

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

CRA-D-299-DB-2003(O&M)

Date of decision :- 16.11.2019

Jagtar Singh and another

....Appellants

Versus

State of Punjab

....Respondent

**CORAM : HON'BLE MR. JUSTICE JITENDRA CHAUHAN
HON' BLE MR. JUSTICE H.S. MADAAN**

Present : Mr.Amit Gupta, Advocate as
Amicus Curiae for the appellants.

Mr.A.A. Pathak, Addl.A.G., Punjab.

H.S. MADAAN, J.

Briefly stated, facts of the case as per prosecution version are that on 18.6.1999 complainant – Moti Ram Verma, a resident of village Bhabat, Police Station Sohana got his statement recorded with the police stating therein that Madan Lal, deceased was son of his brother Gopal Kishan; Madan Lal was aged about 28 years and he was married with Surinder Kaur @ Pinky (accused)

about 8 years earlier; Madan Lal along with wife – Surinder Kaur @ Pinky and three sons was resident at village Bhabat; about six months earlier, accused - Jagtar Singh son of Puran Singh, resident of Kanaur started residing in house of Madan Lal; Jagtar Singh used to take his meals from the house of Madan Lal and he was treated as a member of the family; accused – Bhupinder Singh was related to Jagtar Singh as his mother's sister's son and he used to come to Bhabat and stay with Jagtar Singh in the house; Jagtar Singh had developed illicit relations with Surinder Kaur @ Pinky and he wanted to marry her, however Madan Lal was proving to be a hurdle in doing that, as such Jagtar Singh and Bhupinder Singh in conspiracy with Surinder Kaur @ Pinky took Madan Lal on a scooter on 13.4.1999 and after making him consume liquor killed him and his dead body was thrown in the nearby jungle of Dera Bassi. In such statement to the police, the complainant Moti Ram stated that on 13.4.1999, he heard from Jagtar Singh and Bhupinder Singh that they wanted to eliminate Madan Lal and Surinder Kaur @ Pinky had asked both of them that Madan Lal be eliminated; that on 15.4.1999 the complainant came to know that Jagtar Singh and Bhupinder Singh had taken Madan Lal with them on a scooter bearing No.PB-39-0535 on 14.4.1999; thereafter Surinder Kaur @ Pinky showed a letter to complainant Moti Ram, wherein Madan Lal had written that he had contracted another marriage and would never return home and they should not wait for him. According to

the complainant, the letter was written by some other person having a different handwriting, whereas the address was in the handwriting of some other person. Subsequently, Roshan Lal son of Khial Krishan, resident of village Brara (Haryana) told complainant Moti Ram that he had seen Madan Lal, Jagtar Singh and Bhupinder Singh on one scooter; that they had purchased a bottle of liquor from Zirakpur liquor vend and then they proceeded towards Dera Bassi on the scooter at about 8:00 p.m.; Roshan Lal had further stated that he had earlier a doubt about Jagtar Singh and Bhupinder Singh but thereafter he had concluded that Madan Lal had been eliminated by Jagtar Singh and Bhupinder Singh in connivance with Surinder Kaur @ Pinky.

On the basis of such statement of complainant Moti Ram, formal FIR No.39 of 18.6.1999 for the offences under Sections 302, 364, 120-B IPC was registered at Police Station Sohana. The investigation in this case started, during the course of which all the three accused were arrested. On being interrogated Jagtar Singh accused confessed his guilt in presence of various persons of the village and led the police party to the place where Madan Lal had been killed and his scooter thrown. The police party found bones of a dead human body from that place along with clothes, purse and photograph of Madan Lal. A little distance therefrom, Jagtar Singh pointed out the place where scooter of deceased had been thrown by them. The police had found the

scooter lying there in an abandoned condition and had taken it into possession under Section 102 Cr.P.C. Bhupinder Singh had also made statement on those very lines. The bones so recovered as well as clothes, purse and photograph of Madan Lal had been taken into possession. The bones were sent to Chemical Examiner for analysis and a report was received therefrom that, those were of a human being. During the course of investigation, it transpired that Jagtar Singh and Bhupinder Singh had made extra judicial confession before Dharam Singh, Sarpanch of village Bhabat. The Investigating Officer recorded statements of various persons and took into possession several documents.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court of Judicial Magistrate Ist Class, Kharar.

On presentation of challan in the Court of Judicial Magistrate Ist Class, Kharar, she supplied copies of documents relied upon in the challan to all the accused free of cost as provided under Section 207 Cr.P.C. Then finding that offences under Sections 302, 120-B and 364 IPC are exclusively triable by the Court of Session, learned Judicial Magistrate Ist Class, Kharar vide her order dated 25.9.1999 committed the case to the Court of learned Sessions Judge, Rupnagar, from where it was entrusted to the Court of learned Additional Sessions Judge, Rupnagar

When the case was received in the Court of learned

Additional Sessions Judge, Rupnagar, he finding that prima-facie charge for the offences under Sections 120-B, 364 and 302 IPC was disclosed, charge-sheeted all the accused accordingly, to which, they pleaded not guilty and claimed trial. The case was then fixed for evidence of the prosecution.

During the course of its evidence, the prosecution examined as many as sixteen witnesses i.e. PW1 Roshan Lal, PW2 Moti Ram, PW3 HC Surinder Singh, PW4 Dharam Singh, PW5 Gurnam Singh, PW6 ASI Jai Kishan, PW7 Vijay Kumar, PW8 Om Parkash, Assistant office of SDM, Mohali, PW9 Manjit Singh, PW10 Gian Chand, Draughtsman, PW11 HC Balbir Singh, PW12 Constable Kirpal Singh, PW13 Constable Jaswinder Singh, PW14 SI Gurmit Singh, PW15 Ashok Kumar and PW16 Inspector Gurvinder Pal Singh.

With that the prosecution evidence stood closed.

Statements of the accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against such accused were put to them, but they denied the allegations contending that they were innocent and had been falsely implicated in this case.

The accused did not lead any evidence in defence. However, they relied upon documents Ex.DA to Ex.DC.

After hearing arguments, learned trial Court vide judgment dated 14.1.2003 convicted accused Jagtar Singh for the

offence under Sections 302/364 IPC and accused Surinder Kaur @ Pinky for the offences under Sections 302/364/120-B IPC, whereas acquitted accused Bhupinder Singh giving him benefit of doubt. Accused Jagtar Singh and Surinder Kaur @ Pinky were sentenced as under:

Name of accused	Under Section	Sentence Awarded
Jagtar Singh	364 IPC	Rigorous imprisonment for a period of 10 years and to pay a fine of Rs.3,000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of three years.
-do-	302 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of five years.
Surinder Kaur @ Pinky	364/120 -B IPC	Rigorous imprisonment for a period of 10 years and to pay a fine of Rs.3,000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of three years.
-do -	302/120 -B IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of five years.

Both the sentences were ordered to run concurrently.

The said judgment and order left the accused/convicts Jagtar Singh and Surinder Kaur @ Pinky aggrieved and they have filed the present appeal, notice of which was given to the State.

We have heard learned counsel for the appellants-

accused- convicts and learned Additional Advocate General for the State of Punjab besides going through the record.

In this case, though there is no direct evidence of the incident and the case is based upon circumstantial evidence, but the prosecution has been successful in completing the chain of events and proving guilt of the accused Jagtar Singh and Surinder Kaur @ Pinky beyond a shadow of reasonable doubt. Since Madan Lal had gone missing from his house where he along with his wife Surinder @ Pinky and three minor sons had been residing and where Jagtar Singh was also putting up as a tenant taking meals provided by the family of the deceased and was treated as a family member, it was for Surinder Kaur @ Pinky and Jagtar Singh to explain as to where Madan Lal had gone as in view of Section 106 of the Indian Evidence Act they had the special means of knowledge in that regard. Jagtar Singh had not rendered any such explanation whereas Surinder Kaur @ Pinky instead of giving any explanation tried to cover up and mislead the investigation, firstly delaying the matter with regard to lodging information with the police inasmuch as Madan Lal had left the house in company of accused Jagtar Singh and Bhupinder Singh on 13.4.1999 and information was given to the police on 13.5.1999 i.e. after about one month. That also points out towards guilty intention of accused Surinder Kaur @ Pinky. Furthermore, in order to mislead the investigation, she showed a letter to Moti Ram – complainant allegedly written by

Madan Lal stating that he had got re-married and would not return home and they should not wait for him. Though the letter was found to be in different handwriting and so also the address written, that is a strong factor to show the involvement of Surinder Kaur @ Pinky in the incident.

Then there is last seen evidence provided by Roshan Lal, who had seen the deceased in company of Jagtar Singh and Bhupinder Singh going on his scooter at 8:00 p.m. on 14.4.1999. Then a very vital and important piece of evidence is the extra judicial confession made by the accused before Dharam Singh, Sarpanch of village Bhabat. Dharam Singh being Sarpanch of the village obviously happened to be a respectable person. Surinder Kaur @ Pinky and Jagtar Singh had been residing in that very village, therefore naturally they would repose confidence in him and make clean breast of the crime committed by them. Though as deposed by PW Dharam Singh, accused Jagtar Singh, Bhupinder Singh and Surinder Kaur @ Pinky had come to his house on 18.6.1999; Jagtar Singh had taken him to a room in the house stating that at the instance of Surinder Kaur @ Pinky, they had murdered Madan Lal. Though Surinder Kaur @ Pinky is not specifically stated to have made any extra judicial confession but the very fact that Jagtar Singh had stated that they had committed murder of Madan Lal at the instance of Surinder Kaur @ Pinky and Jagtar Singh wanted to marry Surinder Kaur @ Pinky, therefore

Madan Lal was murdered to eliminate him from the scene. This witness had categorically stated that Jagtar Singh had got illicit relations with Surinder Kaur @ Pinky.

We do not see any reason to disbelieve his statement, which goes a long way in establishing criminal liability of the accused. Though there is no direct evidence with regard to involvement of accused Surinder Kaur @ Pinky but she being a crucial link in the conspiracy to eliminate Madan Lal definitely comes out to be there from the facts and circumstances of the case and evidence brought on file by the prosecution. Since conspiracy is mostly shrouded in secrecy, it is very difficult to get direct evidence thereof rather the conspiracy is to be gathered from the facts and circumstances of the case and other surrounding circumstances, it clearly comes out that Surinder Kaur @ Pinky had a prior meeting of mind with her co-accused to get her husband Madan Lal murdered, who was proving to be hurdle in her illicit relations with Jagtar Singh as both of them wanted to get married. Thus a strong motive was there to commit murder of Madan Lal.

The prosecution had successfully proved the charge against the accused Jagtar Singh and Surinder Kaur @ Pinky beyond a shadow of reasonable doubt. The judgment of conviction and order of sentence passed by the trial Court are well reasoned, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity

therein. The said judgment of conviction and order of sentence are upheld whereas appeal is found to be without any merit and the same is dismissed accordingly.

16.11.2019
Brij
(JITENDRA CHAUHAN)
JUDGE

(H.S.MADAAN)
JUDGE

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