

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

CRA-D-1106-DB-2010 (O&M)

Reserved on 13.09.2022

Date of decision:29.09.2022

Meeta Ram

...Appellant

Versus

State of Punjab

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE N.S. SHEKHAWAT**

Present: Ms. Sumanjit Kaur, Advocate/legal aid counsel,
for the appellant.

Mr. Ishma Randhawa, Addl.A.G., Punjab.

N.S. SHEKHAWAT, J.

The present appeal is directed against the judgment of conviction and order of sentence dated 25.08.2010 passed by the learned Sessions Judge, Sri Muktsar Sahib, whereby the accused/appellant was held guilty for the offence punishable under Section 302 IPC and was sentenced to undergo imprisonment for life and to pay a fine of Rs.3,000/- and in default thereof, to further undergo rigorous imprisonment for one year. Challenging the said verdict of conviction, the appellant has preferred the instant appeal before this Court, praying for his acquittal.

The prosecution story, as it unfolds from the report under Section 173 Cr.P.C., is that on 17.08.2006, ASI Balkar Singh along with other police officials of Police Station, Lambi was present in the area of bus stand of village Sikh Wala in a government vehicle and in the meantime

Banto wife of Jalal Ram resident of village Fatuhi Khera accompanied by Babu Singh, Sarpanch of the village and Binder Singh, Panch, came there and got her statement recorded to ASI Balkar Singh. Babu Singh, Sarpanch also attested it. ASI Balkar Singh recorded the proceedings Ex.PW7/A on the statement Ex.PW1/A, which was sent to the Police Station Lambi, on the basis of which, formal FIR, Ex.PW7/B, was recorded by ASI Harjinder Singh. In her statement, the complainant Banto stated that she had two sons. Her elder son Charna Ram, aged about 35 years, was residing separately from them in his house with his children and younger son Gurmeet Singh was residing with them in their house. There was a distance of about 60 Karams between the houses. Her son Charna Ram had purchased a house about three years back for a sum of Rs.18,000/- from Meeta Ram (appellant herein). Her son Charna Ram gave Rs.15,000/- to Meeta Ram and the remaining amount of Rs.3,000/- was promised to be paid later on. Earlier also, a dispute arose between her son Charna Ram and Meeta Ram regarding the said transaction of money. At about 08.00/09.00 PM on 16.08.2006, her son Charna Ram and Meeta Ram came together at their house. Both of them had consumed liquor together and her husband Jalal Ram was also sitting with them. At about 10.30 PM, after taking dinner, both of them went to the house of her son Charna Ram. Wife of Charna Ram along with children had gone to meet her parents. At about 12.15 AM in the night, the complainant heard the shrieks from the house of her son Charna Ram of '**Marditta Marditta**'. On hearing the noise, she and her husband Jalal Ram reached at the house of Charna Ram and saw that Meeta Ram was causing injuries to her son Charna Ram with rod and caused injuries on his head and face. She

and her husband raised alarm to save their son and Meeta Ram fled away from the spot alongwith rod. In the light of electric bulb, the complainant and her husband Jalal Ram fully identified Meeta Ram. They reached near their son Charna Ram and found that her son had died on account of the injuries. With these broad averments, the complainant lodged the FIR with the allegations that Meeta Ram had murdered her son due to money dispute between them.

After the registration of the FIR, ASI Balkar Singh (PW-7) inspected the spot, which was the house of the deceased Charna Ram and the dead body was found lying in the courtyard. Even blood had spilled on the ground near the dead body of Charna Ram. One bed-sheet, one pillow and one sheet on the cot were also stained with blood . He lifted the plain earth and the blood stained earth from the spot and prepared the parcel by properly sealing the same. He took into the possession the bloodstained bed sheet, pillow and sheet and the seals were affixed on the same. Inquest report, Ex.PW4/A was prepared by him and recorded the statement of various villagers during the inquest proceedings. The dead body of Charna Ram was sent for post-mortem examination and he also prepared the rough site plan Ex.PW7/E of the place of occurrence with correct marginal notes. The post-mortem was conducted by Dr. Rashmi, Medical Officer, Civil Hospital, Malout (PW-4) and she noticed 15 injuries. She along with other members of the Medical Board prepared the post-mortem report and pictorial diagram showing the seat of injuries. The viscera was sent to the Chemical Examiner. Later on, the report of Chemical Examiner was received and ethyl alcohol was detected in the various exhibits sent to the

Forensic Science Laboratory.

