



CRM-A-199-2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-A-199-2024 (O&M)
Reserved on:02.09.2024
Pronounced on:27.09.2024

Kanso Devi ... Appellant

Vs.

State of Punjab & another ... Respondents

**CORAM: HON'BLE MRS. JUSTICE LISA GILL.
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. Vishal Munjal, Advocate, for the applicant/appellant.

...

SUKHVINDER KAUR, J.

1. Applicant/appellant – Kanso Devi seeks leave to appeal against the judgment dated 23.11.2023 passed by Ld. Sessions Judge, Pathankot vide which accused/respondent No.2 – Parveen Kumari @ Nanni has been acquitted.

2. The factual scenario as highlighted by prosecution is that this complaint was filed under Sections 302/120-B IPC by complainant – Kanso Devi, mother of deceased Jagir Singh alleging that, her son Jagir Singh was employed in CRPF 83rd Battalion. He was keeping good health and was in active service. He was married to Parveen Kumari, accused, on 23.3.2001, but he was not having cordial relations with his wife as she was a quarrelsome lady and was inclined to live in her parental house at Kothe Bhimsen Dinanagar. She also used to ask Jagir Singh to construct a house at Dinanagar and to snap ties with his mother. On refusal by Jagir



CRM-A-199-2024 (O&M) -2-

Singh, there used to remain discord between the two. Parveen Kumari also used to assault her son Jagir Singh while throwing whatever came in her hands upon him. She used to tear his clothes and snatch all the cash available with him forcibly. She filed complaint against her son Jagir Singh alleging demand of dowry and also filed an application for maintenance at Gurdaspur on 06.08.2011 against the deceased. Thereafter compromise was effected with intervention of respectables. Parveen Kimari agreed to withdraw the case, but she did not withdraw the case and kept on residing with her son despite having filed application under Section 125 Cr.P.C. Parveen Kumari made a phone call to Jagir Singh telling him that she was sick and unwell and asked him to come on leave immediately. Jagir Singh came on leave on 22.7.2012 for one month and he was to report back to duty on 23.8.2012. Even during this period, Parveen Kumari accused quarrelled with Jagir Singh and repeated her old demands. On 17.08.2012, Jagir Singh went to withdraw amount from ATM at Dinanagar. While returning back, he met his paternal aunt Jeeto Devi at Chowk Kilpur and invited her to his house. On reaching at his house, Jagir Singh found that accused No.2 Parkasho Devi mother of Parveen Kumari had also come to his house. Jagir Singh gave Rs.100/- to his son Sulakhan Singh and asked him to bring one large bottle of 'Fanta' for serving to his aunt Jeeto Devi. His son brought the same and gave it to Parveen Kumari, who took the cold drink in the kitchen. After sometime, she brought Fanta in two red coloured glasses kept in a tray. She picked



CRM-A-199-2024 (O&M) -3-

up one glass and handed it over to the deceased and gave the other glass to Jeeto Devi. Then she again went to the kitchen and brought four steel glasses containing Fanta. She took one glass herself, gave remaining glasses to her mother, her son and their maid Vidya Devi. After having 3-4 sips, Jagir Singh made complaint about taste of Fanta, to which Parveen Kumari replied that everybody was having the same cold drink. Jagir Singh took one more sip and gave the glass to Parveen Kumari saying that she might have the same. But Parveen Kumari did not consume the same and emptied the glass near the wall of the house. After 5-7 minutes, deceased started complaining of giddiness and feeling hot. He took off his shirt and asked Parveen Kumari to call some doctor. Parveen Kumari went to call the doctor, but by the time doctor arrived, Jagir Singh was unconscious. As Jagir Singh was not responding, so doctor put the thermometer in his arm pit. On seeing his condition, doctor asked to take Jagir Singh to some better hospital immediately and left without giving any medicine. Parveen Kumari called Sarpanch Tarsem Lal, who managed a sumo vehicle and Jagir Singh was taken to Chouhan Hospital, Dinanagar, accompanied by Parveen Kumari, complainant, mother of Jagir Singh, namely, Kanso Devi, paternal uncles Bachan Chand and Joney. Doctors at Chouhan Hospital refused to admit Jagir Singh saying that he was in a hopeless condition. Thereafter Jagir Singh was taken to Bahri Hospital, where doctors asked to take Jagir Singh either to government hospital or back home. Thereafter Parveen Kumari started



CRM-A-199-2024 (O&M) -4-

saying that since Jagir Singh was practically dead, so he should be taken to home. Jagir Singh died on the way to Kilpur in the sumo vehicle itself. On reaching the house, when dead body was still in the sumo vehicle, Parveen Kumari rushed to STD and made phone call to her father Bajo Ram. Instead of going to house of the complainant where dead body of Jagir Singh was lying he went to Police Station Narot Jaimal singh to manage the Police. Tarsem Lal Sarpanch also went to police station and they all stated that Jagir Singh had died of some attack. When the complainant went to police station to report the matter, she was not allowed by the guard (Santri) to enter the police station by saying to come next morning as it was 11:00 P.M. On the next morning, accused persons, namely, Parveen Kumari, her mother Parkasho Devi and father Bajo Ram started saying that they should cremate Jagir Singh. On asking by some respectables of the village that as Jagir singh was a Govt. employee, so police proceedings and post mortem was necessary, the dead body of Jagir Singh was taken to Civil Hospital, Pathankot, where police proceedings were done and post mortem of Jagir Singh was conducted. Complainant had been moving applications to police for taking action against the accused persons for committing murder of Jagir Singh. An application was also moved before the Senior Superintendent of Police, Pathankot, who asked Deputy Superintendent of Police (Rural) to inquire into the matter, but despite recording statement of complainant Jeeto Devi, no action against the culprits was taken. The Viscera report was



CRM-A-199-2024 (O&M) -5-

received by the police on 02.11.2012. DSP again conducted enquiry on 06.11.2012 at his office by calling the parties there and on 19.11.2012, he came to village Kilpur and recorded statements of Jeeto Devi and Dr. Gurmeet Singh and later on also recorded statement of Vidya Devi and also took into custody two red coloured glasses, out of which one was used for poisoning Jagir Singh when he consumed Fanta brought by Parveen Kumari and also took into custody the Fanta bottle. It was alleged that Jagir Singh was administered poison with common intention to cause his death by administering some insecticide containing Chlorocompound group of insecticides which was revealed in the Viscera report dated 02.11.2012.

3. After concluding of preliminary evidence by the complainant and on finding prima facie case, only accused Parveen Kumari was summoned for commission of offence punishable under Section 302 IPC while complaint against Parkasho Devi was dismissed vide order dated 17.05.2017. Offence under Section 302 IPC being exclusively triable by the Court of Sessions, learned Illaqa Magistrate committed the case to the Court of Sessions.

4. On finding a prima case under Section 302 IPC having been made out against accused Parveen Kumari, she was charge sheeted accordingly for the offence to which she pleaded not guilty and claimed trial. As many as four witnesses were examined by the prosecution to prove its case. Statements of accused Parveen Kumari under Section 313

**CRM-A-199-2024 (O&M) -6-**

Cr.P.C. was recorded while putting incriminating material against her. She claimed innocence and false implication. She stated that relations between her and her mother-in-law Kanso Devi were strained. Kanso Devi was not residing with them and was residing with her other son Som Raj, whose house was on the other side of the village. Her husband was addicted to liquor. He was employed in CRPF and was suspended many times due to consumption of liquor. She never served any cold drink to her husband and her husband never died due to consumption of cold drink 'Fanta'. Kanso Devi was against her and she wanted to take all the service benefits of her husband and also did not want to give her any share in the property of her husband. Kanso Devi was not present in the house on the day of alleged incident. Her husband was brought to house by Jeeto Devi in a drunkard condition on that day. After coming to her house, condition of her husband deteriorated and he was taken to hospital by her. She has been falsely implicated in the present case. Her mother-in-law Kanso Devi also filed civil cases to debar her from the property and service benefits of her husband. FIR was got registered by Kanso Devi against her and the same was cancelled later on and after investigation, she was found innocent.

5. In defence, accused examined DW1 Dr. Kanwar Raj Paul, Neuro Psychiatrist and De-addiction Hospital, Lamini, Pathankot, DW2 P.S. Virk, PPS, DW3 Sub Inspector Pawan Kumar, DW4 Smt. Vidya Devi @ Vido Devi and DW5 retired Inspector Ramesh Kumar.

**CRM-A-199-2024 (O&M) -7-**

6. After considering the evidence on record, learned trial Court acquitted the accused of the offence for which she has been charge sheeted vide judgment dated 23.11.2023. Aggrieved of the said decision, complainant – Kanso Devi has preferred the present application seeking leave to file an appeal against the acquittal of accused Parveen Kumari.

7. Learned counsel for the appellant vehemently contended that from the testimony of prosecution witnesses, it stands proved that on 17.08.2012, accused committed murder of deceased Jagir Singh by intentionally administering poison to Jagir Singh in cold drink 'Fanta'. He further contended that all the witnesses have categorically deposed regarding strained relations between accused Parveen Kumari and deceased Jagir Singh and her serving cold drink 'Fanta' to Jagir Singh containing some poisonous substance. Application Ex.P1 was the first application which was given by the complainant to the police to register the FIR and investigate the matter. Details of the occurrence had not been mentioned therein. He has urged that learned trial Court has only relied upon Ex.P1 to disbelieve the complainant and has not relied upon the complaint which was filed after untraced report was filed by the Investigating Agency in the year 2014. He argued that PW2 Jeeto Devi had fully supported the case of the prosecution. Learned trial Court has wrongly held that chlorocompound group found in Viscera of the deceased had not been administered to the victim by the accused rather he himself had taken the same, when there was no reason for the victim to



CRM-A-199-2024 (O&M) -8-

commit suicide. He submitted that as case of the prosecution has been proved beyond shadow of reasonable doubt against the accused, this appeal be accepted and judgment dated 23.11.2023 be set aside and accused be convicted for the offence as charged and be punished accordingly.

8. Heard learned counsel for the appellant and have carefully perused the file. Copy of record available with learned counsel for the appellant as furnished in Court has been perused, copy of the same has been retained.

9. In order to prove its case, prosecution has examined complainant Kanso Devi, mother of deceased as PW1, who deposed in detail as per the prosecution story. In her cross-examination, she admitted that an application was given by Parveen Kumari against Sonu, Jeeto Devi, Sawarn, Preeto and Som Raj for giving some poisonous substance to her husband.

10. PW2 Jeeto Devi paternal aunt of Jagir Singh deceased has also supported the version of PW1 regarding administering of some poisonous substance by the accused to deceased Jagir Sinjgh in a glass of cold drink 'Fanta' for killing him.

11. Satnam Singh driver of Sumo vehicle was examined as PW3, who has deposed regarding taking the deceased Jagir Singh in sick and serious condition to Chouhan Hospital, Dinanagar and then to Bahri Hospital. While on the way to Civil Hospital, Pathankot, Jagir Singh died



CRM-A-199-2024 (O&M) -9-

upon which PW3 brought them back to their village Kilpur.

12. PW4 Dr. Rakesh Sarpal, Medical Officer, Civil Hospital, Pathankot deposed that on 18.08.2012, dead body of Jagir Singh was brought by HC Naresh Kumar and PHG Harjit Pal Singh. The time between death and post mortem was 24 to 48 hours. As per report of Chemical Examiner Ex.PW3/A, the cause of death in this case was chlorocompound group of insecticides detected in the contents of Ex.II, III, IV and V. He proved on record the post mortem report Ex.PW3/B and identified his signatures at point 'A' at opinion regarding cause of death Ex.PW3/C.

13. From the evidence on record, it transpires that statement of complainant – Kanso Devi does not inspire confidence as she has made material improvements while deposing as PW1, from her earlier complaint dated 13.09.2012 Ex.P1, application dated 02.09.2012 Ex.D1 given to the police.

While appearing as PW1 Kanso Devi has deposed that when her son alighted from the bus he met his paternal aunt Jeeto Devi and then along with her he came to their house. Then he asked his son to bring cold drink for Jeeto Devi. Her son gave Rs.100/- to her grandson for bringing cold drink. Bottle of Fanta was handed over to Parveen Kumari by her grandson, who took bottle inside the kitchen. Parveen Kumari brought Fanta in two red coloured plastic glasses. She picked up one glass and gave it to her son Jagir Singh and gave the other glass to Jeeto Devi. Then



CRM-A-199-2024 (O&M) -10-

she again brought cold drink in four stainless steel glasses and she herself took one glass and gave the other glasses to her mother, her son and maid. After taking two sips of Fanta, Jagir Singh complained that cold drink was not having the proper taste and showed his unwillingness to consume the remaining cold drink, but on insistence of Parveen Kumari and telling him that there was nothing wrong with the cold drink, he took one more sip. Then he handed over the said glass to Parveen Kumari and asked her to consume the remaining cold drink, but parveen Kumari spilled it on the wall and after 3-4 minutes Jagir Singh started feeling restless and giddiness.

PW1 Kanso Devi also stated that when dead body of Jagir Singh was lying in the car, then Parveen Kumari left the car to make a phone call to her father and she over heard her saying that the task had been accomplished and now it was for him to manage. Father of Parveen Kumari straightway went to the Police Station instead of coming to their house and when she went to the Police Station she was not allowed to enter into the police station and police asked her to come again in the morning. PW1 was duly confronted with her previous complaint Ex.P1 and application Ex.D1, wherein it was not so recorded. It was not so recorded in Ex.P1 and Ex.D1 that when her son alighted from the bus, Jeeto Devi met him and he brought her to his house and then sent his son to bring the cold drink. It was not mentioned therein that after taking bottle of cold drink, Parveen Kumari went inside the kitchen and firstly



CRM-A-199-2024 (O&M) -11-

brought Fanta in two red coloured glasses and thereafter brought Fanta in four steel glasses or regarding her serving Fanta in the manner as testified by PW1. In Ex.P1 there is no reference that after consuming some part of the cold drink Jagir Singh showed his reluctance to consume the remaining cold drink as it was not having proper taste, but accused insisted upon him to consume the same. Ex.P1 and Ex.D1 is also silent regarding the fact as deposed by PW1 that she over heard the accused while talking to her father on phone while saying that the task had been accomplished and now he was to handle the situation. There is also nothing in Ex.P1 and Ex.D1 that when she went to the police station she was not allowed to enter the police station and was asked to come on the next morning.

14. During her cross-examination, she was also confronted with her statement dated 06.08.2015 Ex.DA recorded before the learned Magistrate wherein she had stated that she came to know about death of Jagir Singh when people gathered in his house. Though she denied but it is recorded therein that Jeeto came to her house and disclosed the whole incident. Thus her testimony stood shattered during her cross-examination and cannot be relied upon.

15. Conduct of accused Parveen Kumari while accompanying her husband to various hospitals indicates that she wanted to save his life. More over, had she administered him poison in the cold drink as alleged by complainant Kanso Devi, then she would not have preferred to



CRM-A-199-2024 (O&M) -12-

accompany her husband to various hospitals where doctors could detect or suspect it to be a case of poisoning and she could be in trouble. In this context, the trial Court has rightly placed reliance upon decision of the Hon'ble Supreme Court of India in **Jaipal Vs State of Haryana 2002 (4) RCR (Criminal) 487** wherein it was observed as under:-

“In the present case we do not find any abnormality in the conduct of the accused. He is an educated person, a teacher. If only he had administered any poison to the deceased he would not have gone to the private clinic and government hospital where poisoning as a cause of death would be immediately known or at least strongly suspected by the doctor attending on the victim. Rather the accused wanted to be in the company of the deceased and to have her treated. He attended on her at Najeevan hospital and took her to Civil Hospital.”

