

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-880-DB-2010 (O&M)
Reserved on: 09.09.2022
Date of decision: 13.09.2022

Rajesh @ Raju

...Appellant(s)

Versus

State of Haryana

...Respondent(s)

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

Present: Mr. Vinod Ghai, Senior Advocate with
Ms. Kanika Ahuja, Advocate,
for the appellant.

Mr. P.P. Chahar, DAG, Haryana.

N.S. SHEKHAWAT, J.

The present appeal is directed against judgment of conviction dated 11.08.2010 and order of sentence dated 18.08.2010 passed by the learned Additional Sessions Judge, Rohtak, whereby the appellant was held guilty for the commission of offences punishable under Sections 302, 324 of Indian Penal Code and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC & ST Act') and was sentenced as follows:-

Offence	Sentence
302 IPC	To undergo rigorous imprisonment for life along with fine of Rs.5,000/- and in default of payment of fine, to further undergo rigorous imprisonment of 03 months;

324 IPC	To undergo rigorous imprisonment of one year along with a fine of Rs.1,000/-, in default of payment of fine, to further undergo rigorous imprisonment of one month;
3(2)(v) of SC & ST Act	To undergo rigorous imprisonment for life along with a fine of Rs.5,000/-, in default of payment of fine, to further undergo rigorous imprisonment of 03 months

All the substantive sentences were ordered to run concurrently.

In the present case, the law was set in motion on 14.09.2006 with the receipt of a VT message in Police Station, Kalanaur from Police Post, Post Graduate Institute of Medical Sciences, Rohtak (for short ‘PGIMS, Rohtak’) regarding the admission of three injured, namely, Munni Devi wife of Ram Niwas, Pawan son of Ram Niwas and Meghna daughter of Ram Niwas, all residents of Village Pilana, due to acid burn injuries. SI Rajinder Singh along with other police officials reached there and completed the necessary formalities and ultimately recorded the statement of Nafe Singh (Ex.PC), on the basis of which, FIR, Ex.PW17/A, was registered. The complainant stated that he had two brothers and five sisters. His sister, namely, Munni Devi was married with Ram Niwas son of Manni Ram. Ram Niwas, husband of Munni Devi and father of Sachin, Pawan and Meghna, had expired four years back. Munni Devi was residing with her children in a separate house and her parents-in-law were also residing with her. On the intervening night of 13/14.09.2006, at about 04.00 AM, a telephonic call was received by Kamlesh, i.e. wife of the complainant and told him that acid

had been poured upon Munni Devi and they were called by them. The complainant along with his family members came to village Pilana and it came to his notice that acid was also poured upon Pawan and Meghna and they had been shifted to PGIMS, Rohtak. The complainant reached there and came to know that Munni Devi had expired due to injuries caused by pouring of acid and her dead body was lying in the mortuary of Emergency, whereas Pawan and Meghna (children of Munni Devi) were admitted in Ward No.5 of PGIMS. Later on, Pawan (son of Munni Devi) also died due to injuries suffered by him, however, Meghna (daughter of Munni Devi) survived.

During the course of investigation, the appellant was nominated as an accused by the said victims for the commission of offences of throwing acid upon them. SI Rajinder Singh took the dead body of deceased Munni Devi and inquest proceedings (Ex.PW24/B) were conducted on the identification of Ravi son of Nafe Singh and Jage Ram. He recorded the statements of the witnesses under Section 175 Cr.P.C. He also recorded the statements of various witnesses under Section 161 Cr.P.C. He also recorded the statement of injured Pawan. Vide application Ex.PW24/D, the Investigating Officer sought the opinion of doctor, who vide Ex.PW24/C opined that the patient was fit for making the statement. Accordingly the statement of Pawan (since deceased) was recorded, which is Ex.PW24/E. In the said statement, injured Pawan (since deceased) clearly stated that the appellant had poured acid on him, his sister Meghna and his mother Munni Devi. He further stated that the accused fled after throwing acid upon them and his mother had died because of the injuries caused by acid. During the course of investigation, the medical opinions were sought by the police; the

place of occurrence was demarcated vide memo Ex.PW19/A; the rough site plan of the pond was prepared vide Ex.PW24/I and the investigation was completed. Finally, the challan under Section 173 Cr.P.C. was presented only against the present appellant, who was put to trial by the learned trial Court.

