

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-D-1101-DB-2012 (O&M)

Date of decision:07.07.2022

Bikkar Singh

....Appellant

V/s.

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Ms. Kamaldeep Kaur, Advocate for the appellant.

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

Ritu Bahri, J.

The appellant has come up in the appeal against the judgment dated 08.08.2012 passed by learned Additional Sessions Judge, Sangrur whereby he has been held guilty under Section 302 IPC and sentenced to undergo imprisonment for life and to pay a fine of Rs.10,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one year.

The case set up by the prosecution is that Paramjit Kaur alias Rani, a daughter of the complainant, Maghar Singh, was married with the appellant Bikkar Singh about 12-13 years prior to the incident of 17.05.2011. Bikkar Singh was having a dispute with his brother Pargat Singh regarding construction of partition wall against the wishes of Paramjit Kaur. On 17.05.2011 Pargat Singh and his wife Rani Kaur were getting constructed that partition wall. On being so told by Paramjit Kaur, through a messenger, at about 2 p.m. Maghar Singh alongwith his son Amrit Singh reached to the matrimonial house of Paramjit Kaur alias Rani and saw that

Bikkar Singh was having an altercation with Paramjit Kaur. He gave blows with a Daah to Paramjit Kaur who raised her hands to ward off those blows and sustained injuries on both of her hands. In order to save herself, Paramjit Kaur ran away and tried to hide herself in a bed room. Bikkar Singh also followed her. Maghar Singh and Amrit Singh also followed them and saw Bikkar Singh giving injuries with his Daah on the head and neck of Paramjit Kaur as a result of which she fell dead on the floor. Thereafter, Bikkar Singh fled away from the spot with his Daah. On coming to know about this fact, Pargat Singh and Rani Kaur also fled from there. As per Maghar Singh, the motive behind the incident was that Paramjit Kaur was against raising partition wall by Pargat Singh and since Bikkar Singh was helping his brother in raising the wall against her wishes, he assaulted her for obstructing them. On the basis of the statement made by Maghar Singh, an FIR was got registered and after completion of entire investigation, challan against the appellant-Bikkar Singh was presented in the Court of learned Area Magistrate. Since the offence was under Section 302 IPC, the case was committed to the Court of learned Sessions Judge, Sangrur for trial vide order dated 30.08.2011.

Charges were framed against the appellant and the prosecution examined PW1 Maghar Singh, complainant, PW2 Amrit Singh @ Laddu, PW3 Dr. Rajiv Kumar Jindal, Medical Officer, Civil Hospital, Sunam, PW4 SI Gurcharan Singh, PW5 HC Prem Singh and PW6 HC Suresh Kumar. The learned Additional Public Prosecutor for the State tendered into evidence report of Forensic Science Laboratory (Ex.PQ) and closed the prosecution evidence. Statement of the appellant was recorded under Section 313 Cr.P.C. where all the incriminating evidence led by the

prosecution were produced before him and he reiterated his innocence and stated that he was being falsely implicated in the case.

The trial Court framed one issue that whether appellant Bikkar Singh committed murder of Paramjit Kaur by Daah on 17.05.2011.

The trial Court referred to the deposition made by PW1 Maghar Singh, who was the complainant and had given his statement as EX.PA to the police on the basis of which formal FIR was registered. His version was that he reached at the place of occurrence and there was a dispute regarding construction of partition wall. His son, Amrit Singh @ Ladoo accompanied him to the house of Paramjit Kaur. Amrit Singh @ Ladoo corroborated the version of the complainant. Daah (Ex.P1) had been recovered from the spot that had been used for inflicting injuries No. 1 to 8 on the person of Paramjit Kaur @ Rani which was recovered on the disclosure statement of Bikkar Singh. As per the FSL report, Daah contained human blood.

Learned counsel for the appellant had taken a plea that the appellant had been falsely implicated as Maghar Singh was the father of Paramjit Kaur and was an interested witness. Further, Maghar Singh was inimical towards the appellant. Initially Maghar Singh had deposed that Pargat Singh and his wife were getting construction of partition wall and he was informed by Paramjit Kaur about it through a message. However, in cross-examination, Maghar Singh deposed that partition wall had been raised about 4-5 days before the date of occurrence and it was not stated in Ex.PA that partition wall was being raised by Bikkar Singh and his brother Pargat Singh on 17.05.2011. When he was confronted with his statement Ex.PA, he stated that he had not stated so to the police. He further deposed

in his examination that Bikkar Singh fled from the scene of occurrence through a hole in the wall adjoining his house and the house of Karnail Singh and later on that hole was noticed by the police during spot inspection. PW4 Gurcharan Singh, Investigating Officer, had deposed in his cross-examination that he did not notice any hole in any of the walls in the house of the appellant. However, PW2 Amrit Singh had deposed in his cross-examination that Bikkar Singh ran away from the spot through the street from a distance of 3 feet from them. PW1 Maghar Singh deposed that no one from the neighbourhood came to the spot even after they raised hue and cry, whereas PW2 Amrit Singh deposed that lots of people got collected there. PW1 Maghar Singh deposed that gate of the house was lying bolted when they reached there and PW2 Amrit Singh opened it by scaling 5' high adjoining wall, whereas Amrit Singh deposed that their main gate was lying open and rear room of the house was visible from the street. Maghar Singh deposed in cross-examination that he met the police party on 22.05.2011 at about 10 a.m. and once he saw the appellant in their custody, he returned to his village. However, PW4 Gurcharan Singh deposed that Maghar Singh arrived at 2:30 p.m. and the appellant was arrested at 2:30 p.m. Learned counsel for the appellant had argued that there were material discrepancies given by PW1 Maghar Singh and PW2 Amrit Singh and in this background, appellant had been falsely implicated in this case.

The trial Court had further examined Kulwinder Singh who was the son of the appellant as DW1 and Mangal Singh as DW2. Kulwinder Singh had deposed that on the fateful day, he had not gone to school and was present in the house alongwith his mother when some unidentified persons attacked her and caused her death. However, in cross-examination,

he admitted that he had reported in the school on that day and he had returned home with the oral permission of his teacher but no teacher was examined to prove that Kulwinder Singh left the school after oral permission on that day. Hence, the trial Court came to the conclusion that Kulwinder Singh had gone to the school on that day and there was no occasion to believe that he had witnessed the incident. Even if the murder had taken place at the house of Bikkar Singh, then why Bikkar Singh had not got registered any FIR with respect to death of his wife and hence defence version was not taken into account. It was further improbable that initially Kulwinder Singh reported the matter to the police but when Maghar Singh came to the police, he got the case registered against Bikkar Singh and took him away. It was highly improbable that when a murder took place in a residential house in a village in broad day light then police would let real culprits ran away and arrest Bikkar Singh in a false case. The appellant had taken a plea that Maghar Singh was inimical towards him but he did not lead any evidence to prove his version.

In the present case, as per the ocular evidence of the witnesses PW1 and PW2 corroborated by the medical evidence that injuries were caused by appellant Bikkar Singh with Daah and Dr. Rajiv Kumar Jindal who appeared as PW3 deposed that Daah (Ex.P1) can be weapon for inflicting injuries No. 1 to 8 on the person of Paramjit Kaur which was recovered on the disclosure statement of appellant Bikkar Singh. As per the FSL report, Daah was stained with human blood. The circumstantial evidence was sufficient to prove that Bikkar Singh had murdered his wife Paramjit Kaur with Daah (Ex.P1) and he was convicted under Section 302 of the Indian Penal Code.

Learned counsel for the appellant argued that there are discrepancies in the versions of PW1 Maghar Singh and PW2 Amrit Singh. On the one side, PW1 Maghar Singh deposed that Pargat Singh and his wife were getting construction of partition wall and on the other side, in his cross-examination, he deposed that partition wall had been raised about 4-5 days before the date of occurrence. PW2 Amrit Singh had deposed in his cross-examination that Bikkar Singh ran away from the spot through the street from a distance of 3 feet from them. However, PW1 Maghar Singh deposed that Bikkar Singh fled from the scene of occurrence through a hole in the wall adjoining his house and house of Karnail Singh. PW1 Maghar Singh deposed that no one from the neighbourhood came to the spot even after they raised hue and cry, whereas PW2 Amrit Singh deposed that a lot of people got collected there. PW1 Maghar Singh deposed that gate of the house was lying bolted when they reached there and PW2 Amrit Singh opened it by scaling 5' high adjoining wall, whereas PW2 Amrit Singh deposed that their main gate was lying open and rear room of the house was visible from the street.

The trial Court had rightly observed that these are minor discrepancies which occurred in the testimony of the witnesses as the observation power of each individual is different.

In the present case, there is no delay in approaching the police after the murder of Paramjit Kaur alias Rani. The police came immediately and from the place of the incident, they recovered Daah (Ex.P1) which was stained with human blood as per FSL report. It was also not in dispute that there was dispute between two brothers with respect to construction of partition wall. The testimony of Kulwinder Singh who was the son of the

appellant as DW1, was found to be false as earlier he deposed that on the date of occurrence, he had not gone to school and was present in the house alongwith his mother when some unidentified persons attacked her and caused her death, but later on, he changed his version that he had reported in the school on that day and he had returned home with the oral permission of his teacher but no teacher was examined to prove that Kulwinder Singh left the school after oral permission on that day. The trial Court had rightly came to the conclusion that Kulwinder Singh had gone to the school on that day and there was no occasion to believe that he had witnessed the incident. The conviction has been rightly based on the ocular evidence of the witnesses PW1 and PW2 corroborated by the medical evidence such as FSL report which proved that Daah (Ex.P1) contained human blood and as per the testimony of PW3 Dr. Rajiv Kumar Jindal, Daah (Ex.P1) can be weapon for inflicting injuries No. 1 to 8 on the person of Paramjit Kaur which was recovered on the disclosure statement of appellant Bikkar Singh.

No ground to interfere in the judgment dated 08.08.2012 passed by learned Additional Sessions Judge, Sangrur, is made out.

Appeal is hereby dismissed. Pending applications also stand dismissed.

(RITU BAHRI)
JUDGE

07.07.2022
Divyanshi

(ASHOK KUMAR VERMA)
JUDGE

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