

## Tarsem Singh @ Gandu Vs State of Punjab

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** Aug. 18, 2011

**Acts Referred:** Criminal Procedure Code, 1973 (CrPC) â€” Section 313  
Penal Code, 1860 (IPC) â€” Section 201, 302, 376

**Hon'ble Judges:** Vijender Singh Malik, J; Hemant Gupta, J

**Bench:** Division Bench

**Final Decision:** Dismissed

### Judgement

Vijender Singh Malik, J.

Tarsem Singh @ Gandu is in appeal before us against the judgment of his conviction dated 17.5.2004 passed by

learned Additional Sessions Judge (Ad hoc), Amritsar in a case registered by way of F.I.R. No.16 dated 2.2.2002 at Police Station, Beas for an

offence punishable under sections 302, 376, 201 of the I.P.C. vide which he has been held guilty for the said offence and the order of sentence of

the same date vide which he has been sentenced as under:

1. For the offence punishable u/s To undergo imprisonment life and

302 of the I.P.C. to pay a fine of Rs.5000/-. In

default of

payment of fine, to undergo further

rigorous imprisonment for six

months.

2. For the offence punishable u/s To undergo rigorous imprisonment

376 of the I.P.C. for ten years and to pay a fine of

Rs.2000/-. In default of payment of

fine, to undergo further rigorous

imprisonment for two months.

3. For the offence punishable u/s To undergo rigorous imprisonment

201 of the I.P.C. for four years and to pay a fine of

Rs.1000/-. In default of payment of

fine, to undergo further rigorous

imprisonment for one month.

2. All the sentences were ordered to run concurrently. The case set up against the appellant by Police Station, Beas is as under:

On 1.7.2002, at about 2.30 P.M., Tarsem Singh, appellant came to the house of Ranjit Kaur, complainant at village Madhepur. He was on visiting

terms with her family. He took with him Sukhpreet Kaur @ Anju, a four year old daughter of Ranjit Kaur, for bicycle ride. When the appellant did

not return after some time, Ranjit Kaur and others went out in search of Sukhpreet Kaur as well as Tarsem Singh, appellant. They could not trace

them out.

3. On the next day, Ranjit Kaur and her family members continued the search for Sukhpreet kaur. When Ranjit Kaur, her father-in-law Gura Singh

and some other persons were heading towards the fields of Naranjan Singh, they spotted Tarsem Singh, appellant who was running away from the

wheat field of Naranjan Singh. Ranjit Kaur and others went to the place wherefrom they saw Tarsem Singh, appellant running and saw the dead

body of Sukhpreet Kaur lying near the boundary of the field. They suspected Tarsem Singh, appellant to have murdered Sukhpreet Kaur. Leaving

Tarsem Singh, another person by the name of the appellant, who happens to be the brother-in-law of the complainant and others, Ranjit Kaur and

Gura Singh started for Police Station, Beas to lodge a report. They came across Jarnail Singh, S.I. at Bus Stand, Khalchian. The statement of

Ranjit Kaur was recorded by Jarnail Singh, S.I. there, which was signed by her. Jarnail Singh, S.I. made his endorsement thereon and had sent the

same to the police station on which formal F.I.R. was recorded. Jarnail Singh, S.I. then proceeded with the investigation. Accompanied by Ranjit

Kaur and Gura Singh, he went to the place of occurrence and conducted inquest proceedings on the dead body. The dead body was sent to Civil

Hospital, Amritsar for post mortem examination through Joginder Singh, constable and others. He prepared a rough site plan of the place of

occurrence.

4. The investigation was thereafter transferred to Kashmir Singh, Inspector by the Senior Superintendent of Police, Amritsar. Kashmir Singh,

Inspector then went to village Madhepur where he recorded statements of witnesses. He inspected the place of occurrence and took into

possession one trouser of a female child from the spot which was identified by Ranjit Kaur to be of Sukhpreet Kaur. The same was given the

shape of a parcel and was sealed with the seal 'KS' and was taken into possession by way of a recovery memo. Dr. Guriqbal Singh along with Dr.

