

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

Crl. Appeal No.D-1798-DB of 2014 (O&M)

Date of Decision: September 28, 2021

Manjeet Singh

...Appellant

VERSUS

State of Haryana

...Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Ms.Amar Preet Kaur Sandhu, Advocate
for the appellant.

Mr.Ankur Mittal, Addl. Advocate General, Haryana with
Mr.Saurabh Mago, AAG, Haryana
for the respondent-State.

ARCHANA PURI, J.

Challenge in the present appeal, is to the judgment of conviction dated 19.09.2014 and order of sentence dated 20.09.2014 passed by learned Addl. Sessions Judge, Kurukshetra, vide which appellant Manjeet Singh was held guilty and convicted for an offence under Section 302 IPC and was sentenced to undergo imprisonment for life and also fine of Rs.50,000/- was imposed, in default whereof, to further undergo simple imprisonment, for a period of six months.

Background facts in nutshell are as follows:-

That, marriage of Sarabjit Kaur, sister of the complainant, was solemnized with Manjeet Singh, son of Gurcharan Singh, resident of

Jhimarheri, Dera Gural Singh and from the said wedlock, three children were born. The eldest daughter is Navneet Kaur, younger to her is son Sukhmandeep Singh and youngest one is Harneet Kaur. His nephew Sukhmandeep Singh was suffering from typhoid, on account of which, he was admitted in Mission Saraswati Hospital, Pehowa on 25.11.2013. Elder brother of complainant, namely Inderjeet Singh went to hospital to enquire about the health of Sukhmandeep Singh and returned back home. On 29.11.2013, at about 2.00-2.30 a.m., his niece namely Navneet Kaur had made a mobile call to Inderjeet Singh, thereby apprising him that her father Manjeet Singh has committed murder of her mother Sarabjit Kaur, in bathroom and the dead body of her mother was lying in the bathroom of Room No.205 of the hospital. Inderjeet Singh, brother of the complainant, had apprised him, about the aforesaid fact. Thereupon, the complainant along with Inderjeet Singh and his cousin Baldev Singh had reached Saraswati Mission Hospital, Pehowa, where he found his sister to be lying dead in the bathroom of Room No.205. His brother-in-law, Manjeet Singh had earlier also tried to kill his sister and set ablaze the house. Soon after the marriage, he used to demand a car but they could not fulfill the said demand and due to this, Manjeet Singh had committed murder of his sister Sarabjit Kaur by throttling. His sister was 45 years old. His nieces, namely Navneet Kaur and Harneet Kaur, are the eye witnesses of the occurrence.

The proceedings in the present case were initiated, on the basis of the statement got recorded by complainant Sukhwant Singh. The case was registered under Sections 498-A and 302 IPC. The spot of occurrence was inspected. Site plan of the occurrence was prepared. From the spot of

from Room No.205 of the hospital. Even, two mobile phones make Nokia along with SIM were also recovered. Statements of witnesses under Section 161 Cr.P.C. were recorded. Post-mortem was got conducted. On that day only, accused-appellant Manjeet Singh was arrested and on the basis of the disclosure statement, he got recovered the clothes worn by him, at the time of occurrence, from his house. On completion of investigation, challan was presented.

In pursuance of the commitment proceedings, on the basis of material coming forth, charge under Sections 498-A and 302 IPC was framed against Manjeet Singh, to which he pleaded not guilty and claimed trial.

In endeavour to establish its case, the prosecution examined as many as 18 witnesses, besides adducing documentary evidence.

The witnesses, so examined are PW-1 ASI Ishwar Singh, PW-2 EHC Satpal, PW-3 ASI Ramesh Kumar, PW-4 Constable Gurcharan Singh, PW-5 SI Phool Singh, PW-6 Head Constable Ashish Kumar, PW-7 Constable Rakesh Kumar, PW-8 Head Constable Sushil Kumar, PW-9 Navneet Kaur, PW-10 Sukhmandeep Singh, PW-11 Sukhwant Singh, PW-12 Inderjeet Singh, PW-13 Head Constable Sudeep Kumar, PW-14 Dr.Narender Pruthi, PW-15 Dr.V.K.Gupta, PW-16 Krishan Kumar, PW-17 Dr.Anuj Sharma and PW-18 ACP Subhash Chand. Thereafter, the evidence of the prosecution was closed.

