



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

101

CRA-D-231-DB-2004 (O&M)
Date of Decision: 08.08.2025

ATMA RAM AND OTHERS

... Appellants

VERSUS

STATE OF HARYANA

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.
HON'BLE MR. JUSTICE H.S. GREWAL.

Present: Mr. Nischal Chetanaya Manchanda, Advocate
for the appellants.

Mr. Karan Sharma, DAG, Haryana.

H.S. GREWAL, J.

The instant appeal is directed by the appellants namely Atma Ram, Mahinder and Leelu Ram all sons of Kesra Ram against the judgment of conviction dated 16.02.2004 and order of sentence dated 20.02.2004 passed by the Additional Sessions Judge, Sirsa, in case FIR No.246 dated 25.12.2000, registered under Section 302 IPC at Police Station Sadar, Sirsa whereby all the appellants had been convicted and sentenced to undergo imprisonment along with fine as under:-

Section(s)	Rigorous imprisonment	Fine	In default of payment of fine to undergo RI for
302/34 IPC	Life imprisonment	Rs.10,000/- each.	02 years

2. The case of the prosecution is that on 25.12.2000, the FIR in question Ex.PE/2 was registered on the basis of dying declaration made by deceased Kirna Devi, wherein she has stated as under:

“The name of my father is Madan Lal. I was resident of village Bhavdi. I was married to Atma Ram son of Kesra Ram six years ago. My husband is a resident of Village Meerpur. I am issueless. Today at about 10.00/11.00 A.M., I was preparing meals. My husband had already made a plan to kill me. My husband Atma Ram sprinkled kerosene on my person. Kerosene was sprinkled on me from a bottle. Atma Ram lit a stick of match box and set me ablaze. My both the Jeths (elder brothers of husband) Leelu Ram and Mahinder also abetted. My Jethanis namely Bimla and Bhateri also joined hands. I do not know who shifted me to the Hospital in the jeep. I am fully conscious. My Jethanis caught hold of me by hands. Jeths also assisted. I have nothing to say anything else.”

3. The abovesaid dying declaration was recorded by Mr. A.S. Narang, the then Chief Judicial Magistrate, Sirsa, on the basis of which, the FIR No.246 dated 25.12.2000 under Section 302 of the Indian Penal Code was registered at Police Station Sadar Sirsa. The Investigation was conducted by ASI Ramesh Kumar, who had recorded the statements of all the relevant witnesses. On the same day, the Investigating Officer visited the place of occurrence and prepared the rough site plan. The deceased was medico-legally examined on the same day. She, however, succumbed to the injuries on the same day. The postmortem was conducted on the body of the deceased on 26.12.2000 by Dr. Somani and Dr. J.K. Bishnoi. Accused Atma Ram was arrested on 08.01.2001, whereas the remaining accused were found innocent

during the course of investigation and they were kept under column No.2. However, later on, they were summoned under Section 319 of the Cr.P.C.

4. Learned counsel for the appellant(s) submits that the trial Court has erred in passing the aforesaid judgment inasmuch as there were material inconsistencies and discrepancies in the prosecution case qua the involvement of the appellants. He further submits that it was a case of accidental fire and there was no involvement of the appellants in the said occurrence. The appellants rightly claimed that on 25.12.2000, at the time of incident, all the appellants were away from home for their respective jobs. It has also been established on record that the brothers-in-law of the deceased are residing separately from Atma Ram and have their separate ration cards and voter ID cards. It is further submitted that the prosecution has miserably failed to bring home the guilt of the appellants and as such they are liable to be acquitted.

5. Learned counsel for the respondent-State, on the other hand, has vehemently contended that the offence committed by the appellants is heinous and serious in nature because they had intentionally set the deceased ablaze, which ultimately resulted in her death. The direct involvement of the appellants has been well established on record and plea of alibi, as raised by the appellants have not been proved at all. Even the death of the deceased has undisputedly occurred in her matrimonial house. He further submitted that the Trial Court has rightly held the appellants as guilty and the instant appeal, therefore, deserves to be dismissed.

