

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

(1)

CRA-D-828-DB of 2009

Jagga Singh

.... Appellant

Versus

State of Haryana

..... Respondent

(2)

CRA-D-1083-DB of 2009

Gurlal Singh

.... Appellant

Versus

State of Haryana

..... Respondent

(3)

CRA-S-2046-SB of 2009

Veerpal Kaur alias Krishan Rani

.... Appellant

Versus

State of Haryana

..... Respondent

Reserved on : 12.03.2020

Date of decision : 17.03.2020

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

Present: Mr. Harneet Singh Oberoi, Advocate,
for the appellant in CRA-D-828-DB of 2009.

Mr. H.S. Grewal, Advocate,
for the appellant in CRA-D-1083-DB of 2009.

Mr. P.K. Ganga, Advocate,
for the appellant in CRA-S-2046-SB of 2009.

Ms. Shubhra Singh, Additional Advocate General, Haryana.

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RAJIV SHARMA, J.

1. Since common questions of law and facts are involved in CRA-D-828-DB-2009, CRA-D-1083-DB-2009 and CRA-S-2046-SB-2009, therefore, these are taken up together and being disposed of by a common judgment.

2. These appeals are instituted against the judgment dated 08.08.2009 and order dated 11.08.2009, rendered by learned Sessions Judge, Sirsa, in Sessions Case No. 76 of 2008 dated 28.08.2008. Appellants Jagga Singh, Gurlal Singh and Veerpal Kaur alias Krishan Rani were charged with and tried for the offences punishable under Sections 498-A/304-B/34 of the Indian Penal Code (for short, 'IPC'). Appellants Jagga Singh and Gurlal Singh were convicted and sentenced to undergo imprisonment for life each under Section 304-B IPC. Appellant Veerpal Kaur alias Krishan Rani was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹ 500/- (Rupees Five Hundred) under Section 498-A IPC, and in default of payment of fine to undergo further simple imprisonment for a period of fifteen days.

3. The case of the prosecution, in a nutshell, is that PW.6 Dr. Jagir Singh, Medical Officer, General Hospital, Sirsa, medico-legally examined

Jaswinder Kaur wife of Gurlal, on her admission in General Hospital, Sirsa. He found 90% burns on her body vide MLR Ex.P7. He sent ruqa Ex.P8 to Police Station City Sirsa at 1.40 AM regarding admission of injured Jaswinder Kaur on the intervening night of 01/02.03.2008. Satbir Singh ASI along with Pal Singh EHC visited General Hospital, Sirsa, on 02.03.2008, after collecting ruqa from the Police Station. He submitted an application Ex.P9 seeking opinion of the doctor regarding condition of the injured. She was declared fit to make statement by the doctor at 3.10 AM vide opinion Ex.P9/A. He also collected the copy of MLR. He moved an application Ex.P12 before Shri A.K. Bishnoi, ACJM, Sirsa, for recording statement of the victim. Shri A.K. Bishnoi made endorsement Ex.P13 and accompanied Satbir Singh ASI to the hospital. Shri A.K. Bishnoi sought opinion from the Medical Officer about the physical condition of the injured vide order Ex.P10. The doctor declared her fit to make statement vide Ex.P10/A at 4.07 AM on the same day. Shri A.K. Bishnoi then recorded the statement of Jaswinder Kaur vide Ex.P14. Satbir Singh ASI had also recorded the statement of Jaswinder Kaur vide Ex.P19 at 11.30 A.M. Satbir Singh ASI received information regarding the death of Jaswinder Kaur on 19.03.2008. He prepared the inquest report Ex.P6. The body was sent for post-mortem examination. Accused were arrested. A plastic can was got recovered by accused Jagga Singh. The investigation was completed and challan was put up after completing all the codal formalities.

4. The prosecution examined a number of witnesses in support of its case. The accused were also examined under Section 313 Cr.P.C. They denied the case of the prosecution. They also examined three witnesses in

their defence.

5. The appellants were convicted and sentenced, as noticed above. Hence, these appeals.

6. Learned counsel appearing on behalf of the appellants have 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 learned trial court.

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

8. PW.4 Dr. Mrs. Subhashini Gupta deposed that on 02.03.2008, the police moved an application Ex.P3. She gave her opinion Ex.P4 that patient Jaswinder Kaur was fit to make statement at 11.30 AM.

9. PW.5 Dr. Ashok K. Gupta had conducted the post-mortem examination. The cause of death, in his opinion, was extensive variable degree burns and its complications which were ante-mortem in nature and sufficient to cause death in ordinary course of nature. Time that elapsed between injury and death was variable and between death and post-mortem examination was within 12 hours.

10. PW.6 Dr. Jagir Singh deposed that on the intervening night of 01/02.03.2008, he was posted as Medical Officer in General Hospital, Sirsa. He conducted medico legal examination of Jaswinder Kaur wife of Gurlal. He found superficial to deep burns on her whole body except both the feet. Singing of scalp was present with peeling of skin at many places. There were 90% burns with duration of 12 hours. He proved MLR Ex.P7. He sent ruqa Ex.P8 to the SHO, Police Station City Sirsa. On that very night, at 3.10

AM, police presented an application Ex.P9 and sought his opinion if the patient Jaswinder Kaur was fit to make statement or not. He declared her fit to make statement vide his endorsement Ex.P9/A. Shri A.K. Bishnoi, ACJM, Sirsa, sought his opinion vide endorsement Ex.P10 at 4.07 AM. He declared her fit to make statement vide his opinion Ex.P10/A. Shri A.K. Bishnoi recorded her statement. The patient remained fit during recording her statement. He made his endorsement Ex.P11 at 4.36 AM. In his cross-examination, he deposed that the history, as per statement given by the patient, was burns due to fall of lamp. The name of the person, who had accompanied the injured at the time of her admission, was not mentioned in the MLR. The dying declaration was in the form of question-answer. He remained present during the course of recording of her dying declaration.

11. PW.2 Pal Singh HC deposed that ASI Satbir Singh had lifted two burnt pieces of *Jamper* (shirt) lying at two different places on 02.03.2008 and sealed the same into a parcel. The recovery memo is Ex.P1.

12. PW.3 Radhey Shyam, Draftsman, had prepared the scaled site plan Ex.P2 of the place of occurrence.

13. PW.7 Shri A.K. Bishnoi deposed that on 02.03.2008, he was posted as Additional Chief Judicial Magistrate/Duty Magistrate, Sirsa. On receipt of an application Ex.P12, he passed order Ex.P13. He proceeded to record the statement of injured Jaswinder Kaur at General Hospital, Sirsa. He directed the doctor to report about the condition of the injured vide order Ex.P10. The doctor gave opinion vide Ex.P10/A. He recorded the statement of injured Jaswinder Kaur vide Ex.P14. Thereafter, he obtained opinion of the doctor regarding fitness of the patient during the course of her

statement. The doctor gave his opinion Ex.P11. Thereafter, he gave certificate Ex.P15 and passed order Ex.P16.

14. PW.8 Manpreet Kaur testified that her sister Jaswinder Kaur was married with accused Gurlal. Veerpal Kaur accused was sister of Gurlal. Accused Jagga Singh was elder brother of Gurlal. The accused started harassing her sister. She along with her husband, her elder sister Rani and Gurjant, husband of Rani, came to village Jalalana at about 2.00 PM. Mother of Gurlal was present in the house along with Jaswinder. Jaswinder complained before them against the accused. In the evening, Jagga Singh and Gurlal accused came back to their house. They started quarreling with them. They were thrown out of the house. They went to the house of Mausi of Gurlal, who was maternal aunt of her husband, and stayed there. At about 8.00/9.00 PM, Kulwant son of maternal aunt of her husband, told them that Jaswinder had been burnt by the accused persons. They went to the spot. Jaswinder was lying in burnt condition in the courtyard. She told them that she had been put on fire by the accused persons. Accused Jagga Singh poured kerosene and Gurlal put her on fire at the instance of Veerpal Kaur. Accused Veerpal Kaur also used to harass her. She admitted in her cross-examination that accused Jagga was cousin of Gurlal. He was residing separately. Veerpal Kaur was married about 13/14 years back. She was having four children. She further deposed that at the time of marriage, no demand was raised by the accused. She denied the suggestion that the deceased had not made any oral dying declaration before them. She also denied the suggestion that the deceased had told them that she had received burn injuries due to fall of a kerosene burning lamp upon

her.

15. PW.9 Rajbir Singh ASI deposed that he was posted as ASI at Police Station Odhan on 01.04.2008. He arrested accused Jagga Singh and Gurlal. Accused Jagga Singh made disclosure statement Ex.P17. Accused Jagga Singh led the police to the place of concealment and got recovered a plastic can, which was converted into a parcel. It was taken into possession vide recovery memo Ex.P18. He also arrested accused Veerpal Kaur on 04.06.2008. He recorded formal FIR Ex.P20, after receiving the statement of Jaswinder Kaur Ex.P19.