Learned Senior counsel appearing on behalf of the appellant has earnestly contended that the prosecution has miserably failed to prove the guilt of the appellant. He assailed the statements of star witnesses of the prosecution, i.e., PW-1 Kitabo (mother-in-law of Munni Devi) and PW-11 Meghna @ Vandana @ Kusum to contend that they are the most unreliable witnesses. Statement of PW-1 Kitabo carries no weight, as she had not seen the incident at all nor she had seen the accused escaping after the incident. Still further, he contended that right from the beginning, the prosecution had come up with the plea that the name of daughter of Munni Devi was Meghna, whereas the said witness appeared as Vandana and signed as Kusum. He has further argued that child witness Meghna (PW-11) was a tutored witness and had deposed before the Court on instructions from PW-6 Nafe Singh-complainant, who was accompanying her at the time of deposition. He has also submitted that two eye witnesses namely Ranbir (PW-3) and Chand Ram (PW-5) had not corroborated the version of the prosecution. Learned Senior counsel also submitted that there were inconsistencies in the statements of various prosecution witnesses.

On the other hand, learned State counsel has refuted all the contentions raised by the learned Senior counsel representing the appellant.

We have heard learned Senior counsel for the appellant as well as learned Deputy Advocate General, Haryana at length and with their able

assistance have gone through the entire material placed on record before us.

The case set up by the prosecution is that the present appellant had poured acid on three persons namely Munni Devi, Pawan and Meghna, who were the members of same family. Munni Devi and her son Pawan Kumar unfortunately succumbed to the injuries suffered by them in the said acid attack by the appellant, whereas Meghna (daughter of Munni Devi) was seriously injured. To prove the case of the prosecution, PW-1 Kitabo, mother-in-law of Munni Devi (since deceased), was examined, who duly identified the accused-appellant present in the Court. She deposed that the accused/appellant was behind the deceased (Munni Devi) for the last two months of the occurrence and he wanted to marry Munni Devi, but she did not accede to the wishes of the accused/appellant and on account of that, he had threatened her of dire consequences. On the date of occurrence, Munni Devi was sleeping in her room with her son Pawan and her daughter Meghna on the side of the bed. PW-1 Kitabo further deposed that she was sleeping outside her house and the door of the house was open. Munni Devi cried on suffering the injuries and PW-1 Kitabo woke up. She saw the accused and identified him. Even the accused threatened PW-1 Kitabo and asked her not to disclose the matter to anybody otherwise her entire family would be eliminated. Munni Devi came out and became unconsciousness. She entered the room and found the bed and clothes lying on it damaged by acid. All the three injured were shifted to PGIMS, Rohtak, where Munni Devi died and injured Pawan also expired after three months of the occurrence. Her statement has been duly corroborated by PW-2 Manni Ram (father-in-law of Munni Devi), who also deposed on similar lines. Both the witnesses have proved the case of the prosecution and the

appellant-accused was duly identified in the Court. PW-2 Manni Ram also submitted that the accused-appellant desired to develop illicit relations with Munni Devi, but she did not accede to his demand and the accused had threatened that in case she would not develop illicit relations, he would deface her. Both the witnesses have supported the case of the prosecution in all material particulars and had been subjected to lengthy cross-examinations by the defence, but the testimonies of said witnesses remained unshaken.

There is no substance in the contention raised by learned Senior counsel for the appellant that PW-3 Ranbir, PW-4 Satbir and PW-5 Chand Ram had not supported the case of the prosecution. A perusal of the testimonies of the said witnesses clearly shows that they also stated that Munni Devi wife of Ram Niwas and her children Pawan and Meghna had suffered injuries on account of acid and they were shifted to PGIMS, Rohtak by them.

Learned Senior counsel for the appellant has further assailed the testimony of PW-11 Vandana @ Meghna @ Kusum on the ground that while appearing as PW-11, she disclosed her name as Vandana and signed as Kusum, whereas as per the case of the prosecution, Meghna had suffered the injuries. However, from a perusal of the testimony of PW-11, it is apparent that she had wisely replied to the questions put to her by the learned trial court, which recorded its satisfaction that the witness can give the answer in proper manner and she was permitted to be examined as a competent witness. In the opening lines of her testimony, she stated that she was known by three names, i.e. Vandana, Kusum and Meghna. She identified the accused present in the Court and clearly stated that he had

thrown acid on her, her mother and her brother. She further stated that due to the injuries sustained from acid, her mother and brother had died and she had received acid burn injuries on the right side of her face. Even the said child witness was subjected to searching cross-examination by the defence, however, she withstood the test of cross-examination. The child had proceeded to answer all questions wisely, without any fear, whatsoever, and proceeded to record her testimony before the Court as a competent witness. We have gone through her testimony and do not see any reason to doubt her evidence. She was the most natural witness, who had been sleeping with her mother at the relevant time. Even Pawan (since deceased) was also a small child and was sleeping with his mother at the time of the unfortunate incident. It is also relevant to mention here that Meghna (injured) was the only daughter in the family as she had two elder brothers. It is a matter of common experience that out of love and affection, the only girl child is addressed with different names in the family. Thus, this Court is of the considered view that the testimony of PW-11 Vandana @ Kusum @ Meghna, aged 07 years, inspires full confidence and can be the sole basis of conviction of the appellant in the instant case.

Still further, the ocular account of the prosecution was duly corroborated by the statements of PW-16 Dr. S.S. Malik, PW-21 Dr. Ajit Singh Rathi, PW-25 Dr. Kamla Verma, PW-6 Dr. J.K. Bhalla and PW-29 Dr. Mahabir Singh. PW-16 Dr. S.S. Malik, who was posted as Causality Medical Officer at PGIMS, Rohtak, medico legally examined Munni Devi, aged 30 years, Pawan, aged 06 years and Meghna @ Kusum, aged 04 years on 14.09.2006 and proved the MLRs of all the three injured. He had sent ruqa along with copies of MLRs regarding the injured, Munni Devi, Pawan

Kumar and Meghna to Police Post, PGIMS, Rohtak. He clearly stated that injured Munni Devi succumbed to the injuries at about 07.20 AM on 14.09.2006 and he again sent ruqa to inform about the death of Munni Devi. He had also tendered his opinion with regard to the injuries suffered by the injured. PW-21 Dr. A.S. Rathi, who was posted as Professor, Department of Burn and Plastic Surgery PGIMS, Rohtak, opined that the condition of injured Pawan was serious and was dangerous to life. Pawan later on expired on 09.12.2006 due to the injuries suffered by him.

The prosecution further examined PW-25 Dr. Kamla Verma, who medico legally examined Rajesh-accused/appellant on 19.09.2006. She found the following injuries on the person of appellant:-

“wide spread abrasions were seen on the front of both thigh and both knee joint which extended up to upper 1/3 of the both legs. A blue chemical (some medical substance eg. GV paint) had been applied over the injury area. There was presence on scab over the injury which made it injury is about 5 days old. The blue medicine had been applied by some private practitioner.”

The above-said testimony of Dr. Kamla Verma further strengthens the case of the prosecution as the accused in the process of throwing the acid, had himself suffered injuries on his both legs and other parts of the body. He was examined on 19.09.2006 and the injuries were stated to be 05 days old. Consequently, the testimony of PW-25 Dr. Kamal Verma conclusively proves the involvement of the appellant in the commission of the crime.

The prosecution further examined PW-26 Dr. J.K.Bhalla, who conducted the post-mortem on the dead body of Munni Devi. Dr. Mahabir

Singh was examined as PW-29, who had rendered the opinion with regard to the injuries suffered by Pawan and Meghna. Still further, Dr. Amita was examined as PW-31, who conducted post-mortem on the dead body of Pawan on police request, Ex.PW31/C. The post-mortem report was exhibited as PW31/B. Various medical experts, as stated above, were cross-examined at length and they fully supported the case of the prosecution. Consequently, the case of the prosecution was proved beyond any doubt. Even the reports of Forensic Science Laboratory were duly proved on record by the prosecution, which showed the presence of sulfuric acid in various exhibits sent for laboratory examination.

Still further, the prosecution examined various witnesses, who remained associated during the process of investigation. SI Rajinder Singh was examined as PW-24, who had conducted most of the initial investigation. He proved the factum with regard to formal registration of the FIR, conducting of inquest proceedings and recording of statements of the victims under Sections 175/161 Cr. P.C. Even he had given the detailed account of various steps of investigation conducted by the local police, which came to the firm conclusion that the accused/appellant had committed the said offence. The prosecution also examined various other witnesses in this regard and it would not be necessary to refer to their testimonies, for the sake of brevity of the matter.

In view of the above, we find no illegality or impropriety in the findings recorded by the learned trial Court, warranting interference by this Court. Consequently, the present appeal is hereby dismissed, being devoid of any merit. Resultantly, the impugned judgment of conviction dated 11.08.2010 and order of sentence dated 18.08.2010 passed by the

learned Additional Sessions Judge, Rohtak are 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

(N.S. SHEKHAWAT)
JUDGE

13.09.2022
mks

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO