

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

CRA-D-565-DB of 2004

Reserved on : 21.01.2020

Date of decision : 27.01.2020

Simranjit Kaur alias Simran

.... Appellant

Versus

State of Punjab

..... Respondent

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Puran Singh Hundal, Senior Advocate, with
Mr. Premjit Singh Hundal, Advocate,
for the appellant.

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

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RAJIV SHARMA, J.

This appeal is instituted against the judgment and order dated 06.05.2004, rendered by learned Sessions Judge, Amritsar, in Sessions Trial No. 5 of 2003, whereby appellant Simranjit Kaur alias Simran, who was charged with and tried for the offence punishable under Section 302 IPC, has been convicted and sentenced thereunder to undergo imprisonment for life and to pay a fine of ₹ 1,000/-, and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months.

2. The case of the prosecution, in a nutshell, is that a police party

headed by Naresh Kumar, SI/SHO, Police Station Kotwali, Amritsar, was present at Chowk Butt Malika, on 25.08.2002. Mehar Singh got recorded his statement. According to his statement, he was serving as Manager in Hotel Krishna Lodge, Niwan Bazar, Jallianwala Bagh, Amritsar. The hotel was owned by Jatinder Sharma. There were twelve rooms in the hotel. It was his duty to look after the rooms and book the same. On 24.08.2002 at about 11.45 PM, one rickshaw puller had come with two customers at the hotel. The rickshaw puller was not known to him. One of those customers made entry in the Register at Serial No. 3455 at about 11.45 PM, writing his name as Daljeet Singh son of Darshan Singh. In the column of number of persons, it was written as '1+1'. Room No. 17 was allotted to them. The identity of the lady accompanying him was disclosed as his wife. The couple left after 5-10 minutes for dinner. They came back at about 1.00 AM. At about 6.00 AM, the complainant had opened the gate of the hotel on the request of the lady. She was carrying one yellow colour bag in her hand. She wanted to go to Shri Darbar Sahib to pay obeisance. She told him that her husband was sleeping. She further told him that they would leave the room at about 10.00 AM. He had gone to room No.17 at about 10.00 AM to offer water to Daljeet Singh. He knocked the door. However, there was no response. The door was opened. Daljeet Singh was lying on the bed with his head towards the door. There was no response from him. He was found dead. The complainant went down-stairs. He narrated the incident to Jatinder Sharma, owner of the hotel. He instructed him to go to Police Station Kotwali. The lady did not come back. SI Naresh Kumar made endorsement Ex.PJ/2 on the statement of Mehar Singh Ex.PJ. It was sent to

the Police Station. The police party reached the spot. No fresh wound or mark of any injury was found on the dead body. However, ligature mark was found around the neck. Inquest report Ex.PE was prepared. Body was sent for post mortem examination. Recoveries were effected from the spot. Statement of Nishan Singh, elder brother of deceased Daljeet Singh, was also recorded by SI Naresh Kumar. The body, after post-mortem examination, was sent to village Brass. The gist of the statement made by Nishan Singh was that Daljeet Singh was un-married. He was on visiting terms with Simranjit Kaur alias Simran wife of Puran Singh (his maternal aunt) resident of Abadi Rajpura, Bholath, District Kapurthala. He had illicit relations with her. Nishan Singh had suspicion that Daljeet Singh was strangled by Simranjit Kaur in order to grab money. The statement is Ex.PL. FIR was recorded by SI Gurcharan Singh vide Ex. PL/3. Rough site plan was prepared. The accused was arrested. She was interrogated. She disclosed that she had kept concealed one bag containing Insurance Policy, receipt of the policy and one 'Chunni'. 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. She denied the case of the prosecution. She also examined two witnesses in her defence.

4. The appellant 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 and order of the trial court.

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

7. PW.1 Gurbhej Singh led his evidence by filing affidavit Ex.PA. According to the averments made in the affidavit, on 02.09.2002, MHC Panna Lal handed over to him one parcel duly sealed with the seal of 'N.K.' containing a bottle of ACP whisky, in which some liquid was present. He also handed over to him one parcel containing long hair, duly sealed with the seal of 'N.K.' after taking them out from the police Malkhana. On 09.09.2002, he also handed over to him one parcel, duly sealed with the seal of 'N.K.' containing long hairs, after taking out from the Malkhana. He deposited all the parcels in the office of Forensic Science Laboratory, Chandigarh.

