

In the High Court of Punjab and Haryana at Chandigarh

CRA-S-1353 of 2021 (O&M)

Reserved on: 05.8.2022

Date of Decision: 26.8.2022

Kiran Kaur

.....Appellant

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Ashok Singla, Advocate
for the appellant.

Mr. Bhupender Beniwal, AAG, Punjab.

Mr. Preetwinder Singh Dhaliwal, Advocate
for the complainant.

SURESHWAR THAKUR, J.

1. The instant appeal is directed against the impugned verdict, as made on 29.10.2021, by the learned Sessions Judge, Barnala, upon CIS No. SC/17/2016. Through the verdict (supra), the learned trial Judge concerned, convicted the accused-appellant herein for the charges drawn against her, for offences punishable under Sections 306, 120-B of the IPC. Moreover, vide a separate sentencing order, drawn on 29.10.2021, the learned trial Court, proceeded to sentence the convict-appellant herein to undergo rigorous imprisonment of a term of seven years, and, also imposed, upon her, a fine of Rs. 1,25,000/-, besides in default of payment of fine, sentenced her to undergo rigorous imprisonment for a period of one year.

2. Though, co-accused Amrik Singh, and, Sarabjit Kaur also faced charges (supra), but through the impugned verdict, the learned Sessions Judge, Barnala, made a finding of acquittal qua the above, but the learned

State counsel has not been able to place on record any material, suggestive of the fact that the above verdict of acquittal, as, recorded qua co-accused Amrik Singh, and, Sarabjit Kaur, has been challenged, through an appeal being constituted thereagainst, before this Court, therefore, the verdict (supra) acquires conclusivity.

3. The aggrieved convict Kiran Kaur has chosen to assail the verdict of conviction (supra), and, consequent therewith sentence (supra), as became imposed upon her, by the learned convicting Court, through hers instituting the instant appeal before this Court.

4. The genesis of the prosecution case becomes encapsulated in the appeal FIR, to which Ex. PW-9/B is assigned. The appeal FIR is lodged at the instance of the father of the deceased, and, therein he has set-forth that his elder son Gagandeep Singh was a Security Guard in the hotel and younger to him is Gurdeep Singh, who used to work in private factory at Dhoula. Gurdeep Singh was married to Kiran Kaur daughter of Amrik Singh resident of Ranjit Colony, near Verka Milk Plant, Sirhind Road, Patiala on 22.3.2015. After some time of the marriage, Kiran Kaur started quarreling with his son Gurdeep Singh that she is graduate and he (Gurdeep Singh) is illiterate and not studied upto her status. She used to quarrel with his son Gurdeep Singh over the issue that he is not of liking of her. In this regard, he and his son many times approached her parents, but they kept on encouraging her. About one month ago, his daughter-in-law went to her parental house at Patiala after quarreling with his son and other family members. Her mother Sarabjit Kaur made phone call several times that they (complainant party) are harassing their daughter and threatened that they would destroy them and that they know as to how to rehabilitate their

daughter and further told him to take back Kiran Kaur in the matrimonial home. He (complainant) shared the conversation with his family and relative Darbara Singh son of Raj Singh and thereafter on 22.6.2015, he alongwith his son Gurdeep Singh, wife and Darbara Singh went to Patiala to bring back his daughter-in-law where again Sarabjit Kaur, Amrik Singh and Kiran Kaur told his son that he is not worthy of them and matter be settled. He after begging, brought his daughter-in-law to their house at Barnala where she again started quarreling with his son. His son again informed her parents on phone, but they did not take responsibility of the same.

