

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

CRA-D-488-DB of 2004

Reserved on : 17.01.2020

Date of decision : 20.01.2020

Dev Singh

.... Appellant

Versus

State of Punjab

..... Respondent

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Vikas Chatrath, Advocate,
for the appellant.

Mr. H.S. Grewal, Addl. A.G., Punjab.

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RAJIV SHARMA, J.

1. This appeal is instituted against the judgment dated 05.03.2003 and order dated 06.03.2003, rendered by learned Sessions Judge, Fatehgarh Sahib, in Sessions Case No. 55T dated 11.04.2000/17.11.2000, whereby appellant Dev Singh, who was tried for offence punishable under Section 302 IPC, was convicted and sentenced thereunder to undergo life imprisonment and to pay a fine of ₹ 500/- and in default of payment of fine to further undergo rigorous imprisonment for four months.

2. The case of the prosecution, in a nutshell, is that complaint was lodged by Darshan Singh. According to him, on 12.09.1999 at 12.00 noon, his sister Kulwinder Kaur was working in the courtyard. His mother was

sitting in the room near the door. In the meantime, his father Dev Singh came from outside in drunkard condition. Dev Singh entered the room. His mother Kamla Devi told his father Dev Singh to leave the habit of consuming liquor. Father of the complainant brought *Ghotna* (pestle) from inside the room and told her that he would teach a lesson to Kamla Devi. Dev Singh attacked Kamla Devi with *Ghotna*. It hit her on the back side of the head. She collapsed. Dev Singh gave 5-6 more blows to Kamla Devi while she was lying on the floor. Complainant Darshan Singh and his sister Kulwinder Kaur rushed towards their mother to save her. However, Dev Singh, after leaving the *Ghotna*, ran away. Thereafter, Bant Singh and Dayal Singh came on the spot. Statement of Darshan Singh is Ex.PA, on the basis of which FIR Ex.PA/2 was recorded. Police reached the spot. Blood stained *Ghotna* was taken into possession. Blood stained earth was also lifted from the spot. Rough site plan was prepared. Dead body of Kamla Devi was sent for post mortem examination. Clothes of the deceased were taken into possession vide memo Ex.PK. The investigation was completed and challan was put up after completing all the codal formalities.

3. The prosecution examined a number of witnesses in support of its case. The accused was also examined under Section 313 Cr.P.C. He denied the case of the prosecution. He was convicted and sentenced, as noticed here-in-above. Hence, this appeal.

4. Learned counsel appearing on behalf of the appellant has vehemently argued that the prosecution has failed to prove its case. Learned counsel appearing for the State has supported the judgment of conviction and order of sentence passed by the learned trial court.

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

6. PW.1 Darshan Singh testified that they were three brothers and three sisters. Two of his sisters were married. Kulwinder Kaur was unmarried. He identified his father in the court. According to him, on 12.09.1999, his brother Jasbir Singh had gone to Kurali for getting medicine for his wife. His father was addicted to drinking. Kamla Devi was his mother. She used to forbid his father from drinking. On the day of occurrence, he and his sister Kulwinder Kaur were doing household job in the courtyard of their house. His mother was sitting near the door of the room. At about 12.00 noon, his father came. He was under the influence of liquor. His mother, on sensing that the accused had consumed liquor, asked him to stop drinking. His father picked up pestle (Ghotna) and hit it on the head of his mother saying that he would teach her a lesson for stopping him from drinking. He identified the pestle in the court. His mother collapsed. In the quick succession, his father gave 5-6 more *Ghotna* blows on the back side of the head of his mother. He and his sister stepped forward to take care of their mother. In the meantime, the accused ran away after throwing the pestle. His mother died at the spot. Some women from the neighbourhood and Bant Singh of their village also came there. His statement was recorded vide Ex.PA. In his cross-examination, he deposed that he had gone to the police station on a scooter. The police met him near Ranwa Gurudwara.

7. PW.2 Kulwinder Kaur corroborated the statement of PW.1 Darshan Singh. She deposed that on the day of occurrence, at about noon time, her father came from the outside. He was under the influence of liquor.

Her mother asked him not to drink. Her father picked up a pestle lying in the room and hit it on the head of her mother proclaiming that he would teach her a lesson for stopping him from consuming liquor. She fell down. Thereafter, her father administered 4-5 more *Ghotna* (pestle) blows on the backside of the head of her mother. They raised alarm. Their father threw the *Ghotna* and ran away. She identified *Ghotna* Ex.MO1. Her mother succumbed to the injuries at the spot. In her cross-examination, she deposed that she was brooming in the courtyard, when the occurrence took place. The courtyard was in front of the door, where her mother was sitting.

