

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

CRA-D No. 272-DB of 2004 (O&M)

Reserved on : 7.1.2020

Date of decision : 20.1.2020

Deputy Pal

.... Appellant

versus

State of Punjab

... Respondent

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

Present Mr. Ranjivan Singh, Advocate, for the appellant.
Mr. H. S. Grewal, Additional Advocate General, Punjab.

Rajiv Sharma, J.

1. This appeal is instituted against the judgment and order dated 9.1.2004, rendered by learned Additional Sessions Judge, Gurdaspur, in Sessions case No. 3 of 2001, whereby appellant Deputy Pal was charged with and tried for the offence punishable under Section 304-B/120-B IPC along with co-accused Chanchal Masih and Smt. Parveen. He was convicted and sentenced under Section 302 IPC to undergo imprisonment for life and to pay fine of ₹ 5,000/- and in default of payment of fine to further undergo rigorous imprisonment for three months. Co-accused Chanchal Masih and Smt. Parveen were acquitted of the charges framed against them.

2. The case of the prosecution in a nutshell is that Manjinder Kaur deceased was married with accused Deputy Pal son of Chanchal Masih resident of village Tariza Nagar about five years prior to 20.10.2000. The case of the prosecution was that from the very beginning of the marriage, accused Deputy Pal and his parents Chanchal Masih and Parveen started maltreating Manjinder Kaur. On 20.10.2000 at about 7.00 A.M., Manjinder

Kaur deceased was cleaning utensils in the house of her in-laws. Accused Parveen and Chanchal Masih caught hold of Manjinder Kaur from her hands and accused Deputy Pal sprinkled kerosene on her and put her ablaze. Manjinder Kaur raised an alarm. Elder brother of her husband Shammi reached and put off the fire from the body of Manjinder Kaur. Brother-in-law and other persons of the mohalla took her to Civil Hospital, Gurdaspur. A wireless message was received at Police Station, City Gurdaspur from Civil Hospital, Gurdaspur at about 8.30 A.M. regarding the admission of Manjinder Kaur with 90% burns. SI Ram Singh of Police Station, Dhariwal, approached Chief Judicial Magistrate, Gurdaspur, as the condition of Manjinder Kaur was very serious. An application was moved before the Chief Judicial Magistrate, Gurdaspur, for recording the statement of Manjinder Kaur. Chief Judicial Magistrate, Gurdaspur deputed Shri Sat Pal, PCS, Judicial Magistrate 1st Class, Gurdaspur for recording the statement of Manjinder Kaur. Shri Sat Pal, Judicial Magistrate 1st Class, Gurdaspur, reached Civil Hospital, Gurdaspur. He recorded the statement of Manjinder Kaur. SI Ram Singh also recorded the statement of Manjinder Kaur on the basis of which the FIR was registered against the accused. Manjinder Kaur died on 25.10.2000. The post-mortem was conducted. The cause of death was shock due to burn injuries. All the injuries were ante mortem in nature. 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 the case. The statement of the accused were also recorded under Section 313 Cr.P.C. They denied the case of the prosecution. The accused examined five witnesses in defence. Co-accused Chanchal Masih and Parveen were

acquitted. Accused Deputy Pal was convicted and sentenced, as noticed above. 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 Court below.

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

6. PW3 Dr. H. S. Kaler deposed that Manjinder Kaur died on 25.10.2000 at 2.40. A.M. He sent the intimation to the police vide chit. Ex.PC.

7. PW5 Dr. Vijay Kumar deposed that on 20.10.2000 he was posted at Civil Hospital, Gurdaspur. He sent the intimation vide Chit, Ex.PL, regarding admission of Manjinder Kaur in the hospital. He declared the injured fit to make the statement vide his endorsement, Ex.PJ/1 on application Ex.PJ.

8. PW7 Dr. Arvind Mahajan deposed that he conducted the post-mortem examination on 25.10.2000. In his opinion, the cause of death was due to shock and burn injuries. All the injuries were ante mortem in nature. The time elapsed between death and post-mortem was 6 to 12 hours. In his cross-examination, he deposed that it was a case of 90% burns. Both the hands were burnt and the skin was peeled out.

9. PW1 SI Bachittar Singh deposed that on 25.10.2000 he was posted as SHO, Police Station, Dhariwal. He arrested accused Deputy Pal, Chanchal Masih and Parveen.

