

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

CRA-D No. 233-DB of 2003 (O&M)

Reserved on : 15.5.2019

Date of decision : 17.5.2019

Jass

.... Appellant

versus

State of Punjab

... Respondent

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

Present Mr. Amrit Singh Kang, Legal Aid counsel for the appellant.
Mr. Harbir Sandhu, Assistant Advocate General, Punjab.

Rajiv Sharma, J.

1. The present appeal is instituted against judgment and order dated 4.2.2003, rendered by learned Sessions Judge, Amritsar, in Sessions Trial No. 34 of 2002. Appellant Jass was charged with and tried for the offence punishable under Section 302 IPC. He was convicted and sentenced under Section 302 IPC to undergo life imprisonment and to pay fine of ₹ 500/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months.

2. The case of the prosecution in a nutshell is that on 12.10.2001 statement was made by Mangat Ram son of Dhanna Ram, resident of village Dale Chak before Sub-Inspector Sukhdev Singh. It was stated in the complaint that he had two brothers and four sisters. Name of one of the sisters was Gurmit alias Seema. She was married to Jass son of Mahanga, resident of village Talwandi Nahar about five years back. She had given birth to two children. She was doubting character of her husband leading to frequent disputes. On 11.10.2001, his sister Gurmit alias Seema had sent a

message to him that her husband Jass was giving beatings to her. He along with his nephew Satnam Singh reached village Talwandi Nahar. He had given counselling to his sister and her husband. They came back. On 12.10.2001, he came to know that his sister was again given beatings by her husband. They reached at the house of Gurmit alias Seema at about 6.00/6.30 A.M. When they entered the court-yard of the house, they saw that accused was sitting on the chest of Gurmit alias Seema and pressing her throat with his hands. They rushed towards Gurmit alias Seema but she was found dead. Accused Jass escaped from the spot. After leaving Satnam Singh to guard the dead-body, he went to the police station. His statement, Ex. PK, was recorded. The dead-body was sent for post-mortem examination. The post-mortem was conducted. Investigation was completed and challan was put up after completion of all the codal formalities.

3. The prosecution examined a number of witnesses in support of the case. The statement of the accused was also recorded under Section 313 Cr.P.C. He denied the case of the prosecution. He was convicted and sentenced, as noticed above. Hence, the present appeal.

4. 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 beyond reasonable doubt and supported the judgment and order of the learned trial Court.

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

6. PW1 Dr. Rama Kant Nadda conducted the post-mortem examination. He had noticed the following injuries on the body of deceased

Gurmit alias Seema:-

- “1) A dark reddish brown abraded bruise 3x0.8 cm was present on the front and centre of neck over the thyroid region.
- 2) A curved reddish brown abrasion 0.8 x 0.2 cm was present below the right side of chin.
- 3) A curved reddish brown abrasion 0.5 x 0.1 cm was present below the left side of chin. 0.5 cm to the left of injury no.2.
- 4) A reddish brown abrasion 0.5 x 0.2 cm was present 1 cm below the right half of lower lip.
- 5) Multiple (6) dark reddish brown abrasion varying in size from 0.4 x 0.3 cm to 0.2 x 0.1 cm were present on the inner aspect of lower lips.
- 6) Multiple (4) dark reddish brown abrasion varying in size from 0.2 x 0.1 cm to 1.5 x 0.4 cm were present on the inner aspect of upper lip.

On dissection of neck- The underlying neck muscles were bruised. A dark coloured bruise 3 x 1 cm was present on the thyroid cartilage.

On dissection of tongue- Three curved laceration of varying size from 1 x 0.2 cm to 0.8 x 0.2 cm were present on the left side and upper part of lip of tongue. Bruising of tongue was present.

The scalp skull and vertebrae were congested and healthy. The membranes, brain, right lung, left lung were congested. The walls ribs and cartilages, plurea were healthy. The liver, spleen and kidneys and small intestines were congested and empty. The bladder and organ of generation were healthy and empty.”

The injuries were ante-mortem in nature. The cause of death in the opinion of the medical board was due to throttling and smothering leading to asphyxia, which was sufficient to cause death in ordinary course of nature.

The probable time that elapsed between injury and death was immediate and between death and post-mortem was about 24 to 36 hours. In his cross-examination, PW1 Dr. Rama Kant Nadda has categorically deposed that the injuries mentioned in the post-mortem report were not possible where a person suffering from epilepsy falls face downward.

7. PW6 Mangat Ram testified that Gurmit Kaur alias Seema was his sister. She was married with appellant Jass. She had given birth to two children. His sister used to request her husband Jass to shun his relations with other girls. Due to this, accused used to maltreat her. His sister was harassed by the appellant. On 11.10.2001, his sister along with her husband and children came to his house. His sister told him that her husband used to beat her. He gave counselling to her husband. Thereafter, his sister along with her husband and children left for her in-law's house. Next day at about 5.00 A.M. some person of the village of the accused had told that his sister had died. He along with his nephew Satnam Singh reached the village of the accused at about 6.00 A.M. When they reached the house of the accused, they saw the accused sitting on the chest of his sister. He was pressing her throat with his hands. Thereafter, accused fled away from the spot. His sister was found dead. He went to the police station. FIR was registered. In his cross-examination, he deposed that he had seen the accused strangulating his sister from 5-6 feet.

8. PW7 Satnam Singh has also deposed that he along with his uncle PW6 Mangat Ram reached the house of the appellant on 12.10.2001 at about 6.00 A.M. They had seen the accused strangulating Gurmit Kaur alias Seema. The accused fled away after seeing them.

9. PW8 SI Sukhdev Singh had recorded the statement, Ex.PK, of PW6 Mangat Ram, on the basis of which FIR, Ex.PB/1, was registered. He prepared the inquest report, Ex.PC. The dead-body was handed over to HC Parshotam Lal and Constable Ravi Kumar for getting the post-mortem examination. He recorded the statements of the witnesses. The accused was not present.

10. PW9 Inspector Kashmir Singh also deposed that the accused was not present in the village. The accused was arrested on 14.10.2001.

11. Learned counsel appearing for the appellant vehemently argued that the deceased was suffering from epilepsy. A suggestion was put to PW1 Dr. Rama Kant Nadda whether the injuries received by the deceased could be caused in case a person suffering from epilepsy falls face downward. He has denied the suggestion. According to him, the injuries received by the deceased, as mentioned in the post-mortem report, could not be caused if a person suffering from epilepsy falls. The appellant has not produced any medical record to prove that the deceased was suffering from epilepsy.

12. The appellant went missing. He was arrested on 14.10.2001. PW6 Mangat Ram and PW7 Satnam Singh had seen the accused strangulating Gurmit Kaur alias Seema with both hands. PW6 Mangat Ram had earlier given counselling to the deceased and her husband. Gurmit Kaur alias Seema was found to be dead in the house of the appellant. The appellant has to explain under what circumstances his wife had died. The other family members were also residing in the same house though in separate portions. He has not produced any family member in support of his defence.

13. PW1 Dr. Rama Kant Nadda had noticed six injuries on the person of the deceased. He had noticed a dark reddish brown abraded bruise 3x0.8 cm on the front and centre of neck over the thyroid region. A curved reddish brown abrasion 0.8 x 0.2 cm was present below the right side of chin. A curved reddish brown abrasion 0.5 x 0.1 cm was present below the left side of chin. 0.5 cm to the left of injury no. 2. A reddish brown abrasion 0.5 x 0.2 cm was present 1 cm below the right half of lower lip. Multiple (6) dark reddish brown abrasion varying in size from 0.4 x 0.3 cm to 0.2 x 0.1 cm were present on the inner aspect of lower lips and Multiple (4) dark reddish brown abrasion varying in size from 0.2 x 0.1 cm to 1.5 x 0.4 cm were present on the inner aspect of upper lip. The cause of death was due to throttling and smothering leading to asphyxia, which was sufficient to cause death in ordinary course of nature. The time elapsed between injury and death was immediate and between death and post-mortem was about 24 to 36 hours. The post-mortem report has been duly proved by PW1 Dr. Rama Kant Nadda.

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

(Rajiv Sharma)
Judge

17.5.2019
vs

(Harinder Singh Sidhu)
Judge

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