



the High Court of Punjab and Haryana at Chandigarh

CRA-D-183-2019 (O&M)

Reserved on: 24.04.2024

Date of Decision: 27.5.2024

Tej Ram

.....Appellant

Versus

State of Haryana

.....Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. Avtar Singh Bhatti, Advocate (Legal Aid Counsel)
for the appellant.

Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana.

SURESHWAR THAKUR, J.

1. The instant appeal is directed against the impugned verdict, as made on 18.1.2019, upon case bearing CIS No. SC-270-2016, by the learned Sessions Judge, Jhajjar. Through the above said verdict, the learned trial Judge concerned, convicted the accused-appellant, for the commission of offences punishable, under Sections 302, 449 of the IPC. Moreover, through a separate sentencing order, drawn on 23.1.2019, the learned trial Judge concerned, sentenced the accused-appellant to undergo rigorous imprisonment for life for an offence punishable under Section 302 IPC, and, also imposed, upon the accused-appellant, the sentence of fine, as comprised in a sum of Rs. 10,000/-, besides in default of payment of fine amount, he sentenced the accused-appellant to undergo rigorous imprisonment for a period of three months. Moreover, the learned convicting Court also sentenced the accused-appellant to undergo rigorous imprisonment for a period of ten years, for an offence punishable under Section 449 IPC, and,

also imposed, upon him the sentence of fine, comprised in a sum of



Rs. 5,000/-, besides in default of payment of fine amount, it sentenced the convict to undergo rigorous imprisonment for a period of two months.

2. Both the above imposed sentences of imprisonment, were ordered to run concurrently. However, the period of detention undergone by the convict-appellant, during the investigations, and, trial of the case, was, in terms of Section 428 of the Cr.P.C., rather ordered to be set off from the above imposed sentence(s) of imprisonment.

3. The convict-appellant becomes aggrieved from the above drawn verdict of conviction, besides also, becomes aggrieved from the consequent therewith sentences of imprisonment, and, of fine as became imposed, upon him, by the learned convicting Court concerned, and, hence has chosen to institute thereagainst the instant criminal appeal, before this Court.

Factual Background

4. The genesis of the prosecution case, becomes embodied in the appeal FIR, to which Ex. PB is assigned. The narrations carried in Ex. PB, are that Sombir S/o Rajpal made a complaint to SI/SHO Daya Chand alleging therein that his father Rajpal, aged 63 years, used to sleep in the plot to take care of their cattle. On 18.08.2016 at about 8.30 P.M., after his meals, Rajpal went to the plot for sleeping. At about 5.30 A.M., he alongwith his wife Sunil and Bua (father's sister) Babli went to the plot to tether their cattle. They found the main gate of the plot bolted from inside. The complainant called his father Rajpal but no response was received from inside. He opened the gate of the plot by pushing it forcibly. When the complainant went inside, he found his father lying dead on the Cot. There was an injury mark on the head of deceased Rajpal and blood had also oozed out of it. Some unknown person had committed the murder of Rajpal by causing head injury. The complainant party had no enmity with any body.



On the basis of aforesaid complaint, formal FIR for the commission of offence under Sections 302 and 449 of Indian Penal Code was registered.

Investigation proceedings

5. During the course of investigations, proceedings under Section 174 Cr.P.C. were carried out in respect of the dead body of deceased Rajpal. Post-mortem examination was got conducted and after post-mortem examination, the dead body of Rajpal was handed over to his relatives. Place of occurrence was inspected, and, its rough site-plan was prepared. Blood stained earth and a blood stained piece of DARI (bedding) were taken into possession. During investigation, supplementary statement of complainant Sombir was recorded wherein he suspected accused Tej Ram for murder of his father. On 23.08.2016, accused Tej Ram suffered extra-judicial confession to Rajender Singh S/o Lal Chand about committing the murder of Rajpal. Rajender Singh brought this fact to the notice of the police and handed over accused Tej Ram to them. After making enquiries, accused Tej Ram was arrested in the case. On 24.08.2016, the accused suffered a disclosure statement and got an iron Hammer (GHAN) recovered. Rough sketch of the Hammer/GHAN was prepared and it was taken into police possession. After conclusion of investigations, the investigating officer concerned, proceeded to institute a report under Section 173 of the Cr.P.C., before the learned committal Court concerned.