8. PW.3 Gursewak Singh prepared the scaled site plan Ex.PB.

9. PW.4 Dr. Amarjit Singh conducted post mortem examination on the body of Kamla Devi. He noticed following injuries on the body of the deceased :-

- (1) Lacerated wound 7 cm x 5 cm x bone deep on the temporal region of scalp on left side, 2 cm above the root of the ear. On dissection, underlying bones were fractured into pieces, brain matter was severally lacerated and membranes were severally lacerated.
- (2) Lacerated wound 6.5 cm x 5 cm x bone deep on the occipital region of scalp, 3 cm above the hair line in the middle. On dissection underlying bones were fractured into pieces, brain matter and membranes were severally lacerated.

The cause of death was shock and haemorrhage and failure of vital functions resulting from the injuries described i.e. injury to brain. The injuries were sufficient to cause death in ordinary course of nature. The injuries were ante mortem in nature. Probable time that elapsed between

injuries and death was within few minutes. Time between death and post-mortem was within 24 hours. He proved the post mortem report. He denied the suggestion in his cross-examination that the injuries could be by a fall on the hard surface.

10. PW.5 Kirpal Singh deposed that *Ghotna* was taken into possession by the police vide memo Ex.PF. He signed the recovery memo.

11. PW.6 Sher Singh ASI deposed that blood stained earth was lifted from the spot and it was put into a parcel, which was taken into possession vide memo Ex.PG.

12. PW.7 ASI Tara Singh testified that *Ghotna* Ex.MO-1 was lying near the dead body of the deceased. It was taken into possession vide memo Ex.PF.

13. PW.10 ASI Ajepal Singh deposed that Darshan Singh made statement Ex.PA on 12.09.1999, on the basis of which FIR Ex.PA/2 was recorded. He visited the spot. He took into possession blood stained *Ghotna*. He prepared the inquest report. The dead body was sent for post mortem examination. He prepared rough site plan Ex.PH.

14. The Chemical Examiner report is Ex.PL. According to it, *Ghotna* and earth were stained with human blood.

15. The case of the prosecution precisely is that the appellant was residing with his family. He was addicted to liquor. He came to his house on 12.09.1999 at the noon time. His wife Kamla Devi requested him to leave the habit of drinking. Thereafter, he gave *Ghotna* (pestle) blows on the back side of the head of his wife Kamla Devi. She died on the spot.

16. PW.1 Darshan Singh has categorically deposed that his father

came to the house on the day of occurrence at 12.00 noon. His mother asked his father not to drink. The appellant became furious. He gave *Ghotna* blows on the back side of the head of his mother. He ran away from the spot. His statement Ex.PA was recorded, on the basis of which FIR Ex.PA/2 was registered. Statement of PW.1 Darshan Singh is corroborated by his sister - PW.2 Kulwinder Kaur. She also deposed that her father came to the house. He was under the influence of liquor. Her mother told him not to consume liquor. He gave *Ghotna* blows on the backside of the head of her mother. Her mother collapsed.

17. According to the post mortem report, the cause of death was shock and haemorrhage and failure of vital functions resulting from the injuries described i.e. injury to brain. The injuries were sufficient to cause death in ordinary course of nature. The injuries were ante mortem in nature. Probable time that elapsed between injuries and death was within few minutes. Time between death and post-mortem was within 24 hours. PW.4 Dr. Amarjit Singh categorically denied the suggestion that the injuries on the body of the deceased could be by a fall on the hard surface.

18. The *Ghotna* (pestle) was taken into possession by the police. It was sent for chemical examination along with blood stained earth lifted from the spot. According to the Chemical Examiner report Ex.PL, *Ghotna* as well as earth were stained with human blood.

19. PW.1 Darshan Singh is the son of the appellant and PW.2 Kulwinder Kaur is the daughter of the appellant. There was no occasion for them to falsely implicate their father. They had seen their father giving *Ghotna* blows on the backside of the head of their mother.

20. Accordingly, the prosecution has proved its case against the appellant beyond reasonable doubt. There is no merit in this appeal and the same is dismissed. The impugned judgment dated 05.03.2003 and order dated 06.03.2003 are upheld.

(RAJIV SHARMA)
JUDGE

January 20, 2020
ndj

(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes