

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

CRA-D No. 290-DB of 2005 (O&M)

Reserved on : 10.2.2020

Date of decision : 2.3.2020

Lakhvir Singh

.... Appellant

versus

State of Punjab

... Respondent

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

Present Mr. A. P. S. Deol, Senior Advocate with
Mr. Vishal Lamba, Advocate, for the appellant.

Mr. H. S. Grewal, Additional Advocate General, Punjab.

Rajiv Sharma, J.

1. The present appeal is instituted against the judgment and order dated 5.3.2005, rendered by learned Sessions Judge, Bathinda, in Session Case No. 15 of 5.3.2003. Appellant Lakhvir Singh alias Lakha was charged with and tried for the offence punishable under Section 302 IPC. He was convicted and sentenced to undergo imprisonment for life under Section 302 IPC and to pay a fine of ₹ 2,000/- 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 on 18.1.2003, Tej Singh made a statement before Inspector Balwinder Singh of Police Station, Nehianwala, to the effect that he was resident of Village Jeeda. His daughter Veerpal Kaur was married to Lakhvir Singh alias Lakha son of Mohinder Singh, resident of Village Killi Nihal Singh Wali, about 2½ years back. A son was born out of their wedlock about 1½ years back. Lakhvir Singh alias Lakha used to quarrel with Veerpal Kaur. About six months ago, Lakhvir Singh alias Lakha forced his daughter Veerpal Kaur to leave her

matrimonial home. She remained in his house for about three months.

Thereafter, the matter was compromised. Veerpal Kaur was sent back to her matrimonial home. His daughter used to tell him on telephone about the beatings given to her by Lakhvir Singh alias Lakha. One day prior to the incident, he received a telephonic call from Veerpal Kaur that her husband had given beatings to her. He was threatening to kill her. He along with his nephew Chamkaur Singh went to village Killi Nihal Singh Wali. He stayed in the house of Lakhvir Singh alias Lakha for a night. At about 11.00 P.M., they heard the cries of Veerpal Kaur. They rushed to the room of Veerpal Kaur. They found that Lakhvir Singh had put a piece of cloth (*Safa*) around the neck of Veerpal Kaur and was twisting the same. Veerpal Kaur was writhing with pain. On seeing them, Lakhvir Singh ran away from the spot after leaving the piece of cloth (*safa*). They found that Veerpal Kaur was dead. In the morning, he sent his nephew Chamkaur Singh to village Jeeda for informing his family about the occurrence. His statement, Ex.PF, was recorded, which led to the registration of FIR. Police investigated the spot. Inquest report was prepared. Dead-body was identified by Baldev Singh and Mander Singh. It was sent for post-mortem examination. The investigation was completed and challan was put up after completion of all the codal formalities.

3. The prosecution examined a number of witnesses in support of its case. The statement of the accused was also recorded under Section 313 Cr.P.C. He denied the case of the prosecution. He examined two witnesses in his defence. 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 trial Court.

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

6. PW2 Dr. Charanjit Garg had conducted the post-mortem examination. He noticed the following injuries on the person of deceased Veerpal Kaur:

“1) Brownish ligature marks 15 X 1 cms. horizontally placed below the thyroid cartilage starting from front end of left neck extending towards right side of neck 6 cms. below the lobule of right ear. On dissection base of mark is dry, hard and parched. Subcutaneous tissues has ecchymosis were present. Face and nails were cynosed.

2) Two brownish bruises 1.5 X 1 cm., 1 X 1 cm respectively over the right cheek close to angle of mandible (Right). On dissection, subcutaneous haematoma was present.

3) Two reddish abrasions 1.25 X 0.25 cms., 0.25 cm X 0.25 cm. over the left face just below lower eyelid. Clotted blood was present.

4) Multiple brownish bruises over the left neck closed to ligature mark in an area of 3.5 X 2.5 cms. On dissection, subcutaneous haematoma was present.

5) Superficial burns on palmer aspect involving 2 to 5th finger of left hand. Line of redness was present. Skin was partially peeled off.”

In his opinion, the cause of death was asphyxia as a result of strangulation, which was ante-mortem in nature and sufficient to cause death in the normal course of nature. The probable time that elapsed between injury and death was within a few minutes and the time between death and post-mortem was within 24 to 36 hours. In his cross-examination, he could not tell the exact width of the ligature used in this case. But according to him it could be more than 1 cm in width.

7. PW4 Tej Singh is the father of deceased Veerpal Kaur. According to him, his daughter was given beatings by the accused. She was turned out of the matrimonial home about six months prior to her death. She came to him and told that the accused was quarreling with her. She stayed with him for three months. A compromise was effected. Accused took back Veerpal Kaur to his village. However, the accused was still administering beatings to her. She informed him on telephone that the accused was beating her. He was extending threat to kill her. He and his nephew Chamkaur Singh went to the house of the accused. They stayed for the night in the house of the accused. They went to the bed after taking dinner at about 5.30 or 6.00 P.M. Veerpal Kaur and the accused were in another room. At about 11.00 P.M., they heard the cries of Veerpal Kaur. They went to the room of Veerpal Kaur. They saw that the accused was strangulating Veerpal Kaur. The accused ran away after seeing them. Veerpal Kaur died. They stayed there. In the morning, he sent his nephew Chamkaur Singh to Village Jeeda to inform the family members. He remained near the dead-body. His relatives came to the house of the accused. In his cross-examination, he deposed that they had gone to the house of the *lambardar*, however, he did not open the door.

8. PW5 Chamkaur Singh had corroborated the statement of PW4 Tej Singh and the manner in which Veerpal Kaur was strangled by the accused at 11.00 P.M.
9. PW6 Darshan Singh had taken the photographs of the dead-body as Ex.P1 to P7.
10. PW7 Raghbir Singh deposed that there was a telephone connection in his house. He knew Veerpal Kaur (deceased) daughter of Teja Singh. She was married at village Killi Nihal Singh. She used to come to their house. Two days prior to the incident, Veerpal Kaur contacted her parents on telephone.
11. PW8 Inspector Balwinder Singh deposed that on 18.1.2003 he was posted in Police Station, Nehianwala. He recorded the statement of Tej Singh, Ex.PF, on the basis of which FIR, Ex.PF/2, was registered. The dead-body was lying in the house of the accused. He prepared the inquest report. Dead-body was sent for post-mortem examination. The clothes of the deceased were taken into possession. Photographs were also taken. In his cross-examination, he deposed that he had recorded the statements, Ex.PF and DA.
12. DW1 Balvir Singh deposed that accused Lakhbir Singh was his real brother. They had a common door in between their houses without shutter. His brother Lakhbir Singh was employed at Bhisiana Air-port. He used to attend his duties during night time from 6.00 P.M. to 6.00 A.M. On 17.1.2003, his brother Lakhbir Singh had gone to attend his duties for the night. At about 9.00 P.M. Veerpal Kaur was ironing the clothes. At about 10.00 P.M., he heard the noise. He went to her room. Some burglars after strangulating Veerpal Kaur had fled away. He chased them. He escaped in

the fields. He informed Kunda Singh, Member Panchayat. He also informed Lakhbir Singh. In his cross-examination, he admitted that they had not filed any application before the police. He could not give the identification of the burglar or any other description. They did not try to catch hold of the burglars with the help of other villagers.

13. DW2 Major Singh deposed that he was member of the Panchayat of the village. At about 11/11.30 P.M. Balbir Singh came to him and told that some burglar had murdered Veerpal Kaur and ran away. They went to Jeon Singh Sarpanch after visiting the spot. He along with Sarpanch Kunda Singh, Balbir Singh and accused went to Police Post, Killi Nihal Singh. In his cross-examination, he admitted that Lakhbir Singh was arrested on the same day as he was in the house. They had not passed any resolution in the proceedings of panchayat. Lakhbir Singh and Veerpal Kaur used to sleep in the same room and the said room could not be bolted from inside. The room was at a distance of 20 karams from the house of DW1 Balbir Singh, however, the court-yard was common.

14. PW2 Dr. Charanjit Garg had noticed five injuries on the person of the deceased. In his opinion, the cause of death was asphyxia as a result of strangulation, which was ante-mortem in nature and sufficient to cause death in the normal course of nature. The possibility of injury no.1 around the neck of the person of the deceased, by way of putting the *safa* around the neck and by way of pulling it from both sides, could not be ruled out.

15. PW4 Tej Singh and PW5 Chamkaur Singh had seen the accused strangulating Veerpal Kaur. He ran away from the spot. The version of the appellant that he was on night duty at that time is not believable. The version of the accused was that he was not present at the spot. He has not

led any evidence to prove the plea of alibi. His version that Veerpal Kaur was alone in the house and some burglars had committed her murder, after entering the house in order to commit burglary, is also not believable. The incident has been seen by PW4 Tej Singh and PW5 Chamkaur Singh. It is settled law that if the accused fails to prove the plea of alibi, an adverse presumption has to be drawn against him. DW1 Balbir Singh admitted that he along with other villagers even did not try to catch hold of the burglars, though DW2 Major Singh deposed that the court-yard of DW1 Balbir Singh and the accused was common, but the room of Veerpal Kaur was at a distance of 20 karams from the house of DW1 Balbir Singh.

16. The prosecution has proved the case against the appellant beyond reasonable doubt. Accordingly, there is no merit in the present appeal. The same is hereby dismissed.

17. The sentence of the appellant was suspended vide order dated 10.12.2008. His bail bonds are cancelled. He be committed to jail to undergo his remaining part of sentence.

(Rajiv Sharma)
Judge

2.3.2020
vs

(Harinder Singh Sidhu)
Judge

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