

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-1350-DB-2014 (O&M)
Date of decision: 23.12.2021

Beero
V/s.
State of Haryana

....Appellant
.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Sandeep Gahlawat, Advocate and
Mr. Aman Dhir, Legal Aid Counsel
for the appellant.

Mr. Ankur Mittal, Addl.A.G., Haryana with
Mr. Saurabh Mago, A.A.G., Haryana.

Ritu Bahri, J.

This order shall dispose of **CRA-D-1350-DB-2014** titled as **Beero vs. State of Haryana and CRA-D-1365-DB-2015** titled as **Satyawan vs. State of Haryana**. However, the facts are being extracted from **CRA-D-1350-DB-2014**. The appellants have come up in appeal against the judgment dated 06.06.2014 and order dated 07.06.2014 whereby Beero and Satyawan have been convicted and sentenced as under:-

<i>Offence</i>	<i>Sentence</i>
U/S 302/34 IPC	To undergo life imprisonment and to pay fine of Rs.50,000/- each. In default of payment of fine, further undergo RI for a period of one year.
U/S 201/34 IPC	To undergo RI for a period of three years and to pay fine of Rs.25,000/- each. In default of payment of fine, further undergo RI for a period of six months.

The case set up by the prosecution was that on 17.01.2011 complainant Chhatar Singh and Satyawar son of Surja while on duty at Sahdwa Pump House No. 1 since 4:00 p.m. noticed a dead body of a person aged about 40-42 years was floating in BNC Canal which came from the side of Dabra Head. Complainant Chhatar Singh gave this information to police post Mangali and thereafter ASI Kesar Singh came there and recorded statement Ex.P9 of the complainant Chhatar Singh. The dead body was taken out of the canal and the statements of the witnesses were recorded and the investigation was carried out. Postmortem examination of the dead body was conducted. Appellant Beero was arrested and during interrogation she suffered disclosure statement Ex.P18 on 07.03.2011 to the effect that on 06.01.2011 she and her husband hired car bearing registration No. UP-16T/1469 from Meerut Bus Stand for coming to Village Gurana (Hisar). The driver of the said car was Balwan r/o Braham Puri Meerut and on the way they all consumed liquor and then she and her husband murdered Balwan by strangulation and had also thrown the dead body of Balwan in the canal. She further stated that the number plate of the car bearing No. UP-16T/1469 was changed which was used in the crime. She also disclosed regarding the place of occurrence, the place where they threw the dead body and where they left the car. On the basis of disclosure statement of appellant Beero, appellant Satyawar was also arrested and he had also suffered disclosure statement on the same lines. Statement of the witnesses were recorded and thereafter report under Section 173 Cr.P.C. was presented before the Court for trial. The appellants were charge-sheeted under Sections 302 and 201 of Indian Penal Code vide order dated 15.06.2011 to which they did not plead guilty and claimed trial. The

prosecution examined 19 witnesses. The statements of the appellants under Section 313 Cr.P.C. were recorded in which they denied the allegations of the prosecution and claimed to be innocent. The trial Court after going through the evidence of the prosecution and the defence has convicted both the appellants after considering the documents such as FIR (Ex.P2), registered by Inspector Virender Singh, police proceedings conducted by Inspector Virender Singh (Ex.P2/A), DD entry recorded in Police Station Sadar Hisar on 17.01.2011 (Ex.P2/B), scaled site plan prepared by patwari Dara Singh on 04.04.2011 on the instance of SI Dalbir Singh (Ex.P3), photographs of the dead body (Ex.P4 to Ex.P8), statement of complainant Chhatar Singh on 17.01.2011 before ASI Kesar Singh, on the basis of which the present case was registered (Ex.P9), FSL report (Ex.P10), application for post mortem examination (Ex.P11), copy of the DD entry regarding lodging of missing report of deceased Balwan Singh (Ex.P12), seizure memo (Ex.P13), rough site plan (Ex.P14), inquest report (Ex.P15), application for disposal of the dead body (Ex.P16), postmortem report (Ex.P17), disclosure statement made by appellant Beero (Ex.P18), demarcation memo at the instance of appellant Beero (Ex.P19 to Ex.P21), seizure memo of the Indica Car bearing No.UP-16T/1469 with fake number plate showing No. DL-3CN/7499 (Ex.P22), disclosure statement of appellant Satyawar (Ex.P23), memos of demarcation at the instance of appellant Satyawar (Ex.P24 to Ex.P27), documents of case FIR No. 12 dated 23.1.2011 under sections 364, 302, 392, 420, 404, 402, 201 read with section 34 IPC of Police Station City Narwana in which both the appellants had disclosed about their involvement in the present crime (Ex.P28 to Ex.P31), clothes and belongings of the deceased (Ex.P33 to Ex.P38), memo

of identification (Ex.P39), registration certificate of the Indica Car (Ex.P40) and rough site plans (Ex.P41 to Ex.P44).

PW6 Chhatar Singh was the complainant on whose statement, the case was registered and he deposed on 17.01.2011 as per version given in his complaint recorded by ASI Kesar Singh (Ex.P9). PW7 Dr. D.N.Bagri stated that on 18.01.2011, police moved an application (Ex.P11) for postmortem examination of an unknown dead body upon which Dr. Veena Dhanda opined that dead body was highly decomposed and it was referred to the Forensic Expert opinion, PGIMS Rohtak. PW9 Charan Singh was an important witness who stated that he was running a shop of Painter at Narnaund under the name and style of Parshuram Auto Decoration and in the month of January 2011, he prepared two number plates for registration No. DL-3CN/7499 at the instance of the appellant-Satyawan and charged Rs.60/- for each plate. In cross-examination, he stated that the appellant-Satyawan came alone in his shop for getting prepared the said number plates and he was not aware whether any murder had been committed by the person who got prepared the number plates from him. PW12 Dr. Hitesh Chawla deposed about conducting of postmortem examination of the dead body of the unknown male aged about 40-42 years and had shown five injuries as mentioned in the postmortem report Ex.P17 and the cause of death was throttling i.e. manual strangulation coupled with smothering. PW13 Jagbir Singh Sub Inspector had deposed that during the investigation of case FIR No. 12 dated 23.01.2011 under Sections 364, 302, 392 and 420 IPC of Police Station City Narwana, appellants Satyawan and Beero pointed out the place from where they took Indica car used by them and then he prepared rough site plan mark-B of the said place. In cross-examination, he

had stated that no person from the public was joined at the time of pointing out by the appellants, which was main road.

PW14-Inspector Satya Parkash of Police Station Narwana deposed that on 05.02.2011, appellants Beero and Satyawar suffered their disclosure statements mark-B (Ex.P30) and mark-C (Ex.P31) respectively in the presence of Lady Constable Rajbala and EHC Sajjan Kumar. In cross-examination, he had stated that no person from the public was joined at the time of interrogation of both the appellants. PW15-HC Sant Parkash had associated the investigation of this case with SI Dalbir Singh (PW19). Both these witnesses had fully supported the case of the prosecution and deposed about the disclosure statements Ex.P18 and Ex.P23 made by appellants Beero and Satyawar and demarcation memo Ex.P19, Ex.P20 and Ex.P21 made at the instance of appellant Satyawar regarding the place where they committed the murder. Both these witnesses had also deposed about the seizure memo Ex.P22 of the car alongwith its registration certificate and the demarcation memo Ex.P26 where the appellant Satyawar left the car and the place of demarcation vide memo Ex.P27 from where they hired the car. The trial Court had further observed that both these witnesses in the cross-examination had deposed step by step all the events of investigation, suffering of disclosure statements by the appellants, demarcation of the places from where they hired the taxi, committed the murder of Balwan, threw the dead body of Balwan in Bhakra Canal and they concealed the Indica Car in the bushes behind the workshop of Bus stand Hisar.

As per the evidence given by PW17-Mamta Tomar wife of

Balwan Singh Tomar (since deceased), her husband was working in the travel agency of Narinder known as Shiva Travel Agency, Meerut as driver. On 06.01.2011 appellant Satpal (fake name told by Satyawan) and his wife Beero hired vehicle bearing registration No.UP-16T/1469 for going to Hisar. At about 3:00 p.m., her husband had told her before leaving for Hisar that he would return on the next day but when he did not return on the next day, she searched for him at Meerut, Hisar and other places and on 17.01.2011, she lodged a missing report. On 08.02.2011, she read in Amar Ujjala Newspaper that a couple had murdered 4-5 persons in the area of Hisar, and on her arrival to Police Post Mangali at Hisar, the police had shown her the clothes i.e. t-shirt Ex.P32, inner and upper Ex.P33 and Ex.P34, sweater Ex.P35, underwear Ex.P36, socks Ex.P37 and Ex.P38 which she identified to be that of her husband. The identification memo Ex.P39 was prepared in this regard. She also identified the photos Ex.P4 to Ex.P8 of her husband.

PW18-Narinder son of Raghubir Singh was an important witness. He was the proprietor of Shiva Travel Agency and also supported the version of PW17 Mamta Tomar. He also deposed about the memo Ex.P21 vide which appellant Beero demarcated the place from the car was hired as well as recovery of car bearing registration No.UP-16T/1469 having fake number plate of DL-3CN/7499 from the place behind the workshop near bus stand Hisar at the instance of appellant Beero alongwith its registration certificate Ex.P40, vide memo Ex.P22. In cross-examination, he identified the appellants in the trial Court and deposed that they had not named Satyawan (wrongly written as Satpal) and his wife Beero as the persons who had hired the vehicle in the missing report.

Appellant Satyawar (wrongly written as Satpal) and his wife Beero were known to him as previously they had hired vehicles from him on 2-3 occasions. Appellant Satyawar had given his address as resident of Topkhana, Meerut Cantt. They had inquired at his residence when Balwan had not returned on 10.01.2011. Appellant Satyawar had talked to him on telephone on 06.01.2011 when he hired the vehicle. Two constables from Police Station Lal Kurti had accompanied him on 10.01.2011 when he went to the house of the appellant. However, he did not know their names. The residents of the locality stated that no person named as Satpal (fake name given by Satyawar as Satpal) resided there. Thereafter, they had gone to Police Station Sadar Hisar and then, to Police Post Mangali. Many persons had assembled at the time of recovery of the car and people were passing by.

Moreover, PW9 Charan Singh stated that in the month of January 2011, he prepared two number plates with registration No. DL-3CN/7499 at the instance of the appellant and charged Rs.60/- for each plate. Hence, the car was used by the appellants for throwing the dead body in the Bhakra Canal and the car was concealed in the bushes behind the workshop of Bus Stand Hisar which was recovered after the disclosure statements Ex.P18 and Ex.P23 made by appellants Beero and Satyawar. They both had manually strangled Balwan (deceased) and in this backdrop, the appellants were convicted.

Learned counsel for the appellant has argued that there is no direct evidence nor any eyewitness to show that both the appellants had committed the murder of Balwan. The case is based on the circumstantial evidence. There is no recovery of weapon/parna used by the appellants for

strangling the deceased. No documents of the car was recovered during investigation and only photocopy of RC was shown to have been recovered from appellant Beero. There is a delay of almost 11 days in making the complaint by the wife of the deceased PW17-Mamta Tomar as she lodged the DDR at Police Station Lal Kurti at Meerut on 17.01.2011, however her husband went missing since 06.01.2011. Nobody had identified the dead body as it was cremated by the Municipal Councillor. In the DDR dated 17.01.2011, it was nowhere mentioned that wife of the deceased had gone to approach employer PW18-Narinder with respect to whereabouts of her husband and no steps had been taken by PW18 to find out his employee/driver when he did not return back next morning. He should have reported this matter to police. The version given by PW17-Mamta Tomar that her husband had told her that he was going to Hisar is an afterthought improvement. There is no motive by the prosecution as to why the appellants had killed the deceased. The fact that FIR No. 12 dated 23.01.2011 under Sections 364, 302, 392 and 420 IPC of Police Station City Narwana was registered against the appellants as per the version given by PW19 Dalbir Singh, retired SI, wherein the appellants admitted the guilt/subject matter of the present case itself is weak kind of evidence to convict the appellants.

Heard learned counsel for the parties and perused the case filed alongwith lower Court record.

With respect to the argument that there is a delay of 11 days in lodging the DDR, the prosecution had led sufficient evidence by examining PW18-Narinder son of Raghubir Singh who was the proprietor of Shiva Travel Agency. In cross-examination, he identified the appellants in the trial

Court and deposed that they had not named Satyawar and his wife Beero as the persons who had hired the vehicle in the missing report. **Appellant Satyawar (wrongly written as Satpal in judgment) and his wife Beero were known to him as previously they had hired vehicles from him on 2-3 occasions.** Appellant Satyawar had given his name as Satpal and address as resident of Topkhana, Meerut Cantt. They had inquired at his residence when Balwan had not returned on 10.01.2011. Appellant Satyawar had talked to him on telephone on 06.01.2011 when he hired the vehicle. Two constables from Police Station Lal Kurti had accompanied him on 10.01.2011 when he went to the house of appellant. However, he did not know their names. The residents of the locality stated that no person named as Satpal (false name given by Satyawar) resided there. He deposed about the memo Ex.P21 vide which appellant Beero demarcated the place from where the car was hired. The recovery of car bearing registration No.UP-16T/1469 having fake number plate of DL-3CN/7499 was effected from the place behind the workshop near Bus Stand Hisar alongwith its registration certificate Ex.P40, vide memo Ex.P22. A perusal of RC of the car Ex.P40 (page 183 of lower Court record) shows that the number of the vehicle is UP16T 1469 and the owner name is Mrs. Hari Priya wife of Sh. M.D. Srivastava. This was the vehicle which was hired by both the appellants from Meerut to go to Hisar. Hence, prosecution had led sufficient evidence to show that on 06.01.2011, both the appellants had hired the car from PW18 Narinder having registration No. UP-16T/1469 and they were taken by Balwan from Meerut to Hisar. Balwan never came back home and as per the version given by his wife Mamta Tomar PW17 that when Balwan did not come back come, she searched for him at Meerut,

Hisar and other places and on 17.01.2011, she lodged a missing report. PW6 Chhatar Singh deposed that on 17.01.2011, he and Satyawar son of Surja while on duty at Sahdwa Pump House No. 1 since 4:00 p.m., noticed that a dead body of a person aged about 40-42 years was floating in BNC Canal which came from the side of Dabra Head. Complainant Chhatar Singh gave this information to police post Mangali and thereafter, ASI Kesar Singh came there and recorded his statement (Ex.P9). The dead body was taken out of the canal and thereafter, the proceedings with respect to cause of death of deceased Balwan were started. Before the recovery of dead body on 17.01.2011, attempts were being made by PW17 Mamta Tomar to look around her husband. While appearing as PW17, she stated that on 08.02.2011, she read in Amar Ujjala Newspaper that a couple had murdered 4-5 persons in the area of Hisar, and on her arrival to Police Post Mangali at Hisar, the police had shown her the clothes of the deceased which she identified to be that of her husband. The identification memo Ex.P39 dated 12.02.2011 was prepared in this regard. A perusal of Ex.P39 (at page 181 of the lower Court record) shows that the wife of deceased namely Mamta, Divanshu and nephew of deceased namely Rajbir son of Hari Singh, Jat resident of Dhur, Police Station Sardhana District Meerut, had identified the parcel containing clothes of deceased Balwan Singh son of Alam Singh, caste Jat, resident of Sirsali, P.S.Binauli, District Bagpat. The photographs of the deceased had also been identified to be that of Balwan Singh. Ex.P39 was also signed on 12.02.2011 by the witnesses, i.e. Mamta @ Shanti widow of Balwan Singh, resident of Brehmpuri Mohalla Meerut, Divanshu son of late Balwan Singh deceased, Rajbir Singh son of Hira Singh, Jat, resident of Dhur, P.S.Sardana, District Meerut (UP) and

Karambir Singh EASI No. 437 MM, PS Sadar Hisar. The dead body was found on 17.01.2011 by PW6 Chhatar Singh from Bhakra canal and the missing report was also made by PW17 Mamta Tomar wife of the deceased on 17.01.2011. Merely because missing report was made on 17.01.2011 (i.e. after 11 days of missing of Balwan i.e. 06.01.2011), cannot go against the prosecution. There is a sufficient evidence to show that deceased Balwan had taken the appellants from Meerut to Hisar in the taxi owned by PW18-Narinder and his dead body was recovered on 17.01.2011 from canal. The clothes identification was done by PW17-Mamta Tomar and others and finally, there is the version of the painter PW9 Charan Singh who stated that in the month of January 2011, he prepared two number plates for registration No. DL-3CN/7499 at the instance of the appellant present in the lower Court and charged Rs.60/- for each plate.

Hence, the chain of events has fully established the role of both the appellants in the murder of Balwan on 06.01.2011 by making the fake number plates of vehicle which was recovered in pursuance of the disclosure statements made by them. Recovery of vehicle with fake number plates is an important piece of evidence which completes the chain of events which led to the murder of Balwan. Another thing which is important in the facts of the present case is that they were already facing FIR No. 12 dated 23.01.2011 under Sections 364, 302, 392 and 420 IPC of Police Station City Narwana and during investigation in that case, they had made disclosure statements and got the car recovered. Hence, it is not the case where they were falsely implicated as both the appellants had been identified by PW18 Narinder and he knew them as earlier also, they had hired taxi 2-3 times from him. Further, the fact that Satyawar had given his name and residence

wrongly at the time of hiring taxi shows that the appellants did not want their identities to be disclosed. Disclosure statements of the appellants (Ex.P18 and Ex.P23), recovery of car, making fake number plates, concealing the true identities, identification by PW18-Narinder and identification of clothes and dead body by PW17-Mamta Tomar and others, are the sufficient evidence to show that appellants had murdered Balwan.

Hence, no ground to interfere in judgment dated 06.06.2014 and order dated 07.06.2014 is made out.

Appeal is dismissed.

Pending application, if any, stands disposed of.

(RITU BAHRI)
JUDGE

23.12.2021

Divyanshi

(MEENAKSHI I. MEHTA)
JUDGE

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