



In The High Court for the States of Punjab and Haryana
At Chandigarh

CRA-D-117-DB-2012 (O&M)
Date of Decision:- 16.05.2024

Pritam @ Manga Appellant

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present:- Ms. Anju Sharma, Advocate,
legal aid counsel, for the appellant.

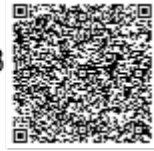
Mr. Arjun Sheoran, DAG, Punjab.

FIR NO.	DATE	POLICE STATION	OFFENCES
75	14.08.2010	Sadar District Kapurthala	302, 201, 377 IPC

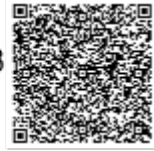
GURVINDER SINGH GILL, J.

1. Appellant namely Pritam @ Manga assails judgment of conviction and order of sentence dated 02.08.2011 passed by the learned Sessions Judge, Kapurthala, whereby he has been convicted and sentenced to undergo rigorous imprisonment as under:

Section	Sentence
302 IPC	To undergo rigorous imprisonment for life and to pay a fine of Rs.10,000/- and in default of payment of fine to further undergo R.I for two months
377 IPC	To undergo rigorous imprisonment for seven years and to pay a fine of Rs.5,000/- and in default of payment of fine to further undergo R.I for one month
201 IPC	To undergo rigorous imprisonment for two years and to pay a fine of Rs.1000/- and in default of payment of fine to further undergo R.I for ten days



2. The FIR (Ex.PB/2) was lodged at the instance of Paramjit wherein it is alleged that he is resident of Kala Sanghian, Kapurthala and has three children, the eldest being the victim girl aged 7 years. The complainant stated that his daughter was studying in Class 3 in school where his younger son was also studying and that on 13.08.2010 he had dropped both of his children in the school and thereafter left for his work while his wife Sukhwinder Kaur and his other son were at home. He stated that while his son used to come back early from school, his daughter used to come back little later as his daughter used to go to the house of complainant's maternal aunt Shibo after her school and he used to bring back his daughter from Shibo's house to his own house. When the complainant went to pick up his daughter from his aunt's house on 13.08.2010, at about 5.30 pm he met his aunt's son namely Pritam @ Manga son of Rakha Ram and upon being asked he replied that complainant's daughter had not come to their house. The complainant then returned back home and inquired about their daughter from his wife, who stated that she had not come back from the school. The complainant, his wife and their relatives, searched entire night, for complainant's daughter but she could not be traced. On 14.8.2010, they found the dead body of the daughter lying on roof of a shop adjoining the house of Pritam @ Manga. The dead body was bearing strangulation marks around her neck. The complainant strongly suspected that Pritam @ Manga had carnal intercourse with his daughter (also reflected to as 'victim' in this

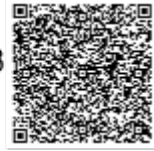


judgment) and had strangled her with help of some of his companion and thereafter thrown her dead body on roof of adjoining shop.

3. Pursuant to lodging of the FIR, the police conducted requisite investigation and got conducted the post mortem examination on the dead body of the victim. Swabs including urethral and vaginal swabs were taken and were got chemically examined. Statements of the witnesses were recorded. Accused was arrested on 16.8.2010. Upon conclusion of investigation challan was presented against the accused on 26.10.2010 in the Court of Additional Chief Judicial Magistrate, Kapurthala who upon finding that the facts *prima facie* disclosed commission of offences punishable under Sections 302, 201 and 377 IPC, committed the case to the Court of Sessions. Charges were framed against the accused for offences punishable under Sections, 302, 201 and 377 IPC by learned Sessions Judge, Kapurthala on 07.12.2010.

4. The prosecution in order to establish its case examined as many as 16 PWs, the gist of whose testimonies is being briefly referred to herein under:-

PW-1-Dr. Bharminder Singh Bains, Medical Officer, Civil Hospital, Kapurthala, who had medically examined accused Pritam, proved the MLR as Ex.PA. He opined that there was nothing to suggest that Pritam was not capable of performing sexual activity.



PW-2-Paramjit is the complainant himself i.e. the father of the victim who stated in tune with the version got recorded in the FIR.

PW-3-Ravinder Kumar alias Ravi stated that his house is situated on the back-side of Pritam @ Manga and that on 14.8.2010 at about 1.30 am when he as well as his cousin Sukha were asleep on the roof of their house, they woke-up upon hearing some noise and saw that Pritam was carrying something heavy in a bag and who went to the roof of the house of Deepa and threw the dead body of victim on the roof of a shop adjoining the shop of Deepa and also threw the empty bag on the roof of the shop of Girdhari Lal.

PW-4-Sukha stated identically as stated by PW-3 Ravinder Kumar as regards having seen Pritam throwing the dead body of the victim on the roof of the shop.

PW-5-Amar Singh, Head Teacher, Government Elementary School, had proved the certificate Ex.PD with respect to the Date of Birth of the victim.

PW-6-Binder Singh stated that he had identified the dead body of the victim and that inquest report Ex.PE was prepared by the police in his presence.

PW-7-Charanjit wife of Bhajna stated that on 13.08.2010 at about 2/2.30 pm she had seen the victim and her cousin Vishal who were returning back from the school and that the victim was carrying a school bag and was wearing school uniform. She stated that accused

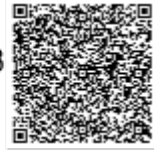


Pritam @ Manga called the victim while telling her that he will give sweets to her and thus took her to his house. She further stated that at that time Pritam's mother namely Sheebo was not present in the house, as had been told to her by the accused. She stated that Pritam switched on the television and the victim was watching the same while sitting on a cot. She further stated that later she went to her daughter's in-laws at village Natkar.

PW-8-Sukhjiwan is a formal witness who proved the photographs taken at the spot as Ex.P-2 to P-5.

PW-9-C-I Kuldip Singh is another formal witness, who tendered into evidence his affidavit as Ex.PF.

PW-10-ASI Bikram Singh stated that on 14.08.2010 he was posted at Police Station Sadar Kapurthala and that while he along with other police officials were present in the area of village Sukhani, complainant Paramjit approached them and got recorded his statement Ex.PB, on the basis of which FIR was lodged and he along with other police officials visited Village Kala Sanghian. He stated about lifting of the blood stained soil and blood stained plastic sack. He further stated that after the accused was arrested, he suffered a disclosure statement (Ex.PJ) on 18.08.2010 upon interrogation by SI Sucha Singh, to the effect that he had kept concealed a string of nylon, school bag of victim along with books and note books, slippers and one blood stained capri in an iron box underneath his clothes at his



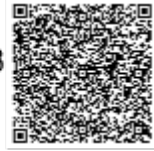
residence and that pursuant to said disclosure statement the accused led the police party to the disclosed place and got recovered the said articles.

PW-11-Charanjit Lal stated that he knows accused Pritam, who is residing near his shop and had been frequently coming to his shop to purchase grocery. He stated that on 14.08.2010 the accused confessed his guilt before him to the effect that on 13.08.2010 he raped the victim and had murdered her.

PW-12-Harvinder Singh is a formal witness who proved the scaled site plan as Ex.PK.

PW-13-Inspector Sarabjit Rai stated that on 14.08.2010 he was posted as SHO Police Station Sadar, Kapurthala and that on the said day when he along with SI Sucha Singh and other police officials were present near the bridge of the canal in village Sukhani, then complainant Paramjit and his brother Sandeep approached them and Paramjit got his statement recorded on the basis of which formal FIR Ex.PB/2 was recorded by ASI Lakhwinder Singh. He further stated with respect to the entire investigation conducted in the matter and proved various documents prepared during the course of investigation.

PW-14-Dr. Gurinder Kaur, Medical Officer, Civil Hospital, Kapurthala who was member of the Board which had conducted the post mortem examination on the dead body of the victim proved the

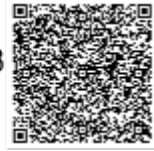


post mortem report as Ex.PO. She stated that pursuant to report of the chemical examiner, it was opined that there was evidence of recent sexual intercourse and that as per report of chemical examiner, spermatozoa was found in the contents of anal swab.

PW-15-SI Sucha Singh stated that on 16.08.2010 the investigation of the case was entrusted to him which had earlier been conducted by Inspector Sarabjit Rai. He stated that on 16.08.2010 he had received secret information regarding the presence of the accused in the area of village Jallowal and accordingly a raid was conducted and he was apprehended. He further stated that on 18.08.2010 Pritam made a disclosure statement Ex.PJ to the effect that he had kept concealed the school bag of the victim girl, note books, string (rassi), chappel and a blood stained capri in an iron box in his house and that thereafter accused led the police party to recover the said articles.

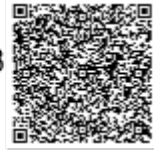
PW-16-HC Balbir Singh is formal witness who tendered his affidavit Ex.PX into evidence.

5. Upon conclusion of prosecution evidence, statement of accused was recorded in terms of Section 313 Cr.P.C. where he pleaded false implication. He took a plea that some unknown persons had committed murder of the victim and thrown her dead body on the roof. The accused however, did not lead any evidence in his defence. The trial Court upon considering the entire evidence, held that the prosecution had fully established its case with respect to the charges



framed against the accused and found the accused guilty for offences punishable under Sections 302, 201 and 377 IPC.

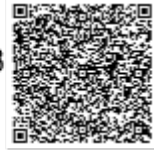
6. Learned counsel for the appellant submitted that the instant case is a case of blind murder and that the appellant has been nominated only on the basis of suspicion without there being any concrete evidence to establish his complicity. It has been submitted that the testimonies of PW-3 Ravinder Kumar alias Ravi and PW-4 Sukha do not inspire confidence inasmuch as in case they had actually seen the accused throwing dead body of the victim on the night intervening 13/14.08.2010, then it remains unexplained as to why they remained mum all the time and did not report the matter to the police. Learned counsel submits that the prosecution is thus left only with the uncorroborated statement of the complainant and the alleged extra judicial confession made before PW-11 Charanjit Lal which was in fact never made by the appellant. Learned counsel further submits that although the prosecution had pressed into service a report of the chemical examiner (Ex.PR) as regards presence of spermatozoa, but there is no evidence to show that the appellant is the source of said spermatozoa. Learned counsel has further submitted that it remains unexplained as to why apart from the complainant, no other witness including complainant's brother Kamaljit was cited as a witness though he admittedly was present with the complainant.
7. Opposing the appeal, learned State counsel submits that the case of the prosecution stands fully established from the evidence led by the



prosecution and that it is a case where the medical evidence lends full corroboration to the ocular version. Learned State counsel, thus, prayed for dismissal of the appeal.

8. We have considered rival submissions addressed before this Court.
9. As far as the testimony of complainant PW-2 Paramjit is concerned, he, while in the witness box has stated absolutely in tune with the version recorded in the FIR. It needs to be mentioned that although the occurrence had not taken place in presence of the complainant, but right from day one he had expressed his strong suspicion against Pritam @ Manga. Before proceeding to examine other evidence led by the prosecution, it is apposite to refer to the medical evidence led by the prosecution. The prosecution has examined PW-14 Dr. Gurinder Kaur, Medical Officer, Civil Hospital, Kapurthala who was a member of the medical board which had conducted post mortem examination on the dead body of the victim. PW-14 described the injuries found on the dead body of the victim as under:

- “1. A grooved ligature mark was present all around the neck 12 cm in circumference, 3 cm in breadth on back and left side and 5 cm from breadth on front and right and front side of the neck. Hair were seen embedded and seen in the skin. Ligature mark was bluish black in colour with bruised edge at places on the dissection underlying tissue seen bruised and lacerated clotted blood was seen present. On further dissection underlying bone was seen present on the front of the neck.
2. Reddish blue abrasion 1.5 cm x 0.5 cm present on the right knee patella at lateral lower end.



3. Reddish blue abrasion 4 in numbers .4 cm to 8 cm in size were seen present in an area of 4 cm on right lower leg 2.5 cm below the injury no.2.
 4. Circumferential tear of anal opening with ragged margin was seen. Anal opening was seen dilated. Linear tear .2 x .4 cm was seen present on the posterior wall at 6 O'clock position. Clotted blood was present. Swabs were taken by the Board members and sent for chemical examination.
 5. Vaginal orifice seen congested and hymen was seen ruptured, cervix was congested. Swabs were taken by the Board members and sent for chemical examination.”
10. The prosecution also got vaginal and anal swabs chemically examined and as per the report of the chemical examiner (Ex.PR) spermatozoa was found in the contents of the anal swabs. The injuries found on the person of body of the deceased particularly injuries No.4 and 5 coupled with the report of the chemical examiner leaves no manner of doubt that the victim had been subjected to rape and unnatural sex before she was done to death.
11. A grooved ligature mark was found present all around the neck and medical board has opined the cause of death to be an asphyxia due to strangulation, which clearly established that the victim was strangled to death after having been raped.
12. Though, the prosecution has examined two witnesses i.e. PW-3 and PW-4 who stated that on the night intervening 13/14.8.2010 when they were sleeping on the roof of their house, they heard a noise from the adjoining shop and having woken up they saw Pritam @ Manga



throwing a dead body on the roof, but the learned counsel for the appellant has attempted to assail the said testimonies on the ground that they did not chose to report the matter to the police. Though in the first blush one tends to characterize their conduct as unnatural, but a perusal of the cross-examination of PW-3 Ravinder Kumar alias Ravi would indicate that his statement had been recorded by the police on 14.8.2010 itself. In any case, even if the said testimonies are not taken into account being suspect, still it is a case where clinching evidence in the shape of the school bag apart from the string used for strangulation was got recovered by the accused pursuant to disclosure statement (Ex.PJ).

13. It is specific case of the complainant as per the version unfolded in the FIR itself that since the last few days his daughter after school used to go to the house of his aunt and that the complainant used to pick up his daughter from the house of his aunt. Manga is none else but the son of the complainant's aunt and the complainant from the very first day had expressed that he strongly believed that Manga had committed the crime. Although the accused, upon being asked by complainant on 13.8.2010, he stated that victim had not come to his house but PW-7 Charanjit had seen victim in the house of accused after school hours on 13.8.2010, which would soon before her death. Further apart from the recovery of school bag of victim, string etc. at the instance of the accused, the dead body was also recovered from roof of the shop adjacent to the house of the accused which would



also nail down the accused. While it is correct that suspicion howsoever strong cannot take place of evidence, but in the instant case there is sufficient evidence to indicate that it is none else, but the accused who had committed unnatural sex with the victim and had thereafter murdered her and had thrown her dead body on the roof of shop adjoining the house of accused.

- 14. No other submission or argument has been raised by learned counsel for the appellant. We do not find infirmity in the findings of guilt, as recorded by the trial Court and the same are upheld.
- 15. Finding no merit in the instant appeal and the same is hereby dismissed.
- 16. Appellant be arrested immediately to undergo remaining part of his sentence. Intimation be sent to quarters concerned.

(GURVINDER SINGH GILL)
JUDGE

(N.S.SHEKHAWAT)
JUDGE

16.05.2024
mohan

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No