

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

CRA-D-1065-DB of 2009

Reserved on : 06.03.2020

Date of decision : 17.03.2020

Mukand Singh alias Rocky

.... Appellant

Versus

State of Punjab

..... Respondent

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Ms. Tanu Bedi, Advocate, with
Mr. Pushp Jain, Advocate,
for the appellant.

Mr. H.S. Grewal, Addl. A.G., Punjab.

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RAJIV SHARMA, J.

1. This appeal is instituted against the judgment and order dated 09.09.2009, rendered by learned Sessions Judge, Faridkot, in Sessions Case No. 9 dated 20.02.2008, whereby appellant Mukand Singh alias Rocky, who was charged with and tried for the offence punishable under Section 302 of the Indian Penal Code (for short, 'IPC'), was convicted and sentenced thereunder to undergo imprisonment for life and to pay a fine of ₹ 5,000/- (Rupees Five Thousand), and in default of payment of fine to further undergo rigorous imprisonment for a period of one year.

2. The case of the prosecution, in a nutshell, is that Harbans Singh made a statement before the police that he was a labourer by occupation and had five children. His eldest daughter Chhinder Pal Kaur was married to Bhinder Singh about ten years back. The husband of his daughter had gone to Doha Qatar, about two years ago. He along with his brother Kulwant Singh had gone to village Sivian on 22.12.2007 to meet his daughter Chhinder Pal Kaur. Harpreet Kaur, daughter of Chhinder Pal Kaur, fell ill, on the next day. At about 12.00 noon, Chhinder Pal Kaur brought her daughter to Faridkot for treatment, after leaving her son with them. At about 4.00 PM, Chhinder Pal Kaur informed the complainant through telephone that Mukand Singh alias Rocky had taken her along with her daughter to a road leading to village Machaki Mal Singh near the canal. He was forcing her to have illicit relations with him. The complainant brought this fact to the notice of his brother Kulwant Singh. They went to Faridkot. They got down from the bus on the bridge of the canal. They started proceeding towards Machaki Mal Singh. At about 5.30 PM, when they had just covered a distance of 2 ½ kilometers, they noticed the accused giving beating to Chhinder Pal Kaur. Accused threw his daughter Chhinder Pal Kaur and her daughter Harpreet Kaur into the canal. The accused also fell into the canal. In the meantime, two persons came there on a Van. They tried to save them. However, the maternal grand-daughter of the complainant drowned. They took out Chhinder Pal Kaur out of the canal. She also died. Accused Mukand Singh came out of the canal himself. He was apprehended by the people. The dead body of Harpreet Kaur (maternal grand-daughter of the complainant) could not be traced out. The members of

Sahara Club, Faridkot, took the dead body of Chhinder Pal Kaur to GGS Medical College, Faridkot along with the accused. Post-mortem examination was conducted. 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 accused was also examined under Section 313 Cr.P.C. He denied the case of the prosecution. He examined one witness in his defence.

4. The accused 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. Learned counsel appearing for the State has supported the judgment of conviction and order of sentence passed by the learned trial court.

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

7. PW.1 Dr. Gurmanjit Rai along with Dr. Ram Gopal conducted post-mortem examination. They noticed following injuries on the body of the deceased :-

- “(1) Reddish brown grazed abrasion 2.5 x 1.5 cms on the middle of the right cheek.
- (2) Reddish brown linear abrasion 1.5 x 0.2 cms on the right side of chin.”

The cause of death was asphyxia as a result of drowning, which was sufficient to cause death in the ordinary course of nature. The probable time that elapsed between injuries and death was within few minutes and between death and post-mortem was about 12-24 hours.

8. PW.5 Dr. Vivek Kumar Goyal deposed that on 23.12.2007, he was in the Emergency Department, posted as Emergency Medical Officer. One patient Rocky son of Binder Singh was brought by Sahara Club. It was a case of drowning. The patient was alive. The patient was admitted in the Medicines Ward-I. On the same day, at 7.05 PM, patient Chhinder Pal Kaur wife of Binder Singh was also produced by Sahara Club. It was also a case of drowning. She was brought dead. In his cross-examination, he deposed that signatures of the person, who brought the patients, were not obtained on any record. Rocky was attended as a poor free case. Only two persons belonging to Sahara Club brought the patients in the Emergency Department.

9. PW.2 HC Baljeet Singh deposed that he was posted at Police Station City Faridkot on 23.12.2007. He joined the investigation of this case. Statement of the complainant was recorded in his presence. The dead body was handed over to him. After the post-mortem examination on the body of the deceased, the dead body was handed over to complainant Harbans Singh.

10. PW.3 Harbans Singh is the father of the deceased. According to him, his daughter Chhinder Pal Kaur was married with Bhinder Singh about ten years prior to the occurrence. She was having one son namely Shabu, aged four years, and one daughter namely Harpreet Kaur, aged two years. His son-in-law had gone abroad to Doha Qatar. About four months back, he along with his brother Kulwant Singh came to the house of Chhinder Pal Kaur at village Sivian. She left her son Shabu with them in her house at village Sivian. She herself had gone to Faridkot for getting medicine for her

daughter Harpreet Kaur. At about 4.00 PM, he received a telephone call from his daughter Chhinder Pal Kaur that Mukand Singh alias Rocky had forcibly brought her towards the canal side in the area of Machaki Mal Singh. In the meantime, the telephone call was disconnected. He identified the accused in the court. He disclosed this fact to his brother Kulwant Singh. He along with his brother Kulwant Singh reached Faridkot by bus. They got down from the bus near the canal. Then they went towards Machaki Mal Singh Wala on foot. When they reached there at about 5.30 PM, they saw from some distance that the accused was calling bad names to his daughter and was beating her. Accused took his daughter and maternal grand-daughter towards canal. He pushed Chhinder Pal Kaur and her daughter Harpreet Kaur in the canal. Mukand Singh accused also fell into the running canal. Two persons came in a Van. His daughter was taken out of the canal. She was dead. They searched for his maternal grand-daughter. Her dead body could not be traced. In his cross-examination, he admitted that when they got down on the canal bridge for going towards the place of occurrence, the police was not present there. He admitted that it took them about 1 ½ hours to reach the place of occurrence from village Sivian. The persons who came in the Van brought the dead body of his daughter to Faridkot. He could not tell about the number of persons inside the Van. He had come to see his daughter at village Sivian.

11. PW.4 Kulwant Singh corroborated the statement of PW.3 Harbans Singh regarding the manner, in which the accused had pushed Chhinder Pal Kaur and her daughter in the canal. According to him, the accused had forcibly taken away Chhinder Pal Kaur and her daughter

towards the canal. The accused himself also slipped in the canal. Chhinder Pal Kaur was taken out of the canal. However, her daughter could not be traced out. In his cross-examination, he deposed that the persons in the Van took the deceased to the hospital. They followed them on foot. He could not give the description of the persons who came down from the Van and helped them in taking out the dead body.

12. PW.8 Beant Singh deposed that he was President of the Co-operative Society of village Lambwali. Harbans Singh, father of deceased Chhinder Pal Kaur, came to him about two months prior to her murder. He told that his daughter was married with Bhinder Singh. Bhinder Singh had gone abroad. He further told that Mukand Singh alias Rocky used to tease his daughter and that he should accompany him to village Sivian. Thereafter, he along with Harbans Singh and his brother Kulwant Singh went to village Sivian in the house of Chhinder Pal Kaur. The father-in-law of Chhinder Pal Kaur was not alive. They went to the house of accused Mukand Singh alias Rocky. Accused and his father Binder Singh met them. They all made accused Mukand Singh to understand not to tease Chhinder Pal Kaur.

13. PW.9 SI Pardeep Singh testified that he along with HC Sukhdarshan Singh and other police officials reached GGS Medical College, Faridkot, on 23.12.2007. Statement of Harbans Singh complainant was recorded vide Ex.P8. He made his endorsement Ex.P11, which led to registration of FIR Ex.P12. He reached the mortuary and prepared the inquest report Ex.P13. The dead body was identified by Lakhbinder Singh and Overseer Singh. He inspected the place of occurrence. He prepared

rough site plan Ex.P14. In his cross-examination, he deposed that there was no police picket post at the time of occurrence on the canal bridge.

14. DW.1 Gurdev Singh deposed that there was a bridge over twin canals near their village. At about 4.30/4.45 PM, about 20 months back, they were lifting earth from the Tibbas from near the canals. A 25/26years old woman fell in the canal. She was crying for help. They brought her out of the running water of the canal. She died instantaneously. She was all alone at that time. One of them had a telephone number of Sahara Club, Faridkot. Members of Sahara Club were called. In his cross-examination, he admitted that the deceased and the volunteers of Sahara Club were not known to him. The volunteers came on a vehicle.

15. PW.3 Harbans Singh and PW.4 Kulwant Singh had seen the accused pushing Chhinder Pal Kaur and her daughter in the canal. The body of Chhinder Pal Kaur was taken out of the canal, but the body of her daughter could not be traced out. The accused was also admitted in the hospital. As per the statement of PW.5 Dr. Vivek Kumar Goyal, it was a case of drowning. He had brought the Emergency OPD register. The cause of death, according to PW.1 Dr. Gurmanjit Rai, was asphyxia as a result of drowning, which was sufficient to cause death in the ordinary course of nature. The probable time that elapsed between injuries and death was within few minutes and between death and post-mortem was about 12-24 hours. There was no motive for the complainant to falsely implicate the accused. PW.3 Harbans Singh had brought to the notice of PW.8 Beant Singh that his daughter was being harassed by the accused. A suggestion was also put to PW.3 Harbans Singh that about two months prior to the

occurrence, he along with Kulwant Singh and some persons of his village had come to village Sivian and some persons of village Sivian too were called to convene a Panchayat to reprimand Mukand Singh. PW.8 Beant Singh corroborated the statement of PW.3 Harbans Singh that he being President of the Co-operative Society of village Lambwali, along with Harbans Singh and Kulwant Singh had gone to the house of accused Mukand Singh. The accused was reprimanded by them.

16. It is not a case, where Chhinder Pal Kaur with her daughter fell in the canal accidentally. Why a young woman would jump into the canal with her daughter. It was the accused who had pushed her into the canal along with her daughter. In this process, he also fell in the canal. As noticed here-in-above, he was taken to the hospital and was examined by PW.5 Dr. Vivek Kumar Goyal.

17. The prosecution has proved its case against the appellant beyond reasonable doubt.

18. Accordingly, there is no merit in this appeal and the same is dismissed. The conviction and sentence of appellant Mukand Singh alias Rocky are upheld. He is already in custody.

(RAJIV SHARMA)
JUDGE

March 17, 2020
ndj

(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No