

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

CRA-D No. 465-DB of 2003 (O&M)

Reserved on : 8.1.2019

Date of decision : **14.1.2019**

Sarabjit Singh

.... Appellant

versus

The State of Punjab

... Respondent

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

Present Mr. Vinod Ghai, Senior Advocate with
Mr. Simrandeep S. Sandhu, Advocate, for the appellant.

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

Rajiv Sharma, J.

1. This appeal is instituted against the judgment and order dated 8.5.2003, rendered by learned Sessions Judge, Gurdaspur, in Sessions Case No. 41 of 2001, vide which accused Sarabjit Singh was charged with and tried for the offences punishable under Section 302 IPC. He was convicted and sentenced under Section 302 IPC to undergo life imprisonment and to pay fine of ₹ 2,000/- and in default of payment of fine to further undergo rigorous imprisonment for one year.

2. The case of the prosecution in a nutshell is that PW6 Narinjan Singh PW6 is the complainant. He was resident of village Bhattian. According to him, his daughter Ramandeep Kaur was married with accused Sarabjit Singh resident of village Bhambri. On 12.7.2001 at about 2.00 P.M., he along with his wife Surjit Kaur (PW7) and son Gurnam Singh had gone to their daughter Ramandeep Kaur at village Bhambri. His daughter and son-in-law were present in the house. The accused picked up

quarrel with them and asked to send his sister back to his house and take their daughter Ramandeep Kaur. He was persuaded by the complainant. He sent back his son Gurnam Singh to village Bhattian. His daughter Ramandeep Kaur insisted upon them to stay for the night to which they agreed. He and his wife took the meals and slept in a separate room, whereas his daughter and accused Sarabjit Singh also slept in a separate room. On 13.7.2001 at about 4.30 A.M., they heard shrieks of their daughter emanating from the room. He and his wife woke up. They saw their son-in-law Sarabjit Singh armed with a *dattar* hitting on the face of their daughter. They raised hue and cry. Accused threatened to kill them. They bolted the door out of panic. They witnessed the incident in the electric bulb light. Thereafter, the accused fled away from the spot with *dattar*. They entered the room of his daughter and found her in a pool of blood. They raised hue and cry but no neighbour came to the spot. The complainant left his wife Surjit Kaur near the dead-body and went to lodge the report. His statement, Ex.PG, was recorded by DSP Baldev Singh. On 13.7.2001 DSP Baldev Singh along with ASI Narinder Singh and SHO Satwant Singh were present at *Adda* Harchowal, where he recorded the statement, Ex.PG. Inquest report was prepared. The post-mortem was conducted by Dr. Amandip Singh. The cause of death was due to injuries inflicted on the body. All the injuries were ante mortem in nature. The probable time between injuries and death was almost immediate. The time between death and post-mortem was within 24 hours. 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 examined DW1 Rajwinder Kaur in defence. 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 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 Satish Chander has prepared the scaled map, Ex.PA, at the instance of Niranjana Singh.

7. PW5 Dr. Amandip Singh deposed that he conducted the post-mortem examination. He had found the following injuries on the body of deceased:-

- 1.) Incised wound on the frontal bones cutting through the brain matter, parietal and temporal bones 45 x 8½ x 9 cms.
- 2) Incised wound 9 x 3 cms in the right parietal region.
- 3) Right thumb was amputated and incised wound 5 x 1 cm on the dorsum of the right hand.
- 4) Incised wound 4 x 1 cm on the flexor surface of right wrist.

8. According to PW5 Dr. Amandip Singh, the cause of death was due to injuries inflicted on the body. All the injuries were ante mortem in nature. The probable time elapsed between injuries and death was almost immediate. The time elapsed between death and post-mortem was within 24

hours. He has proved post-mortem report.

9. PW6 Narinjan Singh is the material witness. According to him, Gurnam Singh was his son. Ramandeep Kaur was his daughter. She was married with Sarabjit Singh about one year back. Gurnam Singh was married with Rajwinder Kaur, who was the sister of the accused. The marriages were celebrated in exchange. He and his wife Surjit Kaur and son had gone to the in-law's house of his daughter on 12.7.2001 to persuade the accused not to maltreat their daughter. They stayed for the night in the house of the accused. Their son Gurnam Singh came back to his house. They took meals. He and his wife Surjit Kaur slept in a separate room, whereas the accused and Ramandeep Kaur slept in other room. At about 4.00 A.M., they heard shrieks of their daughter from the other room. They rushed to that room and saw accused giving *dattar* blows on her face. Light was on. Accused also threatened to kill them. The accused fled away from the spot with the *dattar*. Ramandeep Kaur succumbed to the injuries at the spot. He left his wife to guard the body and lodged the report with the police. In his cross-examination, he admitted that village people woke up generally early morning at 4.00 A.M. He went to report the matter to the police while leaving his wife with the dead-body. He admitted that Harchowal is at a distance of 1½ kilometers from the place of occurrence where ASI Kulwant Singh met him in the police post. His statement was recorded by ASI Kulwant Singh. DSP Baldev Singh came after half an hour.

10. PW7 Surjit Kaur has also deposed that her daughter Ramandeep Kaur was married with the accused. On 12.7.2001, she, her husband Narinjan Singh and son Gurnam Singh went to village Bhamri at

the house of the accused to see her daughter. She and Narinjan Singh stayed there. Accused Sarabjit Singh used to quarrel with her daughter. They went to patch up the matter. Gurnam Singh came back to his village. They stayed there. After taking meals, she and her husband slept in a separate room, whereas the accused and Ramandeep Kaur slept in a separate room. In the morning at about 4/4.30 A.M., she heard the shrieks of her daughter. They woke up and saw with the help of electric bulb that accused was giving *dattar* blows on the face of her daughter. She and her husband raised alarm. The accused threatened to kill them. The accused ran away from the spot along with *dattar*. Thereafter, they went inside the room and saw their daughter lying dead on the cot. Her husband brought the police to the place of occurrence. She admitted in her cross-examination that accused repeatedly requested them to take Ramandeep Kaur back to their house and his sister be sent to Bhambri.

11. PW10 DSP Baldev Singh testified that on 13.7.2001 he was on checking duty. Narinjan Singh met him. He recorded his statement, Ex.PG. Thereafter, formal FIR, Ex.PG/2, was recorded by ASI Amrik Singh. He went to the spot. He prepared inquest report, Ex.PF. He sent the dead-body for post-mortem examination. He arrested the accused from near Raja Ram Gurudwara Harchowal on secret information. He made the disclosure statement, Ex.PN. Thereafter, the accused led the party and got recovered blood stained *dattar*, which was kept concealed by him in the varandah of his house under the earth. It was taken into possession vide memo Ex.PN/1. In his cross examination, he admitted that there is no mention of the accused in column no. 24/2 of the inquest report. He admitted that ASI Kulwant Singh, Incharge of Police Post, Harchowal, was at a distance of about 1½

kilometers from the place of occurrence.

12. The dead-body was identified by Gurnam Singh. According to him, he received the information on the basis of which he and Puran Singh identified the body of Ramandeep Kaur.

13. Ramandeep Kaur was married with the accused. The relations between Ramandeep Kaur and the accused were not cordial. PW6 Narinjan Singh and PW7 Surjit Kaur along with their son Gurnam Singh went to the house of in-laws of their daughter Ramndeep Kaur to settle the matter. The daughter insisted them to stay back. They stayed back. Their son Gurnam Singh returned to his house. They took meals. He and his wife Surjit Kaur slept in a separate room. The accused and Ramandeep Kaur slept in other room. At about 4.00 A.M., they heard shrieks of their daughter from the other room. They rushed to the room of Ramandeep Kaur and saw that Sarabjit Singh was hitting *dattar* on her face. Electric bulb was on. Accused also threatened to kill them. Ramandeep Kaur died at the spot. The accused then fled away from the spot with the *dattar*. The complainant left his wife at the spot to guard the body and went to lodge the report. The conduct of parents of deceased PW6 Narinjan Singh and PW7 Surjit Kaur is unusual. They should have intervened in the matter. They have not taken any steps to save their daughter. Their first instinct should have been to save their daughter. Even though they have been threatened, they should have raised alarm. In the present case, the incident had happened at about 4.00/4.30 A.M. In the villages, the people get up at about 4.00 A.M. The house was situated in a locality. It is not believable that no body had come after listening to their hue and cry. The matter was reported at 10.40 A.M. and the FIR was registered at 4.30 P.M. The prosecution has not explained this

delay. According to PW6 Narinjan Singh, he met ASI Kulwant Singh. His statement was recorded by ASI Kulwant Singh, but no such report has been placed on record. ASI Kulwant Singh has been given up. Gurnam Singh has identified the body. According to him, he was informed about the death of his sister. It is also not believable that the appellant killed Ramandeep Kaur when her parents were present in the adjoining room.

14. Their Lordships of Hon'ble the Supreme Court in Anil Phukan vs State of Assam 1993 (30) ACC 316 (SC), have held as under: -

"The unnatural conduct of Ajoy P.W. 3 which has come to our notice from the record is that though he was present alongwith the deceased at the time of occurrence, on March 21, 1976, at about 8.00 p.m., he made no attempt to save his uncle from the assault. He did not even continue 'to stay there, though of course according to him, he ran for his life on being advised so by his uncle. He was not assaulted though both he and his uncle were unarmed. Even if Mahendra was engaged in assaulting the deceased, Anil, who was also allegedly armed neither made an attempt to assault Ajoy P.W. 3 nor even chased him. P.W. 3 Ajoy did not himself lodge the F.I.R."

15. Their Lordships of Hon'ble the Supreme Court in Bhimappa Jinappa Naganur vs State of Karnataka 1993 (30) ACC 265 (SC), have held as under: -

"It also appears to us that the behaviour of P.W. 1, wife of the deceased, was not natural in the sense that she merely rests by offering water to her deceased husband who was breathing his last. She did not try to nurse him or offer him any other help which would have shown her presence at the time of the death of the deceased at the site of the incident."

16. In the present case, as per the version of PW6 Narinjan Singh and PW7 Surjit Kaur, they saw their son-in-law giving blows on the face of their daughter with *dattar*. Even if the accused had threatened to kill them, they could raise hue and cry. They should have tried to save their daughter. It casts doubt on the prosecution story. Therefore, conviction on the basis of their evidence cannot be sustained. They have informed the police belatedly.

17. Further the case of the prosecution is that after committing the murder of Ramandeep Kaur, the appellant fled away from the spot along with *dattar*. However, as per the version of the prosecution, he got recovered blood stained *dattar*, from the varandah of his house. It is not believable that when the accused had fled away from the spot, he again came to his house to keep the weapon that too blood stained. The disclosure statement, Ex.PN, was made by him while in police custody. FSL report is Ex.PO.

15. The prosecution has failed to prove the case against the appellant beyond reasonable doubt. Accordingly, the appeal is allowed and the judgment and order dated 8.5.2003, are set aside. The appellant is on bail. His bail bonds are discharged.

(Rajiv Sharma)
Judge

14.1.2019
vs

(Harinder Singh Sidhu)
Judge

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