

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

CRA-D-1175-DB of 2017 (O&M)

Reserved on : April 23, 2019

Date of Decision: May 14, 2019

Gurmeet Ram @ Sonu

...Appellant

Versus

State of Punjab

...Respondent

AND

CRA-D-1159-DB of 2017 (O&M)

Rekha Rani

...Appellant

Versus

State of Punjab

...Respondent

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

Present: Mr. Krishan Sehajpal, Advocate for the appellant in
CRA-D-1175-DB of 2017.

Mr. Raj Kumar Gupta, Advocate and
Mr. Jasraj Singh, Advocate for the appellant in
CRA-D-1159-DB of 2017.

Mr. SPS Tinna, Additional Advocate General, Punjab.

HARINDER SINGH SIDHU, J.

Since common questions of law and facts are involved in the aforesaid appeals, therefore these are taken up together and disposed of by a common judgment.

2. These two appeals are instituted against the judgment and order dated

05/06/2017 rendered by the Additional Sessions Judge, Hoshiarpur in Sessions

Case no.33 of 2017 whereby the appellants who were charged with and tried for offences punishable under Sections 302 and 120B of the Indian Penal Code (in short 'IPC'), have been convicted and sentenced as under:-

<i>Name of Appellant</i>	<i>U/Section</i>	<i>Imprisonment & fine</i>	<i>In case of default of fine</i>
Rekha Rani	120B IPC	Life Imprisonment and fine of ₹10,000/-	Further RI for two months
	302 IPC	Life Imprisonment and fine of ₹10,000/-	Further RI for two months
Gurmeet Ram	120B IPC	Life Imprisonment and fine of ₹10,000/-	Further RI for two months
	302/120B IPC	Life Imprisonment and fine of ₹10,000/-	Further RI for two months

3. The case of the prosecution in a nutshell is that on 14.9.2016 a report was received from Civil Hospital, Garhshankar that the dead body of Sunita Devi wife of Gurmeet Ram r/o Village Garhi Mansowal Jhonowal had been brought to the hospital. Thereupon SI Rajinder Singh along with police party reached the hospital where he met Jaspal Singh s/o Tarsem Singh, who requested the SI to wait for arrival of brother and mother of the deceased. On the next day 15.9.2016, SI Rajinder Singh reached Civil Hospital Garhshankar and recorded the statement of Ashok Kumar, brother of the deceased. He stated that they are two brothers and one sister. His sister Sunita Kumari was married to Gurmeet Ram about 14 years ago. They had two children. Gurmeet Ram husband of Sunita used to drive the vehicle of some saints. Sunita had complained to her mother Santosh Kumari a number of times that Gurmeet Ram was having illicit relations with one Rekha d/o Tirath Ram r/o Tibbiyan (Binewal). Two-three times Rekha had come to the house

Sunita and thereafter solemnise marriage with Gurmeet Ram. Sunita apprehended danger to her life at the hands of Rekha. Their mother had sent Sunita to the house of her in-laws with the assurance that she would talk to Gurmeet Ram and resolve the matter amicably. Yesterday, the complainant got to know from his relatives that Sunita had gone to the house of Rekha to complain about her relationship with Gurmeet Ram. Rekha beat her up and strangulated her with a *chunni*. Sunita became unconscious. The villagers called an ambulance and sent her to Civil Hospital Garhshankar where she died. FIR was registered. Postmortem of the dead body of Sunita Kumari was conducted. Viscera was sent to FSL Kharar. Investigation was completed. Challan was put up after completing all the codal formalities.

4. Prosecution examined a number of witnesses. Statements of appellants were also recorded under Section 313 Cr.P.C. They have denied the case of the prosecution. The appellants were convicted and sentenced as noticed hereinabove. Hence these appeals.

5. Learned counsel appearing for the appellants have vehemently argued that the prosecution has failed to prove the case against the appellants. Learned counsel appearing on behalf of the State has supported the judgment dated 5.12.2017.

