

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

CRA-D-378-DB of 2003

Reserved on : 03.07.2019

Date of decision : 05.07.2019

Jagsir Singh

.... Appellant

Versus

State of Punjab

..... Respondent

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. J.S. Bedi, Senior Advocate, with
Mr. Sunil Sihag, Advocate,
for the appellant.

Mr. Aayush Sarna, AAG, Punjab.

* * *

RAJIV SHARMA, J.

1. This appeal is instituted against judgment dated 17.08.2002 and order dated 21.08.2002, rendered by learned Additional Sessions Judge, Barnala, in Sessions Case No. 71 of 2000, whereby appellant Jagsir Singh, who was charged with and tried for the offence punishable under Section 302 IPC, was convicted thereunder and sentenced to undergo imprisonment for life and to pay a fine of ₹ 1,000/-, and in default of payment of fine, to undergo further rigorous imprisonment for one month.

2. The case of the prosecution, in a nutshell, is that Joginder Kaur,

real sister of Jaggi Singh complainant (PW.2), was married to Jagsir Singh of Pakho Kalan about eight years before the day of occurrence. His other sister Kiranjit Kaur was married to Nikka Singh, brother of Jagsir Singh. The mother of Jaggi Singh complainant died before the marriage of his sisters. Jaggi Singh was brought up by Joginder Kaur. Jaggi Singh started residing in the house of in-laws of Joginder Kaur. He was labourer. Jagsir Singh was an alcoholic. On 31.07.2000, at about 8.30 PM, Joginder Kaur was cooking meals in the light of electric bulb. Jaggi Singh sat to take meals. Jagsir Singh came from outside. He abused Joginder Kaur. He asked her where was she on that particular day. Joginder Kaur told him that she had gone to the house of Mukand Singh for working as labourer. In the meanwhile, Jagsir Singh picked up a *Daah* from the room. In the presence of Jaggi Singh, he gave a *Daah* blow underneath the right ear of Joginder Kaur. She fell down. Jagsir Singh, thereafter, gave two more *Daah* blows on the neck of Joginder Kaur. Jaggi Singh raised alarm. A number of persons came on the spot. Kiranjit Kaur, another sister of Jaggi Singh, also came on the spot. He narrated the mode and manner, in which the occurrence took place, to Kiranjit Kaur. He left for the police station. He lodged the report vide Ex.PD. FIR Ex.PD/2 was registered. The inquest report Ex.PM was prepared. The body was sent for post-mortem examination. 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. According to him, he was falsely

implicated. He examined one witness in support of his defence.

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

5. Learned counsel appearing on behalf of the appellant has vehemently argued that the prosecution has failed to prove its case against his client. Learned counsel appearing on behalf of the State has 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 Dr. K.G. Singla conducted the post mortem examination on the dead body of Joginder Kaur on 01.08.2000. He noticed the following injuries on the body of the deceased :-

- (1) Incised wound 11 cm x 1.5 cm x 2 cm starting 1 cm below the lower end of right pinna and extending backward and horizontally. Clotted blood was present. Underlying muscles were cut.
- (2) Incised wound 12 cm x 1 cm x 7 cm starting on the left side of neck, 1.5 cm above the supra-sternal notch and 2 cm to left of mid line. It extended towards right side of neck in obliquely upward direction. The underlying muscles, blood vessels (including major arteries and veins), trachea, oesophagus, nerves, underlying cervical vertebra and spinal cord were cut across completely. Clotted blood was present.
- (3) Incised wound 11 cm x 0.5 cm x 1 cm in the lower part of neck, situated 1 cm below injury No.2. It started 1.5 cm away to the left of mid line and extended obliquely upwards towards right side of neck. Clotted blood was present.

In his opinion, the cause of death was haemorrhage and shock as a result of injury No.2, which was sufficient to cause death in the ordinary course of nature. All the injuries were ante-mortem in nature. The probable time that elapsed between injuries and death was immediate and between death and post-mortem examination was more than 6 hours but less than 24 hours. He proved the post mortem report Ex.PA.

