

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D No. 867-DB of 2016 (O&M)

Reserved on : 1.11.2019

Date of decision : 4.11.2019

Sarabjit Singh alias Sabi Appellant
versus
State of Punjab ... Respondent

Coram: Hon'ble Mr. Justice Rajiv Sharma
Hon'ble Mr. Justice Lalit Batra

Present Mr. Parminder Singh, Advocate, for the appellant.
Mr. H. S. Grewal, Additional Advocate General, Punjab.

Rajiv Sharma, J.

1. This appeal is instituted against the judgment dated 16.8.2016 and order dated 17.8.2016, rendered by learned Additional Sessions Judge, Jalandhar, in Session Case No. 36/13. Appellant Sarabjit Singh alias Sabi was charged with and tried for the offence punishable under Sections 302, 307, 452 and 324 IPC. He was convicted and sentenced under Sections 302 and 307 IPC as under:-

1	Under Section 302 IPC	To undergo rigorous imprisonment for life and to pay a fine of ₹ 10,000/- and in default of payment of fine, to further undergo rigorous imprisonment for two years.
2	Under Section 307 IPC	To undergo rigorous imprisonment for a period of five years and to pay a fine of ₹ 5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for one year.

Both the sentences were ordered to run concurrently.

2. The case of the prosecution in a nutshell is that on 4.2.2013 Bhupinder Singh (complainant) got recorded his statement with SI Arjan Singh to the effect that he was a carpenter by profession. Sarabjit Singh alias Sabi was his brother, who was younger to him. He was living with his mother and father. On 3.2.2013 at about 9.30 p.m. after taking meals, the

complainant along with his family went to sleep. His parents slept in a separate room. At about 4.00 a.m. in the morning he heard shrieks of his mother and father, who were saying '*mar ditta, mar ditta*'. On hearing this, he came out of his room and entered into the room of his mother and father. He saw that his brother Sarabjit Singh alias Sabi was attacking his mother Kulwant Kaur and father Santokh Singh with a *kirpan*. Kulwant Kaur died on the spot, whereas his father Santokh Singh was seriously injured. He tried to save his father and mother, however, Sarabjit Singh alias Sabi ran after him with a *kirpan*. He rescued himself by entering into a room. Sarabjit Singh alias Sabi ran away from the spot along with *kirpan*. The post-mortem was conducted. The statements of the witnesses were recorded. The accused was arrested. Investigation was completed and challan was put up after completion of all the codal formalities.

3. The prosecution examined as many as thirteen witnesses in support of its case. The statement of the accused was also recorded under Section 313 Cr.P.C. He denied the case of the prosecution. He was convicted and sentenced, as noticed above. Hence, the present appeal.

4. Learned counsel appearing on behalf of the appellant 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 trial Court.

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

6. PW1 Bhupinder Singh deposed that he was carpenter by profession. They were two brothers. The name of his brother is Sarabjit

Singh. He was younger to him. He was also married. Sarabjit Singh was living separately with his family. He was living with his father and mother and looking after them. On 3.2.2013 at about 9.30 p.m. after taking their meals, he and his parents went to sleep in their respective rooms. At about 4.30 a.m., he heard shrieks of his father '*mar ditta, mar ditta*'. He came out of his room and went to the room of his parents. He saw that his younger brother Sarabjit Singh alias Sabi armed with kirpan was inflicting injuries to his father and mother Kulwant Kaur. His mother collapsed on the ground. Sarabjit Singh also inflicted injuries on the person of his father with *kirpan*. He came forward to rescue his parents. Sarabjit Singh chased him with *kirpan*. He rescued himself after entering into a room. Sarabjit Singh fled away from the spot. He went to the police station along with Mukhtiar Singh. Police recorded his statement, Ex.P1. The motive behind the incident was that his father retired as tubewell operator. Sarabjit Singh used to demand money from him from his GP Fund. He was cross-examined. In his cross-examination, he admitted that he had not received any injury on 4.2.2013. Sarabjit Singh had also not received any injury. His father had received 6-7 injuries on his person. His mother had received 4-5 injuries on her person. His mother died on the spot. His wife Kamaljit Kaur was also present in the house. The accused was not present when the cremation took place.

7. PW2 Dr. Neeraj Tandon had medico-legally examined Santokh Singh in Satyam Hospital, Jalandhar. He proved MLR, Ex.PA. He noticed the following injuries on his person:-

- “1. 31 cm transverse sutured wound on face 3 cm from glabella. CT PNS was advised.
2. 4 cm linear mark on forehead on left side and CT scan

was advised.

3. 4 cm long sutured wound on left parietal region and CT scan was advised.
 4. 2.5 cm sutured wound on sub mandibular region and CT scan was advised.
 5. 10 cm long linear incised wound on left side of chest.
 6. 9 cm mark on left side of chest crossing nipple.
 7. 8 cm linear mark on right side of abdomen.
 8. 12 cm sutured wound on dorsum of left hand starting from tip of left thumb.
 9. 3 cm sutured wound on left palm in between index finger and thumb of left hand.
 10. 2 cm sutured wound in between middle and ring finger of right hand.
 11. 2 cm lacerated wound on dorsal aspect of right thumb.
- Sharp edged weapon were used for all the injuries.
Nature of injuries was kept under observation.”

8. PW3 Santokh Singh is the injured witness. He deposed that he had two sons namely Bhupinder Singh and Sarabjit Singh. Bhupinder Singh is elder and Sarabjit Singh is younger. His younger son was residing separately. Bhupinder Singh was residing with them. On 3.2.2013 he went to sleep at about 9.30 p.m. On 4.2.2013 at about 4.15 a.m., accused Sarabjit Singh armed with *kirpan* entered in his room and inflicted *kirpan* blows on him. He attacked his mother. He inflicted blows on her head, ear, left arm with kirpan. She succumbed to her injuries. His son Bhupinder Singh came at the spot on hearing *roula*. He chased the accused. Accused also tried to attack him. He saved himself from the accused by running and bolting himself into one of the rooms. Accused ran away from the spot. He was rushed to Civil Hospital, Shahkot from where he was referred to Civil Hospital, Jalandhar. Thereafter, he was further referred to Satyam Hospital,

Jalandhar. He stayed at Satyam Hospital for treatment till 16.2.2013. The accused was pressing them to give him money, which he received after his retirement. He has also admitted in his cross-examination that his elder daughter-in-law Kamaljit Kaur was present at the spot. His wife died in the house. His brother and other relatives came to the spot.

9. PW4 Dr. Chander Prakash has medico-legally examined PW3 Santokh Singh in Civil Hospital, Jalandhar. He also noticed the following injuries on the person of PW3 Santokh Singh:-

- “1. A fresh incised wound starting from in front of the left ear extending over left cheek bonee nose cut right cheek cut downwards upto mendival and bleeding profusely. X-ray was advised.
2. A fresh incised chopped type 7 cm X 2.0 cm extending upto skull bone present over parietal region. X-ray was advised and surgical opinion.
3. A fresh incised wound longitudinally present on medial side of left thumb. Size 4 cm X .1 X .5 cm. X-ray was advised.
4. An incised wound 5.0 cm x 1.0 cm x .5 cm present over the back of left hand over first metacarpal region. X-ray was advised.”

He proved bed head ticket of the patient and photocopy of the same is Ex.PW4/C.

10. PW5 ASI Nirmal Singh deposed that on 4.2.2013 he along with SI Arjan Singh reached the spot. IO lifted the blood from the spot and prepared the parcel. Blood stained pillow was taken into possession. The post-mortem on dead-body of Kulwant Kaur was got conducted. The dead-body was handed over to the heirs of Kulwant Kaur. The accused made a disclosure statement, Ex.PW5/F. As per the disclosure statement, accused

Sarabjit Singh got recovered one blood stained *kirpan* underneath the bed box.

11. PW6 HC Parvinder Singh deposed that on 4.2.2013 he was posted as HC in Police Station, Shahkot. He along with SI Arjan Singh and other police officials reached the place of occurrence. IO lifted the blood from the spot and prepared the parcel. IO lifted the blood of Santokh Singh from the varandah and prepared the parcel. The parcels were taken into possession. The post-mortem was got conducted. The accused was arrested. He made disclosure statement, Ex.PW5/F, regarding concealment of *kirpan*. *Kirpan* was got recovered by him stained with blood. In his cross-examination, he deposed that the house of the accused is adjoining to the house of the deceased. They have a common house having different doors to their residence.

12. PW8 Dr. Jatinderpal Singh has conducted the post-mortem examination on the dead-body of Kulwant Kaur. He noticed the following injuries on the person of the deceased:-

- “1. An incised wound about 10 x 5 cm was seen on left side of face and skull cutting through the ear pinna underlying bones were exposed.
2. An incised wound about 12x 5 cm was seen on the left side of skull on temporo- parietal region. Underlying bones were fractured. Clotted blood was present in the wound. On dissection an haematoma was seen and meninges were lacerated.
3. An incised wound 7 x 4 cm was seen on left shoulder bone deep.
4. An incised wound about 10 x 5 cm was seen on left upper arm underlying bones were cut fractured.
5. Incised wound 15 x 10 cm was seen on left forearm near elbow. Underlying bones were fractured.”

The cause of death was haemorrhage and neurogenic shock due to multiple injuries which in ordinary course of nature are sufficient to cause death. He proved the post-mortem report.

13. PW10 Dalip Singh has prepared the site plan of the place of occurrence.

14. PW13 SI Arjan Singh was the Investigating Officer. According to him, he was present at Bhagwan Balmiki Chowk near Bazar. PW1 Bhupinder Singh lodged the report, Ex.P1. They visited the spot. He took blood stains near the body of Kulwant Kaur. He also sent *ruqa* to the police station. Photographs were taken. The inquest report was prepared. The post-mortem examination was conducted. The accused was arrested. Accused Sarabjit Singh made disclosure statement vide Ex.PW5/F, on the basis of which, he got recovered kirpan stained with blood.

15. The incident has been seen by PW1 Bhupinder Singh and PW3 Santokh Singh. PW1 Bhupinder Singh has categorically deposed that he heard shrieks of his father at about 4.30 a.m. He entered their room. He saw accused inflicting injuries on his parents. His mother died after 4-5 minutes on receiving injuries. The accused also chased him. He saved himself. The accused ran away from the spot. Statement of PW1 Bhupinder Singh is duly corroborated by injured witness PW3 Santokh Singh.

16. PW3 Santokh Singh has also deposed that the accused entered into their room and attacked his wife with kirpan. She succumbed to her injuries. The statements of PW1 Bhupinder Singh and PW3 Santokh Singh are duly corroborated by the medical evidence. PW2 Dr. Neeraj Tandon noticed 11 injuries on the person of PW3 Santokh Singh. According to him, sharp edged weapon was used to cause injuries. PW4 Dr. Chander Parkash

has noticed 4 injuries on the person of PW3 Santokh Singh. According to him, the kind of weapon used was sharp for all the injuries. He proved MLR vide Ex.PW4/A.

17. The post-mortem examination was conducted by PW8 Dr. Jatinderpal Singh. According to him, the cause of death was haemorrhage and neurogenic shock due to multiple injuries, which in ordinary course of nature are sufficient to cause death. He proved the post-mortem report vide Ex.PW8/A.

18. The accused made disclosure statement, Ex.PW5/F, on the basis of which he got recovered *kirpan* stained with blood underneath the bed box.

19. FSL report is Ex.PY. The exhibits pillow, shirt, salwar, baniyan, shawl, parna, underwear, pajama, shirt, baniyan and *kirpan* were stained with human blood.

20. It has come on the record that the houses of the accused and his father were adjoining. There is no reason for the father PW3 Santokh Singh to falsely implicate his son. Similarly, PW1 Bhupinder Singh would not depose falsely against his own brother.

21. In view of the aforesaid discussed evidence, the prosecution has proved the case against the appellant beyond reasonable doubt. Accordingly, there is no merit in the appeal. The same is dismissed.

(Rajiv Sharma)
Judge

4.11.2019
vs

(Lalit Batra)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No