

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

CRA-D-797-DB of 2017 (O&M)

Reserved on : 28.03.2019

Date of decision : 29.03.2019

Sunil alias Bulli

.... APPELLANT

Versus

State of Haryana

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA

HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Manoj Chahal, Advocate,
for the appellant.

Mr. Vishal Garg, Addl. A.G., Haryana.

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RAJIV SHARMA, J.

1. This appeal is instituted against judgment and order dated 30.05.2017, rendered by learned Sessions Judge, Bhiwani, in Sessions Trial No. 268 dated 10.10.2016. Appellant Sunil alias Bulli was charged with and tried for the offence punishable under Section 302 of the Indian Penal Code. He was convicted and sentenced thereunder to undergo imprisonment for life and to pay a fine of ₹ 5,000/-, and in default of payment of fine, to further undergo rigorous imprisonment for six months.

2. The case of the prosecution, in a nutshell, is that ASI Prem

Kumar (PW.9), Incharge, Police Post Adampur Dhndhi, was present in Bhiwani Court, on 06.08.2016. Ranbir Singh (PW.2) made a call on his mobile. He was informed that he had two children, namely Sunil alias Bulli and daughter Priya. On the intervening night of 05/06.08.2016, his son Sunil had murdered his daughter Priya. ASI Prem Kumar visited the spot. Bimla (DW.1) was present there. She refused to make any statement. ASI Prem Kumar noticed injuries on the head, forehead and legs of the deceased. Blood was oozing out from her nose. SHO Deshraj also reached the spot. The dead body was sent to General Hospital, Dadri, for autopsy. On 14.08.2016, SHO Deshraj arrested the accused. The accused made a disclosure statement, on the basis of which he got recovered the iron rod, used in the commission of the crime. The investigation was completed and challan was put up after completing all the codal formalities.

3. The prosecution examined a number of witnesses in support of its case. The appellant was also examined under Section 313 Cr.P.C. He denied the case of the prosecution. He also examined DW.1 Bimla.

4. The appellant was convicted and sentenced, as noticed above. Hence, this appeal.

5. 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 against the appellant beyond reasonable doubt. He 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. PW.1 Dharmender Singh had prepared the scaled site plan Ex.PA.

8. PW.2 Ranbir Singh is father of the deceased. He deposed that on 05.08.2016, his daughter Priya, aged 16-17 years, was murdered by his son Sushil Kumar. He received a telephone call from his daughter Suman. She told him that Priya was murdered by Sushil Kumar. He made a call to the police. The police reached the spot. He reached his village on 07.08.2016. In his cross-examination, he testified that cremation of his daughter was conducted on 06.08.2016. He could not attend the cremation of his daughter. He reached his house on 07.08.2016. He was advanced threats by his son.

9. PW.3 Devi Singh deposed that he reached the house of Ranbir, at village Dhani Adampur, on 06.08.2016. He saw the dead body of Priya lying on the cot. Blood was splashed on the clothes of Priya. They took the dead body of Priya to General Hospital, Charkhi Dadri.

10. PW.9 ASI Prem Kumar deposed that he went to the house of Ranbir. He inspected the dead body of Priya. He noticed injuries on her legs. Blood was oozing from her nose. Her clothes were torn. He called the scene of crime team and sent complaint Ex.PH to the police. FIR Ex.PJ was registered. In his cross-examination, he deposed that 8-10 persons were present in the house of Ranbir. At that time, mother of Priya was present. Ranbir was not present. Mother of Priya refused to make any statement at that time.

11. PW.10 HC Anil Kumar deposed that the accused made disclosure statement Ex.PL on 14.08.2016. The accused got recovered one

iron rod in pursuance of disclosure statement made by him. In his cross-examination, he admitted that no public witness was joined at the time of interrogation, pointing out of place of occurrence as well as at the time of recovery of iron rod.

12. PW.12 Deshraj is the Investigating Officer. He received telephone call on 06.08.2016 from MHC regarding murder of Priya. He reached village Adampur Dadhi. He inspected the place of occurrence. He took photographs of the dead body. The dead body was taken to General Hospital, Dadri. He arrested the accused from Bus Stand Atela on 14.08.2016. The accused made disclosure statement Ex.PL, on the basis of which iron rod was recovered. In his cross-examination, he deposed that mother of the deceased was present in the house. However, she was not joined in the investigation.

13. PW.6 Dr. Neha Saharan conducted the post-mortem examination. She noticed the following injuries on the body of the deceased :-

1. A lacerated wound of size (0.5 x 0.5 cm) present on lateral aspect of right mid shin. On deep dissection ecchymosis present.
2. A lacerated wound of size 0.5 x 0.5 cm present on midline of left mid shin.
3. Bruise of size 10 x 8 cm present on left arm of anterior aspect of deep dissection, ecchymosis present.
4. Bruise of size 6 x 4 cm present on right forearm with ecchymosis on deep dissection.
5. A bruise of size 10 x 10 cm present on right thigh lateral aspect of ecchymosis deep dissection.

6. A lacerated 1 cm x 1 cm wound present on midline of forehead just below the anterior hairline, on underlying bone was fractured and blood clots present in brain cavity.
7. A lacerated wound of size 0.5 x 0.5 cm present on right leg lower aspect of shin.

The cause of death was due to asphyxia and head injury, which was sufficient to cause death in ordinary course of nature. All the injuries were ante-mortem in nature.

14. Learned counsel appearing on behalf of the appellant argued that his client was not present at the spot. However, no evidence has been led by the appellant to prove that he was not present in the house. On the day, when Priya died, only three persons were present in the house, i.e. the appellant, his mother and his sister. The plea of alibi was not taken by the appellant in his statement recorded under Section 313 Cr.P.C. The weapon of offence was recovered at the instance of the appellant in pursuance of his disclosure statement Ex.PL. The cause of death was asphyxia and head injury. All the injuries were found to be ante-mortem in nature. PW.2 Ranbir Singh is the father of the appellant. He had no axe to grind against his son. He has categorically deposed that his son was involved in the murder of his daughter.

15. DW.1 Bimla has deposed that her son was absent. According to DW.1, her daughter Priya was walking on the roof. She accidentally fell down from the stairs and received injuries. In case, Priya had received injuries, it was expected from the family to take her to the hospital. The appellant was not present in the house, when the police visited the spot. In

case, Priya had died on account of injuries suffered accidentally due to fall from stairs, DW.1 Bimla should have told this fact to the police.

16. Accordingly, the prosecution has proved its case against the appellant beyond reasonable doubt. There is no reason for us to interfere with the well reasoned judgment and order of the learned trial court. The appeal is, accordingly, dismissed.

(RAJIV SHARMA)
JUDGE

March 29, 2019
ndj

(KULDIP SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No