

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-D-502-DB-2004
RESERVED ON : 17.01.2020
Date of decision : 20.01.2020

Darshan Singh

... Appellant

Versus

State of Punjab

... Respondent

CORAM: *HON'BLE MR. JUSTICE RAJIV SHARMA*
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Vikas Chatrath, Advocate
for the appellant.

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

RAJIV SHARMA, J.

This appeal has been instituted against the judgment and order dated 20.03.2004 rendered by the Additional Sessions Judge, Sangrur, in Sessions case no.21 of 04.09.2001 whereby the appellant was charged with and tried for offences punishable under Section 302, 307 Indian Penal Code (in short 'IPC'). The appellant was convicted and sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of two years for the offence under Section 302 IPC. He was also convicted and sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.5000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one year for the offence under Section 307 IPC. Both the sentences were ordered to run concurrently.

PW-4 wife of Jagrup Singh filed a complaint stating therein that her daughter Daljit Kaur @ Sona was married to Darshan Singh two months back. Darshan Singh became suspicious regarding the character of his wife. Darshan Singh started beating her for this reason. She went to the house of Darshan Singh ten days before the incident. She brought back Daljit Kaur to her house in village Gujran. On 18.05.2001 at about 3.00 P.M. complainant Manjit Kaur, her mother-in-law Gurnam Kaur and her daughter Daljit Kaur were present in the house. Her son-in-law Darshan Singh came to their house and asked Daljit Kaur to accompany him. The complainant told him that she will send Daljit Kaur only after her husband come back home. Thereupon Darshan Singh became furious. He caught hold of Daljit Kaur by her arm and started dragging her from the *Chobara*. Daljit Kaur tried to escape herself from the clutches of Darshan Singh. Darshan Singh took out a knife and stabbed Daljit Kaur. The complainant raised alarm. Naib Singh came at the spot. Gurnam Kaur, mother-in-law of the complainant tried to save Daljit Kaur. Darshan Singh gave knife blows to Gurnam Kaur. Darshan Singh gave another knife blow on the right side of neck of Daljit Kaur. He ran away from the spot along with the knife. Daljit Kaur died on the spot. Gurnam Kaur was taken to the hospital for treatment. FIR was registered on the basis of statement of the complainant. Police visited the spot. Rough site plan was prepared. Body was sent for post-mortem examination. Accused was arrested. Weapon of offence, i.e. knife was recovered at the instance of accused. The investigation was completed and the challan was put up after completing all the codal formalities.

3. Prosecution examined a number of witnesses. Statement of

appellant was also recorded under Section 313 Cr.P.C. He denied the case of the prosecution. One witness was examined in defence. The appellant was convicted and sentenced as noticed hereinabove. Hence, this appeal.

4. Learned counsel appearing for the appellant has vehemently argued that the prosecution has failed to prove the case against the appellant.

5. Learned counsel appearing on behalf of the State has supported the judgment and order dated 20.03.2004.

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

7. PW-1 Dr.Karam Singh, Radiologist conducted the x-ray examination of injury no.1 on the person of Gurnam Kaur. The x-ray film is Ex.PA/1.

8. PW-2 Dr.Parbhat Kumar medico legally examined Gurnam Kaur. He noticed the following injuries on her person:-

“1. Incised wound 3 cm x 1 cm on the top of the right shoulder with clotted and fresh blood and wound was going medially. X-ray was advised and was referred to orthopedic surgeon.

2. Abrasion with sharp margins 15 cm x 0.1 cm on the epigastrium and right upper abdomen with clotted blood.

3. Abrasion 3.5 cm x 0.1 cm on the left lower chest and upper abdomen. 3 cm above and in line of injury no.2. There was cut in the front of shirt in respect of injuries no.2 and 3 and shirt sealed and handed over to the police.”

The probable duration of injuries was within six hours and weapon used

was sharp. He proved MLR Ex.PB. He identified knife Ex.P1. Injury no.1 on the person of Gurnam Kaur is possible with this weapon. In his cross-examination, he deposed that after the x-ray report, injury no.1 on the person of Gurnam Kaur was found simple.

9. PW-3 Dr. Baldev Singh Sahota conducted the post-mortem examination of the body of Daljeet Kaur. He noticed following injuries on her person:-

- “1. An incised wound 3.7 cm x .5 cm at base lying obliquely on the postero lateral part of left wrist, tapering and going towards, skin deep.*
- 2. An incised wound obliquely placed 4 cm x .3 cm on the middle of right side of neck.*
- 3. An incised wound 3.5 cm x .5 cm elliptical in third inter costal space on the upper lateral part of left breast 11 cm lateral to midline on dissection wound entering cavity with massive blood liquid and clotted was present in the left thorax cavity.*
- 4. An abrasion on the upper part of right breast.*
- 5. Cut abrasion 2 cm x .3 cm on the left cheek obliquely placed extending to the outer part of left side of mouth.*
- 6. Multiple cut abrasions on the back of chest.*
- 7. An abrasion on the left patella.*
- 8. Three obliquely cuts on the upper back of left shoulder and upper arm extending outwards and tapering.”*

The cause of death was shock and haemorrhage as a result of chest injury.

The injuries were ante mortem in nature and were sufficient to cause death.

He proved post-mortem report Ex.PE. The probable time between the

injuries and death was immediate and between death and post-mortem was within 24 hours. In his cross-examination, he admitted that he had not mentioned any of the injuries on the person of deceased as penetrating punctured wound.

10. PW-4 Manjit Kaur is the material witness. She testified that her eldest daughter Daljit Kaur @ Sona was married with Darshan Singh accused. Darshan Singh used to administer beating to her daughter Daljit Kaur. About 10 days prior to the incident, she had brought her daughter Daljit Kaur to her vilage Gujran. Daljit Kaur told that Darshan Singh accused was doubting her character. On 18.05.2001 she along with her daughter Daljit Kaur, her mother-in-law Gurnam Kaur were present in the Chobara of the house. Her husband Jagrup Singh had gone with Bharpur Singh along with a wheat thrasher. At about 3.00 P.M. Darshan Singh came to their house and stated that he had come to take Daljit Kaur with him. She replied that she will send Daljit Kaur with him when her husband Jagrup Singh will come to the house. Darshan Singh accused started dragging her daughter Daljit Kaur. Daljit Kaur tried to escape from his clutches. Daljit Kaur managed to escape from the clutches of accused. Then Darshan Singh took out a knife from his fold (*dub*) and gave a knife blow on the right side of neck of Daljit Kaur. He also gave knife blow mercilessly on the person of her daughter Daljit Kaur which hit on her abdomen and other part of the body. She raised alarm. Naib Singh came on the spot. Gurnam Kaur tried to save Daljit Kaur. Darshan Singh gave two knife blows on the person of Gurnam Kaur one hitting on the right side of her neck and another on her abdomen. Darshan Singh gave knife blow to his daughter and mother-in-law with the intention to kill them. Darshan Singh ran away from the spot.

Many persons collected on the spot. In her cross-examination, she categorically denied that her daughter had illicit relations with Baggu refugee. She had gone to bring her daughter. She denied the suggestion that unidentified person had murdered her daughter.

11. PW-5 Gurnam Kaur has corroborated the version of PW-4 Manjit Kaur and the manner in which accused Darshan Singh inflicted the injuries on Daljit Kaur and her. She had categorically deposed that accused started dragging Daljit Kaur. Daljit Kaur tried to run away. Darshan Singh took out a knife and gave knife blows mercilessly on the person of Daljit Kaur hitting on the right side of neck. She tried to save Daljit Kaur from Darshan Singh. He gave three knife blows on her abdomen and right shoulder. In her cross-examination, she denied specifically that Daljit Kaur was a girl of ill virtue.

12. PW-6 ASI Anoop Singh deposed that Manjit Kaur had got recorded her statement Ex.PH. It was sent to the police Station on the basis of which, FIR Ex.PH/2 was recorded. He went to the spot. Photographs were taken. He prepared inquest report Ex.PF. The body was sent for post-mortem examination. Accused was arrested. His personal search was carried out. He made disclosure statement on the basis of which he got recovered the knife and blood stained shirt. Both parcels were sealed. Site plan was prepared. Statement of Gurnam Kaur was also recorded. In his cross-examination, he denied the suggestion that during the investigation he was told that deceased was having illicit relations with Baggu refugee. He also denied the suggestion that people told him that in fact Daljit Kaur was murdered by Baggu refugee.

13. PW-12 ASI Mukhtiar Singh deposed that blood stained earth

was collected from the spot. Accused was arrested on 19.05.2001. He was interrogated. He made disclosure statement Ex.PL. He got recovered knife and shirt from the disclosed place.

14. DW-1 Dev Singh deposed that he did not know the accused personally. Accused was married with Daljit Kaur @ Sonu. She was of ill virtue. She had illicit relations with Baggu refugee. Baggu was inimical towards Daljit Kaur. On the fateful day, he was passing through the house of Sonu. Many people gathered on the spot. He was told by the people that Baggu had murdered Daljit Kaur @ Sonu with the help of his friends. In his cross-examination, he admitted that he did not tell about this incident to anybody except making statement in the Court.

15. According to FSL report Ex.PU, exhibits contained in parcels A,B, C and D, were stained with human blood, i.e. soil stained with blood lifted from the place of occurrence, Salwar, Kameez, underwear, kokka, pieces of bangles, two hair pins, paranda, Kameez got recovered at the instance of accused and the knife got recovered at the instance of accused.

16. PW-4 Manjit Kaur has categorically deposed that her daughter Daljit Kaur was married with the appellant. She had brought her daughter to her house. On 18.05.2001 at about 3.00 P.M. appellant insisted to take Daljit Kaur back. PW-4 Manjit Kaur told him that Daljit Kaur could be permitted to go with him only when her husband come back. Appellant took out a knife and inflicted injuries on the person of Daljit Kaur. He also inflicted injuries on PW-5 Gurnam Kaur. He fled away from the spot with the knife. PW-5 Gurnam Kaur has categorically deposed that the appellant had inflicted injuries on Daljit Kaur. He had given three blows of knife to her. She was medico legally examined by PW-2 Dr.Parbhat Kumar. He

proved MLR Ex.PB. The doctor had noticed three injuries on the person of Gurnam Kaur. The post-mortem was conducted by PW-3 Dr.Baldev Singh Sahota. He had noticed as many as 8 injuries on the person of Daljit Kaur. The cause of death was shock and haemorrhage as a result of chest injury. The probable time between injuries and death was immediate and between death and post-mortem was within 24 hours. The blood was found on the exhibits sent for chemical examination including knife and shirt recovered at the instance of the appellant. Statement of DW-1 Dev Singh does not inspire confidence. If he had been told by somebody that Baggu refugee had killed Daljit Kaur, he should have brought this fact to the notice of the police or the Panchayat. The prosecution has proved the case against the appellant beyond reasonable doubt.

17. Accordingly, there is no merit in the appeal and the same is dismissed. The appellant is on bail. His bail bonds and surety bonds are cancelled. Police is directed to take him into custody immediately to undergo remaining sentence imposed upon him.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

January 20, 2020.
Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No