

[2011] 3 S.C.R. 1107

RANJIT SINGH

v.

STATE OF PUNJAB

(Criminal Appeal No. 389 of 2004)

MARCH 29, 2011

[HARJIT SINGH BEDI AND CHANDRAMAULI KR.
PRASAD, JJ.]

Penal Code, 1860: s.302 – Murder – Allegation that the victim-deceased was strangled by her husband, sister-in-law and grandmother-in-law which caused her death – Trial Court acquitted all the accused on the ground that there was no motive for the murder and the sanctity of the extra judicial confession was doubtful – High Court held the appellant-husband guilty, however upheld the order of acquittal as far as the other accused were concerned – On appeal, held: There was no evidence to connect the appellant with the crime – Extra-judicial confession was made by the appellant to PWs 8 and 9 – Trial court gave good reason for discarding the evidence of PWs 8 and 9 by observing that the appellant and the other accused were in custody from the 2nd September, 1990 onwards when the incident occurred and as such the prosecution story that he was arrested on 10th September after he had made the extra judicial confessions was unbelievable – High Court observed that the extra judicial confessions were irrelevant in the circumstances, and yet relied on those confessions – There was no other evidence against the appellant – Some of the conclusions drawn by High Court were merely conjectural and were not borne out by evidence – The view taken by trial court was possible and should not have been interfered with by High Court – Appellant acquitted.

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal
No. 389 of 2004.

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- A From the Judgment & Order dated 4.12.2003 of the Division Bench of the High Court of Punjab and Haryana at Chandigarh in Criminal Appeal No. 93-DBA of 1994.

O.P. Khullar and R.C. Kohli for the Appellant.

B Kuldip Singh, K.K. Pandey and H.S. Sandhu for the Respondent.

The following Order of the Court was delivered

C O R D E R

This appeal has been filed by Ranjit Singh challenging his conviction and sentence under Section 302 of the IPC for having committed the murder of his wife on 1st September 1990 in the area of village Sandhwan, District Faridkot.

D As per the prosecution story Gurtej Singh-PW.10 of village Sandhwan found the dead body of Gurmail Kaur lying in the house of the appellant on the 1st September 1990. None of the family members of the appellant were present in the house at that time but an electric wire was lying near the dead body.

E Gurtej Singh-PW. thereafter informed PW.3-Harjinder Singh-the brother of the deceased, who rushed to village Sandhwan accompanied by his son Mohan Singh and Sarpanch Harbhajan Singh. They found the dead body lying in the house.

F The matter was reported by Harjinder Singh to the Police Station at 5.30 a.m. on the 2nd September, 1990. ASI-Sant Parkash (PW.14) thereafter reached the house of the appellant in village Sandhwan. He recorded the inquest proceedings and sent the dead body for its post-mortem examination. He also picked up an electric wire 15 feet in length from the spot.

G The post-mortem examination conducted on the 2nd September at 1.45 by Dr. K.K.Agarwal revealed ten injuries on the dead body. The Doctor opined that the death had been caused by asphyxia due to strangulation. It was also opined that after the deceased had been done to death efforts had been made to electrocute

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her as well. During the course of the investigation it was found that Ranjit Singh – appellant and his sisters Manjit Kaur and Baljit Kaur and grandmother-Gurcharan Kaur were also involved in the murder. Baljit Kaur and Manjit Kaur were accordingly arrested on the September 12, 1990 whereas, as per the prosecution story, the appellant was produced before the Investigating officer on the same day by PW.8 Geja Singh before whom he had made an extra judicial confession. A charge-sheet was also filed against Ranjit Singh, Baljit Kaur and Manjit Kaur whereas Gurcharan Kaur was shown in Column No.2 but was subsequently summoned and sent up for trial on the basis of an application made under Section 319 of the Cr.P.C. On appearance of Gurcharan Kaur charges under Section 302/34 of the IPC were framed against all the accused.

