

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

CRA-D No. 284-DB of 2004 (O&M)

Reserved on : 08.3.2019

Date of decision : 14.3.2019

Gurnam Singh

.... Appellant

versus

State of Punjab

... Respondent

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

Present Ms. G. K. Mann, Advocate, for the appellant.
Mr. S. P. S. Tinna, Additional Advocate General, Punjab.

Rajiv Sharma, J.

1. The present appeal is instituted against the judgment and order dated 21.1.2004, rendered by learned Sessions Judge, Amritsar, in Sessions Trial No. 18 of 2002, by appellant Gurnam Singh. He was charged with and tried for the offence punishable under Section 302 IPC. He was convicted and sentenced under Section 302 IPC to undergo imprisonment for life and to pay fine of ₹ 1,000/- and in default of payment of fine, to undergo further rigorous imprisonment for a period of three months.

2. The case of the prosecution in a nutshell is that on 25.1.2002, a police party headed by SHO Shamsher Singh, Police Station, Verowal, was going from Khadoor Sahib towards village Vain Puin while patrolling. Buta Singh son of Darshan Singh was found standing near the dead-body of Darshan Singh. His statement, Ex.PJ, was recorded by SHO Shamsher Singh. According to him, his father Darshan Singh and his uncle Parsa Singh were joint owners of the land. The dispute regarding partition was pending before Tehsildar, Khadoor Sahib. Buta Singh, his father Darshan

Singh and mother Dalbir Kaur were going to attend the hearing of the case. He and his mother were on one cycle and his father Darshan Singh was on other cycle. His father was going ahead of them. At about 11.00 A.M., when they reached near Khadoor Sahib, a truck bearing registration no. HR-37-F-6028 came from behind. It crossed them. Thereafter, the truck driver hit the truck into the cycle of his father with an intention to kill him. His father was over-run by the truck. He died on the spot. The cycle of his father entangled with the truck. The driver came down and after un-entangling the cycle from the truck, ran away. The truck was driven by Gurnam Singh son of Parsa Singh. FIR, Ex.PJ/3, was recorded on the basis of the statement, Ex.PJ, by ASI Sarup Singh. The dead-body was sent for post-mortem examination through HC Amarjit Singh and Constable Major Singh. Rough site plan was prepared. The investigation was completed and challan was put up after completion of all the codal formalities.

3. The prosecution examined 15 witnesses in support of the case. The statement of the accused was also recorded under Section 313 Cr.P.C. According to him, he was falsely implicated in the case. 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 and order of the learned Court below.

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

6. PW2 Dr. Tejwant Singh deposed that on 26.1.2002, he conducted the post-mortem examination on the dead-body of Darshan Singh. He noticed the following injuries on the dead-body:-

1. A lacerated wound with a gap in the skull was present, measuring 7"x7" in size on the left side of the skull. The vault of the skull was missing with the brain. The cranium was empty. The skull bones were fractured.

2. A lacerated wound was present on the right side of face, measuring 3" x 1" in size on the medial side of right eye and was extending towards the right lateral side of nose.

On dissection: The right orbital bones were seen fractured along with the right maxilla and right mandible. The right eye ball was seen ruptured. The teeth were seen separate from maxilla and embedded into the buccal cavity and the tongue resulting in laceration of the tongue.

3. Perforated wound 1" x 1" in size present on the right shoulder joint.

On dissection : The right shoulder joint was seen fractured along with the right clavicular shaft. The apex of the right lung was lacerated and collapsed.

4. A depression present on the front of chest, extending from left side of middle of right side. The tyre marks were present.

On dissection: All the ribs of the chest cage were seen fractured. The right lung was lacerated, congested and collapsed. The left lung was also lacerated along with its pleura and found collapsed. The heart was lying separate from its base and was seen present in the right chest cavity.

The chest cavity was full of semi-clotted blood.

5. A depression measuring 3"x3" was present on the lower part of right upper arm.

On dissection : The right humerus was found fractured in its lower part. The muscle was lacerated and the blood was seen present in the muscle plains.

6. A lacerated wound measuring 5"x1" was present on the dorsal surface of right hand. The muscles were lacerated and tendons were exposed, but the bones of the hand were seen intact.

7. A lacerated wound present on the back of left thigh measuring 6"x3" in size, 6" below the left iliac blade.

On dissection : The muscles of the thigh were seen lacerated. Blood collection amounting to 20 c.c was seen in the seat of the wound. The left femoral shaft was seen fractured.”

