

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CRA-D-1890-DB-2014 (O & M)

Reserved on: 16.11.2022

Pronounced on: 21.11.2022

SANDEEP SINGH

.....Appellant

Versus

STATE OF PUNJAB

.....Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Argued by: Mr. Jashandeep Singh Sandhu, Advocate
for the appellant.

Ms. Monika Jalota, Sr. DAG, Punjab.

SURESHWAR THAKUR, J.

1. The instant appeal is directed by the convict, against the verdict of conviction made on 10.09.2014 by the learned Sessions Judge, Bathinda, upon Sessions Case No. 04 of 28.01.2013, wherethrough, in respect of charges drawn for offences punishable under Sections 302, 363, 366-A and 376 of the IPC, he made a finding of conviction against the accused.

2. Moreover, through a separate sentencing order drawn on 10.09.2014, the learned trial Judge proceeded to impose upon the convict (supra) both sentence(s) of imprisonment as well as of fine but in the hereinafter extracted manner :-

U/S 363 IPC	RI for a period of seven years and fine of Rs. 5,000/- (Rs. Five Thousand), in default of payment of fine, to further undergo RI for a period of three months.
U/S 366-A IPC	RI for a period of seven years and fine of Rs. 5,000/- (Rs. Five Thousand), in default of payment of fine, to further undergo RI for a period of three months.
U/S 376 IPC	RI for a period of ten years and fine of Rs. 5,000/- (Rs. Five Thousand), in default of payment of fine, to further undergo RI for a period of three months.
U/S 302 IPC	Imprisonment for life and fine of Rs. 10,000/- (Rs. Ten Thousand), in default of payment of fine, to further undergo RI for a period of six months.

3. All the sentence(s) were ordered to run concurrently, but the period spent in custody by the convict during the pendency of investigation and trial of the case, was in terms of Section 428 Cr.P.C., ordered to be set off against the above imposed substantive sentence(s) of imprisonment upon the convict.

4. The convict becomes aggrieved from the verdict of conviction (supra), besides become aggrieved from the above imposed sentence(s), thus, is led to cast thereagainst the instant appeal before this Court.

Factual background

5. The genesis of prosecution case, becomes embodied in the appeal FIR, to which Exhibit P-9/A is assigned. The present FIR is lodged at the instance of the father of the deceased Navdeep Kaur. The complainant Nirmal Singh, on 22.10.2012, has made narrations therein that he is an agriculturist, and, that he has two children. His daughter Navdeep Kaur, was aged about 16 years, and, was studying in 10 + 1 and his son, namely, Kuldeep Singh is aged about 11-12 years. On 21.10.2012, the entire family of the informant after taking meals, slept

in the court-yard of their house. At about 4.45 a.m., he got a telephonic

call on his mobile phone No. 94645-40364 from mobile phone no. 9463678878, and the caller disclosed his identity as Sandeep Singh, resident of Maur Mandi. The caller further told, that as they did not agree to perform the marriage of their daughter with him, so they should take the dead-body of their daughter from their motor/tubewell. When he woke up, he found that his daughter was not present on her cot. Accordingly, he along with Manjit Singh son of Jagdish Singh went to the spot and found that the dead body of his daughter was lying outside the room of tubewell. Sandeep Singh, who made the mobile phone call, was not present at the spot. In the room, a packet of green colour containing some poisonous substance, a glass and a bottle of 'Mazza' cold drink were lying, from which it appeared that Sandeep Singh after abducting his daughter at night, killed her by administering some poisonous substance to her. Skid marks of the tyres of the motorcycle were found in the passage leading from the road to his fields. Complainant after leaving Manjit Singh near the dead body of Navdeep Kaur, went to lodge the report with the police alongwith his brother Major Singh. On the above statement of the complainant, to which Exhibit PA is assigned, SI Jaswinder Singh made his endorsement and sent the same to the Police Station on the basis of which present FIR was registered in this case.

Investigation proceedings

6. The investigation was put into motion, during which the investigating officer visited the place of occurrence, inspected the dead body and prepared the inquest report, Ex. PW-13/C, qua the dead body of Navdeep Kaur, hence on the identification of Balkaran Singh and

Harjit Singh. An empty bottle of 'Mazza' cold drink, one tumbler and one poison poori which were lying near the dead body of Navdeep Kaur were taken into possession by the investigating officer after converting them into different sealed parcels. ASI Gurmail Singh and HC Gurpreet Singh were deputed by the investigating officer for getting conducted the autopsy on the dead body of Navdeep Kaur. The investigations were done, and, the accused was arrested.

7. After completion of investigations by the investigating officer concerned, into the FIR (supra), he instituted an affirmative report under Section 173 Cr.P.C., before the learned Committal Judge concerned, against the accused.

Committal proceedings

8. Finding the offences under Sections 302, 376, 366-A IPC to be exclusively triable by the Court of Session, thus the learned committing Court vide order dated 24.01.2013, committed the case for trial to the Court of the learned Sessions Judge, Bathinda.

Trial Court Proceedings

9. On finding a prima facie case, charge(s) under Sections 363, 366-A, 376 and 302 IPC became framed, against the accused, and, to which he pleaded not guilty, and, claimed trial.

10. In support of the prosecution case, the prosecution examined sixteen witnesses. After completion of recording of the depositions of the prosecution witnesses, the learned Additional Sessions Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused claimed false implication, and,

pleaded innocence. In his defence, the accused examined one witness Veer Singh as DW-1.

11. After conclusion of the trial, as, became entered into the FIR (supra), by the learned Sessions Judge, Bathinda, the latter proceeded to make the afore verdict of conviction, and, also made the consequent therewith sentence(s) (supra), upon, the present appellant.

Submissions of the learned counsel for the convict-appellant.

12. The learned counsel appearing for the convict-appellant has made a vehement submission before this Court, that since PW-11/A suggests that he was admitted in Civil Hospital, Maur Mandi, as a suspected case of poisoning. Therefore, he contends that the convict's defence, qua his alongwith the deceased together consuming poison in protest against the father of the deceased Navdeep Kaur opposing their marriage, rather becoming proven. Thus, he contends qua the demise of the deceased was not homicidal, but was suicidal. In consequence, he submits that the impugned verdict of conviction be quashed and set aside.

Submissions of the learned State Counsel

13. On the other hand, the learned State counsel has argued that the appreciation of evidence as made by the learned Convicting Court, is merit-worthy, and, that it does not require any interference being made by this Court.

Reasons for rejecting the submissions made by learned counsel for the convict-appellant.

14. The above contention is rejected as the very making of the above contention, is an admission of the convict, qua his last being in the company of the deceased besides is also an extra judicial

confession. If so, the hereafter referred testification of PW-2, whereto corroboration is lent by PW-3, does also hence assign thereto the fullest corroboration. Even otherwise it is merely mentioned in the testification, as made by PW-11, Dr. Darshan Kaur, and, in the bed ticket of Sandeep Singh carried in Ex. PW-11/A qua the convict being admitted as an emergency case, as a suspected case of poisoning, and, thereafter his being referred to Civil Hospital, Bathinda. However, there is no further evidence qua subsequently the convict being admitted in Civil Hospital, Bathinda, nor is there any evidence qua his viscera being collected and the same being sent to the FSL concerned for an opinion being made, qua therein occurring traces of poison. If so, the above plea is pretextual, and, a cleverly engineered ploy to escape from inculcation. In sequel it is misfounded, and, is rejected.

Genesis of the prosecution case proven by PW-2.

15. The version as spelt in the FIR, to which Exhibit PW-9/A is assigned is corroborated by the testification of PW-2. During the course of PW-2 stepping into the witness box, he has proven his making his previous statement, to which Exhibit PA is assigned. Thereins, he has spelt the factum of his receiving a cell phone call from mobile No.94636-78878 on to his mobile phone bearing No. 94645-40364. He speaks therein about the convict making an intimation to him over his mobile cell phone qua PW-2 not giving his consent to the convict marrying his daughter deceased Navdeep Kaur, therefore, the caller asking PW-2 to collect the dead body of his daughter from near the electric motor in the fields. The above intimation led PW-2 to search for his daughter, and, when she was not found on her bed, he proceeded to

awaken his cousin brother Manjit Singh, whereafter both, as testified by him, proceeded to the fields, and, when they reached at the electric motor room, then he testifies that he saw the dead body of his daughter Navdeep Kaur lying outside the electric motor room. However, he testifies that the convict who talked with him on his mobile phone was not present there. In addition, he deposes that near the crime site, one glass tumbler having some poisonous substance on its walls, one empty Maaza bottle, and, one poisonous substance wali *poori* (packet), became noticed to be lying there, which led him to believe that accused Sandeep Singh had put his daughter Navdeep Kaur to death by serving her with some poisonous substance.

16. Though PW-2 became put to an exacting cross examination by the learned defence counsel, but an incisive reading of the cross-examination, as made upon PW-2, does not reveal, that he became meted any suggestions rather for belying the above narrated facts. Therefore, the above made speakings by PW-2, in his examination-in-chief do acquire the completest evidentiary vigour.

17. The testification of PW-2 is also completely supported by the testification of PW-3, who alongwith PW-2 went to the site of occurrence. Even the reading of the cross examination of PW-3, does not unfold qua there being any attempt to bely the echoings as occur in his examination-in-chief, which too openly speak about his alongwith PW-2 visiting the crime site, and, both then noticing qua one empty Maaza bottle, one *poori* of poison and one glass tumbler having some poisonous substance on its walls, rather lying there. In aftermath, the genesis of the prosecution case does becomes cogently proven.

Call detail records emanating from mobile no.94636-78878 (Sandeep Singh) to mobile no. 94645-40364 (PW-2), proven by the depositions of PW-10 and PW-11.

18. Even though this Court has hereinabove concluded, that for want of any denial, by the defence qua the facts spoken by PW-2, in his examination-in-chief about his receiving a cell phone call from the convict, hence leading him to alongwith PW-3 visit the crime site, where he noticed the body of his deceased daughter Navdeep Kaur, imperatively rather through the learned defence counsel meteing apposite suggestions to PW-2, but irrespective of the above, the prosecution has proven the making of a cell phone call by Sandeep Singh from his mobile phone No. bearing 94636-78878 on to the cell phone of PW-2 bearing No. 94645-40364, cell phone whereof was owned by his father, but was then evidently held by him. Moreover, cogent proof in respect thereof, is adduced by the prosecution, through its leading into the witness box PW-10. Since call(s), as emanated from 94636-78878 to 94645-40364 become revealed by the cross-examination, as made upon PW-10, to rather become made at a time when in quick sequel thereto both PW-2 and PW-3 visited the crime site. Thus, it has to be concluded that the convict did, as revealed in the FIR, Exhibit PW-9/A, proven by PW-2 and by PW-3, make a cell phone intimation to PW-2, about his murdering the deceased Navdeep Kaur, and, thereafter his keeping her dead body in the fields, at the site mentioned in PW-9/A. In consequence, the above proof of cell call detail(s) also comprises cogent evidence qua the confession of guilt by the convict to the informant. Significantly, when the cell phone owned by the convict, wherefrom he made a call to the informant has not been

established to be not owned by him. Moreover, when the statutory certification in respect of the call detail records concerned, as respectively carried in Ex. PW-10/A, Ex. PW-10/B and in Ex. PW-10/C, has been proven by PW-10. Thus, utmost credence is to be assigned to Exhibits (supra).

19. Since in pursuance thereto, the recovery of the body of the deceased Navdeep Kaur was made by PW-2, and, by PW-3, or, in other words when the body of deceased Navdeep Kaur was discovered from the very place which became cell phone intimated by the convict to PW-2. Therefore, when there is no evidence suggestive that the investigating officer concerned, had planted the body of the deceased at the place wherefrom it was discovered by PW-2, and, by PW-3. Resultantly it has to be concluded that the proven cell phone intimation, as made by convict Sandeep Singh to PW-2, was truthful. Further, it has also to be naturally reiteratedly concluded, that it encloses therein an admissible confession of guilt by the convict, as, in pursuance thereof a valid recovery of the body of the deceased daughter of PW-2 hence became effected.

Recovery of the items, as depicted by PW-2.

20. The recovery of the items testified by PW-2, were made through memo Exhibit PW3/A. Exhibit PW3/A has been proven by the investigating officer concerned. The defence has not been able to, through putting suggestions to the investigating officer concerned, during the course of making of cross-examination, upon him, unveil from him, that the recoveries as mentioned in Exhibit PW3/A, were either planted or concocted. Thus, the recoveries mentioned in Exhibit

PW-3/A are concluded to be validly made. Moreover, it has but a natural corollary that the recoveries do also candidly corroborate, the testification of PW-2, qua on his visiting the crime site, his noticing there the existences of the items mentioned in Exhibit PW-3/A. Fortification to the above inference, is secured from the factum that, even during the course of cross-examination, becoming made upon PW-2, no suggestions became meted to him qua the above items not existing at the crime site nor any evidence emerging suggestive, that the said items were planted there by some other person or by the investigating officer concerned.

Recoveries of items as made through Exhibit PW-3/A and the cause of demise of deceased Navdeep Kaur as revealed in the report of Chemical Examiner to which Exhibit PW4/E is assigned.

21. The recoveries as made through Exhibit PW-3/A, led the investigating officer concerned, to through head constable Gurpreet Singh 632, PS Maur hence send them for examination to the FSL concerned. On an examination being made of the contents thereof, the forensic expert concerned made the hereinafter extracted report.

“ The extract obtained from the bottle contained in parcel no. 1, glass container in the parcel no. 2 and from the packet in the parcel no. 3 have been analysed separately by chemical analysis. On the basis of analysis a fumigant insecticide has been found present in the extracts obtained from the container in parcel no. 2 and from the content of parcel no. 3. However, it could not detected in the extract obtained the content of parcel no. 1.”

22. The striking aspect of the above extracted opinion, as made by the expert concerned, is that, in respect of parcel No. 2 and 3, he made an opinion that therein occurred a fumigant insecticide. Moreover, it is revealed by Exhibit PW4/E, wherein became enclosed the opinion, as, made by the Chemical Examiner concerned, on the

viscera of the deceased, as became sent for analysis, qua therein aluminium phosphide becoming detected. Moreover, a reading thereof also reveals that spermatozoa was detected in the contents of exhibits VI, VII, VIII, X & XI. The relevant portion of the report making the above underlings becomes extracted hereinafter.

“ALUMINIUM PHOSPHIDE insecticide detected in the contents of Exhibit II. Phosphine a constituent of Aluminium Phosphide detected in the contents of exhibits III, IV & V. No poison detected in the contents of exhibit I. Spermatozoa were detected in the contents of exhibits VI, VII, VIII, X & XI. No spermatozoa were detected in the contents of exhibit IX.”

Inferences from the results of the examined materials at the FSL concerned.

23. The effect of the hereinabove extracted opinion, as made by the forensic expert concerned, in Exhibit PW-4/F, upon becoming entwined with the results pronounced in Exhibit PW-4/E, is that, it but leads to an invincible conclusion that

- a) Therefrom the testification of PW-2 acquiring the fullest corroboration.
- b) the demise of deceased Navdeep Kaur being a sequel of the convict administering poison to her through his mixing the same in 'Mazza' cold drink.
- c) the factum of existence of spermatozoa in exhibits VI, VII, VIII, X & XI which are respectively the vaginal swabs, pubic hair, salwaar, kameez, underwear and undershirt of deceased Navdeep Kaur, does boost, an inference, that the convict had also committed forcible sexual intercourse with the deceased, and, thereafter had caused her death by administering poison to her, through his mixing the same in a cold drink which he served, and, became consumed by deceased Navdeep Kaur. Thus, the charges drawn against the convict become cogently established.

24. Even the charges drawn against the convict in respect of offences punishable under Sections 363, 366-A IPC also become proven as it is established by the Birth Certificate comprised in Exhibit PW-7/A that she was at the relevant stage a minor.

Medical Evidence

25. PW-4 who made an autopsy of the body of the deceased Navdeep Kaur, has proven his signatures, as carried on post mortem report to which Exhibit PW-4/D, is assigned besides has also proven the signatures thereons of its co-author Dr. Babita Aggarwal. The recorded observations, as made therein on the makings of autopsy, upon, the body of deceased are extracted hereafter.

“..... The dead body was brought by ASI Gurmail Singh No. 638 and the same was identified by Harjeet Singh and Balkaran Singh. It was dead body of young female 5 feet in length, moderately built and nourished having all secondary sexual characteristic present with Tattoo Mark on palmer surface of left hand, KALA on upper side of right breast, NK on left arm on anterio lateral surface on its middle, wearing white kurta, whiter under shirt, pink salwar, brown underwear. Eyes and mouth were closed. Rigor mortis was present on all four limbs. Postmortem staining was present on dependent parts of back.

Parts of lungs, heart, stomach, small intestines, large intestines with its contents. Liver, spleen and kidney were sent for chemical analysis.

On examination of organ of generation, no sign of extern injury was seen External genitalia was normal, bleeding per vaginum was present. Hymen rupture and uterus was normal in size and vaginal swabs were taken.”

26. PW-4 has also in his examination-in-chief testified, that the demise of Navdeep Kaur occurred on account of hers consuming Aluminium Phosphide. He has also disclosed therein that Navdeep Kaur was subjected to sexual intercourse immediately prior to her

death. The above deposition fortifyingly proves the opinion of the FSL concerned, as respectively comprised in PW-4/E, and in PW-4/F.

Post-Mortem Report

27. Likewise, the co-author of Exhibit PW-4/D, Dr.Babita Aggarwal also stepped into the witness box as PW-5, and, she made a testification in tandem with the testification, as made by PW-4. Therefore, it has to be invincibly concluded that the prosecution has cogently established the charge drawn against the convict.

Final Order

28. In consequence, there is no merit in the appeal, and, is accordingly dismissed. The impugned verdict(s), and, consequent therewith sentence(s) (supra), as imposed upon the convict, is affirmed and maintained.

29. The case property, if any, be dealt with in accordance with law after the expiry of period of limitation for the filing of an appeal. The records be forthwith sent down.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

21.11.2022

kavneet singh

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