

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

CRA-D-227-DB-2003 (O&M)

Date of decision : 20.08.2019

Ranjit Singh @ Chhotu

..... Appellant

versus

State of Punjab

..... Respondent

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE HARNARESH SINGH GILL**

Present : Mr. Vikram Singh Randhawa, Advocate
 for the appellant.

Mr. Sandeep Vermani, Addl. A.G., Punjab.

AJAY TEWARI, J. (Oral)

1. This appeal has been filed against the order dated 25.07.2002 passed by the Sessions Judge Ludhiana whereby the appellant has been convicted and sentenced to undergo rigorous imprisonment for life with fine of Rs.2,000/- under Section 302 IPC and in default of payment of fine to further undergo rigorous imprisonment for four months.

2. As per the allegations the appellant had come to the house of the deceased on 08.02.2000 and asked the deceased to accompany him to enjoy liquor. At about 5.30 p.m. on the same day the complainant i.e. father of the deceased along with his elder son was standing near the tube-well of Saudagar Singh in the village Chakkar and the appellant and

the deceased were also standing at some distance, when the appellant started abusing the deceased for constantly demanding the money which the deceased had loaned to him and then the appellant gave many knife blows to the deceased as a result of which he died. Thereafter, the complainant proceeded to lodge the report with the police after leaving his son near the corpse. Subsequently at the bus stand of village Lakha he met the police party and lodged the complaint. When the police reached the spot the inquest report was prepared and the Investigating Officer also prepared the rough site plan of the place of occurrence. He lifted blood stains from the spot and also recovered blood stains from the currency notes along with the half bottle of liquor. Postmortem was conducted when the following injuries were found on the body of the deceased :-

- (1) Curved incised wound 3cmx2.5cmx0.25cm on forehead in middle just above root of nose. On dissection clotted blood was present and the bone was intact.*
- (2) Longitudinal incised wound 8cmx1.5cmx0.75cm on the right side of face and extending to right side of neck, starting from lower part of right ear on face and going downward on right side of neck. On dissection clotted blood was present. Underlying muscle were partially cut.*
- (3) Two incised wounds 1cmx0.25cm on right upper eyelid one in outer part and the other in the inner part. On dissection clotted blood was present.*
- (4) Incised wound 1.5cmx0.25cmx0.25cm on right cheek 3.5cm from right angle of mouth. On dissection clotted blood was present.*

- (5) *Two incised wounds 3cmx5cm and 0.5cm on right side of face one in front of upper part of right ear and other lateral to right eye. On dissection clotted blood was present.*
- (6) *Four incised wounds each measuring 2cmx5cmx.5cm on left cheek. On dissection clotted blood was present.*
- (7) *Oblique incised wound 1.25cmx0.75cmx0.5cm on left side of fore head. On dissection clotted blood was present.*
- (8) *Incised wound 3.5cmx0.5cmxcartiligate deep on left ear in the anterior part of external ear meatus. On dissection clotted blood was present.*
- (9) *Incised wound 4.5cmx5cmx0.5cm on the back of left ear in the middle. On dissection clotted blood was present.*
- (10) *Two incised wounds 2cmx0.5cm each in left mandibular region angle of mandible below left ear. On dissection clotted blood was present.*
- (11) *Two incised wounds measuring 2.5cmx.5cmx0.5cm and 1cmx0.25camx.25cam on front of right side of chest in middle inner to right nipple. On dissection clotted blood was present.*
- (12) *4 incised wounds curved and oblique 3cmx.75cmx0.5cam two present on upper outer part of left upper arm and two on posterior outer part of lower part of left upper ram. On dissection clotted blood was present.*
- (13) *Oblique incised wound 2.75cmx.25cmx0.25cm on inner part of back of left wrist. On dissection clotted blood was present.*
- (14) *Four incised wounds 2.50cmx.25cmx0.25cm on left lateral side of chest in the middle. On dissection clotted blood was present.*

- (15) *Three incised wounds 1.50cmx0.25cm and 0.25cm on anterior wall of left axilla. On dissection clotted blood was present.*
- (16) *One incised wound 1.25cmx0.25cm and 0.25cm on front of lower part of neck in the middle. On dissection clotted blood was present.*
- (17) *Two oblique incised wounds 1.25cmx0.25cmx0.25cm and 2cmx0.5cmx0.5cm on the back of neck in lower part. On dissection clotted blood was present.*
- (18) *One incised wound 2.50 cmx0.5cmx0.5cm on back of left side of the chest in upper and outer part of scapular region. On dissection clotted blood was present.*
- (19) *Two stab wounds 2.5cmx0.5cm on back of left side of chest in middle and lower part. On dissection clotted blood was present. The wound communicated with the left pleurae cavity which was full of blood. Leg lung had laceration about 2cm in the lower part.*
- (20) *One incised wound 2cmx0.5cmx0.5cm in back thoratic region in middle in mid line. On dissection clotted blood was present.*
- (21) *One oblique incised wound 2.50cmx0.5cmx0.5cm on back of right side of chest in the middle. On dissection clotted blood was present.*
- (22) *Oblique wound 2cmx0.5cmx0.5cm on the back of right side of chest in the outer part in middle. On dissection clotted blood was present.*
- (23) *Oblique stab wound 2cmx0.5cm on lower and outer side of right side of chest on back. On dissection, blood was present and came out of chest communicated with right pleural cavity which was full of blood. Right lung lacerated in lower and upper part and had 2cm long laceration.*
- (24) *Oblique incised wound 9cmx2.5cmx3cm on back in right lumber region about 4 cm from mid line. On*

dissection clotted blood was present. Underlying muscles were cut.

(25)Oblique incised wound 1.75cmx0.5cm and 0.5cm on back in left lumbar region. On dissection clotted blood was present.

3. The accused having been arrested he was sent up for trial. The two main witnesses were the complainant (father PW-8) and his son (elder brother PW-9). Both of them narrated the incident as per the allegations made in the FIR. It was mainly on the strength of the eye witness testimony that the appellant was convicted.

4. The main argument raised by the learned counsel for the appellant is that actually the complainant and his son were not present at the place where the deceased was murdered and in fact it was a blind murder and the appellant has been falsely implicated in the same. The basic premise on which this argument is based is that these witnesses were alleged to have seen the occurrence from a distance of about 40 yards. As per learned counsel for the appellant it was very strange that in front of the father and the brother 25 knife blows were inflicted on the deceased but they did not try to either save the deceased or apprehend the appellant and their complete inaction reveals that they were not present at the spot. He has further argued that though there was a suggestion that the appellant owed money to the deceased yet no evidence thereof was provided and nor was there any enmity between the deceased and the appellant.

5. On the other hand learned Addl. Advocate General has argued that the mere fact that the complainant and his son did not try to save the deceased or apprehend the appellant can not in all circumstances

be taken to mean that they were not present. He has pointed out that in their testimony both of them had stated that by the time they reacted and ran towards the place of occurrence the appellant had run away with his knife in his hand. He has further argued that the nature of human beings can not be described as homogenous. A bold person may, in such a situation rush forward even at the risk of injury to himself while a timid person may not be able to do anything being self-preservative. He has argued that a reading of the complete testimony of both these witnesses clearly gives the impression that they are not speaking a falsehood and are credible witnesses. He has further argued that the weapon of offence was also recovered from the appellant and further the recovery of the liquor bottle and the blood stained clothes of the appellant give more credence to the story of the prosecution.

6. As per the report from Forensic Science Laboratory Ex-PX parcel 'C' contained knife and pajama with blood stains and even the knife had human blood stains. As per Dr. H.K.Singh, PW-1, all the injuries found on the dead body were ante-mortem in nature and the injury No.19 and 23 had caused death in ordinary course of nature. We also do not agree to the contention raised by learned counsel for the appellant that there is unexplained delay in lodging the report to the police. As per the record occurrence took place on 08.02.2000 at about 5.30 pm. Statement of Mukhtiar Singh, complainant (father of deceased) was recorded by ASI Avtar Singh at 8.30 pm and special report reached Illaqa Magistrate on the same date. Thus the arguments raised by the counsel for the appellant are rejected. Hon'ble Supreme Court in ***Dharmendra versus State of U.P.***,

2017 AIR (SC) 566, has held that when the testimony of the eye witnesses is

unblemished and trustworthy, regarding the manner of occurrence; crime committed by the accused and the weapon used therefor, the finding of guilt recorded by the Court(s) below need not be interfered with.

7. Still further, in *Kirpal Singh versus State of M.P. and others, 2002 AIR (SC) 2547*, the Supreme Court held that where the medical evidence is consistent with the ocular version, the conviction recorded, deserves to be upheld.

8. In our opinion, this appeal must fail. No doubt in most cases when a close family member is being attacked the other family member will rush to his aid. But can it be said that this is an inflexible situation; that every human being would and must act like that? In our considered view the answer to both the questions is in the negative. The testimony of PW-8 Mukhtiar Singh and PW-9 Darshan Singh is coherent, clear and rings true. There are no major contradictions between the account of the incident which both of them have given and we see no reason to disbelieve their testimony.

9. Resultantly, the appeal is dismissed and the conviction and sentence are upheld. Let the appellant be now arrested to serve out the remaining period of the sentence.

10. Since the main case has been dismissed, the pending C.M. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

20.08.2019

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