16. In the instant case also, accused accompanying her husband to various hospitals clearly shows her endeavour to save his life by seeking immediate medical treatment.

17. As per PW4 Dr. Rakesh Sarpal, Medical Officer, Civil Hospital, Pathankot, the cause of death in this case was Chloro compound group of insecticides detected in the contents of exhibit II, III, IV, V. The trial Court has rightly observed that chloro compound is pungent in nature and it cannot be administered as poison to another person for homicidal purposes. As it is likely to be bitter in taste and also emitting unpleasant smell, it could not have been administered to the deceased in Fanta as alleged by the prosecution. Thus there are missing links in the prosecution



CRM-A-199-2024 (O&M) -13-

case seeking to establish that it was a case of murdering the deceased by the accused as alleged.

18. From the testimony of DW1 Kanwar Raj Paul, Neuro Psychiatrist and De-addiction Hospital, Lamini, Pathankot and DW3 Sub Inspector Pawan Kumar, credibility of PW1 Kanso Devi is rendered doubtful. In her cross-examination, she stated that it was correct that her son was suspended a couple of times from his job, but it was wrong to suggest that the aforesaid suspension was a result of liquor consumption and voluntarily stated that he was suspended on false complaint of Parveen Kumari. She denied that her son was undergoing treatment for de-addiction of alcohol from Kanwar Raj Paul, Neuro Psychiatrist and De-addiction Hospital, Lamini, Pathankot. From testimony of DW1 Kanwar Raj Paul, Neuro Psychiatrist, it is proved that as per OPD No.61/09 Jagir Singh visited his hospital and he diagnosed him as an 'alcoholic paranoide state' and he identified his signatures on the prescription slip Ex.D1/A. In his cross-examination, he has explained that alcoholic paranoide in simple words is referable to the condition of a person occurring on account of excessive consumption of alcohol.

19. DW3 Sub Inspector Pawan Kumar brought service record of Jagir Singh and as per the said record, Constable Jagir Singh was sent to get conducted his annual medical examination where he was found drunk on the duty. So he was sent to orderly room for 15 days and then he was assigned line for 15 days. After two days, Jagir Singh went out of CRPF



CRM-A-199-2024 (O&M) -14-

Campus without permission and was found lying in drunken condition outside the CRPF Campus. He was brought in the CRPF Campus by CRPF personnel and departmental enquiry was initiated. He was removed from service by Commandant 101 RAF CRPF Battalion. He brought suspension order of Constable Jagir Singh and record pertaining to removal of Jagir Singh from Service Ex.DW3/B and Ex.DW3/C. So these witnesses falsify testimony of PW1 and rather strengthen the case of defence that possibility of false implication of the accused cannot be ruled out at the hands of the complainant.

20. It is a settled position that an order of acquittal is not to be interfered with lightly because presumption of innocence of the accused is further strengthened by acquittal. Interference is called for only under compelling circumstances, where impugned findings are perverse, unreasonable and convincing material on record is ignored unjustifiably by the trial Court. Reference in this regard can be made to judgment of Hon'ble the Supreme Court in '**Mahamadkhan Nathekhan vs. State of Gujarat**' **2014 (14) SCC 589.**

21. Thus in the facts and circumstances of the present case, the trial Court has rightly reached at the conclusion that prosecution has failed to prove its case against the accused beyond the shadow of reasonable doubt.

22. Learned counsel for the appellant was unable to point out any illegality, infirmity or perversity in the impugned decision dated 23.11.2023 which calls for interference.



CRM-A-199-2024 (O&M) -15-

- 23. No other argument was raised.
- 24. In view of the above, leave to appeal against acquittal of respondent is declined.
- 25. Pending application(s), if any, also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

(LISA GILL)
JUDGE

27.09.2024
harjeet

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |