

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

CRM-A No. 256-MA of 2018

Date of decision: 13.02.2019.

Beant Singh

... Applicant.

Versus

State of Punjab and another

..... Respondents.

**CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present:- Mr. Talwinder Singh, Advocate, for the applicant.

ANUPINDER SINGH GREWAL, J.

The applicant has sought leave of this Court to prefer an appeal against the judgment dated 22.11.2017 passed by the Additional Sessions Judge, Moga, whereby respondent No.2 - Jaspal Kaur was acquitted in FIR No.91 dated 05.09.2014, under Sections 302 and 201 read with Section 34 of the Indian Penal Code ('IPC' - for short) registered at Police Station Ajitwal, District Moga.

It is the case of the prosecution that on 05.09.2014, the complainant - Beant Singh had reported to the police that his brother Jaspreet Singh had been working as a Supervisor with a Telephone Company and three years ago he was married to Jaspal Kaur (respondent No.2) daughter of Maghar Singh, resident of Rasulpur. She had given birth to a son about 1½ years ago. Jaspreet Singh and Jaspal Kaur (respondent No.2) had been quarrelling with each other as a result of which Shavinder Singh, father of Jaspreet Singh, had separated them from his family about 2-3 months ago. It was also stated by the complainant that whenever Jaspreet Singh used to meet

him, he had been confiding in him that Jaspal Kaur (respondent No.2) was not under his control and kept on quarrelling with him. It was further stated that in the morning on 15.08.2014, he had learnt about the death of Jaspreet Singh and he had reached his house along with his father Shavinder Singh. Their sister - Davinder Kaur had also reached there. They had asked Jaspal Kaur (respondent No.2) about the circumstances of the death of Jaspreet Singh. She informed them that he had died due to electrocution. The complainant and his sister - Davinder Kaur examined the body of Jaspreet Singh minutely which revealed that he had received burn marks on his left shoulder as well as right side of his neck and they presumed that Jaspreet Singh had died due to electrocution. The entire family was in deep shock and they performed the cremation of Jaspreet Singh on the same day and his 'bhog' ceremony was held at Gurudwara Tarvani Sahib, Dala on 24.08.2014. He was suspicious of the death of Jaspreet Singh and, therefore, started making his own inquiries which revealed that Jaspal Kaur (respondent No.2) was not having good character and as her husband Jaspreet Singh had been asking her to mend her ways, she would often quarrel with Jaspreet Singh. Jaspal Kaur (respondent No.2) with the help of someone might have murdered his brother by giving him electric shock. On the statement of the complainant, an FIR under Sections 302 and 201 read with Section 34 of the IPC was registered against the accused (respondent No.2). During the course of investigation, Jaspal Kaur (respondent No.2) was arrested on 07.09.2014.

On completion of investigation, the final report ('challan') under Section 173 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' - for short) against the accused (respondent No.2) was presented before the Area

Magistrate, Moga, who committed the case to the Court of Session vide order dated 17.01.2015. The Sessions Judge, Moga, vide order dated 30.01.2015, charge-sheeted the accused (respondent No.2) for the commission of offences punishable under Sections 302 and 201 IPC. The accused (respondent No.2) did not plead guilty and claimed trial.

During the course of trial, the prosecution examined Vijay Kumar, J.E. as PW1; Japal Kaur, Multi-Purpose Health Worker, Sub Centre, Dala as PW2; complainant Beant Singh as PW3, Gurdeep Singh as PW4; Davinder Kaur, sister of the deceased as PW5; Sikander Singh as PW6; HC Kulwant Singh as PW7; Manpreet Singh, SDO, PSPCL, Patiala as PW8; ASI Pahara Singh as PW9; HC Jagdev Singh as PW10 and the investigating officer Inspector Ravinder Singh as PW11.

Accused Jaspal Kaur (respondent No.2), in her statement under Section 313 Cr.P.C., admitted that she was married to Jaspreet Singh and had given birth to a son. She also admitted that she and her husband were residing separately but she denied that she ever quarrelled with Jaspreet Singh. She also stated that she was working under the 'MGNREGA Scheme' and the complainant - Beant Singh wanted to perform 'kareva' marriage with her. As he was having criminal antecedents, she refused to marry him and when she demanded her share in the house of her husband, she was falsely implicated in this case to deprive her of her share in the house of her husband.

In her defence, she examined Sukhdeep Kaur as DW1; Gurdeep Singh, a resident of village Dala as DW2; Balvir Singh, Member, Block Samiti of village Dala as DW3 and Jugraj Singh, Member Panchayat of village Dala as DW4.

Learned counsel for the applicant has contended that respondent No.2 - Jaspal Kaur had been frequently quarrelling with the deceased and in order to get rid of him, she committed the murder. He has also tried to explain the delay in lodging the FIR by submitting that the complainant was in a state of shock at the time of death of his brother and only later on when he started to make his own inquiries, he came to know that the accused (respondent No.2) had committed the murder. He has also contended that the accused (respondent No.2) had also admitted her guilt in her extra-judicial confession made before Gurdeep Singh (PW4) and, therefore, there is enough evidence to warrant her conviction.

We have heard learned counsel for the applicant and examined the material on record.

It is manifest that although the death of Jaspreet Singh had taken place in the morning on 15.08.2014 but the FIR was registered only after a delay of 20 days on 05.09.2014. After the death of the deceased, the complainant and his family members had arrived at the place of occurrence and the cremation was done in their presence in the evening. If they had any suspicion about the circumstances under which Jaspreet Singh had died, it was always open to them to get the post-mortem conducted and inform the police. Their silence for a period of 20 days in reporting the matter to the police would seriously dent the prosecution story. The explanation that they were in a state of shock and had learnt later on after inquiry that the accused (respondent No.2) was responsible for the death of Jaspreet Singh cannot be countenanced, especially when the accused (respondent No.2) in her statement under Section 313 Cr.P.C. stated that after the death of her

husband, the complainant wanted to marry her and on her refusal to do so on account of his criminal antecedents, they had falsely implicated her, which appears to be plausible. The complainant has admitted, in his cross-examination, that as many as 10 cases were registered against him, some of which pertain to heinous crimes.

It is apt to note that although, as per the prosecution case, the deceased had been electrocuted by the accused (respondent No.2) with the help of electric wire but it has come on record that no wire, which was allegedly got recovered from the accused (respondent No.2), was produced before the trial Court and the wire which was projected to have been recovered pursuant to the disclosure statement of the accused (respondent No.2) did not match with the wire which was described by the prosecution.

Further more, we cannot rely on the extra-judicial confession made by the accused (respondent No.2) before Gurdeep Singh (PW4), as admittedly he is a relative of complainant - Beant Singh and, therefore, there was no occasion for the accused (respondent No.2) to confide in him. Sukhdeep Kaur (DW1) has deposed that after the death of mother of Jaspreet Singh, besides Jaspal Kaur there was no other female member in their family. Her father-in-law Shavinder Singh and her brother-in-law Beant Singh did not enjoy good reputation. Even in the absence of Jaspreet Singh, who was working as a Supervisor of mobile towers, they had been misbehaving with the accused (respondent No.2) and on one occasion her father-in-law Shavinder Singh held her inappropriately which was brought to the notice of the 'panchayat' by Jaspal Kaur (respondent No.2) and both Shavinder Singh and Beant Singh (complainant) were beaten up by the members of the

'panchayat', as they confessed their guilt. They had tendered apology and promised not to repeat their act. DW1 Sukhdeep Kaur belongs to village Dala, which is the village of the deceased and the complainant. The other defence witnesses including Gurdeep Singh (DW2), Balvir Singh (DW3) and Jugraj Singh (DW4) are also from village Dala and they have stated that only on the refusal of Jaspal Kaur (respondent No.2) to perform 'kareva' marriage with complainant - Beant Singh, the members of her husband's family had conspired to implicate her in a false case. Therefore, the judgment of the trial Court in acquitting the accused (respondent No.2) in the aforementioned factual backdrop is justified and would not call for any interference in appeal against acquittal.

Consequently, the application for grant of leave to appeal under Section 378 (4) Cr.P.C. stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

(A.B. CHAUDHARI)
JUDGE

13.02.2019
Ramesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No