6. We have heard learned counsel for the parties and have carefully perused the material available on record.

7. After completing the investigation, all the three appellants were charge-sheeted under Sections 302 read with Section 34 IPC to which they pleaded not guilty and claimed trial. In order to substantiate the allegations, the prosecution examined 11 witnesses in the case namely Mr. A.S. Narang, CJM, Sirsa as PW1, Dr. Viresh Bhushan as PW2, Bharat Singh HC as PW3, Constable Satbir Singh as PW4, Constable Dharam Chand as PW5, Dalip Kumar son of Madan Lal as PW6, Madan Lal son of Pat Ram as PW7, Dr. G.S. Somani as PW8, Inspector Daya Nand as PW9, Chander Pal ASI as PW10 and Ramesh Kumar SI/SHO as PW11.

8. In defence, the appellants have examined as many as five witnesses namely Satnam Singh son of Tem Chand as DW1, Indraj son of Dhanna ram as DW2, Sgt. Jaswant Singh as DW3, ChhotuRam Shoeran as DW4 and Piare Lal as DW5.

9. The case of the prosecution is that deceased Kirna Devi wife of Atma Ram (appellant) was admitted in Govt. Hospital, Sirsa with burn injuries, whereupon her dying declaration was recorded at about 1.30 P.M. after obtaining her fitness certificate qua making statement, which was issued by Dr. Viresh Bhushan. The dying declaration is categoric as reproduced above wherein she has stated that “my husband Atma Ram sprinkled kerosene on my person from a bottle and thereafter he lit a stick of match box and set me ablaze and both her jeths (brothers of her husband) namely Mahinder and Leelu Ram also abetted her husband and her jethanis namely Bimla and Bhateri also joined in hands with them.”

10. PW1 Mr. A.S. Narang, CJM, Sirsa has appeared in the witness box and deposed about recording the dying declaration of the deceased Kirna Devi.

11. PW2 Dr. Viresh Bhushan has appeared and deposed about the injuries and stated that there was history of burn injuries, there was smell of kerosene present all over the body and the patient was conscious, well oriented but irritated. He further stated that there were superficial burns on all over the body except both legs, both lower one half, thigh, pubis lower back and back of head. The total burnt area was approximately 60%. At about 1.30 PM on 25.12.2000, he had declared the deceased fit to make statement. She remained calm during the recording of her statement, however, the statement was recorded in his absence.

12. PW2 to PW-5 are formal witnesses of the prosecution and have deposed about the link evidence only.

13. PW6 Dalip Kumar is the brother of deceased Kirna Devi. He has deposed about the deceased being married to Atma Ram on 14.07.1994. He further deposed that the deceased Kirna Devi was illtreated and was subject to the unlawful demand of dowry. Atma Ram, her husband, used to torture her and beat her while being under the influence of liquor. Various panchayats were held but nothing fruitful could be gained out of the same. He further deposed that at about 10.00 AM on 25.12.2000, he came to know that her sister (deceased Kirna Devi) has been burnt by her in laws and she has been admitted in Civil Hospital, Sirsa. When he asked her as to why she has been admitted in hospital, she said that her husband Atam Ram had sprinkled kerosene on her

body and set her ablaze. Her jeths Mahinder and Leelu Ram had caught hold of her and their wives had also caught hold of her when she was burnt alive by her husband.

14. PW7 Madan Lal is father of deceased Kirna Devi and he also deposed regarding the ill treatment meted out to his daughter. He deposed that on 25.12.2000, he received a message from one Jeet Singh about the occurrence and admission of his daughter in the hospital. Thereafter, he alongwith his wife and son reached Sirsa where his daughter (deceased Kirna Devi) was admitted in emergency wards and she disclosed them about the incident. They narrated the said facts to the police at about 3-4 P.M. However, on 26.12.2000, his daughter Kirna Devi succumbed to the injuries. In their cross examination, these witnesses had refuted the suggestion that the accused persons namely Atma Ram, Mahinder and Leelu Ram are residing separately, but admitted that their parents are residing separately. He also refuted that the accused persons have separate ration cards and separate voter ID cards of different residences.