The accused was arrested on 20.08.2006 vide arrest memo Ex.PW7/G and nothing was recovered from his personal search. On 23.08.2006, the accused-appellant suffered a disclosure statement during interrogation and in pursuance of the disclosure statement, he got recovered an iron rod used in the commission of the offence and the same was taken into possession by the police vide a separate memo. Finally, the report under Section 173 Cr.P.C. was prepared and presented in the court of learned Area Magistrate. Since the offence was exclusively triable by the court of learned Sessions Judge, consequently, the same was committed to the Sessions Court.

In support of the charge, the prosecution examined 09 witnesses and 03 were given up as unnecessary. The statement of the accused/appellant was thereafter recorded under Section 313 Cr.P.C., in which the accused/appellant had taken a defence that he had been falsely implicated in the instant case on account of some money dispute with the deceased. It was a case of blind murder and the accused/appellant was arrested by ASI Balkar Singh during the intervening night of 16/17.08.2006 at 12.00 AM from village Bheetiwala, which is 20 kms away from the place of occurrence. He was not present at the place of occurrence and was present in village Bheetiwala as his scooter had developed some technical snag and he had no concern with the blind murder.

After conclusion of the trial, learned trial Court held that the prosecution had proved the case against the accused-appellant beyond the shadow of reasonable doubt and accordingly, the applicant was held guilty

for the aforesaid offence and sentenced as mentioned above.

Learned counsel for the appellant has vehemently argued that in fact Banto (PW-5) and Jalal Ram (PW-6) had not witnessed the occurrence at all. She has further submitted that it has come in the cross-examination of PW-6 Jalal Ram that there are 20 houses between his house and the house of Charna Ram. As per scaled site plan, Ex.PW9/A, houses of Desraj and Tara Chand are adjoining to the house of Charna Ram (since deceased) and they were not examined as witnesses by the prosecution to ascertain whether any shrieks of Charna Ram (since deceased) were heard as deposed by PW-5 Banto and PW-6 Jalal Ram. Still further, the version of PW-5 Banto and PW-6 Jalal Ram was that they had heard the shrieks of Charna Ram (since deceased) and went to his house. Still admittedly, they did not go to the Police Station nor informed any other respectable of the village. It appeared that both PW-5 Banto and PW-6 Jalal Ram (parents of the deceased) came to know about the occurrence during the day time and thereafter they had informed the police and other persons. It has further been submitted that there is inconsistency between the ocular and the medical evidence. Admittedly, the iron rod was recovered in pursuance of the disclosure statement suffered by the present appellant and as per the version of PW-4 Dr. Rashmi Chawla, the deceased Charna Ram had suffered 15 injuries out of which most of the injuries were incised wounds. It was opined that the cause of death of the appellant was injuries No.1 to 6, i.e. incised wounds on occipital region/parietal region/pinna. It has also been submitted that the sketch of the rod did not suggest that it had any sharp ends and was not shown to the doctor. Still further, it was a case of

blind murder and the accused was not present at the place of occurrence and has been falsely implicated in the instant case on the basis of the testimonies of related witnesses, who had falsely implicated the appellant by stating wrong facts to the police.

The above-said contentions raised by the learned counsel for the appellant have been strongly opposed by the learned counsel for the State, who submitted that the prosecution had proved the case beyond any reasonable doubt and the impugned judgment of conviction and order of sentence are legally sustainable.

We have heard learned counsel for the appellant as well as learned Additional Advocate General, Punjab at length and with their able assistance, have gone through the entire material placed on record before us.

