

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-D-866-DB-2005
Reserved on : 02.03.2020
Date of decision : 17.03.2020

Janta Singh alias Gurjant Singh

... Appellant

Versus

State of Punjab

... Respondent

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

Present: Mr. Abilkash Grover, 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 17.08.2005 rendered by the Additional Sessions Judge, Bathinda, in Sessions case no.4-A of 01.06.2004 whereby the appellant was charged with and tried for the offence punishable under Section 302 of the Indian Penal Code (in short 'IPC'). The appellant was convicted thereunder and sentenced to undergo imprisonment for life 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 three years.

2. The case of the prosecution, in a nutshell, is that Amandeep Kaur daughter of Gurnam Singh, (niece of the complainant Gulab Singh) was married with accused Janta Singh @ Gurjant Singh about 7 years before 02.12.2003 in village Kali Banga (Rajasthan). There used to remain a quarrel between Amandeep Kaur and her husband. Amandeep Kaur had

started living about three months before 02.12.2003 with the complainant Gulab Singh at Raman. Accused Janta Singh @ Gurjant Singh also came to Raman. He wanted Amandeep Kaur to accompany him. Gulab Singh told the accused that since there used to remain quarrel between him and Amandeep Kaur, he should start living at Raman. Accused Janta Singh @ Gurjant Singh started living with Amandeep Kaur in the house of Darbara Singh son of Bachan Singh resident of village Raman on rent. On 01.12.2003, complainant Gulab Singh and his wife Kailo had gone to meet Amandeep Kaur at about 6.00 P.M. They found Janta Singh @ Gurjant Singh and Amandeep Kaur quarrelling. They persuaded both of them not to quarrel. On 02.12.2003 at about 8.00 AM, the complainant and his wife Kailo had again gone to meet Amandeep Kaur. They found Amandeep Kaur lying dead in the house. The noose of veil was lying around the neck of Amandeep Kaur. They noticed injuries on the person of the deceased. Janta Singh @ Gurjant Singh was not present in the house. The complainant lodged the complaint with police station vide Ex.PB. Police lifted the blood stained earth from the place of occurrence. The body was sent for post-mortem examination. The investigation was completed. Challan was put up after completing all the codal formalities.

3. The prosecution examined a number of witnesses. Statement of the appellant was recorded under Section 313 Cr.P.C. He denied the case of prosecution. The appellant was convicted and sentenced, as noticed hereinabove. Hence, this appeal.

4. Learned counsel appearing on behalf of 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 prosecution case.

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

7. PW-4 Dr. Kuldeep Roy had conducted the post-mortem examination on the dead body of Amandeep Kaur. He noticed following injuries on the person of deceased:-

“1. Incised wound 3.5 x 1.5 on dorsal aspect of right hand 2.5 cm from wrist, clotted blood was present.

2. Incised wound 5 x 2 cm on dorsal aspect of left forearm .6 cm from wrist, corresponding cut on the shirt was present. Clotted blood was present.

3. Incised wound 4 x 1.5 cm on left lateral side of breast. On posterior axillary fold. Clotted blood was present. There was cut on Angi and Kamiz.

4. Abrasion with clotted blood on the upper side of left breast measuring 6 x 0.3 cm.

5. Abrasion 1.5 x 0.5 cm with clotted blood on front of right shoulder.

6. Abrasion 1.5 x 0.5 cm with clotted blood on front of left shoulder.

7. Abrasion 1 x 0.5 cm with clotted blood in middle of right clavicle region.

8. Abrasion with clotted blood 2.5 x 0.5 cm on middle of lower side of chin.

9. Abrasion with clotted blood 3 x 0.5 cm on left side of neck near angle of mandible.”

In his opinion, the cause of death was due to asphyxia as a result of strangulation which was ante-mortem in nature and was sufficient to cause death in ordinary course of nature. Probable time that elapsed between

injuries and death was within a few minutes and between death and post-mortem was within 24 hours.

8. PW-2 Gulab Singh deposed that Amandeep Kaur was his niece. Accused Janta Singh @ Gurjant Singh used to reside earlier at Kali Banga (Rajasthan). Amandeep Kaur was married to Janta Singh @ Gurjant Singh. They used to quarrel. Amandeep Kaur came to Raman (Bathinda). Janta Singh also came to Raman. They advised him to live and stay at Raman. They arranged a rented house of Darbara Singh for Amandeep Kaur and Janta Singh @ Gurjant Singh. On 01.12.2003, he and his wife Kailo went to house of Janta Singh @ Gurjant Singh accused at Raman. They found Janta Singh @ Gurjant Singh and Amandeep Kaur quarreling with each other. They pacified them. On the next day, he and his wife Kailo went to the house of Janta Singh @ Gurjant Singh at Raman. They found Amandeep Kaur lying on a cot with her dupatta around her neck. She had died. Thereafter, he along with some other persons went to the police station to report the matter. In his cross-examination, he deposed that Amandeep Kaur deceased was daughter of his brother Gurnam Singh. He did not attend the marriage of Amandeep Kaur. He could not tell the exact date, month and year of the marriage of Amandeep Kaur. The root cause of dispute between deceased Amandeep Kaur and accused Janta Singh @ Gurjant Singh was alleged illicit relations of Janta Singh @ Gurjant Singh with wife of his elder brother. He could not tell the name of wife of elder brother of Janta Singh @ Gurjant Singh. He could not recollect the name of brother of Janta Singh @ Gurjant Singh whose wife had illicit relations with Janta Singh. Brother of Janta Singh @ Gurjant Singh expired about 2-3 years back. No rent note was executed between Darbara Singh landlord and Janta Singh @

Gurjant Singh.

9. PW-3 Kailo deposed that Amandeep Kaur was the daughter of brother of her husband. She was married to Janta Singh @ Gurjant Singh. Amandeep Kaur was residing at Raman with them. Janta Singh @ Gurjant Singh wanted to take her back. There used to remain quarrel between them. They arranged a house on rent belonging to Darbara Singh for their residence. They started living there. On 01.12.2003 she and her husband went to house of Janta Singh @ Gurjant Singh at Raman. Janta Singh @ Gurjant Singh and Amandeep Kaur were quarreling. They pacified them. They again went to the rented house of Janta Singh @ Gurjant Singh at Raman, on the next day at 8.00 AM. Amandeep kaur was lying dead on a cot with her dupatta around her neck. There were injuries on her person. Janta Singh @ Gurjant Singh was missing. In her cross-examination, she deposed that her husband Gulab Singh had attended the marriage of Amandeep Kaur at village Kali Banga (Rajasthan). She also attended her marriage. She could not tell the number of persons, who attended the marriage. She could not tell the root cause of dispute between Amandeep Kaur and her husband Janta Singh @ Gurjant Singh. Except a day prior to occurrence, she never saw Amandeep Kaur and Janta Singh @ Gurjant Singh quarreling with each other. She did not make any enquiry from the adjoining houses.

10. PW-6 Gobinder Singh deposed that statement of Gulab Singh was recorded. He visited the place of occurrence, i.e. house of Amandeep Kaur where dead body of Amandeep Kaur was lying. He inspected the place of occurrence. He recovered one veil (chunni) from the spot. He also lifted scratching of plain bricks from the place of occurrence. On 05.12.2003

accused was arrested. He was interrogated. He made a disclosure statement. He disclosed that he had concealed one spade in the room of chaff in the house of deceased Amandeep Kaur regarding which he knew only. His disclosure statement is Ex.PM. He led police party to the disclosed place. Spade (kahi) was got recovered from the room of chaff. The blade of spade (kahi) was smeared with blood. He prepared sketch Ex.PN. He also prepared rough site plan of place of recovery. In his cross-examination, he deposed that he did not call Kaka Singh or other neighbours of Darbara Singh for interrogation. He admitted that Darshan Singh an independent witness was present at the time when recovery effected from the spot. He did not explain any reason as to why he did not hand over the seal after use to Darshan Singh a public witness instead of ASI Baldev Singh.