10. PW2 Barkat Masih deposed that Manjinder Kaur was his daughter. She was married with accused Deputy Pal. He gave dowry as per his status. The accused used to chide her for not bearing any child as well as for bringing insufficient dowry. On 20.10.2000, he was present in his house. A telephonic message was received in the house of his neighbour that his daughter had received burn injuries. She was admitted in the hospital. They went to Civil Hospital, Gurdaspur. He had a talk with his daughter. She told that she was cleaning utensiles. She was caught from her hands by her father-in-law and mother-in-law. Accused Deputy Pal sprinkled kerosene on her and put her ablaze. She further told that when she raised alarm, elder brother of her husband and neighbour came and put off the fire. She was moved to the hospital. In his cross-examination, he deposed that he visited the house of the accused several times. He denied the suggestion that Chanchal Singh, Shami and Parveen were residing in a separate room. He denied the suggestion that the accused had a dispute with his daughter only because she was unable to bear a child. His daughter had received 90% burns. Her skin was peeled off from hands and feet. She was administered injections by the doctor.

11. PW4 Jagir Singh has prepared the site plan, Ex.PQ.

12. PW6 Sat Pal, Judicial Magistrate 1st Class is the material witness. According to him on 20.10.2000, he was posted as Judicial Magistrate 1st Class, Gurdaspur. The police moved an application, Ex.PR, before the CJM, who marked the same to him vide endorsement, Ex.PR/1. He passed order Ex.PR/2. He reached Civil Hospital, Gurdaspur. The injured was declared fit to make statement by the doctor vide endorsement, Ex.PR/3. Thereafter, he recorded the statement of Manjinder Kaur, Ex.PR/4.

It was signed by her. It was kept in a sealed cover. In his cross-examination, he deposed that he took 45 minutes in the entire proceedings. The doctor was present with him when he recorded the statement of the injured and nobody else was present there.

13. PW8 HC Kulwinder Singh deposed that he joined the police party headed by SI Ram Singh on 20.10.2000. A wireless message was received from Police Station, City Gurdaspur. He along with SI Ram Singh came to Civil Hospital, Gurdaspur. The condition of Manjinder Kaur was serious. An application, Ex.PR, was moved before the Chief Judicial Magistrate for recording the statement of Manjinder Kaur. The application was marked to Shri Sat Pal, JMIC, Gurdaspur. Shri Sat Pal went to Civil Hospital, Gurdaspur for recording the statement of Manjinder Kaur. SI Ram Singh also recorded the statement of Manjinder Kaur. The statement was read over to her. She signed the same after admitting it to be correct, which is Ex.PV. In his cross-examination, he denied the suggestion that neither the opinion of the doctor was obtained nor the signatures of Manjinder Kaur were obtained on her statement.

14. DW1 Shammi deposed that Chanchal Masih is his father. Parveen is his mother. Deputy Pal is his brother. Manjinder Kaur was the wife of accused Deputy Pal. Manjinder Kaur used to visit various deras to seek blessing of Sadhus. His father had called the panchayat of the village of Manjinder Kaur. In the morning of that day, his father and Deputy Pal went to the Sarpanch of their village namely Sulakhan Singh. His mother went to the fields to answer the call of nature. Manjinder Kaur set herself on fire and he tried to put off the fire. Seeta also came from neighbourhood. They took Manjinder Kaur to Civil Hospital, Gurdaspur for treatment. His

brother and father also reached the hospital. His statement was recorded by the police.

15. DW2 Joginder Singh deposed that Manjinder Kaur had jumped into the canal at Dhariwal. He rescued her from the canal. Local police had arrived at the spot. She was taken to Police Station, Dhariwal. After two days Manjinder Kaur committed suicide by sprinkling kerosene on her body. His statement was recorded by the police. In his cross-examination, he admitted that he had not asked Manjinder Kaur as to why she jumped into the canal. He had not lodged any FIR with the police in that regard.

16. DW3 Seeta deposed that the height of intervening wall of their house and that of accused was of five feet. On the fateful day she was preparing tea and heard alarm from the house of the accused. She was given a call by Shammi, elder brother of Deputy Pal. She went to the house of the accused and saw Shammi putting off the fire on the body of Manjinder Kaur. Chanchal and Parveen were present in the house. Deputy Pal and other accused Chanchal had gone to the house of Sarpanch. They were called.

17. DW4 Sulakhan Singh deposed that he was the Sarpanch of the village. Accused Chanchal and Deputy Pal came to him at about 3.30 in the morning time. A panchayat was convened to resolve the dispute at the asking of the accused. When the accused reached at his house, he came to know from his children that Manjinder Kaur had committed suicide by setting herself on fire. The accused had gone from his house. He followed them. Manjinder Kaur was lying burnt. They had sent a message to the parent's of Manjinder Kaur. Manjinder Kaur was brought to the hospital.

18. DW5 Razia deposed that she knew Manjinder Kaur wife of

accused Deputy Pal. Manjinder Kaur used to visit the *dera* of Baba and the accused were preventing her from going there. About two days before her death, Manjinder Kaur jumped in the canal of Dhariwal because she could not deliver a child. Manjinder Kaur used to remain under depression as she could not deliver a child.

19. According to PW7 Dr. Arvind Mahajan the cause of death was due to burn injuries. All the injuries were ante mortem in nature.

20. PW3 Dr. H. S. Kaler deposed that Manjinder Kaur died at 2.40 A.M. due to burn injuries on 25.10.2000. He gave the information to the police on 25.10.2000.

21. PW5 Dr. Vijay Kumar deposed that he sent the intimation regarding the admission of Manjinder Kaur in the hospital. He declared the injured fit to make the statement vide endorsement, Ex.PJ/1.

22. PW6 Sat Pal, Judicial Magistrate 1st Class testified that the police moved an application, Ex.PR, before the CJM. He marked the same to him vide endorsement, Ex.PR/1. He passed order, Ex.PR/2. The injured was declared fit to make statement by the doctor vide endorsement, Ex.PR/3. He recorded the statement of Manjinder Kaur, Ex.PR/4.

23. PW8 HC Kulwinder Singh deposed that Judicial Magistrate 1st Class recorded the statement of Manjinder Kaur. Statement of Manjinder Kaur was also recorded by SI Ram Singh. It is Ex.PV.

24. PW2 Barkat Masih had also deposed that he reached the hospital. His daughter told him that she was cleaning utensils. She was caught from her hands by her father-in-law and mother-in-law. Accused Deputy Pal sprinkled kerosene on her and put her ablaze. She raised an alarm. The elder brother of her husband and neighbour came and put off the

fire. They used to demand dowry. Her family was also not happy since she could not bear a child.

25. According to learned counsel for the appellant, appellant Deputy Pal and Chanchal Masih had gone to the house of the Sarpanch. Thereafter, they came to their house on hearing that Manjinder Kaur had committed suicide. It has not come in the evidence that who had told them about the incident when they were allegedly present in the house of the Sarpanch. Manjinder Kaur was put on fire. She had raised an alarm. Her brother-in-law Shammi had put off the fire. Seeta also reached at the spot. She was taken to the hospital by DW1 Shammi.

26. The defence taken by the appellant that he along with his father Chanchal Masih had gone to the house of DW4 Sulakhan Singh Sarpanch does not inspire confidence. There was no occasion for them to go to the house of Sarpanch at 3.30 A.M. in the morning.

27. Statements of DW1 Shammi and DW2 Joginder Singh do not inspire confidence. DW2 had not asked Manjinder Kaur as to why she had jumped into the canal. DW3 Seeta had only deposed that DW Shammi was putting off the fire. Chanchal Masih and Parveen were not present in the house. Deputy Pal and other accused had gone to the house of Sarpanch. According to DW4 Sulakhan Singh accused went back to their house and he followed them. Deceased Manjinder Kaur was lying in burnt conditions. In case the accused and family members had reached the spot, he should have taken his wife to the hospital immediately.

28. Learned counsel for the appellant has also argued that Manjinder Kaur was under depression, however, no medical evidence was placed on record. There is no merit in the contention of learned counsel for

the appellant that Manjinder Kaur was pressurised by her family members to make statement. Though Manjinder Kaur had received 90% burns but she was declared fit to make statement by the doctors. Her statements were recorded by PW6 Sat Pal, JMIC and SI Ram Singh, vide Ex.PR/4 and Ex.PV, respectively. She also orally told her father about the manner in which she was put on fire.

29. The prosecution has proved the case against the appellant beyond reasonable doubt. No interference is called for in the well reasoned judgment of the learned trial Court. The appeal is dismissed. The appellant is on bail. His bail bonds are cancelled. He be committed to jail to undergo his remaining part of sentence.

(Rajiv Sharma)
Judge

20.1.2020
vs

(Harinder Singh Sidhu)
Judge

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