Learned counsel for the appellant has vehemently contended that PW-5 Banto and PW-6 Jalal Ram were not the witnesses to the occurrence and even they could not hear the shrieks of Charna Ram (since deceased). Still further, they did not examine the neighbors whose houses were admittedly adjoining the house of the deceased. Even both the said witnesses, i.e. parents of the deceased, had not informed the police in the night nor informed any other villager or respectable of the village and their testimonies are liable to be disbelieved. However, we do not agree with the submissions raised by the learned counsel for the appellant. It is a case of direct evidence and both the said witnesses had mentioned the facts in detail, the manner of causing injuries and also mentioned the motive against the present appellant. Both the witnesses, who are rustic villagers, were

subjected to incisive cross-examinations, but their testimonies could not be shattered in any manner. Further, the occurrence had taken place at about mid-night and there were only few houses in between the place of residence of the parents of the deceased and the deceased. It is quite obvious that a person, who is being assaulted brutally and is being murdered, would definitely shout loudly and his shrieks could be heard at a long distance at mid-night. The house of the complainant was submitted in the same locality just a few houses away. Consequently, it was natural for them to reach at the place of occurrence and they raised the noise to save the deceased from the clutches of the accused. Still further, the law is well settled that it is the quality of the evidence, which matters and not the quantity. It is a matter of common knowledge that nowadays, nobody wants to appear as a witness in a case of murder. Moreover, the complainant and the deceased belonged to a very poor family and certainly nobody came forward to help the family. It is evident from the fact that even nobody accompanied them in the night to report the matter to the police and the matter was reported the next morning to the local police by the complainant.

Learned counsel for the appellant has further submitted that PW-5 Banto and PW-6 Jalal Ram are both related witnesses and they had falsely implicated the appellant in a criminal case. It was a case of blind murder and the accused/appellant was not present at the place of occurrence. The law related to appreciation of evidence of a related witness has been summed up by the Hon'ble Supreme Court in ***Gangabhavani Vs. Rayapati Venkat Reddy and others, 2013 (4) RCR (Crl.) 853***, wherein it has been observed as under:-

“11. It is a settled legal proposition that the evidence of closely related witnesses is required to be carefully scrutinised and appreciated before any conclusion is made to rest upon it, regarding the convict/accused in a given case. Thus, the evidence cannot be disbelieved merely on the ground that the witnesses are related to each other or to the deceased. In case the evidence has a ring of truth to it, is cogent, credible and trustworthy, it can, and certainly should, be relied upon.

(Vide: Bhagalool Lodh & Anr. v. State of U.P., 2011 (5) R.C.R. (Criminal) 780: 2011 (5) Recent Apex Judgments (R.A.J.) 305 : AIR 2011 SC 2292; and Dhari & Ors. v. State of U. P., 2013 (1) R.C.R. (Criminal) 131: 2012 (6) Recent Apex Judgments (R.A.J.) 227: AIR 2013 SC 308).

12. In State of Rajasthan v. Smt. Kalki & Anr. AIR 1981 SC 1390, this Court held:

“5A. As mentioned above the High Court has declined to rely on the evidence of P.W. 1 on two grounds: (1) she was a "highly interested" witness because she "is the wife of the deceased". For, in the circumstances of the case, she was the only and most natural witness; she was the only person present in the hut with the deceased at the time of the occurrence, and the only person who saw the occurrence. True it is she is the wife of the deceased; but she cannot be called an 'interested' witness. She is related to the deceased. 'Related' is not equivalent to 'interested'. A witness may be called 'interested' only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eye witness in the circumstances of a case cannot be said to be 'interested'. In the instant

case P.W.1 had no interest in protecting the real culprit, and falsely implicating the respondents.”

(Emphasis added)

(See also: Chakali Maddilety & Ors. v. State of A. P., AIR 2011 (6) R.C.R. (Criminal) 1096: AIR 2010 SC 3473).”

In fact, no doubt, PW-5 Banto and PW-6 Jalal Ram are the parents of the deceased, but their testimonies cannot be discarded on the ground that they are related to the deceased. The legal position in this regard is that there cannot be any hard and fast rule that the evidence of interested witnesses cannot be taken into consideration and they cannot be termed as a witnesses. But the only burden that would be cast upon the courts in those cases is that the courts have to be cautious while evaluating the evidence to exclude the possibility of false implication. Relationship can never be a factor to affect the credibility of a witness as it is always not possible to get an independent witness. In the instant case also, we have carefully scrutinized the evidence of PW-5 Banto and PW-6 Jalal Ram and found both the witnesses to be credible evidence and their testimonies have a ring of truth around it. Thus, the learned trial Court rightly believed the testimonies of PW-5 Banto and PW-6 Jalal Ram, as their presence at the place of occurrence was natural and believable.

Learned counsel for the appellant has also referred to minor variations in the statements of various witnesses. It is a matter of common knowledge that the witnesses deposed before the Court after a gap of several months and such minor variations/contradictions are bound to creep in the testimony of such witnesses. Such minor contradictions in the depositions of

the witnesses are bound to be ignored as the same cannot be termed as improvements. Consequently, we find that the statements of various prosecution witnesses have been correctly relied upon by the learned trial Court to base the judgment of conviction.

Learned counsel for the appellant has vehemently argued that there is inconsistency between the ocular and the medical evidence. It has been argued that the injuries found on the person of the deceased could not have been caused by a blunt weapon and the ocular account is liable to be disbelieved by this Court. In fact, the position of law in cases where there is a contradiction between the medical evidence and ocular evidence stands crystalised to the effect that though the ocular testimony of a witness has greater evidentiary value vis-à-vis medical evidence. When medical evidence makes the ocular testimony improbable, that becomes a relevant factor in the process of evaluation of evidence. However, where the medical evidence goes so far that it completely rules out all the possibility of the ocular evidence being truth, the ocular evidence may be disbelieved. Tested on the touchstone of the above-said principles of law, we find that there is no substance in the argument raised by the learned counsel for the appellant. In fact, the prosecution examined PW-4 Dr. Rashmi Chawla, who along with members of Medical Board had conducted the post-mortem examination on the dead body of Charna Ram. It is apparent from her testimony that not even a single question or suggestion was put to the doctor in this regard. The doctor was the best witness to depose with regard to the nature of injuries, manner in which the injuries were caused and as to whether the injuries were possible with the weapon of offence recovered

from the accused-appellant or not. However, no cross-examination was conducted by the defence on the said witness and the argument is liable to be rejected outrightly. Still further, as observed in the instant case, the ocular account is found to be trustworthy and it has to be given preference vis-a-vis medical evidence. Further, keeping in view the seat of injuries, it can be safely concluded that even the injuries suffered by the deceased were quite possible with the weapon of offence, i.e. rod.

Apart from that, there were other several circumstances, which unerringly proved the guilt of the appellant on record. As per the case of the prosecution, the deceased and the appellant had consumed liquor prior to the occurrence and under the influence of liquor, the appellant caused injuries on the person of the deceased indiscriminately with an iron rod. The viscera was sent to the Chemical Examiner and as per report of the Chemical Examiner, ethyl alcohol was detected in the viscera and this further strengthens the case of the prosecution. Apart from that, the prosecution examined PW-8 Baldev Singh ALM/SSA, Punjab State Electricity Board to show that there was a regular electricity supply to the said village from 10.00 PM to 04.00 AM in the night intervening of 16/17.08.2006 and the eye witnesses had witnessed the occurrence in the light of bulb, which was there in the courtyard of the deceased. Even the investigation was conducted by PW-7 ASI Balkar Singh, whose testimony has been duly supported by the other police officials. Further, the said witnesses were also subjected to lengthy cross-examinations, however, their testimonies could not be shaken in any manner.

In view of the above reasoning as above, we do not find any

merit in the contentions raised on behalf of the appellant in the present appeal, the same are, therefore, rejected. Thus, we are unable to persuade ourselves to interfere with the impugned judgment of conviction and order of sentence dated 25.08.2010 passed by the learned Sessions Judge, Sri Muktsar Sahib. Resultantly, the present appeal stands dismissed, being devoid of any merit and the above-said impugned judgment passed by the learned Sessions Judge, Sri Muktsar Sahib is upheld. The appellant be taken in custody forthwith, if he is on bail, to serve the remaining part of his sentence.

Pending application, if any, is also disposed off, accordingly.

Case property, if any, be dealt with, and, destroyed after the expiry of period of limitation. The trial Court record be sent back.

(SURESHWAR THAKUR)
JUDGE

29.09.2022

mks

(N.S. SHEKHAWAT)
JUDGE

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO