

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-294-DB -2016
Date of Decision:-03.02.2022

SUKHBIR Appellant

Vs.

STATE OF HARYANARespondent

CORAM: *HON'BLE MR. JUSTICE AJAY TEWARI*
HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Bijender Dhankhar, Advocate
for the applicant-appellant.

Ms. Shruti Jain Goyal, DAG Haryana.

PANKAJ JAIN, J.

The appellant is aggrieved against the judgment passed by Sessions Judge, Palwal, whereby he has been convicted in FIR No.170 dated 25.03.2014 for offence punishable under Section 302 IPC and sentenced to undergo imprisonment for life and to pay a fine of Rs.25,000/-.

The appellant is convicted of murdering his wife Ranjana. As per prosecution, a ruqa was received from General Hospital Palwal, regarding admission of Ranjana, resident of village Deeghot, who was admitted in burnt condition. Keeping in view her medical state, she was referred to Safdarjung Hospital, Delhi. After the doctors opined that she was not fit to

make statement, statement of her brother namely Sonu Mohanti was recorded. As per his statement, Ranjana was married to accused Sukbir in the year 2008. There was a discord between them from the beginning and accused Sukhbir used to maltreat Ranjana by giving her beatings without any rhyme or reason. Twice she left her matrimonial house and went to parental house in Jharkhand. However, she was sent back. Lastly, in January 2014, Sukhbir visited Jharkhand to bring Ranjana back. He assured that he will not maltreat her and thus Ranjana was sent back by her parents. In order to ensure that Ranjana feels safe, the complainant accompanied her and started living in the same premises. On the fateful day i.e. 24.03.2014 at about 6:00-7:00 PM the accused started beating Ranjana in drunken condition. With the intervention of complainant, Ranjana could be saved. At about 12:00 mid night, he woke up to the shrieks of his sister and found her engulfed in fire. Accused was present in the room. On seeing the complainant accused fled away. His sister disclosed him that accused took her to his room and sprinkled kerosene over her and lit fire with matchstick.

On 28.03.2014, doctors opined deceased-Ranjana to be fit to make statement. Her statement was recorded by Nathu Ram, Executive Magistrate (Chanakpuri), Office of District Magistrate, New Delhi.

Deceased-Ranjana in her statement on 28.03.2014 narrated that:-

“I got married in 2008 with Sukbir and I have two children. My age is 34 years. My husband is a Driver, who normally, used to beat me after consuming liquor. So due to this reason, I came to my village Jharkhand. In January, 2014 I came to village Dighot from Jharkhand. My brother Sonu also came with me so that the quarrel could not take place

between us. This dispute oftenly continued due to close relation between my husband and my sister-in-law (Jethani) and her husband was brought twice during night. On 24.03.2014, on the above said matter, he quarreled with me in drunken state. After quarrel, both went to sleep in their respective rooms. My brother was also sleeping with my children, after one hour he came again and broke open the hasp of my room and after quarrel, he went away from there. After that, my room was without hasp and we slept after locking the room. He came again thirdly at about 12.00 and took me in his room and quarreled with me and sprinkled kerosene oil over my body and lit the fire with matchstick, which was taken from stove. As the fire spreaded, I started crying, then my husband ran away from there after hearing my shrieks by opening the hasp, my brother also came there after hearing my shrieks and poured water on my body and extinguished the fire and on hearing the noise, all my family members came and took me to Government Hospital, Palwal from where I was referred to Safdarjung Hospital, Delhi for treatement. I was set ablaze by my husband, so the legal action be taken against him. This dispute oftenly continued due to relation between my husband and my sister-in-law (Jethani) and I had already brought my husband twice from the bed of my Jethani during night. Her name is Rajwati. I got recorded my statement, heard and admitted to be correct".

Ranjana succumbed to her injuries on 05.05.2014. Aforesaid Nathu Ram, who recorded the dying declaration of Ranjana appeared as PW9. As per postmortem report on record the cause of death is due to septicaemia as a result of infected ante-mortem thermal burn injuries involving about 40% of total body surface area.

The accused was tried for offence punishable under Section 302 IPC for having murdered his wife. Complainant Sonu Mohanti was declared hostile.

On evaluating the evidence on record, the learned trial Court found that:-

"The fact that PW1 has turned hostile is undoubtedly a relevant consideration but is not the sole determinative factor for deciding the guilt or

for otherwise of the deceased. With these observations, it is held that the dying declaration of the victim as recorded by PW9 on 28.03.2014 is worthy of reliance and fully proves that the accused had immolated the victim on the intervening night of 24/25.03.2014. The accused has failed to prove that her statement was result of any tutoring, prompting or was product of imagination or that she was not fit to make statement. The circumstance of PW1 turning hostile and not supporting the prosecution version might be because of some out of Court settlement or due to any other person. The dying declaration of the victim when tested on the anvil of admissibility is fully admissible and no intrinsic infirmity could be pointed out in this statement. Hence, in my opinion, the same deserves to be relied upon without corroboration from any other source and while accepting the same, it stands fully proved that the victim had died due to sustaining burn injuries caused by the accused by immolating her with any intention to kill her and in this way he proved to have committed the murder of the victim”.

We have heard, learned counsel for the parties and have carefully gone through the record of the case.

Learned counsel for the appellant has argued that the complainant having resiled from his statement, dying declaration alone is not sufficient to hold the appellant guilty.

On the other hand, counsel for the State contends that, as per settled law once the Court has come to the conclusion that the dying declaration was the truthful version, it does not need any corroboration.

Learned counsel for the appellant has not been able to point out any factual or legal infirmity to disregard the statement of a victim which is available on the record in the form of dying declaration. PW9 Nathu Ram who recorded the statement of deceased-Ranjana has proved the statement of the victim. No suggestion whatsoever was put to PW9 to erode the testimony. Medical opinion with respect to her physical state to depose is on record.

It is trite law that, if the Court is satisfied that the dying declaration is true and voluntary it can base conviction on it, without corroboration as held by Apex Court in State of UP Vs. Ram Sagar Yadav (1985) 1 SCC 552. In our view, dying declaration of the victim proved on record proves the guilt of the appellant beyond doubt.

Finding no merit in the present appeal the same is ordered to be dismissed.

(AJAY TEWARI)
JUDGE

(PANKAJ JAIN)
JUDGE

03.02.2022
Amandeep

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