8. PW.3 Dr. Manpreet Kaul conducted the post mortem examination on the body of Daljeet Singh. She noticed following injuries on the body of the deceased :-

- “(1) 9 x 2 cms with minimum width, 1 cm ligature mark, brownish in colour, parchment like present at the level of thyroid cartilage 9.8 cms above the suprasternal notch and was transversely placed. Neck width - 9 cms x 40 cms circumference.
- (2) 3.5 x 1.2 cms reddish brown imprint abrasion was present, 7 cms below the right mastoid process.
- (3) 3.5 x 1.7 cms reddish brown abrasion was present on the left side of neck, 6.5 cms below left mastoid
- (4) 1.8 x 0.3 cms reddish brown abrasion was present on the left side of neck, 1 cm above injury No.3.

- (5) 0.8 x 0.2 cms reddish brown abrasion was present on the face on the left side, 1.7 cms below the left ear lobule.

The cause of death was asphyxia as a result of strangulation, which was sufficient to cause death in the ordinary course of nature. Viscera was sent for chemical analysis to the Chemical Examiner. The probable time that elapsed between injuries and death was within about few minutes and between death and post mortem examination was about 24 to 36 hours. She proved the post mortem report Ex.PC. In her cross-examination, she deposed that possibility of the death having occurred due to the presence of organo phosphorus compound, a group of insecticide and alcohol, found by the Chemical Examiner vide its report Ex.PF, could not be ruled out. She had not mentioned in the post mortem report that the dead body was smelling of alcohol at the time of post mortem examination. She admitted that a well nourished person is required to strangle the deceased, if he was not incapacitated before strangulation. Ligature was not present in the room. She further stated that it was a soft and broad ligature, again stated that she could not comment if the ligature was soft.

9. PW.5 Mehar Singh is the material witness. According to him, he was Manager of the hotel being run under the name and style of Krishna Lodge near Golden Temple, Amritsar. On 24.08.2002 at about 11.45 PM, accused and one gentleman, namely Daljeet Singh, came to his hotel in a rickshaw. Room No. 17 was allotted to them. He was told that Daljeet Singh and the accused were married couple. Entry was made in the register by Daljeet Singh. Photocopy of the same is Ex.PG. Daljeet Singh had put his signatures in the register against the entry. They had gone inside room

No.17. After about 5/10 minutes, both of them had left the hotel for dinner. They came back at about 1.00 AM. They went inside room No. 17. The main gate of the hotel was opened by him for allowing them to enter the hotel at about 1.00 AM. The main gate of the hotel was thereafter opened at 6.00 AM. The accused came from the room carrying a yellow colour bag. She went out saying that she was going to pay obeisance in the Golden Temple, Amritsar. She told him that Daljeet Singh was sleeping and they would leave the room at about 10.00 AM. She did not come back till 10.00 AM. He visited room No. 17 at about 10.00 AM to enquire about tea etc. to be served to Daljeet Singh. The door of the room was knocked. There was no response. The door was then opened by him. He went inside. Daljeet Singh was lying on the bed. He called Daljeet Singh but there was no response. He informed the owner of the hotel. The owner of the hotel advised him to report the matter to the police. He started for the police station. However, the police party headed by Naresh Kumar, Addl. SHO, met him on the way. His statement was recorded by Naresh Kumar. The statement is Ex.PJ. The police came to the place of incident. Inquest proceedings were completed. In his cross-examination, he deposed that room No. 17 was not allotted to any other person during that night. He admitted that as per entry in the register, copy of which is Ex.DA, room No.17 was given to one Mrs. Bagga at 11.45 AM. He also admitted that in the entry, room No. 17 stood vacated at 11.45 AM on 25.08.2002. He was called by the police after about 2/3 days when the matter was first reported by him to the police. He went to the police station for identification of the accused. He was made to sit on a chair. Accused was brought by the police.

His statement was recorded in the police station after identification of the accused by him, not earlier to that.

10. PW.6 Nishan Singh is brother of the deceased. According to him, he was driver by profession. Daljeet Singh had left village Brass on a bus on 23.08.2002, stating that he was going to Jalandhar to meet their maternal aunt Simranjit Kaur. Daljeet Singh was planning to go abroad. A message was received by him that his brother Daljeet Singh was found murdered in Krishna Lodge, Amritsar. His brother Daljeet Singh used to spend most of the time in the house of the accused. They were doubting that he had illicit relations with the accused. A sum of ₹ 1.00 lac was already paid to an agent at Jalandhar for sending Daljeet Singh abroad and another sum ₹ 1.00 lac was to be paid. His statement was recorded by the police on 29.08.2002.

11. PW.7 SI Naresh Kumar testified that he was posted as Additional SHO, Police Station Kotwali, Amritsar, on 25.08.2002. He along with LC Ashwani Kumar and other police officials was present near Butt Malika. Mehar Singh, Manager, Krishna Lodge Hotel, came to him. His statement was recorded vide Ex.PJ. Mehar Singh took them to room No. 17 of the hotel, where one dead body was lying. The cause of death could not be ascertained. There was no external injury found on the body. Rough site plan was prepared. He recorded the statement of Jatinder Sharma, owner of the hotel. The recoveries were made from the spot. The body was sent for post mortem examination. Nishan Singh, brother of deceased Daljeet Singh, met him along with his uncle ASI Dalip Singh. Statement of Nishan Singh was recorded vide Ex.PL, on the basis of which FIR Ex.PL/3 was recorded.

He again visited Krishna Lodge Hotel. Rough site plan was again prepared vide Ex.PQ. He visited the house of Simranjit Kaur at Kapurthala in the company of Mehar Singh. She was stated to have gone to Kartarpur to bring medicine. They searched for Simranjit Kaur at Kartarpur. She was not found. She was arrested from Bus Stand, Beas, after receipt of some information that she was present there. She was arrested on the identification of Mehar Singh, Manager of Krishna Lodge Hotel. Memo to this effect was prepared vide Ex.PK. She was interrogated. She made disclosure statement Ex.PR, on the basis of which she got recovered one bag, containing one Chunni of yellow colour, one policy of insurance of Daljeet Singh alias Diwan Singh and five receipts regarding payments of the premium. The bag, Chunni and Insurance policy are Ex.P5, Ex.P6 and Ex.P7. The receipts are Ex.P8 to Ex.P12.

12. DW.1 Harjit Singh deposed that according to register No.19, vide entry at serial No.365 dated 29.08.2002, there was no mention of any hair. However, vide entry No. 366, there was mention of taking of parcel of Simranjit Kaur's hair which were taken from the head of Simranjit Kaur under the orders of the Magistrate. The entry is Ex.DD.

13. DW.2 Ranjit Singh testified that he was Ex-Sarpanch of village Bholath. On 27.08.2002, police party headed by SI Naresh Kumar had reached his office. Nishan Singh was also with them. SI told him to accompany the police party, stating that they had some doubt and had to meet the wife of Puran Singh. He accompanied the police party to the house of Puran Singh. The police told him that they were to arrest all the family members of Puran Singh. On the next day, he produced all the five persons

of the family of Puran Singh in Police Station Kotwali, Amritsar. The police tried to get some matter compromised between those persons and Nishan Singh.

14. According to the Forensic Science Laboratory report Ex.PZ, the human scalp hair contained in parcels A and B showed similar characteristics. As per the report Ex.PZ/1, the hair contained in parcel A were human hair.

15. The Chemical Examiner report is Ex.PF. According to this report, organo phosphorus compound, a group of insecticides and alcohol, were found in the contents of exhibits No. I, II and III. No poison was detected in the contents of exhibit No. IV. Blood alcohol concentration was estimated to be 109.25 mg/100 ml of blood.

16. The cause of death, as per the post mortem report Ex.PC, was asphyxia as a result of strangulation, which was sufficient to cause death in the ordinary course of nature. The probable time that elapsed between injuries and death was within about few minutes and between death and post mortem examination was about 24 to 36 hours.

17. Statement of PW.5 Mehar Singh was recorded on 25.08.2002 vide Ex.PJ. The statement of PW.6 Nishan Singh was recorded on 29.08.2002 vide Ex.PL, on the basis of which FIR Ex.PL/3 was registered.

18. The case of the prosecution, precisely, is that deceased Daljeet Singh along with the appellant had checked in Hotel Krishna Lodge, Niwan Bazar, Jallianwala Bagh, Amritsar, on 24.08.2002 at about 11.45 PM. They were allotted room No.17 in the hotel. After about 5-10 minutes, they went for dinner. They came back at about 1.00 AM. Thereafter, according to the

prosecution case, the appellant left the hotel at about 6.00 AM for Golden Temple to pay obeisance. She did not come back. PW.5 Mehar Singh went to the room at about 10.00 AM. He noticed the dead body of Daljeet Singh in the room. He informed the owner of the hotel, who advised him to lodge report with the police.

19. We have seen the original record. According to Ex.PG, at serial No. 3455 of the register of the hotel, entry was made in the name of “Daljeet Singh son of Darshan Singh”. The number of persons shown in the relevant column was “1+1”. Room No.17 was allotted against this entry on 24.08.2002 at 11.45 PM. However, as per Ex.DA, vide entry at serial No.3452, room No.17 was already allotted to one Mrs. Bagga, E-17 Rajouri Garden, New Delhi – 27, on 24.08.2002 at 1.30 PM. The occupants were two. The room was vacated on 25.08.2002 at 11.45 AM. However, against this entry, immediately below no. 17, “select 18” has been mentioned. The case of the prosecution is that though room No.17 was allotted to Mrs. Bagga, but she had selected room No.18. The Manager had again allotted room No.17 to Daljeet Singh vide entry at serial No. 3455. Mrs. Bagga was never examined to prove that the room allotted to her i.e. room No.17, was changed to room No.18.

20. The case of the prosecution is that Daljeet Singh and the appellant had stayed as husband and wife. The age of the deceased, as per the post mortem report, was only 26-27 years, and age of the appellant at the time of recording her statement under Section 313 Cr.P.C., i.e. on 09.01.2004, was 45 years. PW.5 Mehar Singh could have easily made out that the occupants were not the married couple. The appellant is the real

maternal aunt of deceased Daljeet Singh. There is no evidence that they were living adulterous life, except the bald assertion of PW.6 Nishan Singh without corroborating the same. It has come on record that the deceased used to live with his maternal aunt. It has come in the statement of PW.6 Nishan Singh that most of the time, deceased was living in the house of the appellant. The appellant was living with her family. It has come in the statement of PW.7 SI Naresh Kumar that Nishan Singh, brother of the deceased, had met him along with his uncle ASI Dalip Singh.

21. PW.3 Dr. Manpreet Kaul in her statement deposed that the cause of death was asphyxia as a result of strangulation. However, as per the Chemical Examiner report Ex.PF, poison was detected in the viscera of the deceased. However, no empty bottle of poison was found in the room. PW.3 Dr. Manpreet Kaul earlier stated in her cross-examination that the ligature was soft and broad, but she again stated that she could not comment if the ligature was soft. No motive was attributed to the appellant. No money was recovered from her.

22. The recoveries have been made on the basis of disclosure statement made by the appellant vide Ex.PR on 29.08.2002. LC Mamta Devi and ASI Talwinder Singh are witnesses of this statement. Constable Mamta Devi was given up as unnecessary by the learned Additional Public Prosecutor on 07.03.2003 and ASI Talwinder Singh was given up as unnecessary on 15.05.2003. They were material witnesses and could not have been given up. Thus, it casts doubt about the manner in which the disclosure statement of the appellant was recorded by PW.7 SI Naresh Kumar vide Ex.PR.

23. Accordingly, the prosecution has failed to prove its case against the appellant beyond reasonable doubt. The appeal is allowed. The judgment and order dated 06.05.2004 are set aside. Appellant Simranjit Kaur alias Simran is acquitted of the charge framed against her by giving her benefit of doubt. She is already on bail. Her bail bond and surety bond are discharged.

(RAJIV SHARMA)
JUDGE

January 27, 2020
ndj

(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No