16. PW.10 Satbir Singh HC testified that on 02.03.2008, he received a telephonic message from Police Station City Sirsa regarding admission of Jaswinder Kaur in General Hospital, Sirsa. He went to Police Station City Sirsa and collected ruqa Ex.P8. Thereafter, he reached General Hospital, Sirsa. He collected MLR of injured Jaswinder Kaur. He moved an application Ex.P9 seeking opinion of the doctor regarding condition of the injured. The Medical Officer vide endorsement Ex.P9/A declared her fit to make statement. He presented an application Ex.P12 before Shri A.K. Bishnoi, the then ACJM, Sirsa, for recording statement of the victim. Shri A.K. Bishnoi made endorsement Ex.P13 and accompanied him to General Hospital, Sirsa. Statement of Jaswinder Kaur was recorded vide Ex.P14. He presented an application Ex.P3 on 02.03.2008 and sought opinion of the doctor, if Jaswinder Kaur was fit to make statement or not. The doctor vide endorsement Ex.P4 declared her fit to make statement at 11.30 AM. He recorded her statement Ex.P19. He made his endorsement Ex.P19/A and sent the same to the Police Station. Thereafter, FIR Ex.P20 was registered.

The police visited the spot. Pieces of burnt clothes of the victim were lifted from the spot. The same were converted into a parcel. Rough site plan Ex.P21 was prepared. He received information regarding death of Jaswinder Kaur on 19.03.2008. Thereafter, he visited General Hospital, Sirsa. The inquest proceedings were conducted. He got conducted the post-mortem examination on the body of Jaswinder Kaur. In his cross-examination, he deposed that he had recorded the statement of Manpreet Kaur vide Ex.D2 correctly. He recorded statement of relatives of the deceased.

17. DW.1 Inderjit Singh deposed that he knew accused Veerpal Kaur. She was married in their village for the last 12/13 years. They belonged to Mehra caste. Veerpal Kaur had four children. She was residing in their village with her husband and children. On the day of occurrence, she was at their village and had been working in the house of his uncle for cleaning utensils. In his cross-examination, he deposed that house of Veerpal Kaur was at a distance of 200 meters from his house. He did not know about the occurrence. Voluntarily stated that Veerpal Kaur was not present in village Jalalana on that day.

18. DW.2 Hardam Singh deposed that Veerpal Kaur was married at village Tappi for the last 11/12 years. There was no dispute between the deceased and her husband or Jeth at any time regarding demand of dowry. None of the accused ever demanded any dowry nor gave beating to the deceased nor put her ablaze. On the day of occurrence, Gurlal and Jagga were not present in their house. Veerpal Kaur accused was in the house of her in-laws. In his cross-examination, he deposed that he had rushed to the spot at the time of occurrence and did not find any accused at that time.

19. DW.3 Leela Singh testified that his house was adjoining the house of accused Gurlal and Jagga Singh. About 1 ¼ years back, he returned to his house at about 8.15/8.30 PM. He heard noise from the house of Gurlal. He went to his house. He saw that wife of Gurlal, namely Jaswinder Kaur, was burning. The neighbourers had reached the spot. In the meantime, Gurlal and Jagga Singh also came there. They extinguished the fire. On enquiry, Jaswinder Kaur told them that a burning earthen lamp had fallen on her and she caught fire. They advised Gurlal and Jagga Singh to shift her to hospital.

20. PW.4 Dr. Mrs. Subhashini Gupta deposed that the police had moved an application Ex.P3. She gave her opinion Ex.P4 that patient Jaswinder Kaur was fit to make statement. PW.5 Dr. Ashok K. Gupta conducted the post-mortem examination. According to him, the cause of death was extensive variable degree burns and its complications which were ante-mortem in nature and sufficient to cause death in ordinary course of nature. PW.6 Dr. Jagir Singh is a material witness. According to him, on the intervening night of 01/02.03.2008, he was posted as Medical Officer in General Hospital, Sirsa. He conducted medico legal examination of Jaswinder Kaur. He noticed superficial to deep burns on her whole body except both the feet. The extent of burns was 90% with duration of 12 hours. He proved MLR Ex.P7. The police presented an application Ex.P9 and sought his opinion if the patient Jaswinder Kaur was fit to make statement or not. He declared her fit to make statement vide his endorsement Ex.P9/A. Shri A.K. Bishnoi, ACJM, Sirsa, also sought his opinion vide endorsement Ex.P10. He declared her fit to make statement vide his opinion

Ex.P10/A. Thereafter, Shri A.K. Bishnoi recorded her statement. PW.7 Shri A.K. Bishnoi had recorded her statement. He sought opinion of the doctor regarding fitness of the injured to make statement. The doctor gave opinion vide Ex.P10/A. Thereafter, he recorded the statement of Jaswinder Kaur vide Ex.P14.

21. PW.8 Manpreet Kaur is the sister of deceased Jaswinder Kaur. She deposed that Jaswinder Kaur was being harassed by the accused for brining insufficient dowry. She along with her husband, her elder sister Rani and Gurjant, husband of Rani, had gone to village Jalalana. They tried to patch up the matter. In the evening, they came to know that Jaswinder Kaur was burnt by the accused persons. They went to the spot. Jaswinder Kaur told them orally that accused Jagga Singh poured kerosene and Gurlal set her ablaze at the instance of Veerpal Kaur. Accused Jagga Singh had got the plastic can recovered on the basis of his disclosure statement Ex.P17. Statement of the deceased was also recorded by PW.10 Satbir Singh HC vide Ex.P19, after seeking opinion of the doctor vide Ex.P4, on 02.03.2008. He also lifted burnt pieces of clothes of the victim and converted the same into a parcel. He got conducted the post-mortem examination.

22. Jaswinder Kaur, in her dying declaration Ex.P14, deposed that her husband gave her slaps. Her Jeth Jagga Singh brought kerosene can. Jagga Singh poured kerosene on her and put her on fire. She became unconscious. Several persons gathered at the spot. Her mother-in-law was a simple lady. Father-in-law had died. Her husband was instigated by his sister Veerpal. Veerpal proclaimed that she could not bring sufficient dowry items. Her husband used to give beatings to her at the instigation of her

sister-in-law. She had also made oral dying declaration before her sister PW.8 Manpreet Kaur regarding the manner, in which she was put on fire. In her statement recorded by PW.10 Satbir Singh HC, she had reiterated that her husband Gurlal Singh, Jagga Singh son of Balbir Singh, and Veerpal Kaur started demanding dowry. Her sister Rani, her husband Gurjant Singh alias Kaka, her brother-in-law (Jeeja) Bhola Singh son of Sukhdev Singh and her sister Deepa visited her on 01.03.2008 at about 2.00 PM. Jagga Singh came to the spot and started talking with each other. Hot words were exchanged between Jagga Singh and Bhola Singh. Then her husband Gurlal Singh and Jagga Singh turned out her relatives from the house. At about 8.30/9.00 PM, Jagga Singh brought a container containing oil. Her husband administered beatings to her. Jagga Singh sprinkled oil upon her and set her ablaze. He proclaimed that she be taught a lesson for not bringing dowry. Veerpal Kaur had also been instigating Gurlal for not bringing sufficient dowry. She became unconscious. Many people gathered on the spot. She was taken to the hospital.

23. The statements of Jaswinder Kaur vide Ex.P14 and Ex.P19 are voluntary in nature. These have been recorded in accordance with law. PW.7 Shri A.K. Bishnoi had sought opinion of the doctor vide Ex.P10 before recording statement of Jaswinder Kaur vide Ex.P14. Similarly, PW.10 Satbir Singh HC had also sought opinion of the doctor vide Ex.P9 before recording her statement vide Ex.P19. It is a case where the accused were demanding dowry from Jaswinder Kaur. They had been harassing her on that account and put her on fire, resulting in her death. She had received 90% burn injuries.

24. There is no merit in the contention of the appellants that Jaswinder Kaur accidentally caught fire by fall of earthen lamp. It is not believable. We have gone through the site plan as well. As per the post mortem report and statement of PW.5 Dr. Ashok K. Gupta, singeing of scalp was seen. The medical evidence is duly corroborated by the ocular evidence. It is a case of burning and not the deceased catching accidental fire. DW.3 Leela Singh has deposed that accused Jagga Singh and Gurlal were standing outside. In other words, the presence of both these accused on the spot has been admitted. In her dying declaration, Jaswinder Kaur categorically deposed that accused Veerpal Kaur was also present at the time, when she was put on fire.

25. The prosecution has proved its case against the appellants beyond reasonable doubt. There is no reason for us to interfere with the well reasoned judgment and order of the learned trial court.

26. Accordingly, the appeals are dismissed. The conviction and sentence of the appellants are upheld. Appellants Jagga Singh and Gurlal Singh are in custody. However, appellant Veerpal Kaur alias Krishan Rani is on bail. Her bail bond and surety bond are cancelled. She is directed to surrender before the concerned Chief Judicial Magistrate to undergo remaining part of her sentence.

(RAJIV SHARMA)
JUDGE

March 17, 2020
ndj

(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No