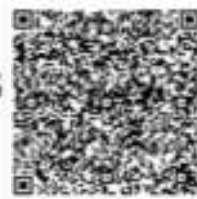


2024:PHHC:171881-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 20.12.2024

1. CRA-S-1569-SB-2011 (O & M)

Raghubir Singh alias Keera and anr. .. Appellants

V/s

State of Punjab

...Respondent

2. CRM-A-644-2011 (O & M)

Veer Pal Kaur

..... Applicant

V/s

State of Punjab and ors.

...Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Vishal Sharda, Advocate/Amicus Curiae
for the appellant No.2-Mandeep Kaur (in CRA-S-1569-SB-2011)
and for respondent No.2- Mandeep Kaur (in CRM-A-644-2011).

Appeal qua appellant No.1-Raghubir Singh @ Keera
stands abated vide order dated 03.12.2024.

Mr. Kuljeet Singh, Addl.A.G., Punjab.

Ms. Monika Jalota, Advocate,
for the complainant (in CRA-S-1569-SB-2011) and
for the applicant (in CRM-A-644-2011).

JASJIT SINGH BEDI, J.

This order shall dispose of the above noted two cases i.e. CRA-S-1569-SB-2011 titled as 'Raghbir Singh alias Keera and anr. Versus State of Punjab' and CRM-A-644-2011 titled as 'Veer Pal Kaur versus State of Punjab and ors.' as the same arise out of a common FIR.

2. Criminal appeal No.1569-SB-2011 has been filed by the accused-appellants against their conviction and sentence vide judgment and order dated 16.05.2011 passed by the learned Sessions Judge, Sri Muktsar Sahib, whereas CRM-A-644-2011 has been filed by complainant-Veer Pal Kaur, seeking enhancement of the conviction and sentence of the appellant from 306 IPC to Section 302 IPC.

3. However, for the facility of reference, the facts are taken from CRA-S-1569-SB-2011.

4. The instant FIR came to be registered on 28.10.2009. The accused-appellants came to be convicted vide judgment of conviction and order of sentence dated 16.05.2011. The present appeal against the aforesaid conviction and order of sentence is dated 31.05.2011. The matter has come up for final hearing now after more than 15 years of the registration of the FIR.

5. Accused-appellant No.1/Raghbir Singh @ Keera has passed away on 21.08.2018 and vide order dated 03.12.2024 passed by this Court, the appeal qua the said appellant stands abated.

6. The brief facts of the case of the prosecution are that on 28.10.2009, the police party headed by ASI Balkar Singh of Police Station Bariwala, comprising HC Sarwan Singh No. 656 and other police officials were proceeding towards Sarainaga, Harike Kalan Surewala etc. from Bariwala in connection with patrol duty. When the police party reached the grain market of village Harike Kalan, one Veerpal Kaur wife of Surjit Singh accompanied by Gurbinder Singh son of Jangir Singh resident of Kingra and Shivraj Singh son of Jaswant Singh resident of village Kingra came there and met the police party. Veerpal Kaur made her statement before ASI Balkar Singh to the effect that she was married to Surjit Singh son of Darshan Singh at village Surewala since 1989. She had four sisters and one brother. Three of her sisters were married at village Surewala. Gurmit Kaur was her younger sister and was married to Raghbir Singh alias Keera (accused-appellant No.1) son of Banta Singh for the last fifteen years. She had a one son Manpreet Singh in the age group of 12 years. Raghbir Singh alias Keera developed illicit relations with Mandeep Kaur (accused-appellant No.2) wife of Bikkar Singh resident of village Aulakh, for last three years. Gurmit Kaur stopped Raghbir Singh from indulging in illicit relations with Mandeep Kaur (accused-appellant No.2). Raghbir Singh used to beat up Gurmit Kaur on many occasions and persisted in this illicit relationship with Mandeep Kaur. On 25.10.2009, Raghbir alias Keera and his wife Gurmit Kaur went to village Jhorar to attend a marriage function. On 27.10.2009, Gurmit Kaur was returning from the above referred marriage function. Gurmit Kaur told her (complainant Veerpal Kaur) that Raghbir