The cause of death was injuries no. 1, 2 and 4, which were sufficient to cause haemorrhage, shock and ultimately death in ordinary course of events.

The injuries were ante-mortem in nature. He proved post-mortem report, Ex.PE.

7. PW3 Kundan Singh had produced the summoned file titled as Sawinder Kaur vs Parsa Singh. The case was fixed for 25.1.2002. In his cross-examination, he deposed that the case was not fixed for leading any evidence on 25.1.2002, however, report of the *Kanungo* was called for regarding the accounts of the crops.

8. PW4 HC Attar Singh had mechanically examined the truck. He submitted his report, Ex.PS. There was no defect in the truck.

9. PW6 Buta Singh is the son of the deceased. He deposed that on 25.1.2002, he along with his father Darshan Singh and mother Dalbir Kaur was going to attend the Court proceedings. He along with his mother Dalbir Kaur was on one cycle, whereas his father Darshan Singh was on different cycle. His father Darshan Singh was at a distance of half a *killa* ahead of them. They were following him. At about 11.00 A.M., one truck came from behind. The truck crossed them. The truck ran over his father, who was going ahead of them and going on the *kacha* path on the extreme left of the road. The number of the truck was HR-38F-6028. The truck was being driven by the accused present in the Court. Cycle was entangled with the truck. The driver got down from the truck. He parked the truck. After removing the cycle and his father from underneath the truck, he sped away with the truck. He was identified by them since he was his cousin. It was not an accident. The truck ran over his father intentionally to kill him. The accused was driver of the truck. Head of his father was found totally smashed. He got his statement, Ex.PJ, recorded. In his cross-examination, he deposed that at the time of occurrence, the cases were pending between his father and father of the accused in various courts at Tarn Taran. His village was situated at a distance of about six kilometers from the place of occurrence. He was not aware about the nature of proceedings on the date fixed i.e. on the date of occurrence. He deposed that Avtar Singh Sarpanch had reached the spot after about one hour. He denied the suggestion that he and other co-villagers reached the spot later on. His statement was recorded at the place of occurrence. He did not know the name of the lawyer, who was engaged at Khadoor Sahib, but he belonged to village Biharipur.

10. PW7 Dalbir Kaur is the widow of deceased and mother of PW6 Buta Singh. She has corroborated the statement of PW6 Buta Singh and the manner in which the accused run over his husband. After some time, the police came at the spot and recorded the statement of her son Buta Singh and conducted the proceedings. Her statement was also recorded. The appellant hit the truck with the cycle of her husband. In her cross-examination, she deposed that she did not know as to what proceedings were to take place on that day.

11. PW10 Baljinder Singh deposed that he was employed as Driver of M/s Rajput Roadlines Private Limited, Gandhidham, Gujarat. Vehicle No. HR-03-F-6028 was owned by that company. According to him, accused Gurnam Singh, present in Court, was well known to him. He was driver of the concerned truck. The truck had gone from Kandla to Himachal Pardesh on 19.1.2002 and thereafter the said truck had been involved in this case. It was got released on superdari. PW10 Baljinder Singh was not cross-examined.

12. PW11 Inspector Shamsheer Singh deposed that on 25.1.2002, he was posted as SHO, Police Station, Verowal. He has recorded the statement of PW6 Buta Singh vide Ex.PJ. He visited the spot. The dead-body of Darshan Singh was lying on metaled road. He inspected the spot. Cycle was broken. Akshshajra, Ex.PL/1, was prepared. Dead-body was sent for post-mortem examination after preparing the inquest report. The truck was taken into possession vide recovery memo, Ex.PQ. In his cross-examination, he deposed that only Sarpanch of village of PW6 Buta Singh (complainant) was present there.

13. PW12 Sub-Inspector Jaspal Singh deposed that photo copy of registration certificate was produced before him by Balwinder Singh along with the driving licence against memo. Ex.PS.

14. PW14 Dharam Pal deposed that Vehicle No. HR-38-F-6028 was registered in the name of Rajpal Roadlines Private Limited, Shop No. 4, Neelam Fly Over, Faridbad. He produced the National Permit, Ex.P1. It was issued by the District Transport Officer, Faridabad, along with Part B and Part C. Registration certificate, Ex.P4, was also issued by District Transport Officer, Faridabad, on 5.4.2001.

15. PW15 Smt. Sawinder Kaur produced the original record regarding the renewal of the licenses belonging to States other than Punjab maintained in the office of District Transport Officer in the regular course of business. As per entry no. 33300 dated 28.7.1999, the driving license of Gurnam Singh son of P. Singh, Village and Post Office Jhabal, District Amritsar, was renewed on 28.7.1999. The renewal was valid upto 27.7.2002. The license was for heavy goods vehicle.