Committal Proceedings

6. Since the offence under Section 302 of the IPC was exclusively triable by the Court of Session, thus, the learned committal Court concerned, through a committal order made on 19.10.2016, hence proceeded to commit the accused to face trial before the Court of Session.



Trial Proceedings

7. The learned trial Judge concerned, after receiving the case for trial, after its becoming committed to him, made an objective analysis of the incriminatory material, adduced before him. Resultantly, he proceeded to draw charges against the accused, for the offence punishable under Section 302 and under Section 449 IPC. The afore drawn charges were put to the accused, to which they pleaded not guilty, and, claimed trial.

8. In proof of its case, the prosecution examined 18 witnesses, and, thereafter the learned Public Prosecutor concerned, closed the prosecution evidence.

9. After the closure of prosecution evidence, the learned trial Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused pleaded innocence, and, claimed false implication. He also chose to adduce defence evidence, but did not lead any defence witness into the witness box.

10. As above stated, the learned trial Judge concerned, proceeded to convict the accused-appellant for the charges (supra), as became drawn against him, and, also as above stated, proceeded to, in the hereinabove manner, impose the sentence(s) of imprisonment, as well as of fine, upon the convict-appellant.

Submissions of the learned counsel for the appellant

11. The learned counsel for the aggrieved convict-appellant has argued before this Court, that the impugned verdict of conviction, and, consequent therewith order of sentence, require interference. He supports the above submission on the ground, that they are based on a gross misappreciation, and, non-appreciation of evidence germane to the charge.



Submissions of the learned State counsel

12. On the other hand, the learned State counsel has argued before this Court, that the verdict of conviction, and, consequent thereto sentence(s) (supra), as become imposed upon the convict, are well merited, and, do not require any interference, being made by this Court in the exercise of its appellate jurisdiction. Therefore, he has argued that the instant appeal, as preferred by the convict-appellant be dismissed.

Reasons for dismissing the instant appeal

13. For the reasons to be assigned hereinafter the contentions (supra), as become raised before this Court, by the learned counsel for the appellant rather are unworthy of acceptance, and, thereby they are rejected.

Extra judicial confession, comprised in the deposition of PW-1

14. PW-1 Rajender Singh, upon his stepping into the witness box, has, in his examination-in-chief, made speakings, that on 23.8.2016, accused Tej Ram visited his house, and, that then the said accused confessed his guilt qua his committing the murder of his elder uncle Rajpal on 18.8.2016, as his uncle Rajpal had refused to settle the accounts of their joint family with him. PW-1 in his examination-in-chief also echoes, that in pursuance to the extra judicial confession, as made to him by the accused, he informed the police about the murder of Rajpal, thereafter the police reached his house, and, then he produced the accused before the police.

15. Though, PW-1 was subjected to the ordeal of an exacting cross-examination but no suggestion became meted to him to bely the factum of either the accused not visiting his house at the relevant time, nor any valid suggestion became meted to him, to benumb the trite incriminatory spoken factum of his making an extra judicial confession to him. Moreover, there is

also no efficacious suggestion meted to him, during his cross-examination,



that there was any animosity or inimicality inter se PW-1, and, the accused, and, rather that hence PW-1 could not be construed to be a close confidante of the accused. Since obviously no answers thereto became meted by PW-1. Therefore, it can but be concluded, that not only the accused visited the house of PW-1 but also he made a credible incriminatory extra judicial confession before him. Moreover, it is also got to be inferred, that the accused had reposed deep trust, and, confidence in PW-1, and, was led to make a confession about his guilt before him. The above inference becomes firmly galvanized from the factum, that evidently the accused-appellant is the grandson of PW-1, in village relations.

