

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

Reserved on : 17.5.2019

Date of decision : 22.5.2019

1. CRA-D No. 508-DB of 2015 (O&M)

Parmod @ Vicky Appellant
versus
State of Haryana ... Respondent

2. CRA-S No. 1185-SB of 2015

Naresh Appellant
versus
State of Haryana ... Respondent

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

Present Mr. Hardeep Singh, Advocate, for the appellant
in CRA-D No. 508-DB of 2015 and
Ms. Sharmila Sharma, Advocate, for the appellant
in CRA-S No. 1185-SB of 2015.

Ms. Shubhra Singh, Additional Advocate General, Haryana.

Rajiv Sharma, J.

1. This order will dispose of two appeals bearing **CRA-D No. 508-DB of 2015 - Parmod @ Vicky vs State of Haryana and CRA-S No. 1185-SB of 2015 – Naresh vs State of Haryana**, as the same arise out of common judgment.

2. These appeals have been instituted against judgment dated 25.2.2015 and order dated 27.2.2015, rendered by learned Additional Sessions Judge, Special Court, Sonipat, in Sessions case No. 744/47 of 2014. Appellants Parmod @ Vicky and Naresh were charged with and tried for the offence under Sections 302, 201 read with Section 34 of the Indian Penal Code. Appellant Parmod @ Vicky was convicted and sentenced under Section 302 IPC to undergo life imprisonment and to pay fine of ₹ 20,000/-

and in default of payment of fine, to further undergo rigorous imprisonment for six months. He was also convicted and sentenced under Section 201 read with Section 34 IPC to undergo rigorous imprisonment for five years and to pay fine of ₹ 10,000/- and in default of payment of fine, to further undergo rigorous imprisonment for three months. Both the sentences were ordered to run concurrently. Appellant Naresh was convicted and sentenced under Section 201 read with Section 34 IPC to undergo rigorous imprisonment for five years and to pay fine of ₹ 10,000/- and in default of payment of fine, to further undergo rigorous imprisonment for three months.

3. The case of the prosecution in a nutshell is that on 6.7.2013, a telephonic information was received in Police Station, Murthal, to the effect that a dead-body of a person with its head chopped off was lying at Mukimpur Road, Murthal, near inn (*kutia*) of Baba Kali Ram. ASI Ramesh along with other police officials reached the spot. He met complainant Azad. The complainant gave a written complaint, Ex. PW2/A, stating therein that he was resident of village Nandnaur. On 5.7.2013, at about 8.00 P.M., his son Anil @ Pappu, aged 29 years, left the house on motor-cycle. He was carrying his mobile. He did not come back. On 6.7.2013, Sarpanch of the village telephonically informed him that beheaded body of his son Anil @ Pappu was found lying near Baba Kali Ram's *kutia* on Murthal Mukimpur Road. He reached the spot. FIR was registered. The dead-body was sent for post-mortem examination. The investigation was initiated and challan was put up after completion of codal formalities.

4. The prosecution examined as many as 19 witnesses in support of the case. The statements of the accused were recorded under Section 313 Cr.P.C. They denied the case of the prosecution. They have also examined

two witnesses in their defence. They were convicted and sentenced, as noticed above. Hence, the 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. PW11 Dr. Poonam Dahiya has conducted the post-mortem examination on the dead-body of Anil @ Pappu. She led her evidence by filing affidavit, Ex.PW11/A. The cause of death was due to complete transaction of head from the body and its sequae. She proved the post-mortem report, Ex.PW11/B.

8. PW1 Ram Kumar deposed that his nephew Anil @ Pappu left the house on 5.7.2013. On 6.7.2013, he received information from the police that dead-body of Anil was lying on the Murthal Mukimpur Road. He reached the spot and identified the dead-body of Anil. Dead-body was in two pieces.

9. PW2 Azad is the father of deceased Anil @ Pappu. According to him, on 5.7.2013 his son Anil @ Pappu, who was 29 years of age, left the house at about 8.00/8.15 P.M. He was carrying his mobile phone. On 6.7.2013, in the morning, Sarpanch informed him telephonically that dead-body of Anil was lying in two pieces near Kali Ram Baba *Kutia*. He was murdered by some unknown person. He submitted application, Ex.PW2/A, to the police.

10. PW3 ASI Suraj Bhan deposed that he went to the spot on receipt of information. IO Ramesh Chander lifted the blood stained earth and two pieces of folding *Niwar* (rope) and the same were taken in possession vide recovery memo Ex. PW3/A.

11. PW4 Kuldeep testified that on 5.7.2013, Anil made a telephonic call to him on his mobile no. 8930094401 at about 7.10 P.M. He was in need of some money and also asked about his whereabouts. He told Anil that he was coming to the village. At about 8.00/ 8.15 P.M., he received yet another call from Anil. Anil met him on the *Adda* of the village. He came on his motor-cycle. Anil took ₹ 150/- from him and told that he was going to his cousin. On the next day, he came to know about the murder of Anil @ Pappu.

12. PW5 EHC Inderpal had prepared the scaled site plan, Ex. PW5/A.

13. PW6 Constable Dharambir deposed that on 7.7.2013, he had handed over the call details of sim bearing no. 9991176431 along with ID of the consumer Anil Kumar for the period from 1.6.2013 to 6.7.2013.