Rajiv Joshi conducted post mortem examination on the dead body of Sukhpreet Kaur @ Anju daughter of Ranjit Kaur. They noticed various

injuries on her person including her private parts. According to them, the death in this case was due to asphyxia due to smothering which was

sufficient to cause death in the ordinary course of nature. The doctors took vaginal swabs and sealed them and gave the same to the police along

with the clothes of the deceased which were taken into possession by Kashmir Singh, Inspector by way of a recovery memo. On 4.2.2002, in the

area of village Madhepur, Gurdeep Kaur, member panchayat produced Tarsem Singh, appellant before Kashmir Singh, Inspector. He was

accordingly arrested. On completion of other formalities of investigation, challan against the appellant was prepared and presented Charge was

framed against the appellant for an offence punishable under sections 376, 302, 201 of the I.P.C. vide order dated 16.8.2002 by learned Sessions

Judge, Amritsar to which he pleaded not guilty and claimed trial.

5. In order to establish its case against the appellant, the prosecution examined thirteen witnesses. With the prosecution evidence coming to a close

with tender of report of the Chemical Examiner, the appellant was examined in terms of section 313 of the Cr.P.C. He has denied the truth of all

the pieces of incriminating prosecution evidence coming on record against him. He has claimed that the case against him is false. He has also

pleaded innocence. According to him, there was a dispute between him and Gura Singh, sarpanch, father-in-law of the complainant, regarding

closing of the street. He has added that a civil litigation remained pending regarding the same which was disposed of on 12.9.2000. He has also

claimed that he belonged to Congress Party while Gura Singh, sarpanch and Gurpdeep Kaur, member panchayat belonged to Akali Dal. He has

further stated that he was picked up on the same night from his residence and was falsely implicated in the case on account of party rivalry. A copy

of the order dated 12.9.2000 passed by Additional Civil Judge, Baba Bakala in a suit filed against Balwant Singh and others alone was tendered in

defence evidence.

6. Hearing learned Additional Public Prosecutor for the State and learned counsel for the defence, learned trial court found the appellant guilty for

the offence punishable under sections 376, 302 and 201 of the I.P.C. vide the judgment dated 17.5.2004. Hearing the parties on quantum of

sentence, the above mentioned sentences have been awarded to the appellant vide the order of the same date.

7. Aggrieved by the aforesaid judgment and the order of sentence, Tarsem Singh, appellant has brought this appeal.

8. We have heard Shri Sanjiv Sharma, learned counsel for the appellant and Shri S.S.Dhaliwal, learned Additional Advocate General, Punjab for

the respondent-State.

9. Learned counsel for the appellant has submitted that this is a case based on circumstantial evidence for its proof. According to him, the

circumstances should not only have to be firmly established by leading cogent evidence by the prosecution, but the same should also unerringly

point to the guilt of an accused and they should also form a complete chain and should be incompatible with any hypothesis of innocence of the

accused. He has contended that in the present case, there are some circumstances which make the entire prosecution case doubtful. According to

him, the first is that Dr. Gurikbal Singh, PW4 has stated that bluish discolouration was present over the nails, lips and ear lobules of the deceased.

Learned counsel for the appellant has argued that this circumstance does not go side by side with the case of the prosecution. According to learned

counsel for the appellant, the second circumstance is available in the statement of Jhanda Singh, PW13, who has stated that when they spotted the

appellant in the field of Naranjan Singh, he was digging Anju, deceased. He has contended that according to the statements of other prosecution

witnesses, the dead body of the deceased was seen lying by the side of the boundary of the field of Naranjan Singh and there is nothing in those

statements to show that the deceased was being dug out by the appellant.

10. If according to learned counsel for the appellant, the circumstance of bluish discolouration of the nails, lips and ear lobules was a circumstance

to make the prosecution case doubtful, this aspect should have been further got clarified from the medical witness. Nothing has been asked from

the doctor in his cross-examination except for the time frame in which rigor mortis sets in and disappears. There may be a number of reasons on

account of which bluish discolouration may appear over the nails, lips and ear lobules of the deceased. In our opinion, this circumstance does not

seem to be connected in any manner with the offence of rape or murder with which the appellant has been charged.