16. Since PW-1 also speaks qua, in sequel to the extra judicial confession, as made before him by the accused, his taking to produce the accused before the investigating officer concerned, factum whereof also becomes corroborated by PW-17. Therefore, and, especially when the above fact is not proved by any cogent evidence to be fake, thereby the prosecution has, through PW-1 cogently established the espoused incriminatory link qua the accused confessing his guilt before PW-1.

Signed disclosure statement of convict-appellant Tej Ram Ex. PE

17. During the course of investigations, being made into the appeal FIR, convict-appellant Tej Ram made a signed disclosure statement, to which Ex. PE is assigned. The signed disclosure statement, as made by the accused is ad verbatim extracted hereinafter.

“x x x x
I am resident of village Pelpa. I do the work of agriculture. My parents were three brothers. Rajpal was eldest, Om Parkash was younger to him and Jagpal was the youngest. All three collectively started iron factory firstly at Kamruddin Nagar Nangloi Delhi. Subsequently shifted to village Pelpa. My father



Om Parkash expired. My Tau (elderly uncle) Rajpal used to look after the business and transaction of the factory. My Tau (elderly uncle) Rajpal had paid the amount of share of my uncle Jagpal. When I asked my Tau (elderly uncle) Rajpal to pay the amount of my share, he refused to pay the amount to me. Nourishing the grudge for this I decided to kill my Tau Rajpal. On 18/19-8-2016, in the night, I committed the murder of my Tau (elderly uncle) Rajpal by inflicting injuries in the head with an iron hammer while sleeping in the plot. After the murder, I alongwith iron hammer went to my plot in the village and concealed the iron hammer in the fodder room. I went away from the village due to fear. None else I know about the same. I can demarcate and get the same recovered. The disclosure statement of the accused was completed. The disclosure statement has been signed by the accused and witnesses.

x x x x''

18. Pursuant to the above made signed disclosure statement, convict Tej Ram ensured the recovery of an iron hammer, which was taken into police possession through recovery memo Ex. PE/1.

19. The disclosure statement (supra), carries the signature, in English, of convict-appellant Tej Ram. In his signed disclosure statement (supra), convict-appellant Tej Ram, confessed his guilt in committing the crime event, by inflicting injuries on the deceased concerned, hence with the incriminatory weapon of offence. The further speaking therein is qua his keeping, and, concealing the incriminatory weapon of offence, at the place concerned, and, qua his alone being aware about the location of his hiding and keeping the same, and, also revealed his willingness to cause the recovery of the incriminatory weapon of offence to the investigating officer concerned, thus from the place of his hiding, and,



keeping the same.

20. The above disclosure statement, does acquire, the utmost evidentiary solemnity, as thereons exist the signatures, in English, of the convict concerned, which, however, he has neither ably denied nor proven the said denial. Moreover, the above confession of guilt is neither a bald nor a simpliciter confession, nor is hit by the bar, encapsulated in Section 25 of the Indian Evidence Act. The reason for drawing the above inference, ensues from the factum, that in pursuance thereof, through a proven recovery memo, the convict-appellant, thus caused the recovery of the incriminatory weapon of offence, to the investigating officer concerned.

21. Since the recovery of the incriminatory weapon of offence, as made through recovery memo Ex. PE/1, has not been proven to be a false or a contrived recovery, inasmuch as, it has not been cogently established, that prior to the making of the above recovery, rather the investigating officer concerned, had taken to plant the same at the apposite site of its recovery, nor when any cogent evidence becomes adduced rather vividly exemplifying, that the place of the apposite recovery rather was an open place, hence leaving scope for any person, other than the convict to place it there. Thus, the above recovery is not only to be concluded to be a validly made recovery, but is also to be concluded to be of the very same incriminatory weapon, which did become used by convict-appellant Tej Ram, in causing the relevant fatal assault.