8. PW.2 Jaggi Singh, being minor, was examined after adjudging his intelligence. According to him, Joginder Kaur was his sister. She was married to Jagsir Singh about 10 years ago. Kirna was his other sister. She was married to younger brother of the accused. His mother died when he was a child. His sister Joginder Kaur took him to the house of her in-laws and brought him up. The accused used to give beatings to Joginder Kaur. On 28.07.2000, he was present in the house of in-laws of his sister Joginder Kaur at village Pakho. It was about 8.30 PM. His sister Joginder Kaur was cooking meals. Jagsir Singh came to the house under the influence of liquor. He abused Joginder Kaur and enquired where was she since morning. Joginder Kaur told him that she was working as labourer. The accused gave a *Daah* blow on the neck of Joginder Kaur. She collapsed. He left his younger sister Kirna to guard the dead body of Joginder Kaur. He went to the police station. His statement was recorded vide Ex.PD. In his cross-examination, he deposed that blade of *Daah* was of the breadth of about six inches. Earlier also, Jagsir Singh used to beat Joginder Kaur. The occurrence took place for about 2-3 minutes. He raised alarm. The house of Nikka Singh was at a distance of 20-25 houses from the house of the accused. He chased the accused for about two and half killas. His sister

Kirna came to the spot at 8.30 PM.

9. PW.3 Harnek Singh testified that the police lifted the blood stained earth from the house of the accused at Pakho Kalan in his presence. One frying pan and one stove were also taken into possession.

10. PW.5 Jit Singh was declared hostile.

11. PW.7 Nishan Singh deposed that the accused was his neighbour. The accused and his wife used to frequently quarrel. He used to pacify them.

12. PW.8 ASI Rama Shankar got conducted the post-mortem examination on the body of the deceased. He testified that disclosure statement Ex.PJ was made by the accused in his presence, on the basis of which *Daah* was recovered. In his cross-examination, he deposed that age of Jaggi Singh was 20-21 years. Jaggi Singh was illiterate.

13. PW.9 SI Nachhatar Singh deposed that Jaggi Singh made statement vide Ex.PD. Formal FIR Ex.PD/2 was recorded. He prepared the inquest report Ex.PM. He took the accused into custody. The accused made disclosure statement Ex.PJ and got recovered *Daah*. In his cross-examination, he deposed that the complainant came to him all alone.

14. DW.1 Darshan Singh deposed that he knew Jagsir Singh. He was his neighbour. Some unidentified persons came to the house of Jagsir Singh about a quarter to two years back. The wife of the accused accompanied them. On the next day, dead body of Paro wife of the accused was lying in the manure heaps. Paro was also known as Joginder Kaur. She was carrying bad character. She also used to accompany unknown persons earlier. No quarrel between the accused and his wife Joginder Kaur had

taken place in his presence.

15. Shri J.S. Bedi, learned senior counsel appearing on behalf of the appellant has vehemently argued that Joginder Kaur was killed by some unidentified person and her dead body was thrown in the house of the appellant. This submission is not believable. PW.2 Jaggi Singh witnessed the incident. He narrated the manner in which the appellant inflicted *Daah* blow on the body of the deceased. The appellant enquired from the deceased where she had spent the day. He was under the influence of liquor. PW.2 Jaggi Singh is the real brother-in-law of the appellant. Thus, he has no enmity with him. It has come in the statement of PW.7 Nishan Singh that the husband and wife used to quarrel. It has also come on record that the appellant used to doubt the character of his wife. The cause of death, as per the statement of PW.1 Dr. K.G. Singla, was haemorrhage and shock as a result of injury No.2, which was sufficient to cause death in the ordinary course of nature. The probable time that elapsed between injuries and death was immediate and between death and post-mortem examination was more than 6 hours but less than 24 hours. *Daah* was got recovered on the basis of disclosure statement made by the appellant. If Joginder Kaur was killed by some unknown person, there was no occasion for that person to bring her body to the house of the appellant, for the simple reason that he could be noticed by the public at large. The body in fact has been recovered from the house of the appellant and thereafter sent for post mortem examination. *Daah* was sent to Forensic Science Laboratory, Punjab, for examination. According to the FSL report, Ex.PC, it was stained with human blood. The clothes of the deceased were also stained with human blood, as per the FSL

report. The scaled site plan of the place of occurrence is Ex.PG. Point `A' is the place, where deceased Joginder Kaur was cooking meals on stove. The blood stained earth was also taken into possession by the police from point `A'. It was sent for FSL examination. It was found to be stained with human blood.

16. Accordingly, the prosecution has proved its case against the appellant beyond reasonable doubt. There is no merit in this appeal and same is dismissed. Appellant Jagsir Singh is on bail. His bail bond and surety bond are cancelled. He is directed to surrender before the concerned Chief Judicial Magistrate forthwith to undergo remaining part of his sentence.

(RAJIV SHARMA)
JUDGE

July 05, 2019
ndj

(HARINDER SINGH SIDHU)
JUDGE

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