11. PW-7 ASI Baldev Singh deposed that police party reached at the spot. The spot was inspected. Blood was lifted from the ground. One veil (chunni) around the neck of the deceased was removed. It was taken into possession vide memo Ex.PG. On 05.12.2003 accused Janta Singh @ Gurjant Singh was apprehended. He made a disclosure statement to the effect that he had concealed one spade in the room meant for storing chaff in his house regarding which he knew only. He could get the same recovered from there. It was got recovered by the accused. It was taken into possession vide memo Ex.PO. In his cross-examination, he admitted that in front of the house of accused, there were residential houses. The residential houses were occupied. He did not remember whether Inspector Gobinder Singh called any person from those houses. Many persons came to the spot. No person out of them was offered to join the proceedings regarding recovery of spade. The blade of the spade was stained with blood.

12. The cause of death as per PW-4 Dr.Kuldeep Roy was due to asphyxia as a result of strangulation which was ante-mortem in nature and was sufficient to cause death in ordinary course of nature.

13. The FSL report is Ex.PS. According to it, blood stains were found on spade and floor scratching.

14. According to PW-2 Gulab Singh, the deceased was his niece. He had arranged accommodation for her by taking a room on rent from Darbara Singh. But in his cross-examination, he admitted that there was no rent deed between Darbara Singh and deceased. In his cross-examination, he deposed that he did not attend the marriage of Amandeep Kaur. He could not tell the exact date, month and year of marriage of Amandeep Kaur. However, his wife PW-3 Kailo deposed that her husband Gulab Singh had attended the marriage of Amandeep Kaur at Kali Banga. She also attended the marriage. According to PW-2 Gulab Singh, there used to remain quarrel between deceased Amandeep Kaur and accused Janta Singh @ Gurjant Singh but PW-3 Kailo could not tell the root cause of dispute between Amandeep Kaur and her husband Janta Singh @ Gurjant Singh. PW-2 Gulab Singh deposed that accused had illicit relations with the wife of his elder brother. However, he could not tell the name of wife of elder brother of accused Janta Singh @ Gurjant Singh. He did not recollect the name of brother of Janta Singh @ Gurjant Singh whose wife had illicit relations with Janta Singh @ Gurjant Singh. It has come in the statement that brother of Janta Singh @ Gurjant Singh had expired 2/3 years back.

15. PW-3 Kailo in her cross-examination deposed that one or two slaps were given by Janta Singh @ Gurjant Singh to Amandeep Kaur. However, she did not ask Amandeep Kaur that in case she was given

beating at night, she should come to their house. The house where the deceased was residing was in thickly populated area. However, no enquiry was made from the neighbours of PW-2 Gulab Singh and PW-3 Kailo. No independent witness was joined at the time when spade was recovered. The prosecution has not led any evidence to prove the motive attributed to the appellant. The prosecution has also not led any evidence that the appellant had started living at Raman by taking a house on rent. In case house had been taken on rent, there should be some house rent receipt issued by the landlord Darbara Singh to deceased Amandeep Kaur or her husband. Darbara Singh, alleged landlord has not been examined as witness who was material witness to prove the tenancy.

16. It has also come on the record that the deceased had two children. There is no evidence on record that children were allegedly staying with them in the house taken on rent by PW-2 Gulab Singh and PW-3 Kailo for deceased Amandeep Kaur. The prosecution has failed to prove the case against the appellant beyond reasonable doubt.

17. Accordingly, the appeal is allowed. The judgment and order dated 17.08.2005 are set aside. Appellant is acquitted of the charge by giving him benefit of doubt. The appellant is on bail. His bail bond and surety bond are discharged.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

March 17, 2020.

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No