5. The complainant further mentioned in his statement, that on 28.6.2015, he along with his wife Surinder Kaur was present at home, and, it was about 7.15 P.M., that Kiran Kaur started quarreling with his son Gurdeep Singh, on the ground that she does not want to reside in their house, as he is not suitable match for her, and, that she gave a slap on the face of his son Gurdeep Singh. When he told her that she has not done right thing by giving slap to his son, she told her son that he should die anywhere, and, she would find a suitable match for her. His son suffered shame and went into his room. When he and his wife were talking in their room, his son Gurdeep Singh entered into his room, and, picked up a bottle containing petrol and poured the same on himself, and, set himself on fire. When smoke started emitting from the apposite room, he (complainant) tried to open the door, but same was bolted from inside. He raised alarm and neighbours gathered on the spot, and, they broke the door and took out his son from the room while he was burning, and, also extinguished the fire. They got his son admitted in Civil Hospital, Barnala from where, he was referred to Rajindra Hospital, Patiala and he died during treatment. The

complainant states that his son Gurdeep Singh ended his life due to harassment by his wife Kiran Kaur, mother-in-law Sarabjit Kaur, and, father-in-law Amrik Singh.

6. After registration of the appeal FIR, the police machinery swung into action, and, after completion of investigations into the appeal FIR, the investigating officer concerned, proceeded to institute a report under Section 173 of the Cr.P.C., before the learned Committal Court, and, the learned Committal Court, through an order made on 2.2.2016, committed the accused to face trial, before the Court of Session.

7. The jurisdictionally empowered Sessions Judge, though drew charges under Sections 306, 120-B of the IPC, against the accused, but the accused pleaded not guilty, and, claimed trial.

8. After completion of recording of the depositions of the prosecution witnesses, the learned Sessions Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused claimed false implication, and, pleaded innocence. Therefore, as above stated, the learned trial Judge concerned, after appreciation of the prosecution evidence, proceeded to pronounce a verdict of acquittal qua co-accused Amrik Singh, and, Sarabjit Kaur, whereas, he proceeded to record a verdict of conviction qua the appellant herein, and, as above stated, he also proceeded to impose the consequent therewith sentence (supra), upon her.

9. The learned counsel for the aggrieved convict-appellant herein, has vigorously argued before this Court, that the impugned verdict of conviction, and, consequent therewith sentence (supra), as imposed, upon the convict-appellant, are ridden with a gross infirmity of gross

misappreciation, and, non-appreciation of the evidence, existing on record. Therefore, he has argued that the appeal be accepted, and, the verdict, as challenged before this Court, be quashed and set aside.

10. On the other hand, the learned State counsel has also very fiercely argued before this Court, that the judgment, as challenged before this Court, is well merited, and, does not warrant any interference.

11. The deceased Gurdeep Singh, as unraveled by the post-mortem report, to which Ex.P-29 is assigned, and, which has been proven by PW-6, succumbed to ante-mortem burn injuries.

12. The prosecution alleges, that the deceased set himself aflame, and, obviously also committed suicide, through adopting the above mode, resultantly, the demise of Gurdeep Singh, is not homicidal but is suicidal.

13. The deceased did not leave behind any scribed dying declaration, therefore, the genesis of the prosecution case, is made dependent, upon the testimonies of PW-1, and, PW-2, who are the parents of the deceased, and, who, at the relevant stage, were present at the crime site, and, who attribute to the present appellant, the penally inculpable role of hers abetting, and, instigating their deceased son to commit suicide.

14. For analyzing whether the above attributions qua the appellant herein, by PW-1, and, PW-2, who are the parents of the deceased, are well planked, upon credit worthy evidence, this Court deems it fit to keenly analyze their respective depositions.

15. PW-1 Jagraj Singh, in his examination-in-chief, has deposed that the convict-appellant herein, was married to his deceased son, on 22.3.2015. He continues to testify that after some elapse of time, since both solemnizing marriage, the convict appellant herein, taking to quarrel with

his deceased son, on the ground that she is a graduate, and, that her spouse is an illiterate, and, the above leading PW-1, and, his deceased son, to reveal the above to the parents of the convict appellant herein.

16. Furthermore, he has testified that a month prior to the incident, the convict appellant herein, had gone to her parental house, after quarreling with her spouse, and, with other family members staying at the matrimonial home, but ultimately on 22.6.2015, upon PW-1 being accompanied by his deceased son, besides by his spouse, and, by one Darbara Singh, proceeded to Patiala, to persuade the convict-appellant herein to return to her matrimonial home. Though, the above persuasions resulted in the convict-appellant returning to her matrimonial home, located at Barnala, but the errant behaviour of the convict-appellant herein, did not mend, and, ultimately on 28.6.2015, at about 7.00/7.30 P.M., he has testified, that a quarrel erupted amongst his deceased son, and, the convict-appellant herein, on the ground that she does not want to reside at her matrimonial home, as her deceased spouse was not suitable to her. Moreover, on the above date, PW-1 testifies, that the convict-appellant herein also delivered a slap on the face of his deceased son Gurdeep Singh. In consequence, he deposed that his deceased son became nervous, and, proceeded to his room, and, when PW-1, and, his spouse, were talking to each other, then they noticed that smoke was emitting from the room of deceased Gurdeep Singh, which he had bolted from inside. Though, PW-1 deposed that he tried to break open the room of his deceased son, but he yet failed, and, only with the intervention of his neighbours, that they were able to break open the door of the room of Gurdeep Singh, and, there they noticed that he had received severe burn injuries. Moreover, he testifies that though, he shifted his

injured son to Civil Hospital, Barnala, whereafter he was referred to Rajindra Hospital, Patiala, but yet his deceased son succumbed to the burn injuries, at Rajindra Hospital, Patiala.

17. For testing the veracity of the deposition of PW-1, and, as appertaining to the convict-appellant herein, within a short span of hers solemnizing marriage with the deceased, hers squabbling with him, on the ground that she is a graduate, and, that deceased Gurdeep Singh, is an illiterate, it is imperative to refer to the cross-examination, as made, upon him with respect to the above fact. A reading of the apposite cross-examination, as made, upon him, in respect of the veracity of the above disclosures, as occur in the examination-in-chief of PW-1, rather unveils that the above narration, is an improvement, or an embellishment, upon the previously made statement, in writing, before the police officer by PW-1. The reason for making the above inference, becomes derived from the factum, that when he faced the ordeal of cross-examination, and, became confronted with his previous statement Ex. P1, rather therein the above factum, has remained un-narrated. In consequence, the above echoings in the examination-in-Chief of PW-1, does become an invented or a contrived fact, and, obviously no credence can be assigned thereto.

18. Moreover, though PW-1, in his examination-in-chief deposed that the convict-appellant herein left, for her parental home on 25.5.2015, and, that too after quarreling with her deceased husband, but when faced with the ordeal of cross-examination, he admitted the suggestion, that in respect of the above, he did not make any complaint, either to the panchayat or to the police, resultantly the above factum of inter se squabbings, occurring amongst the convict-appellant herein, and, her deceased husband

Gurdeep Singh, does not either acquire any probative vigour, nor obviously any conclusion can be drawn, that there was strife in the matrimonial ties inter se the convict-appellant herein, and, her deceased husband.

19. Though, this Court for reasons (supra), dispels the factum of any marital strife, erupting inter se the convict-appellant herein, and, her deceased husband, and, it leading to the convict-appellant herein rather leaving on 25.5.2015 to her parental home. Moreover, the additional factum, which gives impetus to the above drawn inference about PW-1 inventing, and, contriving the factum of both married partners quarreling with each other, does become garnered, from his also contriving the factum of his along with others, on 22.6.2015, upon visiting the appellant at the latter's parental home, after much persuasions succeeding in prevailing, upon the convict-appellant herein, to return to her matrimonial home. The reason for forming the above inference, becomes rested, upon the factum of PW-2, the spouse of PW-1, when became subjected to cross-examination, with respect to the above fact, which she even deposed in her examination-in-chief, hers evidently improving or embellishing qua the above, inasmuch as, hers during her cross-examination admitting the factum qua the above, rather not being enclosed in her previous statement, recorded in writing, by the police officer concerned. The apt corollary thereof, is that, the judicial conscience of this Court is completely convinced about both PW-1, and, PW-2, contriving the factum of there being lack of cordiality amongst the married partners concerned. Therefore, the above cannot comprise the strata for concluding, that thereons becomes well-rested the relevant penally inculpable instigatory fact.

20. The convict-appellant herein was at her matrimonial home

when the ill-fated occurrence took place, and, apart from PW-1, and, PW-2, who are the parents of the deceased, none else witnessed the quarrel, which preceded the ill-fated occurrence, and, nor also none other than PW-1, and, PW-2, witnessed the incident of the convict-appellant herein slapping her deceased husband. However, the above quarrel, and, the consequent therewith slap delivered, by the convict-appellant, to her deceased husband, is the potent instigatory or the actuary actus reus, leading the deceased to commit suicide, through his after dousing onto himself petrol, his setting it aflame. Nonetheless, to the judicial conscience of this Court, even if assumingly, that the above instigatory factum, has any iota of evidentiary vigour, yet it does not either hold any potency, nor any vigour for constraining this Court, to conclude that it did, constitute the relevant instigatory or actuary actus reus for the deceased to commit suicide.

21. The reason for forming the above view is rested, upon (a) firstly, the star prosecution witnesses, inasmuch as PW-1, and PW-2, for reasons (supra) contriving, and, inventing the factum of there occurring bickerings in the marital ties of the married partners concerned, (b) secondarily, the resultant effect thereof, is that, the fact of convict-appellant immediately preceding the ill-fated occurrence, delivering a slap on her deceased husband, and, it instigating the deceased to commit suicide, does also obviously, lose its creditworthiness, conspicuously when almost the entire narrations, as made consistently by PW-1, and, PW-2, in their respective inculpatory narrations, rather lose their evidentiary vigour, in the face of each, in making the relevant inculpations, grossly improving, and, embellishing, over their respectively made statements in writing.

22. Moreover, since as above stated, the convict-appellant herein

was at her parental home, and, when also at that time, no independent witness, except PW-1, and, PW-2, were present, therefore, it appears that the defence, as espoused by the convict-appellant herein, that there was rather a quarrel amongst PW-1, and, Gagandeep Singh, over a gold kara, given by co-accused Amrik Singh, to the deceased, at the time of latter solemnizing marriage with the convict-appellant herein, and, whose possession was subsequently assumed by PW-1. It also appears that the above dispute, relating to the custody, and, restoration of possession thereof, to the deceased, by PW-1, rather may be the instigatory or the actuary *mens rea*, as, may be the restoration of its possession to the deceased by PW-1, may have been refused, by the latter. The investigating officer concerned, to dispel any aura of suspicion skirting the above factum, and/or it being the possible actuary *mens rea* for the deceased committing suicide, was required to ascertain, whether the possession of the gold kara weighing two tolas, was or not with PW-1. However, since the above factum remained unascertained by the investigating officer concerned, thereupon, it appears that the defence, has succeeded in proving that may be, the instigatory or the actuary *mens rea*, was the above dispute, as arose amongst the deceased, and, PW-1, and, as appertained to the restoration of possession of a gold kara, from PW-1 to the deceased.

23. Importantly also, despite both the parents of the deceased consistently deposing about the arrival of the neighbours, at the crime site, for ensuring the breaking open of the door of the room, bolted from inside, by the deceased, but the names of the above have neither been revealed, nor they became cited as PWs. The above omission works against the prosecution, as their material evidence has been suppressed.

24. For the reasons (supra), there is merit in the appeal, and, the same is hereby allowed. The impugned judgment convicting, and, sentencing the appellant, and, as recorded by the learned Sessions Judge, Barnala, is quashed, and, set aside. Appellant Kiran Kaur is acquitted of the charges framed against her. The fine amount, if any, deposited by her, be, in accordance with law, refunded to her. The personal, and, surety bonds of the accused shall stand forthwith cancelled, and, discharged. The case property be dealt with, in accordance with law, after the expiry of the period of limitation for filing of an appeal. The appellant, if in custody, and, if not required in any other case, be forthwith set at liberty. Release warrants be prepared accordingly.

25. Records be sent down forthwith.

(SURESHWAR THAKUR)
JUDGE

August 26th, 2022
Gurpreet

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