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

7. PW-1 Ashok Kumar complainant, the brother of the deceased reiterated the version as per his statement Ex.PA. He stated that before her murder his sister Sunita had told his mother Santosh Kumari about the illicit relations of

times. Once Rekha Rani had even beaten his sister and threatened that she would perform marriage with Gurmeet Ram after killing his sister. His sister apprehended danger to her life at the hands of Rekha Rani. His mother had sent his sister to her in-laws house on the assurance that she would advise Gurmeet Ram and the matter would be resolved amicably. On 14.9.2016 he had come to know that his sister Sunita Kumari had gone to the house of Rekha Rani to complain about her illicit relations with her husband where Rekha Rani beat her and strangulated her neck with a *duppatta* due to which she became unconscious. Some villagers called ambulance and sent his sister to Civil Hospital Garhshankar where she died. He stated that he had got recorded his statement Ex.PA before the police which was signed by him. Inquest report in respect of the death of his sister was prepared. Police got postmortem examination conducted. Thereafter, the dead body of Sunita Kumari was handed over to him.

8. PW-2 Santosh Kumari mother of the deceased also deposed on similar lines.

9. PW-3 Arjun Khanna draftsman Civil Court Complex Hoshiarpur stated that he had prepared the scaled site plan of the place of occurrence Ex.PW3/A.

10. PW-4 MHC Kailash Chander deposed about the receipt of viscera of Sunita from the IO on 15.9.2016 and its deposit in the Malkhana of the Police Station. He also deposed that on 16.9.2016 he deposited the parcel containing the *chunni* recovered from accused Rekha Rani in the Malkhana.

11. PW-5 Subhash Chander did not support the case of the prosecution.

He was declared hostile. He stated that his statement was not recorded by the

Police in the case and that he did not know Rekha Rani and the deceased Sunita

Devi. He did not see the accused giving any injuries to Sunita Devi. However, in response to court questions, he stated that he knew Baba Shinda who runs a Kutiya in village Tibiya. He stated that he had not gone to the Kutiya on 14.9.2016 but had gone to the flour mill on 14.9.2016 where he heard some *raula* from nearby in between the Kutiya of Baba Shinda and the flour mill. He rushed towards the place of *raula* and saw a lady who had fallen down. He did not talk to the lady nor did anyone else talk to her in his presence. Baba Shinda was also present there. He was asked by Baba Shinda to call the ambulance. He dialled 108 and called the ambulance. It was only the next day that he came to know that the lady was from village Jhonorwal. He stated that he did not know any of the accused but had seen the mother of Rekha. He stated that he had not seen the house of Rekha but was aware that it was in village Tibiya itself and was at a distance of about 400 meters from the place where the lady had fallen down.

12. PW-6 Bhupinder Kumar SDE Mobile Commercial, BSNL produced the record pertaining to Mobile Number 94173-53849 and proved the customer application form of this number which was in the name of Satnam Singh s/o Swarn Singh r/o Village Jhonorwal Tehsil Garhshankar.

13. PW-7 Satnam Singh deposed that his mobile number was 94173-53849. He knew Gurmeet Ram who was his neighbor. On 14.9.2016 he was present at his house and he received a call on his mobile from the mobile of Gurmeet Ram No.95600-82096. Gurmeet Ram stated that he was speaking from Delhi and he wanted to talk to his wife Sunita. PW-7 went to the house of Gurmeet Ram and made Sunita talk with her husband. Later he came to know that Sunita had been called to the house of Rekha Rani at village Tibbiyan. In cross-

examination he stated that Gurmeet Ram was his neighbor. When Gurmeet Ram

had constructed his new house he stayed at the house of Satnam Singh for 8 to 9 months. Satnam Singh did not charge him any rent as he was his friend. He stated that he had cordial relations with Gurmeet Ram and on many occasions he used to call him on the phone.

14. PW-8 Dr. Gurinderjit Singh Medical Officer, Civil Hospital Garhshankar stated that on 15.9.2016 a Board of Doctors comprising himself Dr.Kavita Bhatia and Dr.Jaswant Singh conducted the postmortem examination on the dead body of Sunita Kumari. The following injuries were detected on her body:-

“1. A ligature mark 11.2 cm long and 0.6 wide present on neck at level of thyroid cartilage, present anteriorly and extending to both sides of neck laterally with reddish brown abrasion running in horizontal direction. Another reddish abrasion 4.3x0.6 cm present on left side of neck anteriorly about 2 cm vertically and obliquely over both cheeks, upper lip and chin, twelve in numbers. On dissection of ligature mark, underlying subcutaneous tissue is ecchymosed with hemorrhages. Superior horn of thyroid cartilage and hyoid bone is fractured. Fracture of larynx and tracheal rings present. Bruising of larynx and trachea present.”

15. As per report of Chemical Examiner no poison was detected in the contents of Ex.1 to 5. The cause of death was asphyxia due to strangulation. The probable time between injury and death was within few minutes and between death and postmortem examination was within 48 hours. In cross-examination, PW 8 stated that the Hyoid bone of the deceased was fractured. In case Hyoid bone is fractured the person becomes unconscious and falls down. He stated that the police did not show him any ligature material during investigation nor was it

shown to him in the Court. He stated that in the present case ligature with a rope is possible. There were abrasion marks on the face of the deceased which indicate that the deceased might have struggled to save herself. There was a red colour thread around the neck of the deceased with a small knot. It was in the nature of "Taweeet" (holy thread). The possibility of the deceased having been strangled by the said thread could not be ruled out. To a court question that if the deceased had been strangled using the aforesaid thread would the thread have broken or not he answered in the affirmative. To another court question he replied that the thread was very thin and the victim could have broken the same if it had been tightened or strangled her neck.

16. PW-9 Shinda Baba stated that he had a Kutiya known as 'Shinde Babe Di Kutiya' which was situated between village Binewal and Tibbiyan. He stated that about a year back he was sitting in the Kutiya and he heard the cries of a lady from outside in the street. He went outside and asked her about the matter. She asked for water and drank it from the pipe attached to the tap of the Kutiya. He asked her about the injuries/ bruise marks on both sides of her neck and about the blood oozing from her ear but she did not name any person as responsible for the injuries. On repeatedly asking her about the injuries she only stated that she had come to take the salary of her husband from another Kutiya where her husband was employed. She stated that she was feeling sleepy. He asked Subhash Chander to call for an ambulance. He himself made a phone call to Police Post Jhungi. He also telephoned a press reporter who stated that he could not come there. The ambulance arrived in 30-35 minutes and he sent the lady to the hospital in the ambulance. He stated that he had not seen the lady coming out from the house of

prosecution. To a court question about the identity of the lady he stated that he did not know about the identity of the lady. But later he stated that he had come to know that she was the daughter-in-law of a *kumhar* family of village Jhunowal.

17. PW-10 S.P.Jain, Nodal Officer Bharti Airtel Limited stated that in response to the letter Ex.PW10/A of the SSP the call details pertaining to Mobile Nos.95600-82096 and 99152-35644 w.e.f. 10.9.2016 to 15.9.2016 Ex.PW10/B and Ex.PW10/C were provided. He also proved the certificate Ex.PW10/D issued under Section 65-B of the Evidence Act. He also proved the customer application form pertaining to Mb. No.95600-82096 Ex.PW10/E which had been issued to Gurmeet Ram s/o Tarsem Lal. He also proved the customer application form of Mb.No.99152-35644 Ex.PW10/F issued to Neelam d/o Tirath Ram r/o village Binewal Tibbiyan district Hoshiarpur.

18. PW-11 SI Rajinder Singh Investigating Officer deposed about the proceedings after receipt of medical chit Ex.PW11/A from Civil Hospital, Garhshankar regarding the death of Sunita Kumari. He deposed that he recorded the statement of complainant Ashok Kumar Ex.PA which was attested by him vide endorsement Ex.PW-11/B. On the basis of this formal FIR Ex.PW-11/C was recorded by ASI Om Parkash. He prepared Inquest Report PW-8/E. He got the postmortem examination conducted from Civil Hospital, Garhshankar. On 15.9.2016 he arrested accused Gurmeet Ram. The arrest-cum-intimation memo Ex.PW-11/F was prepared by him which was signed by accused and Mohan Lal. He prepared his personal search memo Ex.PW-11/G. On 16.9.2016 he arrested accused Rekha Rani and prepared her arrest-cum-intimation memo Ex.PW-11/G and her personal search memo Ex.PW-11/H. On the same day, accused Rekha

Rani suffered a disclosure statement Ex.PW-11/J and got recovered two pieces of

chunni which were sealed and taken into possession vide Ex.PW-11/K. He also took into possession the detailed call records of Mb.No.95600-82906 and 91152-35644 for the period from 10.9.2016 to 15.9.2016. In cross-examination he stated that he had met Ashok Kumar complainant in Civil Hospital Garhshankar at about 9 to 10 am on 15.9.2016. He visited the spot at about 4 to 5 pm. He did not record the statement of any person at village Tibbiyan. He had prepared the rough site plan at the instance of Ashok Kumar who was not an eye witness to the occurrence. He stated that the deceased was picked from the side of the road and brought to the hospital in an ambulance. She died on the way. He did not prepare the site plan of the place from where the victim was picked up and brought to the hospital. He had come to know from PWs Subhash and Shinda Baba about the place from where the victim was picked up. He stated that it had come in the investigation that Gurmeet Ram was working as driver in dera in village Beet.

19. PW-12 HC Rajender Singh who had accompanied the Investigating Officer SI Rajinder Singh during the course of investigation corroborated the version of the Investigating Officer regarding the proceedings.

20. PWs Dr.Jaswant Singh, Dr.Kavita Bhatia, Dr.Manvi Sharma, Jaspal Singh, ASI Om Parkash, HC Kaushal Chander, SI Kewal Singh were given up as unnecessary.

21. The accused in their statement under Section 313 Cr.P.C. pleaded innocence. Accused Rekha Rani denied that she had any illicit relationship with Gurmeet Ram as alleged. She denied having made any disclosure statement to the police or having got recovered the *duppatta*. Accused Gurmeet Ram stated that he had no dispute with his wife and that he had no illicit relation with Rekha Rani.

On 14.9.2016 he had made a telephone call to Satnam Singh from Delhi to arrange

a talk with his wife. He had spoken to his wife and asked her to go to the Kutiya where he was working as a driver and get money. At noon, he received a message regarding the death of his wife. Thereafter, he called his friend Darshan Kumar on his mobile Number 99152-35644 and asked him to reach the village. He himself reached the village on early morning of 15.4.2016. He was arrested by the police from Civil Hospital Garhshankar.

22. DW-1 Darshan Kumar deposed that he was a friend of Gurmeet Ram. Mobile No. 99152-35644 was issued in the name of his wife Neelam Devi. However he uses the phone. Gurmeet Ram used to call him on this mobile number. He stated that he received a phone call at about 2.00/ 2.30 PM on 15.9.2016 from accused Gurmeet Ram from Delhi informing him about the death of his wife and asking him to go to the village of Gurmeet Ram. He stated that on receipt of the phone call he went to the village of Gurmeet Ram where he learnt that the dead body of the wife of Gurmeet Ram had been shifted to Civil Hospital Garhshankar.

23. The complainant Ashok Kumar who is the brother of the deceased Sunita Kumari and her mother Santosh Kumari have deposed about the illicit relations between Gurmeet Ram and Rekha Rani. They have deposed about the fact that the deceased had told them that Rekha Rani had come to the matrimonial home of the deceased two-three times. On one occasion she had even given beatings to the deceased and threatened her that she would kill her (Sunita Kumari) and then marry Gurmeet Ram.

24. The relationship between Gurmeet Ram and Rekha Rani is also established from the testimony of SP Jain, Nodal Officer, Bharti Airtel Ltd.

Gurmeet Ram and the call detail record of mobile No.99152-35644 issued to Neelam d/o Tirath Ram. The call details show regular conversation between the users of the two phones. On 13.9.2016 there were 17 calls between these two mobile numbers. On 14.9.2016 again there were 17 calls between these two numbers. Mobile No. 99152-35644 is issued to Neelam d/o Tirath Ram r/o village Tibbian, Binewal. Rekha Rani is also daughter of Tirath Ram r/o village Tibbian, Binewal. While recording the statements of Gurmeet Ram and Rekha Rani under Section 313 Cr.P.C. the said call detail records were put to them. They did not explain the said calls. Gurmeet Ram only stated that it is incorrect and that the call details are a matter of record. Rekha Rani stated that the mobile was registered in the name of Neelam Devi and not in her name. No further explanation was given. However the appellants examined DW 1 Darshan Kumar in their defence. He stated that he was the husband of Neelam Devi in whose name mobile No. 99152-35644 was issued and that he was using the said mobile number. Gurmeet Ram was his friend and he frequently called him from this mobile number. On 15.9.2016 at about 2/2.30PM he received a phone call from Gurmeet Ram from Delhi informing him about the death of his wife and asking him to go to the village of Gurmeet Ram. On receipt of the phone call he went to the village of Gurmeet Ram where he learnt that the dead body of the wife of Gurmeet Ram had been shifted to Civil Hospital Garhshankar. The Trial Court has noted that the call detail record of mobile Nos.99152-35644 and 95600-82096 Ex.PW 10/B shows that no call was exchanged between these two mobiles on 15.09.2016. Moreover the trial Court has noticed that while address of Darshan Kumar shows him to be resident of Hari Pur PS Nurpur, Tehsil Anandpur Sahib, District Ropar the address

concluded that the the defence had failed to prove that Darshan Kumar was actually the husband of Neelam Devi. Thus the 34 calls between the mobile of Neelam Devi and Gurmeet Ram on 13.9.2016 and 14.09.2016 had remained unexplained.

25. PW-7 Satnam Singh deposed that his mobile number was 94173-53849. He knew Gurmeet Ram who was his neighbor. On 14.9.2016 he was present at his house and he received a call on his mobile from the mobile of Gurmeet Ram No.95600-82096. Gurmeet Ram stated that he was speaking from Delhi and he wanted to talk to his wife Sunita. PW-7 went to the house of Gurmeet Ram and made Sunita talk with her husband. Later, he came to know that Sunita had been called to the house of Rekha Rani at village Tibbiyan.

26. PW 5 Subhash Chander had in his initial statement to the police stated that when he along with Shinda Baba were going towards village Dallewal and reached near the house of Rekha Rani a lady came out of the house and Rekha Rani was following her who on seeing Subhash Chander and Shinda Baba returned to her house. The lady who had come out of the house of Rekha Rani fell down on the ground. On enquiry she disclosed her name as Sunita wife of Gurmeet Ram. She further disclosed that her husband Gurmeet Ram had asked her to go to the house of Rekha Rani. Rekha Rani gave her a cup of tea. Thereafter she put a *chunni* around her neck to strangulate her. Deceased stated that in an attempt to escape and save herself the *chunni* was torn into two pieces and she managed to run away. While deposing in Court the said Subhash Chander resiled from his aforesaid statement. However in response to Court questions he admitted that he knew Baba Shinda who runs a Kutiya in village Tibbiyan. He stated that he had

not gone to the Kutiya on 14.9.2016 but had gone to the flour mill where he heard

some *raula* from nearby in between the Kutiya of Baba Shinda and the flour mill. He rushed towards the place of *raula* and saw a lady who had fallen down. He did not talk to the lady nor did anyone else talk to her in his presence. Baba Shinda was also present there. He was asked by Baba Shinda to call the ambulance. He dialled 108 and called the ambulance. It was only the next day that he came to know that the lady was from village Jhonorwal. He stated that he had not seen the house of Rekha but was aware that it was in village Tibiya itself and was at a distance of about 400 meters from the place where the lady had fallen down.