14. PW7 Constable Dinesh Kumar has handed over the call details record of sim bearing No. 9991256214 along with ID of consumer Parmod son of Rohtas for the period from 3.8.2012 to 6.7.2013. He had also handed over the call details of another sim for the period from 3.8.2012 to 6.7.2013 with ID of Ramesh Kumar son of Suraj Mal. He had also handed over the call details of another sim number with ID of Rekha wife of Mahabir for the period from 3.8.2012 to 6.7.2013.

15. PW15 SI Ramesh Chander is the material witness. He registered the FIR. He proved the rough site plan, Ex. PW15/B. On

17.11.2013, accused Parmod made a disclosure statement, Ex.PW15/C, on the basis of which he got recovered his blood stained clothes, half bottle of liquor, a danda of bamboo, two nut bolts and blood stained *Niwar*. The same were taken into possession.

16. PW16 Rohtas has corroborated the statement of PW15 SI Ramesh Chander. According to him, on the basis of disclosure statement, Ex.PW15/C, made by accused Parmod, blood-stained clothes, half bottle of liquor, a danda of bamboo, two nut bolts and blood stained *niwar* were recovered. Accused Parmod also produced a car bearing registration no. HR-26 BE-7100. Accused Naresh also made disclosure statement, Ex.PW15/I. Accused Naresh got the place of occurrence demarcated vide Ex.PW15/J. Accused Parmod got recovered a *Farsa* and motor-cycle of deceased Anil from the fields of village Rewli. These were taken into possession. The rough site plan of the place of recovery, Ex.PW15/M, was prepared by the Investigating Officer. He also proved recovery memos.

17. The accused also examined witnesses in defence. DW1 Ashok Khurana deposed that accused Naresh was employed as a Sweeper in the Central Cooperative Bank, Rohtak. He performed his duty in the day time in the said bank.

18. DW2 S. R. Malik had brought the attendance certificate of accused Naresh. According to him, accused Naresh remained present in the bank with effect from 1.7.2013 to 9.7.2013.

19. According to FSL Report, diazepam (tranquilliser) and Ketazolam (tranquilliser) were detected in exhibit-1. Blood was detected on exhibit (blood stained earth). Exhibit-2a (lower), exhibit-2b (underwear), exhibit-2c (banian) and exhibit-2d (shirt) were stained with blood. Blood

was detected on exhibit-2e (Thread). Exhibit-3 (swab) was stained with blood. Exhibit-4a (T-shirt), exhibit-4b (Pants), exhibit-4c (banian) and exhibit-4d (Pants) were stained with few small blood stains. Blood was detected on exhibit-4e (underwear), exhibit-6 (danda), exhibit-7 (*Niwar* pieces), exhibit-8a (Mat), exhibit-8b (Board) and exhibit-9 (blade of *Farsa*).

20. The case of the prosecution is based on circumstantial evidence. There is no eye-witness. It has come in the statements of PW1 Ram Kumar and PW2 Azad that they received information that dead-body of Anil @ Pappu was lying on the Murthal Mukimpur Road. They identified the dead-body. The dead-body was sent for post-mortem examination. As per opinion of PW11 Dr. Poonam Dahiya the cause of death was due to complete transaction of head from the body and its sequelae. The post-mortem report is Ex.PW11/B.

21. According to disclosure statement of accused Parmod @ Vicky, on 5.7.2013 he called Anil @ Pappu to Central Co-operative Bank, Rohtak Head Office. They had sexual intercourse with a girl in the office of M. S. Rathi. Thereafter, he committed the murder of Anil @ Pappu. Neck of Anil @ Pappu was severed from the body. He got cleaned the floor from co-accused Naresh. He brought the dead-body in village Murthal and threw it on Mukimpur Road.

22. Accused Naresh also made disclosure statement, Ex.PW15/I, according to which on 5.7.2013 at night, he was staying in the rest house behind the bank. It was 9.30 P.M when Anil had come to see accused Parmod. At about 3.30 A.M., accused Parmod had awakened him and took to bank hall and asked him to clean the blood spread in the hall with cleaner. Thereafter, accused Parmod left him with the girl. He also had

sexual intercourse with the girl and thereafter, he cleaned the floor.

23. It has also come in the statement of PW16 Rohtas that accused Parmod had brought a car from his friend Sudhir. The weapon of offence *Farsa*, blood-stained clothes, motor-cycle of the deceased were got recovered at the instance of accused Parmod. The call details were duly collected and proved in accordance with law.

24. The motive attributed to the appellant Parmod is that he had illicit relations with Preeti wife of deceased Anil @ Pappu. The disclosure statements were put to the accused under Section 313 Cr.P.C. They have not stated that the statements were not voluntary in nature.

25. PW4 Kuldeep has categorically stated that deceased Anil @ Pappu made a telephonic call to him on his mobile no. 8930094401 at about 7.10 P.M. He had given ₹ 150/- to deceased Anil @ Pappu. Merely that PW4 Kuldeep had not stated anything on 5.7.2013 is no ground to disbelieve his statement. Further it was not necessary for the prosecution to produce the girl, who was allegedly called by accused Parmod @ Vicky.

26. In view of the aforesaid discussed evidence, the prosecution has proved the case against the appellants beyond reasonable doubt. Accordingly, there is no merit in the appeals. The same are dismissed.

(Rajiv Sharma)
Judge

22.5.2019
vs

(Harinder Singh Sidhu)
Judge

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