

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR 759 of 2003

Date of Decision: January 31, 2019.

Tara Chand

.....Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Jitender Nara, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

Mr. J.S. Bedi, Sr. Advocate with
Mr. Sunil Sihag, Advocate
for respondents No. 2 and 3.

FATEH DEEP SINGH, J.

Accused Randhir @ Dheera and Sajjan Singh were sent up to face trial in case FIR No. 152 dated 24.08.2000 under Sections 302, 376 and 201 IPC registered at Police Station Gohana.

The present case was got registered on the statement of complainant Tara Chand Ex.PK recorded by Inspector Ajit Singh. The brief allegations made by the complainant were to the effect that he had two sons Nafe Singh and Hawa Singh and both of them were employed with Rajasthan police and residing with their families there.

However, the daughters-in-law used to take turns in looking after the

complainant in the village Bhainswal Kalan. It was on 23.08.2000 around 09.00 a.m., Shanti Devi (now deceased) daughter-in-law of complainant left the house to collect the fodder from the fields and at that time she was carrying a plastic can for collecting water. The same very day around 1.30 p.m., Jai Pal PW co-villager of the complainant came and asked the complainant to collect his fodder from his cart and after some time they discovered that Shanti Devi had not come. The complainant accompanied his brother Ram Mehar went to the fields in search of her but failed to locate her. The emptied can was found lying near a hand pump by the culvert. Subsequently, the villagers started searching for the missing lady and on 24.08.2000, the dead body of Shanti Devi was found lying in the fields of Mange Ram amid sugarcane crop. The body was having number of injuries. On the basis of this statement Ex.PK, the Investigating Officer made endorsement Ex.PK/1 and sent the same through UGC Shiv Lal to the police station, on the basis of which, formal FIR Ex.PD was recorded by MHC Surinder Singh. Inspector Ajit Singh prepared inquest report Ex.PF/1, recorded statements of the witnesses and prepared rough site plan Ex.PR and also summoned dog squad. The dead body was sent for postmortem and upon completion of the same, articles and the dead body were taken into police possession vide memo Ex.PO. Accused Sajjan Singh surrendered before the Court on 26.08.2000 and was, thereafter, formally arrested and interrogated. During the course of interrogation Sajjan Singh made a disclosure statement Ex.DB confessing their guilt. The accused further during interrogation made

disclosure statement Ex.PB leading to the recovery of pair of chappals worn by the deceased broken pieces of bangles which were taken into police possession through Ex.PM/1 and rough site plan Ex.P20 was prepared. The chappals were got identified by Hawa Singh which were placed in a sealed parcel bearing seal of ASR and taken into police possession vide memo Ex.PM/2 and thereafter recovery memo site plan Ex.PT was prepared.

On arrest of accused Randhir @ Dheera on 28.08.2000 upon his interrogation, the accused led the police party to the sugarcane fields and serialized the manner in which the occurrence has taken place and on his disclosure statement Ex.PB, a sickle was got recovered alongwith tractor bearing registration No. HRO-4473, which was used in the commission of offence and which was taken into police possession vide memo Ex.PA. The postmortem examination was got conducted by Dr. Praveen Goel, who detailed the injuries in the postmortem report and proved the same as Ex.PF and inquest report as Ex.PF/1, which was countersigned by him and proved the articles of the dead body salwar Ex.P1, lady shirt Ex.P2, chuni Ex.P3 and bra Ex.P4. He further proved the medico-legal examination of accused Sajjan Singh and the report Ex.PG conducted on police inquest Ex.PG/1. Dr. I.S. Punia, Medical officer, E.S.I. Bhiwani who conducted medico legal examination of accused Randhir @ Dheera and proved the injuries on his person by way of medico-legal report Ex.PH conducted on police inquest Ex.PH/1. The accused were formally arrested and charges under Sections 376(G) and 302/34 IPC

were framed against them to which they pleaded not guilty and claimed trial.

The prosecution examined 24 witnesses to prove its charge.

PW1 HC Ram Niwas who proved the recovery of Tractor bearing registration No. HRO-4473 Eicher Make through memo Ex.PA.

PW2 HC Azad Singh proved the recovery of chappals on the disclosure statement Ex.PB made by accused Sajjan Singh whereas PW3 HC Surender Singh tendered his affidavit Ex.PC followed by PW4 Constable Ram Niwas who deposited the samples in the Forensic Science Laboratory, Madhuban and proved the carbon copy of FIR Ex.PD.

Thereafter, PW5 Dr. Praveen Goel was examined, who proved the conduct of postmortem examination and medico-legal examination of Sajjan Singh accused. PW6 Dr. I.S. Punia proved the medico-legal report of accused Randhir Singh @ Dheera by way of Ex.PH on police request Ex.PH/1 and his underwear as Ex.P5.

PW7 Ram Kumar proved the rough site plan Ex.PJ of the place of occurrence whereas PW8 Constable Naresh proved special report (FIR) Ex.PD followed by SI Rajender Singh who prepared the report under Section 173 Cr.P.C.

The prosecution, thereafter, examined PW10 Virender who proved the extra judicial confession of accused Randhir Singh @ Dheera and sought corroboration from the deposition of PW11 Jai

Singh to the same effect. The complainant Tara Singh stepped into the witness box as PW12 and detailed the circumstances, proved his statement made to the police Ex.PK. PW13 Hawa Singh brother of the complainant detailed all what they had come across during the events. PW14 Jai Pal testified that the deceased came and asked him to carry the fodder to her home and that she would come after collecting water in the plastic can. To the similar effect is the deposition of PW15 Rajbir. PW16 Ramesh Kumar detailed having seen the accused in a pensive mood on 23.08.2000 around 5.30 noon.

The prosecution, thereafter, examined PW17 Jagdish Photographer, who proved the positives as Ex.P10 to Ex.P13 and corresponding negatives as Ex.P14 to Ex.P17 followed by the deposition of PW18 Ram Phal as to having met the accused on the fateful day in the fields and the dialogue that transpired between them. PW19 Mahabir proved the disclosure statement of accused Randhir leading to the recovery of sickle by means of recovery memo Ex.PN/1 on the basis of disclosure statement Ex.PN proving sickle Ex.P18 and memo Ex.PN/2.

PW20 Ram Mehar brother of the complainant Tara Chand serialized the events how after frantic efforts they were able to locate the dead body of the deceased. PW21 HC Satbir Singh got conducted the postmortem examination of the dead body of Shanti Devi as well as proved the parcel of articles handed over to him, which were given to SI/SHO Ajit Singh, who took the same into possession vide memo Ex.PO and further proved the statement of Sajjan Singh Ex.PB and

recovery of pair of chappals through memo Ex.PM/2, chappals Ex.P19/1-2 and also proved memo Ex.PM as to the place of occurrence from where pieces of broken bangles were taken through parcels and sealed through memo Ex.PO. He proved the fact having got Randhir Singh @ Dheera medico-legally examined and taken into police possession his apparels through parcel memo Ex.PP.

PW22 Inspector Ram Sarup deposed regarding the part of the investigation of having arrested the accused and interrogated them proving disclosure statement of Randhir Singh @ Dheera Ex.PN, recovery of sickle vide memo Ex.PN/1, preparation of rough site plan of place where the dead body was thrown Ex.PQ, site plan Ex.PQ/1 where the rape was committed and the site plan where the sickle was recovered, memo of demarcation Ex.PN/2 and taking underwear of Randhir Singh @ Dheera in police possession through memo Ex.PP.

PW23 Ajit Singh Inspector detailed the investigation conducted by him in this case by proving documents, such as, statement of complainant Ex.PK, endorsement on statement Ex.PK/1, formal FIR Ex.PD, inquest report Ex.PF/1, site plan Ex.PR, sealed parcels Ex.PO, disclosure statement of accused Sajjan Singh Ex.PB, site plan of place from where the pieces of bangles were recovered Ex.PS, sealed parcel Ex.P20, site plan of place from where the chappals were recovered Ex.PT, disclosure statement of accused Randhir Singh @ Dheera as Ex.PN and articles such as broken bangles Ex.PM/1, recovery of pair of chappals through memo Ex.PM/2 and recovery memo of tractor Ex.PA and detailed each and every part of

the same.

Lastly, the prosecution examined PW24 Constable Krishan Kumar having deposited the parcels in intact state in the Forensic Science Laboratory.

After tendering copy of forensic science report Ex.PE, the prosecution closed its evidence.

The entire incriminating evidence was put to each of the accused under section 313 Cr.P.C. who denied the same and took the plea of total innocence having been falsely implicated but did not lead any defence evidence.

The Court of learned Additional Sessions Judge (Fast Track Court) Sonapat vide judgment dated 09.10.2002 held the accused innocent and acquitted them of the charges so framed.

It is against these findings, the complainant had come before this Court in this revision.

Going through the submissions of the petitioner side as well as the State assisted by the complainant counsel admittedly it is a blind murder and entire evidence of the prosecution is based on circumstantial evidence. It is settled proposition of law that in cases based on circumstantial evidence, the Courts are supposed to look for evidence, which is by way of unbroken chain of events intricably interwoven with each other so as to form hypothesis leading to only and only conclusion that it was none else but the accused who committed the offence. Reliance in this regard can be placed on **Bodh Raj @ Bodha Vs. State of Jammu and Kashmir**, 2002 AIR (SC)

3167.

The only two circumstances recovery of chappals of the deceased at the behest of accused Sajjan Singh and recovery of sickle at the behest of accused Randhir Singh @ Dheera are neither shown or proved to carry any finger prints of the accused from whom they are alleged to have been recovered much less their identification to establish that the same belonged to the deceased and or could in any manner be co-related. The sickle is never proved to be blood stained which could create a suspicion that it was with this weapon wound on the left ear of the deceased was caused at the time of the commission of the offence. Furthermore, though in the postmortem report shows an abrasion on the neck and nail scratches on her breast. However, there is nothing suggestive of substantial nature that these were caused by the accused and no medical evidence either of the finger nails of the accused or any blood stains found on them could be brought in the evidence. It is there that dog squads were called for but nothing has come about to connect the accused to be present at the time and the place of occurrence or where the dead body was got recovered. The claim of the prosecution as has been contended before this Court that the accused pressed the throat of the deceased with their hands is not at all corroborated from the postmortem report. It is the story of the prosecution that at the time of commission of the offence, the fields around the place had water and the ground was thus wet but to the specific query of the Court, learned State counsel could not bring about any lifting of moulds of the feet of the accused from the place or

any marks of the tyre of the tractor of which it is alleged that accused had ferried the dead body and threw it at another place in the fields. It is there then when the occurrence took place, it was day time and in the neighbourhood families were working in their fields but none has come about to testify that they had seen the accused moving about near the place of occurrence and at that point of time and though the accused were found to be working in their fields but none of the witnesses ever come across the deceased Shanti Devi in that particular area which could even remotely suggest that the accused had the occasion to commit the crime.

The Courts below while scanning the evidence of the prosecution upon whom the onus lay heavily to establish its case beyond the shadow of reasonable doubt has considered at length the testimony of each and every witness of the prosecution. The other semblance of evidence is extra judicial confession alleged to have been made before PW11 Jai Singh by accused Randhir Singh @ Dheera however neither the exact words spoken by the accused have been reproduced in his testimony and further the occurrence having been taken place on 23.08.2000, the extra judicial confession has come about on 27.08.2000 and till then there is nothing suggestive that the names of the accused present have cropped up in this case which could necessitate the accused to seek shield of this witness against the police.

The evidence of the prosecution on the face of it is quite shaky and unreliable and not beyond the shadow of reasonable doubt.

The trial Court has rightly appreciated the evidence from all angles

judiciously and has come to a correct findings, which are legally sustainable. There is no illegally or perversity in these findings necessitating intervention by this Court.

The revision being without any merit stands dismissed.

January 31, 2019
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No