27. PW-9 Baba Shinda in his deposition also did not fully support the prosecution case but he stated that about a year back he was sitting in the Kutiya and he heard the cries of a lady from outside in the street. He went outside and asked her about the matter. She asked for water and drank it from the pipe attached to the tap of the Kutiya. He asked her about the injuries/ bruise marks on both sides of her neck and about the blood oozing from her ear but she did not name any person as responsible for the injuries. He asked Subhash Chander to call for an ambulance. He himself made a phone call to Police Post Jhungi. He also telephoned a press reporter who stated that he could not come there. The ambulance arrived in 30-35 minutes and he sent the lady to the hospital in the ambulance. To a court question about the identity of the lady he stated that he had come to know that she was the daughter-in-law of a *kumhar* family of village Jhunowal.

28. Thus though PW 5 Subhash Chander and PW 9 Baba Shinda did not support the prosecution to the extent that they had seen the deceased come out of the house of Rekha Rani who was following her and turned back on seeking them

but both of them clearly admitted their presence and that they had seen the

deceased fall down, arranged an ambulance and sent her to the hospital. Though the case of the defence was that the deceased had been asked by her husband Gurmeet Ram to collect his salary from the Kuttiya where he was employed as a driver, but there was no evidence as to in which Kutiya he was employed and whether the same was close to the area where she had fallen down. It is clear from the evidence of PW-8 Dr. Gurinderjit Singh Medical Officer, Civil Hospital Garhshankar that the Hyoid bone of the deceased was fractured. In case Hyoid bone is fractured the person becomes unconscious and falls down. Even PW 5 Subhash Chander who in his deposition before the Court had tried to shield Rekha Rani from the offence and was declared hostile, has stated that the place where the deceased had fallen was at a distance of about 400 metres from the house of Rekha. Thus the deceased was found close to the house of Rekha Rani from where she was sent to the hospital in an ambulance.

29. PW 11 SI Rajinder Singh proved the disclosure statement Ex PW 11/J of Rekha Rani that she had kept concealed two pieces of chunni in the cattle room. He further proved the recovery memo of the chunni from the spot indicated. No doubt the chunni in question was not shown to the doctor so as to connect the same with the width of the ligature mark on the neck of the deceased. But this would not be fatal to the case of the prosecution. PW 8 Dr. Gurinderjit Singh in his cross examination had stated that there were abrasion marks on the face of the deceased indicating that she may have struggled to save herself. He also denied the possibility of the deceased having been strangled using the 'tawee' (sacred thread) that she was found wearing as that would have been broken in the attempt.

30. Thus the prosecution has been able to establish the motive on part of the appellants to do away with the deceased as they had illicit relationship and

contemplated marriage after getting the deceased out of the way. It has been established that the deceased left for the house of Rekha Rani on receiving a call from her husband (Gurmeet Ram). Soon thereafter she was found lying in a street close to the house of Rekha Rani and was shifted to the hospital in an ambulance arranged by PW 5 Subhash Chander and PW 9 Shinda Baba. Both the accused were in constant contact with each other through the mobiles on 13.09.2016 and 14.09.2016. No credible explanation has been furnished by them for such repeated calls exchanged between them on the day of the incident and the previous day. Nobody has been produced to establish that the deceased had visited the kutiya to collect the salary of Gurmeet Ram.

31. The prosecution has proved the case against the appellants beyond reasonable doubt. Accordingly there is no merit in the appeals and the same are dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

May 14, 2019
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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No