Singh took Mandeep Kaur his paramour with him from village Sarainaga in his car for attending the marriage function. Raghbir Singh alias Keera continued beating up Gurmit Kaur, his wife since that night. When she (Veerpal Kaur-complainant) went to the house of her sister Gurmit Kaur on receipt of a telephonic message, Raghbir Singh was beating up Gurmit Kaur outside the residential rooms of the house. Raghbir Singh put the vial of Spray by pouring it in the mouth of Gurmit Kaur in her (complainant's) presence and thereafter, fled away along with the vial of poisonous spray. It was about 9.15AM at that time. She went away to inform her husband Surjit Singh about this occurrence and when she returned after 20 minutes, she found her sister Gurmit Kaur dead. She informed her relations about this occurrence. The cause of occurrence was that Raghbir Singh had developed illicit relations with Mandeep Kaur and was persisting in it despite persuasion of his wife Gurmit Kaur to the contrary. Raghbir Singh alias Keera beat up Gurmit Kaur and thereafter, forcibly put the spray of poison in her mouth. Her brother and her parental relations came on the spot. ASI Balkar Singh recorded her statement and made his endorsement thereupon and sent it to the police station Bariwala, whereupon the FIR of this case was recorded by ASI Darbar Singh.

7. The investigation was conducted and as per the report of the Chemical Examiner, Organophosphorus compound pesticide was detected in the stomach and other organs of the deceased-Gurmit Kaur. On completion of the investigation, the challan was presented against both the accused/appellants.

8. On commitment, charges were framed under Sections 302 IPC and 120-B IPC against appellant No.1-Raghubir Singh @ Keera and under Section 120-B IPC against appellant No.2-Mandeep Kaur. They pleaded not guilty and claimed Trial.

9. In order to prove its case against the accused, the prosecution examined PW1 Veerpal Kaur complainant, PW2 Gurpiar Singh, PW3 Dr. Sulekha Goyal, PW4 Inspector Darshan Singh, PW5 Jaskaran Singh, PW6 HC Baldev Singh No. 5, PW7 Sarabjit Kaur, PW8 SI Balkar Singh, Investigating officer of this case and thereafter, the Public Prosecutor for the State closed the evidence of the prosecution.

10. After closure of the prosecution evidence, the accused were examined under Section 313 of Code of Criminal Procedure. They denied the allegations of the prosecution case and pleaded their innocence. Accused/appellant No.1 Raghubir Singh alias Keera explained that his cousin Bhola Singh son of Nachhattar Singh resident of village Jhorar had come to village Surewala to invite their family for marriage. His wife Gurmit Kaur deceased had refused to attend the above marriage and he along with his son Manpreet Singh had attended the marriage on 25.10.2009. His father Banta Singh had gone there a day earlier to him. After the marriage, he stayed back at village Jhorar, but his son Manpreet Singh and his father Banta Singh returned to village Surewala. On 28.10.2009, when he was still at the house of Bhola Singh son of Nachhattar Singh at village Jhorar he received a telephonic message from his son Manpreet Singh that Gurmit Kaur had consumed some poisonous substance and was being taken to hospital by

him, Sahib Singh and Yadwinder Singh. Then he started for his village, but when he reached there his wife had died and her dead body was lying at their house. His in-laws concocted a false story as he was not on good terms with the sister of his wife who wanted money from his wife. He had deposited over Rs. 1,00,000/- in the name of his wife in Punjab and Sind Bank, Jaitu and he had cordial relations with her. His wife used to remain under depression. He had no illicit relation with any lady. He did not know why and how she consumed the poisonous substance. He had been falsely implicated in this case at the instance of sisters of his wife. Accused/appellant No.2 Mandeep Kaur also explained that she was innocent and had been falsely implicated in this case on some misguidance. She was living a happy married life at village Aulakh with her husband Bikkar Singh. She did not have any illicit relation with any person. The accused/appellants examined in their defence DWI Daljit Singh Clerk, Punjab and Sind Bank, Jaitu, DW2 Manpreet Singh son of accused/appellant No.1 Raghbir Singh @ Keera, and closed their defence evidence.

11. Based on the evidence led, the accused-appellants came to be convicted vide judgment of conviction and order of sentence dated 16.05.2011 passed by the Sessions Judge, Sri Muktsar Sahib as under:-

Offence Sections	under Sentence RI/SI	Fine	RI/SI in default of payment of fine
Section 306 IPC	RI (07 years)	Rs.2000/- each	RI (02 months)

12. The aforementioned judgment is under challenge before this Court.

13. The learned Amicus Curiae for the appellant No.2 contends that the prosecution has failed to prove its case beyond doubt. Once the Trial had come to the conclusion that no offence under Section 302 IPC was made out, the question of recording of a conviction under Section 306 IPC did not arise. The Trial Court had not considered in its proper perspective the fact that the money had been deposited in the account of the deceased by the husband. The various witnesses who had been examined during the course of the Trial were interested witnesses being relatives of the deceased and the Trial Court had gone wrong in relying upon their depositions even to prove illicit relations between both the accused/appellants. He, therefore, contends that the impugned judgment of conviction was liable to be set aside.

14. The learned counsel for the State has placed on record the custody certificate dated 13.12.2024 as per which the accused/appellant No.2 has undergone 02 years, 03 months and 09 days custody out of her substantive sentence of 07 years. He alongwith the learned counsel for the complainant, on the other hand, contend that the evidence on record was sufficient to establish the guilt of the accused under Section 302 IPC. At any rate, offence under Section 306 IPC was certainly made out. The depositions of the material witnesses were consistent with regard to the illicit relations of the accused/appellants with each other and the consequential act and conduct of accused/appellant No.1-Raghubir Singh @ Keera with his deceased wife.

been caused by pesticides. They, therefore, contend that the appeal was liable to be dismissed.

15. Learned counsel appearing for the applicant in CRM-A-644-2011, submits that the learned trial Court, fell in error of law in not convicting the accused-appellants for the offence under Section 302, especially when it was proved by the prosecution by leading cogent and convincing evidence that the deceased had been murdered by the accused-appellants. Accordingly, a prayer has been made for grant leave to appeal and convict and sentence the accused-appellants for the offence under Section 302 IPC.

16. We have heard the learned counsel for the parties, examined the record and evidence on the file.

17. Dr. Sulekha Goel, PW-3 conducted the autopsy on the dead body of Gurmit Kaur deceased at Civil Hospital, Muktsar. Her autopsy report is Ex. PW3/B. This witness deposed that she had initialed the police papers. On receipt of the Chemical Examiner's report Ex. PW3/C, she submitted a supplementary report Ex. PW3/D declaring the cause of death as organophosphorus compound pesticide which was detected in the visera of the deceased Gurmit Kaur at the time of analysis by the Chemical Examiner. From the cross-examination of this witness, it transpires that the death in this case might have occurred at 12'O clock on the intervening night of 27th/28th October, 2009. This witness has further deposed that there was no mention regarding the tearing off clothes or scuffle marks of a struggle on the person of Gurmit Kaur. There were no marks of spitting, or stains of

blood or of pesticide on the dead body of deceased. This witness categorically deposed that had any such marks been present, they would have been recorded in the post mortem report. As there were no tearing off clothes, scuffle marks of a struggle or marks or spitting or stains of blood or of pesticides etc. on the clothes or dead body of the deceased Gurmit Kaur, the story of the prosecution that organophosphorus was forcibly put in the mouth of deceased Gurmit Kaur by accused/appellant No.1 Raghbir Singh (since deceased) becomes highly doubtful. In addition to the statement of PW3 Dr. Sulekha Goel, PW8 SI Balkar Singh, conducted the inquest report EX. PW8/C on the person of deceased Gurmit Kaur under Section 175 of Code of Criminal Procedure. The dead body was identified by Gurpiar Singh and Shivraj Singh. This witness admitted in cross-examination that he recorded that the clothes of the deceased were not torn or stained with anything nor was there any struggle marks on the dead body. From the statement of PW8 SI Balkar Singh, it is implicit that neither was there any struggle marks on the person of deceased, nor was there any tearing off clothes of deceased Gurmit Kaur. Further, there were no stains of spitting or stains of spray either on the dead body or clothes of the deceased. No such thing was found in this case at the time of inquest report PW8/C conducted by PW8 SI Balkar Singh investigating officer and in post mortem report Ex. PW3/B conducted by Dr. Sulekha Goel.

PW-1 Veerpal Kaur deposed that accused/appellant No.1 Raghbir Singh (since deceased) put the vial of spray in the mouth of her sister Gurmit Kaur in her presence. It is not believable that he put the spray

in the mouth of his wife in the presence of her real sister, PW1 in broad day light. Even otherwise, she took no step to prevent him and rather went away to her house to bring her husband. She also raised no raula to attract people to the place of occurrence when the life of her sister was at stake. Her conduct is, thus, not a natural one. No sister would stay a mute spectator when poison is being given to her real sister in her presence. She would have come to the rescue of Gurmit Kaur deceased had it been that accused/appellant No.1 Raghbir Singh (since deceased) forcibly put the spray in her mouth. On the contrary, she went away to her house to bring her husband instead of doing something on the spot to save the life of her real sister Gurmit Kaur. The presence of PW1 Veerpal Kaur on the spot of occurrence is, thus, found to be highly doubtful. Her house was only at a distance of a five minute walk from the place of occurrence as admitted by her. This witness further deposed that there were blood stains on the clothes of her sister, but nothing to that effect was found either by the Investigating Officer PW8 SI Balkar Singh when he visited the spot and held the inquest report or by PW3 Dr. Sulekha Goel, when she conducted the autopsy on the dead body of deceased.

18. The prosecution examined PW2 Gurpiar Singh, the real brother of deceased Gurmit Kaur, to the effect that Kala Singh informed him about the maltreatment and humiliation of his sister Gurmit Kaur by both the accused/appellants in the marriage function at Malout. He had gone there and his sister Gurmit Kaur informed him about her humiliation. This witness did not see the accused giving any poison to Gurmit Kaur-deceased. He

only deposed that Kala Singh informed him regarding the philandering of accused/appellant No.1 Raghbir Singh with accused/appellant No.2 Mandeep Kaur. His sister had told him about the illicit relation of accused/appellant No.1 Raghbir Singh with Mandeep Kaur accused/appellant No.2. This, witness only proved the fact that accused/appellant No.1 Raghbir Singh @ Keera was having illicit relation with Mandeep Kaur accused/appellant No.2 and he was humiliating and maltreating his sister Gurmit Kaur-deceased at the instance of Mandeep Kaur, his paramour. Even PW5 Jaskaran Singh deposed regarding the fact that accused/appellant No.1 Raghbir Singh @ Keera gave a lift to Mandeep Kaur in her car for attending the marriage function at village Jhorar. The deceased Gurmit Kaur objected to that and he got down therefrom. This witness deposed that there were extra marital relations between the accused/appellant No.1 Ragibir Singh @ Keera and accused/appellant No.2 Mandeep Kaur and due to that reason, a quarrel took place between Gurmit Kaur deceased and her husband Raghbir Singh accused/appellant No.1 when he gave a lift to Mandeep Kaur. PW7 Sarabjit Kaur also did not witness any such occurrence of giving poison by accused/appellant No.1 Raghbir Singh @ Keera to Gurmit Kaur deceased in this case. She also deposed that the deceased Gurmit Kaur borrowed jewellery from her for attending the marriage function at Jhorar. She returned therefrom on 27.10.2009. She further deposed that Gurmit Kaur appeared apprehensive and nervous and stated to her that the accused/appellants planned to get rid of her. She deposed that she had not seen any such conspiracy. She admitted that she

had not seen the accused/appellant No.1 Raghbir Singh @ Keera giving poison to Gurmit Kaur deceased.

18. Quite apparently, qua the offence under Section 302 IPC, the case of the prosecution is sought to be pressed into service by the statement of PW-1 Veerpal Kaur only. The conduct of this witness in not saving her sister and rather rushing to her house is somewhat unnatural. She has not raised any *raula* on the spot nor took any step to save her sister. Further, there were no struggle marks on the person of the deceased, nor were there any blood stains, or stains of spitting, vomiting or stains of spray either on her clothes or on her dead body. Therefore, the story of the prosecution that accused/appellant No.1 Raghbir Singh @ Keera forcibly gave spray to deceased Gurmit Kaur is highly doubtful.

19. We may also add here that the allegations of murder were only against accused-appellant No.1-Raghbir Singh @ Keera (since deceased) husband of Gurmit Kaur and accused-appellant No.2-Mandeep Kaur was charged only under Section 120-B IPC. PW-1-Veerpal Kaur cannot be believed qua the allegations under Section 302 IPC in view of the above discussion. However, qua accused-appellant No.2 even PW-1 Veerpal Kaur has not levelled allegations of murder. Therefore, at any rate, no offence under Section 302 IPC is made out as has rightly been held by the Trial Court.

20. On the other hand, from an analysis of the evidence on the record and the statement of PW8 SI Balkar Singh, the prosecution has proved the fact that there were illicit relations between accused/appellants

Raghhir Singh @ Keera and Mandeep Kaur. Accused/appellant No.2 Mandeep Kaur was kept as a paramour by accused/appellant No.1 Raghhir Singh @ Keera. PW8 SI Balkar Singh stated that it transpired in his investigation that accused/appellant No.2 Mandeep Kaur's husband was settled abroad. She was residing in a farm house with an old man, who was her father-in-law. The evidence as led has proved that the relationship between accused/appellants Raghhir Singh @ Keera and Mandeep Kaur was illicit and that accused/appellant No.1 Raghbhar Singh @ Keera maltreated and humiliated his wife Gurmit Kaur (since deceased) on account of his illicit relationship with Mandeep Kaur accused/appellant No.2. The accused/appellant No.1 Raghhir Singh created such an atmosphere in the family on account of his illicit relationship with Mandeep Kaur accused/appellant No.2 that he made it miserable for Gurmit Kaur deceased to live in the family. The atmosphere created by both the accused/appellants on account of their illicit relations induced deceased Gurmit Kaur to commit suicide. The deceased Gurmit Kaur, thus, took poison on account of the act and conduct of the accused/appellants and on creation of such an atmosphere in the family where it was unhealthy and unwholesome for her to live.

21. As per the evidence on record, both the accused/appellants conspired by creating such circumstances in the family which would amount to goading and instigating the deceased Gurmit Kaur to commit suicide. The accused/appellants in conspiracy with each other aided and abetted the commission of suicide by the deceased. The deceased Gurmit Kaur suffered constant mental torture on this account which forced her to commit suicide

on account of the illicit relationship of both the accused/appellants. There remained a litany of continued harassment and assault by accused/appellant No.1 Raghbir Singh at the instance of accused/appellant No.2 Mandeep Kaur which goaded deceased Gurmit Kaur to commit suicide thereby establishing their culpability under Section 306 IPC.

22. From the evidence on record and the discussion as aforesaid, it is proved on record that the deceased committed suicide on account of the act and conduct of her husband/accused-appellant No.1-Raghbir Singh @ Keera (since deceased) and his paramour accused/appellant No.2-Mandeep Kaur, and therefore, the present appeal against the judgment of conviction and order of sentence dated 16.05.2011 stands dismissed. Thus, we maintain the conviction of accused-appellant No.2-Mandeep Kaur under Section 306 IPC. However, we find no merit in the prayer of the applicant-complainant (CRM-A-644-2011) to grant her leave to appeal.

23. Coming to the quantum of sentence, it may be noticed that the occurrence took place on 28.10.2009 and the judgment of conviction and order of sentence was passed on 16.05.2011. The sentence of appellant No.2-Mandeep Kaur was suspended by the Co-ordinate Bench of this Court vide order dated 02.12.2011 by noticing that she had already undergone 01 year, 11 months and 13 days as on 01.12.2011 out of the total sentence of 07 years. Besides that, the appellant No.2 is a lady of 50 years of age. As per the custody certificate dated 13.12.2024, she has already undergone total sentence of 02 years, 03 months and 09 days out of her substantive sentence of 07 years. She has been facing the protracted trial since 2009 and thus, the

ends of justice would be fully met, if the sentence imposed upon appellant No.2-Mandeep Kaur is ordered to be the one already undergone by her. Consequently, while upholding the conviction of appellant No.2 under Section 306 IPC, we impose upon her the sentence already undergone by her except the enhancement of fine from Rs.2,000/- to Rs.10,000/-. The modified sentence shall, thus, as under:-

Offence Sections	underSentence RI/SI	Fine	RI/SI in default of payment of fine
Section 306 IPC	2 years, 3 months and 9 days (already undergone)	10,000/-	RI (02 months)

24. Accordingly, CRA-S-1569-SB-2011 is disposed of in the above terms. However, we do not find any ground to grant the leave to appeal in CRM-A-644-2011. The same is dismissed and leave to appeal is declined.

(JASJIT SINGH BEDI)
JUDGE

(SUDHIR SINGH)
JUDGE

December 20, 2024
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No