

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRA-D-954-DB-2006

Kuldeep Singh

... Appellant

Versus

State of Haryana

... Respondent

2. CRR-144-2007

Sukhwinder Singh

... Petitioner

Versus

Kuldeep Singh and others

... Respondents

Reserved on : 03.03.2020
Date of decision : 04.03.2020

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

Present: Mr.H.S.Grewal, Legal Aid Counsel with
Mr.Arun Sharma, Advocate
for the appellant.

Mr.Vivek Saini, DAG, Haryana.

None for the petitioner in CRR-144-2007.

RAJIV SHARMA, J.

Since common questions of law and facts are involved in the
aforesaid appeal and revision petition, therefore these are taken up together
and being disposed of by a common judgment.

2. The appeal has been instituted against the judgment dated

26.10.2006 and order dated 30.10.2006 rendered by the learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, in Sessions case no.60 of 2004 whereby the appellant along with co-accused was charged with and tried for offence punishable under Section 302 read with Section 120-B of the Indian Penal Code (in short 'IPC') and in alternate under Section 304-B IPC. The appellant was convicted and sentenced to undergo imprisonment for life and to pay a fine of Rs.5000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months for offence punishable under Section 302 IPC. However, co-accused were acquitted.

3. The complainant has also filed criminal revision no.144 of 2007 for enhancement of sentence of appellant Kuldeep Singh and for conviction and sentence of the co-accused who were acquitted.

4. The case of the prosecution in a nutshell is that on 28.12.2003 a telephonic message from Sarpanch of village Hargarh in Police Post Panchtirthi was received regarding death of Ram Piari wife of Kuldeep Singh, resident of village Hargarh. ASI Om Parkash, Incharge Police Post Panchtirthi reached the spot. He recorded statement of accused Kuldeep Singh. According to him, he was married with deceased Ram Piari on 06.05.2002. His wife was preparing food in the kitchen. All of sudden, she fell down outside the kitchen. He rushed to the spot. His wife became unconscious. In the meantime, neighbours also reached there. He called doctor from Farakpur. Doctor declared her dead. Shri Mool Chand, SI/ Station House Officer, Police Station Chhappar also reached the spot. He noticed some marks on the deceased. Thereafter, post-mortem examination was conducted at PGI Rohtak by Dr. Luv Sharma. Statement of Sukhwinder Singh brother of deceased was recorded on 02.01.2004 vide Ex.PH.

According to the contents of statement Ex.PH, his younger sister Ram Piari was married with Kuldeep Singh two years back. His sister was being harassed by her in-laws for bringing insufficient dowry. Accused had killed his sister on 27.12.2003 by giving her beatings and strangulation. His sister had disclosed to her mother 4/5 days prior to the incident that her husband used to beat and harass her. He visited the matrimonial home of his sister. She also disclosed that she was being harassed. The spot was inspected. The viscera was sent to the Forensic Science Laboratory. Investigation was completed. Challan was put up after completing all the codal formalities.

5. Prosecution examined a number of witnesses. Statements of appellant along with co-accused were also recorded under Section 313 Cr.P.C. They have denied the case of the prosecution. Two witnesses were produced in their defence. According to them, they have been falsely implicated in the case. The appellant was convicted and sentenced as noticed hereinabove. Hence this appeal.

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

7. Learned counsel appearing on behalf of the State has supported the judgment and order of the learned trial Court.

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

9. PW-4 ASI Om Parkash deposed that on receiving information about the death of Ram Piari, he rushed to village Hargarh. On reaching there, he found dead body of Ram Piari lying in the house of accused

Kuldeep. He completed inquest proceedings vide Ex.PE. The dead body was then brought to the Civil Hospital, Yamuna Nagar. The doctor at Civil Hospital, Yamuna Nagar had referred the dead body to PGI, Rohtak.

10. PW-6 Sukhwinder Singh is brother of the deceased. According to him, his sister was married to Kuldeep Singh accused on 09.05.2002 according to Hindu rites and ceremonies. She was being harassed and maltreated by her in-laws. Accused had killed his sister by strangulation on 27.12.2003. They were informed by one of the accused Inderaj in the evening of 27.12.2003. They visited the village of accused. They found bluish contusion on the neck of the deceased. Thereafter, post-mortem was conducted on 30.12.2003. His statement was recorded vide Ex.PH. In his cross-examination, he deposed that they had given sufficient dowry at the time of marriage of his sister. His sister was being harassed by the accused since 15/20 days after marriage.

11. PW-7 Harbanso is the mother of deceased Ram Piari. According to her, accused were demanding motor cycle and fridge. They were not in position to give fridge and motor cycle in dowry. Her daughter prior to 4/5 days of 27.12.2003 had informed her that she was being harassed and maltreated for bringing insufficient dowry. She was killed on 27.12.2003. In her cross-examination, she deposed that there were injury marks over the body of her daughter.

12. PW-8 Parveen Kumar deposed that Ram Piari was his cousin. She was married to Kuldeep Singh. Ram Piari told him that she was being harassed by the accused.

13. PW-10 Sub Inspector Mool Chand deposed that Sukhwinder

Singh met him. He made statement Ex.PH. All the accused except Inderaj were arrested on 05.01.2004 by him.

14. PW-11 Dr. Luv Sharma conducted the post-mortem examination on the dead body of Ram Piari. He noticed following injuries on her person:-

- “1. A contusion of size 2 cm x 1 cm over lower part of neck, extending onto upper thorax wall on the left side, obliquely placed. On dissection under lying tissues were ecchymosed. (10 cm. from mid line).*
- 2. A contusion of size 2 x 1 cm over right upper thorax wall 8 cm from the midline just at the junction with neck and thorax, obliquely placed. On dissection underlying tissues were ecchymosed.*
- 3. A small contusion over left fore arm 2 cm above wrist on the dorsal aspect of size 1 x 1 cm. On dissection under lying tissues were ecchymosed, vertically placed.*
- 4. Another contusion of size 1 x 1 cm over dorsal aspect of left fore arm, obliquely placed, situated 5 cm. above left wrist joint. On dissection under lying tissues were ecchymosed.*
- 5. A contusion of size 3 x 2 cm over left side of neck, obliquely placed, 3.5 cm to left of midline and 1.5 cm below ramus of the mandible. On dissection underlying tissues were ecchymosed. (Reddish coloured).*
- 6. A contusion, reddish in colour, of size 2 x 1 cm over right side of neck (upper part), 4 cm to right of mid line and 1 cm below right mandible lower border. On dissection underlying tissues were ecchymosed, obliquely placed.”*

The cause of death, in his opinion, was manual strangulation. Injuries no.5 and 6 were sufficient to cause death in ordinary course of nature. All the

injuries were ante mortem in nature. The duration between death and post-mortem examination was between 2 to 3 days.

15. DW-1 Surender Singh and DW-2 Ranbir Singh deposed that Ram Piari was not harassed by her in-laws. According to DW-2 Ranbir Singh, the deceased used to have fits.

16. The FSL report is Ex.PC. According to FSL report, no poison was detected in viscera.

17. The marriage of deceased Ram Piari was solemnized with the appellant on 09.05.2002. PW-6 Sukhwinder Singh, brother of the deceased, and PW-7 Harbanso, mother of the deceased, have categorically deposed that Ram Piari was being harassed for bringing insufficient dowry. She had told PW-7 Harbanso 4/5 days prior to the incident that she was being harassed for bringing insufficient dowry. PW-8 Parveen Kumar, cousin of the deceased, also deposed that Ram Piari used to tell him that she was being harassed by her in-laws for bringing insufficient dowry. The defence taken by the appellant is that deceased fell down outside the kitchen. She received injuries. She became unconscious. Doctor was called. Doctor declared her dead. PW-11 Dr. Luv Sharma noticed as many as six injuries on person of deceased. Injuries no.5 and 6 were sufficient to cause death in ordinary course of nature. Injuries no.5 and 6 were on the neck. The cause of death as per PW-11 Dr.Luv Sharma, was manual strangulation. Ram Piari died in the house of Kuldeep Singh. He was to explain circumstances under which she died. The explanation given by him that she fell down outside the kitchen cannot be believed. The cause of death of Ram Piari was manual strangulation.

18. Learned counsel for the appellant have argued that the deceased

was suffering with epilepsy. However, no medical evidence to this effect was led. Moreover, even hypothetically, if it is believed that she had epilepsy, she could not strangle herself. The prosecution has proved the case against the appellant beyond reasonable doubt.

19. Accordingly, there is no merit in the appeal and the same is dismissed. The appellant is on bail. His bail bond and surety bond are cancelled. The police is directed to take him into custody to undergo remaining sentence imposed by the trial Court.

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20. The learned trial Court has rightly come to the conclusion that there was no demand of dowry by the accused. The prosecution has failed to prove the presence of Inderaj Singh, Gurbinder, Gurdayalo and Reena Rani in the house at the time of occurrence. None of the witnesses examined by the prosecution deposed that co-accused were present in the house at the time of incident.

21. Thus, there is no merit in the revision petition and the same is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

March 04, 2020.

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No