

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

615

CRA-D-286-DB of 2014 (O&M)

Reserved on:20.09.2022

Date of Decision: 29 .09. 2022

Randhir Singh

...Appellant

Versus

State of Haryana

... Respondent

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

Present : Mr. Bijender Dhankhar, Advocate (Amicus Curiae)
for the appellant.

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

N.S.SHEKHAWAT, J.

The present appeal is directed against the judgment of conviction dated 22.01.2014 and order of sentence dated 25.01.2014 passed by the learned Additional Sessions Judge, Bhiwani, whereby the present appellant was convicted under Section 302 IPC and Section 27 of Arms Act and sentenced as under:-

Offence	Sentence	Fine	In default
302 IPC	R.I. for life	Rs.12,000/-	S.I.for four months
27 Arms Act	R.I. for three years	Rs.3,000/-	S.I. for one month

Both the sentences were ordered to run concurrently.

The brief facts of the present case are that a *rukka* Ex.P1 was received in police post Adampur, on which, the police proceedings were initiated by ASI Satpal, Incharge, Police Post, Adampur and on the basis of the same, FIR Ex.P20 in the instant case

was registered on the basis of the statement of the complainant Ajit Singh. The complainant stated that he was resident of Kahori, Police Station Sadar Jhajjar, District Jhajjar. He has one more brother Ajay, who is elder to him. He has two sisters, elder is Kavita and younger is Neelam. All brothers and sisters were married. The marriage of his sister was solemnized with Randhir son of Mange Ram resident of village Dhadhi-Bana fourteen years ago. Since the beginning, there were differences of opinion between Kavita and her husband Randhir and a male child Lakshay was born out of the said wedlock, who was six years old at that time and who lived with Ajit Singh. His marriage and also the marriage of his brother Sanjay were solemnized in the year 2005. The complainant was married to Poonam daughter of Umed Singh, whereas his brother Sanjay was married to Usha daughter of Umed Singh. His brother-in-law (Jija) Randhir Singh was having visiting terms with his in-laws family and with the consent of his mother-in-law Rajwanti wife of Umed Singh, Randhir Singh had illicit relations with his wife Poonam and his sister-in-law Usha (Bhabhi). Vedpal son of Ram Niwas resident of village Riwari Khera, District Jhajjar, who was brother-in-law of Randhir Singh was also on visiting terms with his mother-in-law Rajwanti. Ved Pal had also developed illicit relations with Poonam and Usha. His brother-in-law Randhir Singh, his mother-in-law Rajwanti, Usha, Poonam and Ved Pal had enmity with his sister-in-law Kavita (since deceased). They

all wanted to commit the murder of his sister Kavita. On the night intervening 02/03.09.2012 Randhir Singh in collusion with Rajwanti, Usha, Poonam and Vedpal had committed the murder of Kavita after firing at his house in village Dhadhi-Bana. With these averments, the FIR Ex.P20 was registered against Randhir Singh, accused/appellants in the instant case and the investigation started.

The investigation was initially conducted by ASI Satpal PW7, who called the photographer and the photographs were taken. He called the crime scene visit team and the report Ex.P12 was prepared by Dr. Ravinder Pal PW6 by visiting the place of occurrence. The rough site-plan Ex.P6 was prepared and during the inspection of the spot, pieces of blood stained bed sheets were lifted and were taken into possession by the police vide memo Ex.P2, which was duly attested by the witnesses. ASI Satpal also lifted one pellet and two pieces of empty cartridges from the spot and after converted the same into sealed parcel, he took them into possession vide memo Ex.P3. He recorded the statement of concerned witnesses under Section 161 Cr.P.C. and also called SI/SHO Leela Ram of Police Station Sadar Dadri at the spot and further investigation was conducted under his instructions. On 09.09.2012, the appellant/accused Randhir Singh was arrested and after his arrest, one double barrel gun of .12 bore, one live cartridge of .12 bore, one empty cartridge and one copy of gun license book Ex.P13 were

produced by him. SI/SHO Leela Ram prepared sketch of double barrel gun Ex.P14 and also prepared the parcels for taking the said articles in police possession vide memo Ex.P15. The appellant/accused demarcated the place of occurrence vide memo Ex.P16 when he was lodged in the police lock-up. He suffered disclosure statement Ex.P17 regarding his involvement in the present case. On 21.09.2012, he recorded the statements of the relevant witnesses under Section 161 Cr.P.C. After conclusion of the investigation, the final report under Section 173 Cr.P.C. was presented in the competent Court of law.

Since the case was triable by the Court of Sessions, the same was ordered to be committed.

In order to prove the charge against the appellant/accused, the prosecution examined fourteen witnesses and the entire material was put to appellant/accused in the shape of his statement under Section 313 Cr.P.C. In his statement under Section 313 Cr.P.C., the appellant/accused had taken a stand that on 03.09.2012, he was not present at his home and was away to Gurgaon (now Gurugram) where he was in service in a private company, namely, Inderprast Gas Service Limited, in security. He further took the stand that the unfortunate incident happened in his absence and he was not connected with the murder of wife Kavita, with whom he was happily married and he had been falsely implicated by his in-laws.

Even though, the appellant had taken a plea of false implication as well as the plea of *alibi*, however, he opted not to lead any evidence in his defence and the matter was finally disposed off by the learned trial Court in the shape of the impugned judgment and order.

We have heard the learned counsel for the parties and with their able assistance, we have carefully perused the trial Court record.

The learned counsel for the appellant has vehemently contended that a false story was coined by Ajit Singh, complainant. He was having a matrimonial dispute with his wife Poonam whereas his brother Sanjay was also having matrimonial dispute with his wife Usha. Usha and Poonam are real sisters. Consequently, the complainant had named Poonam, Usha, their mother Rajwanti as accused in the instant case. Even, he did not spare Ved Pal who is brother-in-law of accused Randhir Singh. Randhir Singh appellant was having good relations with his wife and it is because of mental stress, Kavita had committed suicide by using licensed 'DBBL' gun of the appellant. The appellant was not present in his house on the date of alleged occurrence and he was away to Gurugram and the incident had taken place in his absence. PW11 ASI Satpal did not try to investigate the said aspect of the matter nor any witnesses were associated in this regard. Still further, he referred to the contradictions

appearing in the statements of the various prosecution witnesses and prayed for acquittal of the appellant in the instant case.

The learned counsel for the State has vehemently opposed the submissions made by learned counsel for the appellant and contended that the prosecution had proved the case beyond any reasonable doubt. Even there was motive on the part of the appellant to commit crime as he was having strained relations with his wife. The complainant was also having dispute with his wife and his brother-in-law and his brother was also having dispute with his wife. Consequently, on the said day, the appellant fired and killed his own wife Kavita in inhuman manner. Still further, the learned State counsel relied upon the reports of the FSL and crime scene visit report Ex.P12 to contend that the case against the appellant was conclusively proved by the prosecution.

The learned trial Judge on the basis of material brought on the record, came to hold that the whole case rests on circumstantial evidence and the prosecution had been able to establish the chain in completeness against the accused person and, accordingly, convicted the appellant and sentenced him. Assailing the impugned judgment of conviction and the order of sentence, the appellant has preferred the instant appeal praying for his acquittal.

As the factual matrix would show, the case of the prosecution entirely hinges on circumstantial evidence. When a case

rests on circumstantial evidence, it is the duty of the Court to satisfy itself that the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established. It is equally correct that those circumstances should be of a definite tendency, unerringly pointing towards the guilt of the accused and such circumstances, when taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and no other person. The law is well settled that in order to sustain a conviction, the circumstantial evidence must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused. Such evidence should not only be consistent with the guilt of the accused, but must be inconsistent with his absence. The evidence in the instant case has been evaluated by us in the light of the afore-stated principles. It is the contention of the learned counsel for the defence that the complainant has named several persons, *vis-a-vis*, Poonam, Usha, Rajwanti, Ved Pal and the appellant without any justification. In fact, the said argument does not hold any ground as the matter was investigated by the police and the said accused Poonam, Usha, Rajwanti and Ved Pal were found to be innocent. However, enough incriminating evidence was found against the present appellant and was ordered to be challaned by the police. Even during the course of trial, sufficient incriminating evidence has

surfaced only against the present appellant and he cannot derive any benefit out of the said submission.

The learned defence counsel argued that Randhir Singh was having good relations with his wife Kavita and she had committed suicide due to mental stress. Even there was no person in his house on the date of occurrence i.e. 03.09.2012 and he was serving at Gurugram in a private company, namely, Inderprast Gas Service Limited in security and was away to Gurugram. The offence was committed in his absence. Still further, Sarpanch and member of Panchayat were present at that time, but the police officials did not join them in the investigation. Again the said submission made by the learned counsel for the appellant is merit-less and is liable to be rejected. It is observed that in case the police had not recorded the statements of Sarpanch and other members of Panchayat who were the witnesses at the time of investigation, nothing prevented the appellant/accused from examining them as defence witnesses. Not only this, the accused has raised a false plea of alibi and stated that on the date of occurrence on 03.09.2012, he was away to Gurugram and was employed in a private company, namely, Inderprast Gas Service Limited as security guard. In fact, he did not lead any evidence to prove before the learned trial Court that he was employed somewhere as a security guard. He could have freely examined his employer or any other official from the said office and raised a false defence of

alibi. The law is well settled that taking up a false defence would also serve as an additional link in the chain of circumstances of a case based on circumstantial evidence. Still further, he has falsely raised an argument that Kavita had committed suicide as he was under mental stress. The appellant is none other than the husband of Kavita (since deceased). He had led no evidence to prove a fact with regard to any treatment of mental depression or any other mental illness of Kavita (since deceased). Apart from that, he could not even adduce oral evidence to substantiate the said plea. Still further, even it is apparent from the report Ex.P12, i.e. crime scene visit report prepared by Dr. Ravinder Pal that while the deceased was sleeping on the double bed, the accused fired at her and dead body was lying in pool of blood. Even while sleeping, it is impossible for a lady to commit suicide by using a 'DBBL' gun, which is not a small weapon. Consequently, a false plea has been taken by the defence in this regard. Still further, the prosecution examined Dr. Sachin PW10 who had conducted the postmortem examination Ex.P23 on the dead body of Kavita (since deceased). No suggestion was put to Dr. Sachin that it was a case of suicide and not a case of homicide. The defence chose not to put any such questions to the doctor, who was the best witness to depose the facts in this regard. Consequently, the said argument is without any substance.

The matter was investigated by local police and as per testimony of ASI/SHO Leela Ram PW6, on 09.09.2012, the appellant/accused was arrested and one double barrel gun .12 bore, one live cartridge .12 bore and one empty cartridge were recovered from him. Apart from that, the police had also lifted one pallet, two pieces of empty cartridge from the spot and after converting the same into sealed parcel, the same were taken into possession vide memo Ex.P3. Apart from that the police had also taken into possession the deformed and mutilated lead pellets, which were taken out from the dead body of Kavita (since deceased), by the doctor. Even the wads, which were recovered from the dead body of deceased Kavita were also sent to the FSL alongwith other parcels. As per report Ex.P4 prepared by FSL Madhuban, it was found that the firing mechanism of 12 bore 'DBBL' gun, recovered from the appellant was found in working order. Still further, the percussion cap of 12 bore fired cartridge case was found to have been fired from the left barrel of 12 bore 'DBBL' gun, recovered from the appellant and also wads were found to be wad/split wads of 12 bore cartridge. Still further, it was found that deformed and mutilated pellets were found to be fired lead pellets and such type of pellets are usually loaded in a shot gun cartridge including 12 bore. Consequently, there was sufficient incriminating evidence to connect the accused/appellant with the commission of the crime.

Apart from that, the learned counsel for the appellant has referred to minor contradictions and inconsistencies in the submissions of various witnesses, which are not so material. We have carefully and extensively gone through the material on record with the aid of counsel for the parties. Learned counsel for the appellant has failed to point out any substantial contradiction or inconsistency in the statement of various prosecution witnesses and we find the testimonies to be trustworthy and reliable. Even otherwise, the witnesses deposed after a long gap of several months and such minor contradictions are bound to creep in the testimonies of truthful witnesses. The complainant, who is closely related to appellant/accused had no reason to falsely implicate his own brother-in-law (Jija), especially, when he has a child Lakshay aged about 06 years and after the death of Kavita, there was no one to take care of him. Consequently, we find that the prosecution has established all the circumstances beyond all reasonable doubt and they formed a complete chain without any missing link unerringly proceeding towards the accused as author of the crime, excluding any hypothesis of innocence in his favour. We find no ground to interfere with the impugned judgment of conviction dated 22.01.2014 and order of sentence dated 25.01.2014 passed by the learned Additional Sessions Judge, Bhiwani and same is upheld and affirmed.

Resultantly, the instant appeal stands dismissed.

All the pending miscellaneous applications, if any, are disposed off, accordingly.

The case property, if any, may be dealt with in accordance with law after the expiry of the period of limitation.

The accused shall be taken into custody forthwith, if on bail in the instant case, to serve the remaining sentence.

The trial Court record be transmitted back.

We record our appreciation for Mr. Bijender Dhankhar, Amicus Curiae, who had rendered able assistance to this Court.

(SURESHWAR THAKUR)
JUDGE

29.09.2022
amit rana

(N.S.SHEKHAWAT)
JUDGE

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