11. Digging of Anju, deceased by the appellant appears to be something strange because it is Jhanda Singh, PW13, who alone makes a statement

in this regard. The other witnesses do not speak about it. The body of the deceased was apparent in the field as is stated by Ranjit Kaur,

complainant, who appeared as PW7. There might have been a gap of a minute or so in arrival of Jhanda Singh and Ranjit Kaur at the spot. The

statement of Dr. Gurikbal Singh, PW4 is necessary to be seen in this regard. He has stated that the dead body was of a moderately built and

nourished female child wearing maroon sweater and pink T-shirt. He has further stated that both these garments were mud stained and the face

including mouth and nose of the deceased were also covered with mud stains. This witness has also deposed that inside the mouth, mud was visible

on teeth, tongue as well as inside both the upper and lower lips. This shows that the appellant must have tried unsuccessfully to cover the dead

body with mud which might have been taken by Jhanda Singh, PW13 as digging of the dead body. In the meanwhile, the witnesses would have

arrived and the appellant would have to abandon his effort at concealing the dead body and make good his escape.

12. It is a case where Ranjit Kaur, PW7 has categorically stated that on 1.2.2002, at about 2.30 P.M., Tarsem Singh, appellant took her daughter

Sukhpreet Kaur @ Anju for a bicycle ride and that Sukhpreet Kaur did not return thereafter. It is her statement that on 2.2.2002, she and others

saw Tarsem Singh, appellant in the field of Naranjan Singh from where he escaped on seeing them and when they went to the place wherefrom

Tarsem Singh was seen fleeing, they noticed the dead body of Sukhpreet Kaur lying there. The evidence of Ranjit Kaur goes unshaken in her

cross-examination. Besides suggesting that she had made a false statement before the police and that it was a case of blind murder in which the

appellant was named due to the dispute between the complainant side and the accused over closing of the street which were denied by her, it has

come in her cross-examination that she did not state to the police that Pajami (trouser) of Sukhpreet Kaur was found removed and she was found

naked. She could forget about this aspect which was self evident to the investigating officer when he visited the spot.

13. To the statement of Ranjit Kaur, PW7, corroboration is available from the statement of Charanjit Singh, PW10. He had seen Tarsem Singh,

appellant with a four years old child at 5.30 P.M. between the land of Naranjan Singh and that of the panchayat. The appellant told Charanjit

Singh that the kid was his grand son. He was left by Charanjit Singh and when on 2.2.2002, at about 5.30 P.M., he came to know about the rape

and murder of the daughter of Ranjit Kaur, he made a statement to the police. Besides the statement of Charanjit Singh, PW10, there is statement

of Jhanda Singh, PW13, who also appears to have no motive against the appellant.

14. Further corroboration to the evidence of the complainant and others comes from the statement of Gurdeep Kaur, PW8 to whom Tarsem

Singh, appellant made extra judicial confession on 3.2.2002. It is true that Gurdeep Kaur is a member of the panchayat headed by Gura Singh,

grand-father of the deceased, yet this cannot be said to be a good reason for Gurdeep Kaur to have concocted a version about the extra judicial

confession. It was Gurdeep Kaur, PW8, who had produced the appellant before the police. With this evidence, there is medical evidence coming

in the statement of Dr.Guriqbal Singh, PW4 who has clearly found the evidence of rape of the deceased before smothering her to death.

15. The circumstances pointed by learned counsel for the appellant, thus, appear to be of no significance. The prosecution has been able to lead

sufficient evidence to establish the circumstances projected by it to prove the guilt of the appellant. The circumstances proved on record form a

complete chain which point to the appellant and appellant only as the person who has committed this offence. The circumstances are totally

incompatible with any hypothesis of innocence of the appellant.

16. In view of the aforementioned discussion we find no ground to interfere with the judgment of conviction and the order of sentence passed by

learned trial court against the appellant. The appeal is, consequently, held to have no merit and is dismissed.