On closure of the prosecution evidence, all the incriminating circumstances, appearing in the evidence were put to accused-appellant, in his statement under Section 313 Cr.P.C. However, the accused-appellant

denied those allegations and pleaded not guilty. The plea, so taken by him,

is reproduced in verbatim, as herein given:-

“I am innocent. I owned 6 acre of land. A false case has been registered against me by the IO at the instance of complainant PW11 Sukhwant Singh, brother of deceased for forced me to get transferred my land in the name of my wife and son but I did not want to transfer my land in the name of my wife and my son Sukhman Deep, PW10. There was cordial relation between me and my wife. PW11 and PW12, brothers of deceased continuously used to interfere in my married life. During the pendency of this case, the complainant party forcibly took the possession of my land and due to this, I am mentally upset. I never raised any demand or harassed my wife at any point of time. I did not kill my wife Saravjeet Kaur. I have been falsely implicated in this case just to grab my land.”

However, no evidence was led in defence by the accused-appellant.

After hearing learned Public Prosecutor and learned defence counsel and on appraisal of the evidence brought on record, vide impugned judgment of conviction and order of sentence, accused-appellant was held guilty, convicted and sentenced, as already detailed aforesaid.

Feeling aggrieved by the aforesaid judgment of conviction and order of sentence, convict-appellant has filed the present appeal.

Lower Court record was requisitioned.

We have heard learned counsel for the appellant as well as learned State counsel and have perused the record.

At the very outset, learned counsel for the appellant has assiduously submitted that learned trial Court has not appraised the evidence in correct perspective. It has completely overlooked the fact that all the witnesses are closely related to the deceased and so are interested witnesses. Rather, the children of deceased, who have been examined, are

child witnesses and thus, their testimonies do not inspire confidence and

cannot be made basis for the conviction of the appellant. He further submits that appellant has been falsely implicated in the present case, at the behest of his brothers-in-law, with the sole purpose to grab the land of the appellant.

Thus, summing up his arguments, learned counsel for the appellant has made a prayer for acceptance of the appeal and to acquit the appellant.

On the contrary, learned State counsel has refuted the claim of the appellant. It has been submitted by learned State counsel that the trial Court has rightly concluded about the incriminating role of the appellant. In fact, it is submitted that witnesses so examined, are the most natural witnesses and their credibility, as such, cannot be challenged, solely on the basis of relationship. Furthermore, it is submitted that even though, PW-9 Navneet Kaur and PW-10 Sukhmandeep Singh are children of the deceased and the appellant, but however, they have deposed, in a very mature manner, vis-a-vis, role of the appellant. Also, it is submitted that even though, plea of false implication, in this case, has been raised by the appellant but however, there is no evidence brought on record, to so substantiate this plea. As such, a prayer has been made for the dismissal of the appeal.

So far as, the fact of death of Sarabjit Kaur is concerned, the same stands amply established from the medical evidence brought on record. PW-14 Dr.Narender Pruthi has proved the post-mortem report **Ex.P30**. Besides deposing about the detail of the injuries found on the dead body, the board of doctors has categorically stated that ***“in their opinion, the cause of death in this case is asphyxia as a result of throttling, which***

However, viscera was sent for chemical examination to rule out any associated intoxication/poisoning. As such, the fact of death of Sarabjit Kaur stands amply established.

Now, let us consider the evidence, brought on record, to establish the role of the appellant, vis-a-vis, the death of Sarabjit Kaur, his wife. The proceedings in the present case were initiated on the basis of statement **Ex.P25** got recorded by Sukhwant Singh. He has stepped into witness box as **PW-11**. Besides deposing about his relationship with Sarabjit Kaur, he has also deposed about the fact of marriage of Sarabjit Kaur taking place with Manjeet Singh and that three children, namely Navneet Kaur, Sukhmandeep Singh and Harneet Kaur were born from the said wedlock. He further categorically deposed about his nephew Sukhmandeep Singh suffering from typhoid, at the relevant time and that he was admitted in Saraswati Mission Hospital, Pehowa, on 25.11.2013. He also deposed that on 28.11.2013, his brother Inderjeet Singh had gone to enquire about the health of Sukhmandeep Singh and he returned from the hospital in the evening. At about 2.00-2.30 a.m., on 29.11.2013, his brother Inderjeet Singh received a telephonic call from Navneet Kaur that her father Manjeet Singh has killed her mother Sarabjit Kaur. Thereafter, they reached the hospital and saw the dead body of Sarabjit Kaur lying the bathroom of room No.205 of the hospital.

