

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

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CRM-A No.350 of 2021
Date of decision: July 8th, 2022

Gurlal Singh

....Applicant

Versus

State of Punjab and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIHI
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Manvinder Singh Sidhu, Advocate
for the applicant.

AUGUSTINE GEORGE MASIHI, J.

This application has been preferred under Section 378 (4) Cr.P.C. for permission to grant leave to appeal challenging the judgment dated 29.05.2020 passed by the Additional Sessions Judge, Fatehgarh Sahib, whereby Ranjit Singh alias Rana son of Inder Singh-respondent No.2 stands acquitted of the charge framed under Section 302 IPC and has been convicted and sentence under Section 304-A IPC to undergo rigorous imprisonment for a period of two years and fine of ₹5,000/-, in default thereof to further undergo rigorous imprisonment for a period of one month in FIR No.24 dated 21.02.2015 registered under Section 302 IPC at Police Station Sirhind, District Fatehgarh Sahib.

2. In brief the prosecution story is that on 23.01.2015, respondent No.2-Ranjit Singh alias Rana along with his wife, his son and daughter, Sher Singh (brother-in-law), mother-in-law Gurcharan Kaur and another brother-in-law Dilbagh Singh were travelling in a Maruti 800 Car which was being driven by him. After attending a marriage at his in-laws place, Ranjit Singh alias Rana-respondent No.2 along with these six other persons were coming back to Village Faizgarh, Police Station Sadar, Nabha, District Patiala. Respondent No.2 insisted upon going to Gurdwara Fatehgarh

Sahib to pay obeisance and when they reached near Bhakra canal, Village Sounda at about 4:00 PM, the Maruti Car fell into the canal as a result of which his wife, son, daughter and brother-in-law Dilbagh Singh were washed away in the swift current of water. The passersby, who happened to witness the accident, helped and managed to fish out Ranjit Singh alias Rana-respondent No.2, Sher Singh, his brother-in-law and Gurcharan Kaur, his mother-in-law from the canal. Unfortunately, Gurcharan Kaur succumbed to death in the process of being removed from the canal, whereas Ranjit Singh and Sher Singh survived the accident. Matter was reported by Ranjit Singh alias Rana and proceedings under Section 174 Cr.P.C. were conducted by ASI Gurmeet Singh.

3. On 28.01.2015, Gurlal Singh, one of the brothers-in-law of Ranjit Singh and brother of Rupinder Kaur wife of respondent No.2, projected that the relationship between respondent No.2 and his wife Rupinder Kaur were not cordial as Ranjit Singh suspected that both his children were not born out of his loins but were result of extramarital relationship. Allegation of demand of dowry was also made. After investigation, challan was presented and respondent No.2 was charged under Section 302 IPC vide order dated 05.09.2016. Trial proceeded and on the basis of the evidence which has been produced by the prosecution, the trial Court proceeded to hold respondent No.2 guilty under Section 304-A IPC and convicted him for having caused death of his wife, son, daughter, his brother-in-law Dilbagh Singh and mother-in-law Gurcharan Kaur by rash and negligent driving and acquitted him of the charges under Section 302 IPC on the ground that the prosecution miserably failed to prove the said charges. It is on this acquittal under Section 302 IPC that the present application for grant of leave to appeal has been preferred challenging the said findings and sentence as detailed above.

4. It is the contention of learned counsel for the applicant that the Court below has failed to appreciate the evidence led by the prosecution, especially that of the co-passenger Sher Singh, who was brother-in-law of accused Ranjit Singh alias Rana-respondent No.2. He was the eyewitness and, therefore, should have been believed. Another assertion is that the other brother-in-law i.e. Gurlal Singh son of Jasvir Singh PW-2 clearly depicted the position with regard to there being demand of dowry, torturing of his sister Rupinder Kaur wife of respondent No.2 Ranjit Singh, the factum of there being various Panchayats, Ranjit Singh taking her back after giving assurance and doubting the character of his sister clearly establishes the motive of respondent No.2, wherein he intentionally drove the car into the canal leading to drowning to the death of all others except he himself and fortunately the other survivor Sher Singh. He on this basis contends that when the motive has been fully established, merely because he also had along with others fallen in the canal, cannot be a ground for disbelieving the fact that the car had been intentionally driven into the canal. It has further been stated that PW-7 ASI Rajinder Kumar, motor mechanic has proved the ill fated car was found in a running condition and no tyre was found punctured or burst. PW Surinder Singh had proved the Panchayat meetings and, therefore, the judgment passed by the trial Court cannot sustain. Prayer has thus been made that the leave to appeal may be granted and respondent No.2 be convicted under Section 302 IPC and sentenced accordingly.

5. Having considered the submissions made by the learned counsel for the applicant, we are unable to accept the same in the light of the fact and the conclusions which have been drawn by the trial Court are based on proper appreciation of the evidence led by the parties.

6. The first factor which needs to be taken into consideration is the medical evidence where the cause of death of all the five victims is asphyxia

caused by drowning into Sirhind canal. As far as the evidence of the prosecution, especially Sher Singh PW-1, the eyewitness who was travelling along with respondent No.2 Ranjit Singh and other persons i.e. the sole survivor along with respondent No.2, is not acceptable in the light of the fact that he had simply kept silent after the incident had taken place on 23.01.2015. The trial Court has rightly proceeded to doubt his version and its veracity and credibility when he being the best person who could have questioned the intention and the ill will on the part of respondent No.2 Ranjit Singh towards the other family members did not say so. He did not have any version which could incriminate accused-respondent No.2. Had it been the ill design and motive cooked up by Ranjit Singh, his action could have been observed by Sher Singh and thus would have put forth his doubt when the inquest proceedings were being conducted.

As far as the aspect of a longer route been taken for going to their village, the explanation was that Ranjit Singh wanted to pay obeisance in Gurdwara near Nabha and, thereafter at Fatehgarh Sahib. Apart from that, the explanation as has been given by the defence on the statement of the accused himself is that there were seven people who were in the car and the papers of the car were also not complete. To avoid being caught on the way, he had to take that route. This explanation appears to be quite justified apart from the aspect of the religious visit to Gurdwara for paying obeisance.

What has been sought to be projected by Sher Singh is that Ranjit Singh had jumped out of the car before the same hit the water. The said aspect is belied from the eyewitness version of the standerbys, who had categorically stated otherwise. It has come on record that Sher Singh, Ranjit Singh and Gurcharan Kaur were pulled out of the water. Sher Singh and Ranjit Singh were both saved by Narinder Singh and Harjinder Singh, who had jumped into the canal and pulled/brought them out. Harjinder Singh would have been an independent

prosecution eyewitness but the prosecution chose not to examine him and, therefore, was produced as a defence witness, who had clearly stated that they were pulled out of the car and the water. The Investigating Officer has himself stated that he found Sher Singh and Ranjit Singh admitted in hospital. The prosecution version does not show that Ranjit Singh had received any injuries. Had he jumped from the car and hit the ground, he would have surely been injured in the said process. The conclusion as drawn by the trial Court that Ranjit Singh along with others in the car fell in the water of the canal and it is thereafter that two of them were saved is correct. It is not even the case of the prosecution that Ranjit Singh was an expert swimmer and could have escaped on his own, rather DW Harjinder Singh had mentioned that Ranjit Singh and Sher Singh were taken out of the canal after a turban was tied on their waist and they were pulled out of the the canal. In the cross-examination, Sher Singh has also admitted that respondent No.2 did not use his mobile phone while driving the vehicle and has also accepted that various canal bridges and minor canal bridges were crossed by them on the way. He has also admitted that there was no embankment between the canal and the road running along side the canal, where the unfortunate incident had occurred. The trial Court has, therefore, rightly not believed the version as has been put forth by Sher Singh.

7. In the light of the above, we are of the considered view that offence under Section 302 IPC based upon the evidence which has been led by the prosecution is not made out against respondent No.2 and, therefore, the trial Court has rightly acquitted him of the said offence. It may be added here that we have not considered the evidence led by the parties in this case with regard to the culpability and the conviction of respondent No.2 with reference to Section 304-A IPC. Any observation made by us shall have no bearing upon the said aspect.

8. In view of the above, finding no merit in the present application, we

decline the application for leave to appeal as preferred by the applicant and dismiss the same.

(AUGUSTINE GEORGE MASIH)
JUDGE

July 8th, 2022
Puneet

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No