15. PW8 Dr. G.S. Somani had conducted the postmortem on the dead body of deceased Kirna Devi on 26.12.2000 and had deposed about the burn injuries sustained by deceased Kirna Devi, which were ante-mortem in nature and were sufficient to cause death.

16. PW9 Inspector Daya Nand deposed that Chander Singh, Inspector/SHO of Police Sation City Sirsa had joined Leelu Ram, Mahender, Bhateri and Bimla wife of Mahinder in the investigation and they were found innocent. Rai Singh, DSP, Sirsa had also verified the investigation and found the abovesaid persons as innocent. He produced the copies of statements of abovenamed three

persons as Ex.DC, Ex.DD and Ex.DE. It is stated that accused Atma Ram used to do labour work at the Air Force Station, Sirsa. He further deposed that it had not come to his notice that Atma Ram had gone to Air Force Station for doing labour work and he remained there from 8 AM to 9.30 AM on that day.

17. PW10 SI Chander Pal had prepared the challan and had produced the final report under Section 173 of the Cr.P.C. before the concerned Illaqa Magistrate.

18. PW11 Ramesh Kumar SI/SHO was the Investigating Officer of the case and during the investigation, he had reached the hospital, got the fitness certificate and had requested the Duty Officer/Duty Magistrate to record the dying declaration of the deceased and had endorsed the same. He recorded the statements of the family members also, who were present there. He also examined the spot and had prepared the rough site plan Ex.PL and had recovered the empty bottle (Ex.P1) from the spot, which contained a smell of kerosene. He lifted the burnt cloths (Ex.P2) and the match box (Ex.P3) from the spot

19. After closing the prosecution evidence, the statements of all three accused under Section 313 Cr.P.C. were recorded wherein they denied the allegations of the prosecution and pleaded innocence and false implication. They examined DW1 Satnam Chand, the Ex.Sarpanch of village Meerpur. He deposed that on the day of occurrence, Leelu Ram was deputed by him to run the tubewell for irrigating wheat crop. He remained in his fields from 8 AM to 9.30 AM. At about 9.30 AM, he received a message about Kirna Devi being burnt, whereupon he set Leelu Ram free from his fields. He further deposed that

he knows all the brothers namely Atma Ram, Leelu Ram and Mahinder, who are the residents of the village and are residing separately.

20. DW2 Dhanna Ram deposed that on 25.12.2000, he and Mahinder were present in his fields. He had employed Mahinder on fixed monthly honorarium. They had been working in the fields since the night falling between 24.12.2000 and 25.12.2000. At about 6-6:15 AM, they were working in the fields and wife of Mahinder had brought meals for him at about 9.00 AM. While working there, they received a message that wife of Atma Ram had died by burning. He thereafter sent Bimla and Mahinder to their house at about 9.40 AM.

21. DW3 Sgt. Jaswant Singh, Air Force Station, Sirsa has deposed that he was on duty at the main gate of the Air Force Station and as per his record, Atma Ram had entered the Air Force Station at about 08.30 AM on 25.12.2000. He had issued the token to the contractor and after checking, he allowed Atma Ram to enter the premises and had issued token no.69 to him. However, the attendance register was not brought on record by him, which would have been the primary evidence in order to prove the plea of alibi raised by Atma Ram.

22. DW4 Chhotu Ram Sheoran, the Contractor, Air Force Station, Sirsa has deposed in his evidence that Atma Ram was working as casual labourer in his firm. He further deposed that, in routine, for entry of the labourers into the Air Force Station, the Authorities used to give token and after conducting personal search, the labourer are allowed to enter the premises. Similarly, for coming out of the premises, personal search is conducted.