Besides the said witness, Inderjeet Singh, other brother of the deceased, has also stepped into witness box as **PW-12** and he has also deposed about the manner of receipt of call from Navneet Kaur, thereby, apprising about Manjeet Singh, her father, to have killed her mother Sarabjit

Kaur and then they went to hospital.

Besides the aforesaid witnesses, the other material witnesses are the children of the appellant and the deceased, namely Navneet Kaur and Sukhmandeep Singh. **PW-9** Navneet Kaur has categorically deposed about admission of her brother Sukhmandeep Singh in Saraswati Mission Hospital, Pehowa, on 25.11.2013 in room No.205. She has also deposed that on 29.11.2013, she along with her mother Sarabjit Kaur, father Manjeet Singh and sister Harneet Kaur was present in the hospital. She also deposed that at about 12.00-1.00 a.m., her father forcibly took her mother towards the bathroom of the room. Her father sat on the person of her mother and strangled her, while sitting upon her. Upon this, they started weeping and her father ran away from there. She further categorically stated that her father had killed her mother and she telephonically called her maternal uncle Inderjeet Singh and told about the incident. Likewise, **PW-10** Sukhmandeep Singh has deposed on the similar lines and has categorically deposed about his father to have killed his mother.

Throughout the arguments, much emphasis has been laid upon the witnesses, so examined, to be related to the deceased and as such, they are interested witnesses and their testimonies cannot be relied upon, to form basis for the conviction. However, the aforesaid submission is not tenable. The credibility of a witness cannot be judged, solely on the basis of his close relation with the deceased and as such, cannot be a ground to discard his testimony. There cannot be a mechanical rejection of the witness, who is related to the deceased. However, it is required to be kept in mind that each case has to be adjudicated, in the backdrop of its own factual position and the Courts have to adopt a careful approach and analyse the evidence,

box are related to the deceased, it only cautions the Court to scrutinize their statements, more carefully. In the case in hand, the witnesses, so examined, even though, are the children and brother of deceased, but they have categorically deposed about the manner of causing of the occurrence by the appellant. The presence of the children Navneet Kaur and Sukhmandeep Kaur, stands amply established from the evidence on record. **PW-15** Dr.V.K.Gupta, has been examined, who has proved the admission record of Saraswati Mission Hospital Pehowa to establish about Sukhmandeep Singh, having admitted in the hospital, on account of typhoid. Very close to the same, it is also pertinent to mention that Navneet Kaur and Sukhmandeep Singh have categorically stated about they together with the parents and other sister, to be present in the hospital, at the relevant time. The presence of said witnesses, as such, has not been disputed, in their cross-examination, by the appellant. Even, the appellant has not disputed his presence, at the spot of occurrence, at the relevant time. The telephonic call having made by Navneet Kaur to her maternal uncle, is most natural and soon after the receipt of call, the brothers of the deceased had come to the spot of occurrence and found the dead body of Sarabjit Kaur to be lying in room No.205 of the hospital. As such, the testimonies of the aforesaid witnesses, are cogent, reliable and inspire confidence. Thus, the submission, so made on account of witnesses, being related to the deceased, is hereby rejected.

Furthermore, the plea has also been taken about the children of the deceased i.e. **PW-9** Navneet Kaur and **PW-10** Sukhmandeep Singh, to be aged about 14 and 11 years respectively, at the time of alleged occurrence and as such, they are “**child witnesses**” and no reliance can be

made is without any basis. It is pertinent to mention that the trial Court before recording the testimonies of the aforesaid witnesses, had taken precaution of examining and finding out the capacity of both these witnesses, to depose in the Court. The preliminary statements of both Navneet Kaur and Sukhmandeep Singh were recorded by the trial Court and certification has also been given that children had given satisfactory answer to the questions put to them and in the opinion of the Court, they were competent to depose as witnesses. As such, the intellectual capacity of the children was appraised and only thereafter, their statements were recorded.

The evidence of the **child witness** is not required to be rejected per se, but the Court, as a rule of prudence, should consider such evidence with close scrutiny and only on being convinced about the quality and reliability thereof, can record conviction based thereon. This principle has been specifically complied with by the trial Court. Nothing, as such, has been brought on record by way of cross-examination to doubt the capacity of children, to so depose. Considering the manner of deposition of the said witnesses, learned trial Court has rightly concluded about their evidence to be concise and precise and that is specific and vivid. It has been rightly concluded about the same to be neither embellished nor embroidered. The admission of **PW-10** Sukhmandeep Singh, in the hospital, at the relevant time, stands duly established, from the admission record. Even, presence of **PW-9** Navneet Kaur, besides presence of Sukhmandeep Singh and presence of appellant as well as the deceased and other child Harneet Kaur, stands amply established from the testimonies of **PW-9** and **PW-10**. In the light of the same, it is most natural that children woke up, when their mother was

witnessed taking place of murder of their mother, at the instance of the appellant, who is their father.