The prosecution in support of its case relied inter alia on the evidence of Dr. K.K. Aggarwal (PW.1) who had conducted the post-mortem, PW.3-Harjinder Singh-the first informant, PW.4-Mohan Singh, and PW.8-Geja Singh and PW.9-Arjan Singh to whom Ranjit Singh had made extra judicial confessions and PW.13-Tejvir Singh to whom Baljit Kaur and Manjit Kaur had made extra-judicial confessions. After the close of the prosecution case the statements of the accused were recorded under Section 313 of the Cr.P.C. They denied all the allegations against them and stated that they had never sought any money from Gurnail Kaur's father for the purpose of sending Baljit Kaur and Manjit Kaur Canada to join their mother who was living there. They also pleaded alibis in defence and also produced evidence to that effect.

The Trial Court recorded some positive findings in favour of the accused on a perusal of the evidence. It observed that there appeared to be no motive for the murder and none had been suggested by the prosecution and the story that the accused were attempting to extort money from the deceased and her father so that they could buy tickets for going abroad was not based on any evidence. The court also observed that

- A but for the extra-judicial confession allegedly made by the accused to PW's. 8,9 and 13, there was no other evidence against the accused. The Court then examined this evidence and held that as per the statement of PW.8 Geja Singh the accused had been arrested on the 2nd September, 1990
- B whereas the I.O. PW.14 had categorically stated that they had been arrested on the 10th September, 1990 and in this view of the matter the sanctity of the extra judicial confession was suspect. It has also observed that PW.9 was closely related to the family of the deceased and was therefore improbable that
- C the accused would make an extra judicial confession to him. The Trial Court accordingly acquitted the accused. The matter was thereafter taken in appeal to the High Court by the State of Punjab. The High Court, has on a reconsideration of the evidence, allowed the State appeal qua Ranjit Singh-the
- D appellant and dismissed the appeal qua the other two i.e. Baljit Kaur and Manjit Kaur. The High Court has opined that the appellant was the husband of the deceased and as the death of Gurmail Kaur was homicidal and as the appellant had made absolutely no effort to raise a hue and cry despite the fact that his wife had been murdered, clearly spelt out that he was guilty
- E of the crime. It was also observed that the extra judicial confession though of little significance but an inference could be drawn that the appellant wanted his wife out of the way so that he could move to Canada to be with his mother who was settled there. The Court however observed that this was not a
- F case of a murder for dowry but was nevertheless a diabolical crime. The State appeal was accordingly allowed and the appellant sentenced to life imprisonment under Section 302 of the IPC. This statutory appeal has been filed by Ranjit Singh.
- G We have heard the learned counsel for the parties very carefully and had gone through the record. The Trial Court had gone into the evidence and observed that there was no evidence to connect the appellant with the crime. It is true that the incident happened in the matrimonial home and some
- H presumption regarding the special knowledge etc. could be

raised in such a situation. But the basic onus on the prosecution is to prove its case and the onus does not change merely because the victim is the wife and the accused the husband and the incident happened in the matrimonial home. In this case it has been found that the extra-judicial confession has been made by the appellant to two persons i.e. Geja Singh and Arjun Singh. The Trial Court had given very good reasons for discarding this evidence by observing that the appellant along with his sisters were in custody from the 2nd September, 1990 onwards and as such the prosecution story that he had been arrested on the 10th September, 1990 after he had made the extra judicial confession was unbelievable. The High Court has observed however that the extra judicial confession was really irrelevant in the circumstances, but at the same time, curiously, relied on those very confessions. We also find that some of the conclusions drawn by the High Court are merely conjectural and are not borne out by evidence. An extra judicial confession is an extremely weak kind of evidence and conviction on its basis alone is rarely recorded, there is absolutely no other evidence in the case. We are of the opinion that the judgment of the High Court was a little stretched out and not possible on the facts of the case. The view taken by the Trial Court was clearly possible and should not have been interfered with by the High Court.

We accordingly allow the appeal, set aside the judgment of the High Court and direct the appellant's acquittal. His bail bonds are discharged.

D.G.

Appeal allowed.