22. The above made recovery through recovery memo Ex. PE/1 in pursuance to the disclosure statement, as made by the accused-appellant before the police officer concerned, whereons his uncontested signatures exists, does also firmly corroborate, the proven extra judicial confession



Post-mortem report

23. The post-mortem report, to which Ex. PF/1 is assigned, became proven by PW-13. PW-13 in his examination-in-chief, has deposed that he along with Dr. Abhimanyu and Dr. Bhupesh, on theirs making an autopsy on the body of the deceased, thus theirs noticing thereons the hereinafter extracted ante mortem injuries-

- “1. Right ear lacerated wound on upper aspect of ear 1x1 cm.*
- 2. Blood filled external auditory meatus and clotted.*
- 3. Whole of right side of skull and face blood stained.*
- 4. Depressed area on right side of fronto-parietal temporal region measuring 15x10 cm oval shape along with an overlying incised wound of ‘C’ shape about 7x1 cm, brain matter visible, margins clear, averted, bone deep. On dissection, multiple fractures of underlying bones and impinging on underlying brain manner.”*

24. Furthermore, PW-13 also made a speaking in his examination-in-chief, that the possibility of hammer injury, thus causing the said ante mortem injuries, hence cannot be ruled out. He further opined, that cause of the demise of the deceased was owing to the ante mortem head injury. During the course of his making his testification in Court, the said witness was also shown the incriminatory weapon of offence, whereupon he deposed that it was the same weapon which was produced by the police before him, thus for seeking an opinion from him, about its user in the entailments of the ante mortem injuries (supra) rather on the body of the deceased. Thus, the signed disclosure statement, as made by the convict-appellant, and, also consequent thereto made recovery through recovery memo Ex. PE/1, do also become fully supported by the above medical account/evidence.



Forensic evidence, as comprised in the report of the FSL, to which Ex. PX is assigned.

25. Through memo No. 602-5A, drawn on 10.9.2016, three sealed parcels, became sent, through Constable Ashwani No. 228 JJR, to the FSL concerned. The FSL concerned, made an opinion, thus upon making examinations of all the incriminatory items, as became sent to it in sealed cloth parcels. The result of the apposite examinations, as made at the FSL concerned, is ad verbatim extracted hereinafter.

“Laboratory Examination

Laboratory examinations were carried out to detect the presence of blood on the exhibits through chemical tests. Blood thus detected was subjected to serological tests to determine its species of origin. Based upon these examinations the results obtained are given below:-

- 1. Exhibit-1 (Dari piece) and Exhibit-2 (blood stained earth) were stained with blood stains.*
- 2. Blood was detected on Exhibit-3 (Hammer/Ghan).”*

26. Therefore, it emerges from the above extracted result of the relevant examinations, that therebys not only the above signed disclosure statement, as made by the convict-appellant, does therefrom acquire corroboration but also the recovery, as made through recovery memo Ex. PE/1, becomes proven to be both a valid, and, an efficacious recovery. Significantly, when blood stains, as were found on the said items were not refuted by the accused to be not belonging to the blood group of the deceased. In summa, this Court finds no gross perversity or absurdity in the appreciation of the relevant evidence, as became made by the learned trial Judge concerned.

**Final order**

27. The result of the above discussion, is that, this Court does not find any merit in the appeal, and, is constrained to dismiss it. Consequently, the appeal is dismissed. The impugned verdict of conviction, as becomes recorded upon the convict-appellant, by the learned convicting Court, is maintained, and, affirmed. Moreover, the consequent thereto order of sentence is also affirmed. If the convict is on bail, thereupon, the sentence(s) as imposed upon the convict-appellant, be ensured to be forthwith executed by the learned trial Judge concerned, through his drawing committal warrants. The case property be dealt with, in accordance with law, but after the expiry of the period of limitation for the filing of an appeal.

28. Records be sent down forthwith.

29. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

May 27, 2024
Gurpreet

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