23. DW5 Piare Lal has also tried to make out a case to prove the plea of alibi in favour of Atma Ram, who is stated to have entered the premises of Air Force Station at 8.30 AM.

24. After considering the statements of all the prosecution witnesses, the recoveries made from the spot and the motive behind the commission of the offence, the trial Court had convicted the appellants under Sections 302 read with Section 34 of the IPC and sentenced them to undergo rigorous imprisonment for life alongwith fine of Rs.10,000/- each.

25. The prosecution case is supported by multiple layers of evidence, including the dying declaration of the deceased-Kirna Devi recorded on 25.12.2000 by PW1 Mr. A.S. Narang, the then learned Chief Judicial Magistrate, Sirsa, wherein she categorically attributed the act of pouring kerosene on her by the accused persons. The said statement is detailed, consistent, and bears the certificate of mental fitness by the doctor, indicating that the same was made voluntarily and in a conscious state. The fact that kerosene residue was found on her clothes also supports to her version. The post-mortem report also conclusively establish that the cause of death was septic shock due to 60% thermal burns, which were ante-mortem in nature and were sufficient to cause death.

26. The appellants, in their defence, had claimed that they were not present at the spot at the time of incident. On the other hand, the prosecution's evidence remained consistent, supported by medical and forensic findings, and fully established the sequence of events leading to the offence. It is also established on record that the deceased was burnt and/or received burn injuries at the house of accused Atma Ram. Hence, in other words, it can be said that

she has been burnt in her matrimonial house. It has come on record that she got married to Atma Ram on 14.07.1994 and she died on 25.12.2000 i.e. within a period of seven years of her marriage. Since there was no allegation of demand of dowry, therefore, the said aspect has not been looked into by the prosecution, however, the aspect of dying declaration before the Chief Judicial Magistrate, who deposed as PW1, is unshakable. The deceased was not under any kind of influence of anybody as no outsider was present at the time of recording his dying declaration.

27. The stand taken by the accused persons is only to the effect of plea of alibi, which they attempted to prove by way of producing/examining the defence witnesses. It has specifically come in the defence evidence that accused persons namely Mahinder and Leelu Ram were not present at the spot at the time of incident; rather they were present at the places of their respective jobs. However, no such clear explanation has come forth from the side of accused Atma Ram. The defence counsel is not able to prove it beyond shadow of reasonable doubt that accused Atma Ram was not present at the spot at the time of occurrence. It was also not the case of the defence that the deceased was mentally depressed or she had committed suicide. There is no justification to that effect. Moreover, there is no explanation as well to that effect.

28. In view of the unshakable dying declaration made by the deceased, the conviction of Atma Ram accused is surely made out since he was the only one who had been residing with the deceased. Moreover, regarding Mahinder and Leelu Ram, there is no substantiated overt role. Moreover, these two appellants were not residing within the same premises, where the deceased and her husband Atma Ram were residing; they were residing separately. Further,

they were also found innocent by the prosecution at the time of investigation, but they were summoned later on under Section 319 of the Cr.P.C. since they were not challaned by the Investigating Agency.

29. In view of the above, the instant appeal is partly allowed and the appellants Mahender and Leelu Ram are acquitted of the charges framed against them and resultantly, the judgment of conviction dated 16.02.2004 as well as order of sentence dated 20.02.2004 passed against them are hereby set aside, whereas the same is upheld qua the appellant Atma Ram and as such, the appeal is dismissed qua appellant Atma Ram and the impugned judgment of conviction dated 16.02.2004 as well as order of sentence dated 20.02.2004 is upheld qua appellant Atma Ram.

30. The Chief Judicial Magistrate, Sirsa is directed to take necessary steps to ensure that the appellant Atma Ram is taken into custody and made to undergo the remaining sentence in accordance with law.

31. All other misc. application(s), if any, also stand(s) disposed of accordingly.

(MANJARI NEHRU KAUL)
JUDGE

(H.S. GREWAL)
JUDGE

AUGUST 08, 2025.
Rajender

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