

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

CRA-D No. 464-DB of 2003 (O&M)

Reserved on : 7.1.2019

Date of decision : 9.1.2019

Jaswant Singh Appellant
versus
State of Punjab ... Respondent

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

Present Mr. Arihant Jain and Mr. Arun Jindal, Advocates,
for the appellants.

Mr. S. P. S. Tinna, Additional Advocate General, Punjab.

Rajiv Sharma, J.

1. This appeal is instituted against the judgment and order dated 14.3.2003 rendered by Sessions Judge, Amritsar, in Sessions Case No. 15 of 2002, whereby the accused Jaswant Singh 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 ₹ 1,000/- and in default of payment of fine, he was directed to further undergo rigorous imprisonment for six months.

2. The case of the prosecution in a nutshell is that on 30.12.2001 a police party headed by Sub-Inspector Amrik Singh, SHO Khemkaran, was on patrolling duty. Smt. Narinder Kaur (PW5) and her husband Balbir Singh met him and made a statement before him that her sister Joginder Kaur was married about twenty years back with Jaswant Singh. Her sister had given

birth to one daughter, namely, Kulwinder Kaur. Jaswant Singh used to quarrel with her sister that she had not given birth to a son. She and her husband Balbir Singh used to counsel accused Jaswant Singh. On 29.12.2001, at about 7.00 P.M., Smt. Joginder Kaur and Jaswant Singh had come to her house. She talked to them. The daughter of the accused had gone to the house of her father's sister Sukhwinder Kaur on 28.12.2001 at village Varnala. She visited the house of Joginder Kaur on 30.12.2001 at about 9.00 A.M. The outer door of the house of Jaswant Singh was found locked. She entered the house from the house of Mohinder Singh. She saw that her sister Joginder Kaur was lying dead in a pool of blood on a cot inside the room. She noticed injuries on her head, forehead and mouth. According to her, Jaswant Singh had murdered Joginder Kaur. FIR, Ex.PG/3 was recorded. The inquest report was prepared. The site plan was prepared. Blood-stained quilt was seized. Blood stained piece of pillow along with blood stained *Talai* was also recovered. The body was sent for post-mortem examination. The accused was arrested on 1.1.2002. He was interrogated. He made a disclosure statement and got recovered one wooden leg (*muni* of the rehra) and one other wooden piece from his house, which he kept concealed under the *toori*. 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 and examined DW1 Amrik Singh in defence. He was convicted and sentenced, as noticed hereinabove. 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 of the learned Court below.

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

6. PW1 Dr. Sukhwinder Singh deposed that he conducted the post-mortem examination on the body of Joginder Kaur on 30.12.2001. He had noticed the following injuries on the body:-

- “1) A lacerated wound 12.0 x 4.0 cm on face extending from both the cheeks and laterally. Underlying bone crushed disfiguring face. Nasal bones were crushed and base on skull fractured. Brain lacerated. About 150 ml of blood was present in the cranial cavity.
- 2) A lacerated wound 5.0 x 4.0 cm on right side of forehead.
- 3) A lacerated wound 7.0 cm x 1.5 cm transverse, on upper part of forehead. On dissection underlying bone under injury No. 2 and 3 were fractured. Meninges torn and brain lacerated.
- 4) A lacerated wound 2.5 cm x 1.0 cm on right side of mandible 3.0 cm from midline. Underlying mandible bone was fractured.
- 5) A lacerated wound 2.5 x 1.0 cm, 3 cm lateral to injury no. 4. Mandible was fractured.
- 6) A contusion 5 x 3.0 cm on right side of face below and lateral to eye.

In abdomen, skin, peritorium, liver, spleen, kidneys, organs of generation were N.A.D. In mouth, heart, palate fractured. Stomach contains very small quantity of

undigested food. Small intestines contains digested food. Large intestines contains faecal matter. Bladder was empty.”

7. As per the opinion of PW1 Dr. Sukhwinder Singh, the cause of death was shock and haemorrhage due to injury nos. 1, 2 and 3, which were sufficient to cause death in the ordinary course of nature. All the injuries were ante mortem in nature.

8. PW2 Rishi Ram, Draftsman, PW3 HC Harbans Singh and PW4 HC Surinder Kumar are the formal witnesses.

9. PW5 Smt. Narinder Kaur is the real sister of deceased Joginder Kaur. She was married to Jaswant Singh. She had arranged the marriage. Marriage was performed about twenty one years back. Her sister had given birth to one daughter. She was named Kulwinder Kaur. Accused used to quarrel with his wife by stating that she had not given birth to a son. They used to counsel him. Joginder Kaur along with her husband had come to her house. Their daughter had already gone to Varnala. She went to the house of her sister at about 9.00 A.M. The house was found locked from outside. She had seen that the inner door of the room was locked. She went to the house of her sister from the roof of Mohinder Singh neighbour. The door of the room was opened. When she removed the quilt from the bed, she found her sister lying dead in a pool of blood. Injuries were found on her head and face. She raised hue and cry. People from neighbourhood collected there. Her husband also reached. She started weeping. The police recorded her statement, Ex.PG. In her cross-examination, she was confronted with her previous statement. She admitted that in her statement before the police, she had not stated that her sister along with her husband had come to her house. She had not made statement before the police that she had visited the house

of her sister. She also admitted that she had not made statement before the police that she entered the house of her sister from the roof of Mohinder Singh. She deposed that the accused had started taunting her sister for not giving birth to a son. Her husband had reached the place of occurrence about 10/15 minutes after her arrival. The dead-body was sent for post-mortem examination by the police at about 3/4.00 P.M.

10. PW6 Kulwinder Kaur is the daughter of deceased and the accused. According to her, the accused used to quarrel with her mother chiding her that she had not given birth to a son. He used to threaten her mother that he will kill her and will remarry. Two days prior to the death of her mother, her father had sent her to the house of his sister at village Varnala. She denied the suggestion that she was tutored.

11. PW7 Jagir Singh retired as Captain from the Army. He deposed that Joginder Kaur was his father's brother's daughter. She was married with accused Jaswant Singh about 20 years back. On 30.12.2001, he had gone to Khemkaran for some personal work. At about 10.00 A.M., accused Jaswant Singh met him near the bus-stand of Khemkaran. He made extra-judicial confession before him that he had murdered his wife by using wooden log (*munia*). Thereafter, the accused fled away. In his cross-examination, he admitted that Khemkaran is at a distance of 30/35 kilometers from his village. He had gone to village Mehandipur to meet Subedar Harbhajan Singh. He did not go to police immediately after the extra-judicial confession was made by the accused before him.

12. PW8 Kulwant Singh deposed that appellant had confessed before him that he had committed the murder of his wife.

13. PW10 SI Amrik Singh testified that he had recorded statement of Narinder Kaur, Ex.PG. FIR, Ex.PG/3, was recorded by MHC Surinder Kaur. He had prepared the inquest proceedings vide Ex.PB, and also prepared the rough site plan, Ex.PK. He had also lifted blood stained earth from the place of occurrence vide Ex.PK, blood stained quilt and blood stained pillow and sent for FSL examination. He had sent the dead-body for post-mortem examination. He had also recorded the statement of Kulwant Singh on 31.12.2001 along with other persons. The accused was arrested on 1.1.2002.

14. The appellant has also produced DW1 Amrik Singh. According to him, the accused used to live in Gurudwara of Bhai Avtar Singh at village Sirhali. On the day of murder at about 7.00 A.M., he went to the house of the accused and found the door bolted from inside. After seeing the dead-body of the wife of the accused, he rushed to the house of the sister of the deceased, namely, Narinder Kaur. Narinder Kaur reached the spot along with her husband. Thereafter, he sent his son to village Sirhali, who informed the accused. The accused came with his son at about 11.00 A.M. In his cross-examination, he admitted that his house was at a distance of about 50 yards from the house of the accused. No complaint was ever made to the Senior Superintendent of Police regarding the false implication of the accused.

15. Joginder Kaur had died in the house of the appellant. It was for the appellant to prove under what circumstances his wife died in his house as per Section 106 of the Indian Evidence Act. He had taken the plea of alibi. He has relied upon the statement of DW1 Amrik Singh. According to Amrik Singh, he used to reside in Gurudwara of Bhai Avtar Singh at village

Sirhali. According to him, on the day of murder at about 7.00 A.M., he had gone to the house of the accused and found the door of the house bolted from inside. He after seeing the dead-body of the wife of the accused, went to the house of the sister of the deceased. He had no occasion to visit the house of the appellant. His statement does not inspire confidence. The appellant had made extra-judicial confession before PW7 Jagir Singh and PW8 Kulwant Singh. PW7 Jagir Singh is a retired Captain from the Army. He had no enmity with the accused.

16. Human blood was found on the exhibits contained in parcel 'A' containing '*munni lakkar rehri*' and parcel 'B' containing '*Sotta Lakkar*' vide FSL report, Ex.PQ. Vide FSL report, Ex.PR, the human blood was found on parcels 'A' containing, piece of quilt cover (exhibit a-1), piece of quilt cover along with cotton (exhibit a-2), piece of pillow cover (exhibit a-3), piece of cotton mattress (talai) (exhibit a-4), piece of cloth and cotton (exhibit a-5), on parcel 'B' containing 'soil', parcel 'C' containing 'Vaan', parcel 'D' containing '*kameej*' (exhibit d-1), salwar (exhibit d-2) and shawl (exhibit d-3).

17. PW5 Smt. Narinder Kaur categorically deposed that she used to counsel Jaswant Singh. She had gone to the house of the deceased on 30.12.2001. She had seen injury marks on the head and face of her sister. Weapon i.e. wooden log was recovered at the instance of the appellant. PW6 Kulwinder Kaur daughter of deceased has supported the case of the prosecution. According to her, the appellant used to chide her mother that she had not produced a son. There is no occasion for the daughter to falsely implicate her father. Statements of PW5 Narinder Kaur and PW6 Kulwinder Kaur are duly corroborated by statement of PW1 Dr. Sukhwinder Singh.

The cause of death was shock and haemorrhage due to injury nos. 1, 2 and 3, which were sufficient to cause death in the ordinary course of nature. All the injuries were ante mortem in nature. The probable duration between injury and death was instantaneous. Probable duration between death and post-mortem was 12 to 24 hours. The case is based on circumstantial evidence. The chain in the present case is complete.

18. Accordingly, the prosecution has proved the case against the appellant beyond reasonable doubt. There is no merit in the appeal. The same is dismissed.

(Rajiv Sharma)
Judge

9.1.2019
vs

(Harinder Singh Sidhu)
Judge

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