Soon after the occurrence, the phone call was made by PW-9 Navneet Kaur to her maternal uncle Inderjeet Singh, which is also most natural conduct and then maternal uncles had come and then complainant Sukhwant Singh, brother of the deceased, got recorded his statement **Ex.P25**, on the basis whereof, the proceedings were initiated. The seriatim of the facts has been very clearly stated by all the material witnesses and there was no scope or time gap, to raise question of tutoring of the child witnesses. We cannot lose sight of the fact that child witnesses were not deposing against any other family member or stranger but their own father. It would call for courage and conviction to name their own father as both the children were grown up enough to understand that they were witness to a murder. In the backdrop of the aforesaid circumstances, considering the tone and tenor of the testimonies of the child witnesses, they have shown extreme maturity while deposing about the role of their father in causing the death of their mother.

The ocular version also gains momentum from the medical evidence brought on record. In the post-mortem report, it has been specifically opined by the board of doctors, who conducted the post-mortem that **“in our opinion the cause of death in this case is asphyxia as a result of throttling, which is ante-mortem and sufficient to cause death in natural course.”** However, viscera was sent for chemical examination to rule out associated intoxication/poisoning. FSL reports have come on record and Ex.P37 states about **“no common poison could be detected.”**

Even in the inquest report **Ex.P19**, it was observed that it was a **“case of**

throttling by hands". The apparent cause of death was also stated to be **"due to throttling."** Various articles belonging to the appellant were recovered from the spot of occurrence. PW-18 Sh.Subhash Chand, ACP has categorically stated about himself to have inspected the spot and found one gold kara, one iron kara and one steel gatra, two mobile phones make Nokia, from the spot and the same were taken into possession, vide recovery memo. The appellant, as such, has not disputed the said articles, to be belonging to him and he has not explained the recovery of the same, at the relevant time.

A faint attempt has also been made by learned counsel for the appellant to submit that no motive for causing of the occurrence, as such, stand established, as the appellant had been acquitted of the charge under Section 498-A IPC. However, this submission, also carries no weight. The motive is something which prompts a person to form a opinion or intention to a certain illegal act, with a view to achieve that intention. However, when there is direct eye witness account, motive, as such, pales into insignificance. As already detailed aforesaid, killing of Sarabjit Kaur by the appellant Manjit Singh has been witnessed by none other than his own children, **PW-9** Navneet Kaur and **PW-10** Sukhmandeep Singh and they have categorically deposed about the incriminating role of the appellant. In these circumstances, the establishment of motive, as such, pales into insignificance.

A faint attempt has also been made, at the behest of the appellant, about his false implication in the present case. In the statement under Section 313 Cr.P.C., the appellant had taken the plea of about his

instance of complainant **PW-11** Sukhwant Singh and **PW-12** Inderjeet Singh, brothers of the deceased, who used to interfere in his life and they wanted to get that land transferred in the name of his wife and son but he did not transfer the same. He stated that he has been falsely implicated in this case, just to grab his land. Even, he has stated in his statement that **PW-9** Navneet Kaur and **PW-10** Sukhmandeep Singh have deposed in the Court, on the asking of complainant **PW-11** Sukhwant Singh and **PW-12** Inderjeet Singh, who are their maternal uncles. However, this plea of false implication, for the purpose of transfer of land, as such, has not been established by the accused. He has not put this plea, while conducting cross-examination of the complainant **PW-11** Sukhwant Singh and **PW-12** Inderjeet Singh and also of **PW-9** Navneet Kaur and **PW-10** Sukhmandeep Singh. There is total silence qua this plea of false implication. Above all, no evidence in defence has been led, to so establish this plea. Thus, this plea of false implication appears to be a feeble plea, raised only with the purpose to wriggle out of the criminal liability. Therefore, this plea of false implication does not stand established.

Considering the evidence in entirety, learned trial Court has rightly reached the conclusion that the prosecution has successfully established the guilt of the appellant, beyond shadow of reasonable doubt. As such, the impugned judgment merits no interference.

Resultantly, present appeal stands dismissed.

(RITU BAHRI)
JUDGE

(ARCHANA PURI)
JUDGE

September 28, 2021
Vgulati

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No