Agrawal v. State of Bihar, (1997) 9 SCC 338 where a married woman had committed suicide on account of ill- treatment meted out to her by her husband and inlaws on account of demand of dowry and being issueless.

14. The question of burden of proof where some facts are within the personal knowledge of the accused was examined in State of West Bengal v. Mir Mohammad Omar (2000) 8 SCC 382. In this case the assailants forcibly dragged the deceased Mahesh from the house where he was taking shelter on account of the fear of the accused and took him away at about 2.30 in the night. Next day in the morning his mangled body was found lying in the hospital. The trial Court convicted the accused under Section 364 read with Section 34 IPC and sentenced them to 10 years RI. The accused preferred an appeal against their conviction before the High Court and the State also filed an appeal challenging the acquittal of the accused for murder charge. The accused

had not given any explanation as to what happened to Mahesh after he was abducted by them. The learned Sessions Judge after referring to the law on circumstantial evidence had observed that there was a missing link in the chain of evidence after the deceased was last seen together with the accused persons and the discovery of the dead body in the hospital and had concluded that the prosecution had failed to establish the charge of murder against the accused persons beyond any reasonable doubt. This Court took note of the provisions of Section 106 of the Evidence Act and laid down the following principle in paras 31 to 34 of the reports :

"31. The pristine rule that the burden of proof is on the prosecution to prove the guilt of the accused should not be taken as a fossilised doctrine as though it admits no process of intelligent reasoning. The doctrine of presumption is not alien to the above rule, nor would it impair the temper of the rule. On the other hand, if the traditional rule relating to burden of proof of the prosecution is allowed to be wrapped in pedantic coverage, the offenders in serious offences would be the major beneficiaries and the society would be the casualty.

32. In this case, when the prosecution succeeded in establishing the afore-narrated circumstances, the court has to presume the existence of certain facts. Presumption is a course recognised by the law for the court to rely on in conditions such as this.

33. Presumption of fact is an inference as to the existence of one fact from the existence of some other facts, unless the truth of such inference is disproved. Presumption of fact is a rule in law of

evidence that a fact otherwise doubtful may be inferred from certain other proved facts. When inferring the existence of a fact from other set of proved facts, the court exercises a process of reasoning and reaches a logical conclusion as the most probable position. The above principle has gained legislative recognition in India when Section 114 is incorporated in the Evidence Act. It empowers the court to presume the existence of any fact which it thinks likely to have happened. In that process the court shall have regard to the common course of natural events, human conduct etc. in relation to the facts of the case.

34. When it is proved to the satisfaction of the court that Mahesh was abducted by the accused and they took him out of that area, the accused alone knew what happened to him until he was with them. If he was found murdered within a short time after the abduction the permitted reasoning process would enable the court to draw the presumption that the accused have murdered him. Such inference can be disrupted if the accused would tell the court what else happened to Mahesh at least until he was in their custody."

Applying the aforesaid principle, this Court while maintaining the conviction under Section 364 read with Section 34 IPC reversed the order of acquittal under Section 302 read with Section 34 IPC and convicted the accused under the said provision and sentenced them to imprisonment for life.

15. In Ram Gulam Chaudhary & Ors. v. State of Bihar (2001) 8 SCC 311, the accused after brutally assaulting a boy carried him away and thereafter the boy was not seen alive nor his body was found. The accused, however, offered no explanation as to what they did

after they took away the boy. It was held that for the absence of any explanation from the side of the accused about the boy, there was every justification for drawing an inference that they have murdered the boy. It was further observed that even though Section 106 of the Evidence Act may not be intended to relieve the prosecution of its burden to prove the guilt of the accused beyond reasonable doubt, but the section would apply to cases like the present, where the prosecution has succeeded in proving facts from which a reasonable inference can be drawn regarding death. The accused by virtue of their special knowledge must offer an explanation which might lead the Court to draw a different inference.”

30. It is a case of honour killing. Young girl aged about 19 years old was killed by parents only for the reason that she had gone to see Jaswinder at Ludhiana. The prosecution has proved charges against the appellants under Sections 302, 201, 328 read with Section 34 IPC.

31. Accordingly, there is no merit in the appeal. The appeal is dismissed upholding the well reasoned judgment recorded by the learned trial Court.

(RAJIV SHARMA)
JUDGE

(KULDIP SINGH)
JUDGE

March 14, 2019.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No