16. FSL Report is Ex.PU. The exhibits contained in parcel 'A' were stained with human blood.

17. The post-mortem examination was conducted by PW2 Dr. Tejwant Singh. As per his opinion, the cause of death was injuries no. 1, 2 and 4, which were sufficient to cause haemorrhage, shock and death in ordinary course of events. The injuries were ante-mortem in nature. The probable time that elapsed between injuries and death was given to be five minutes and between death and post-mortem was within 24 hours.

18. As per evidence available on record, there was litigation between the complainant party and Parsa Ram father of the appellant. The matter was fixed on 25.1.2002 in the Court of S. D. O. (Civil)-cum-Assistant Collector 1st Grade, Khadoor Sahib, as per the statement of PW3 Kundan Singh, Reader to S. D. M. Complainant (PW6 Buta Singh) and his mother PW7 Dalbir Kaur were going on cycle to attend the Court proceedings. Darshan Singh (deceased) was plying another cycle. He was ahead of them. The appellant came from behind and struck the truck with the cycle plied by Darshan Singh. Darshan Singh was going on the *kacha* path on the extreme left of the road. Cycle was entangled with the truck. This incident had been witnessed by PW6 Buta Singh and his mother PW7 Dalbir Kaur.

19. Learned counsel for the appellant has vehemently argued that as per the statement of PW11 Inspector Shamsheer Singh only Sarpanch of village was present at the place of occurrence. But it has come in the statement of PW6 Buta Singh that Avtar Singh Sarpanch had reached the spot after about one hour of the incident. PW6 Buta Singh was of about 18 years at the time of deposition. He was not supposed to know exact nature of proceedings being young. Similarly, PW7 Dalbir Kaur was house wife. She was also not supposed to know the case proceedings. It has come on record that the date was fixed as 25.1.2002 in the case and all three of them were going to attend the Court.

20. PW6 Buta Singh had seen the appellant while driving the truck in question. According to PW10 Baljinder Singh he was working as driver with M/s Rajput Roadlines Private Limited, Gandhidham, Gujarat. Vehicle

No. HR-03-F-6028 was owned by his employer. Accused Gurnam Singh was well known to him. He was driver of the concerned truck. The truck had gone from Kandla to Himachal Pradesh on 19.1.2002 and thereafter the said truck had been involved in this case.

21. According to PW14 Dharam Pal, Vehicle No. HR-38-F-6028 was registered in the name of Rajpal Roadlines Private Limited, Shop No. 4, Neelam Fly Over, Faridabad. He proved the National Permit, Ex.P1. Registration certificate, Ex.P4, was issued by District Transport Officer, Faridabad, on 5.4.2001. PW15 Smt. Sawinder Kaur has proved the driving license issued in the name of the appellant. It was valid upto 27.7.2002. The license was for heavy goods vehicle.

22. The appellant has not given any reason as to why he had come to Punjab when he was deployed to Himachal Pradesh to deliver oil. According to PW10 Baljinder Singh, the appellant had gone from Kandla to Himachal Pradesh on 19.1.2002. He had deviated from his chartered route. He has not given any explanation why he had come to State of Punjab. He was supposed to deliver oil only in Himachal Pradesh. He has not taken any specific plea in his statement recorded under Section 313 Cr.P.C.

23. The argument of learned counsel for the appellant that PW6 Buta Singh and PW7 Dalbir Kaur were not present at the spot and they reached at the spot later on is merely to be noticed and rejected because in their statements both of them have deposed that Darshan Singh was going ahead of them on cycle. They were going to attend the proceedings in Court. They had witnessed the incident.

24. The argument of learned counsel for the appellant that the case was not fixed for evidence will not make any difference because it has come in the statement of PW3 Kundan Singh that the case was not fixed for leading any evidence on 25.1.2002, however, report of the *Kanungo* was called for regarding the accounts of the crops. That fact of the matter is that Darshan Singh (deceased) was going on cycle to attend the Court on 25.1.2002. His cycle was hit with the truck by the appellant. The appellant has intentionally hit the cycle of Darshan Singh (deceased), which caused his death.

25. In view of the aforesaid discussed evidence, the prosecution has proved the case against the appellant beyond reasonable doubt. Accordingly, there is no merit in the appeal. The same is dismissed.

(Rajiv Sharma)
Judge

14.3.2019
vs

(Kuldip Singh)
Judge

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