

Parkash Kaur Vs State of Punjab

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 10, 2014

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 313
Penal Code, 1860 (IPC) â€” Section 302, 34

Hon'ble Judges: Kuldip Singh, J; Ashutosh Mohunta, J

Bench: Division Bench

Advocate: Aditi Girdhar and K.B.S. Mann, Advocate for the Appellant; Manjari Nehru Kaul, Additional Advocate General, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Kuldip Singh, J.

Parkash Kaur wife of Baldev Singh and her son Satnam Singh were convicted u/s 302 read with Section 34 IPC and

sentenced to undergo imprisonment for life and fine of Rs. 5,000/- each, in default of payment of fine, to undergo further rigorous imprisonment for

three months each, vide judgment and order dated 21.5.2002, passed by the learned Sessions Judge, Jalandhar.

2. The appellants have challenged the said judgment and order by way of present appeal, which shall be disposed of by the present judgment.

3. The facts of the case coming out from the statement of Baldev Singh (Ex. PD), resident of Ali Khelan, husband of accused Parkash Kaur and

father of accused Satnam Singh, made to Sub Inspector Shangara Singh of Police Station Kartarpur, are that Baldev Singh had performed two

marriages. He was firstly married to Parkash Kaur (accused), from which he had two sons, namely, Satnam Singh and Gurnam Singh. Parkash

Kaur alongwith her children deserted Baldev Singh in the year 1983 and shifted to her parental house. In the year 1986, Baldev Singh contracted

second marriage with Palwinder Kaur (deceased). From the said marriage, he had two daughters and one son. The first wife Parkash Kaur had

filed a case for grant of maintenance, which was still pending. About 10 months back, first wife Parkash Kaur and her both sons forcibly started

living in the house of Baldev Singh. Baldev Singh also gave three killas of land to them for cultivation. There used to remain quarrel in his house

from the date his (Baldev Singh's) first wife and her two children started living in his house. Parkash Kaur, the first wife of Baldev Singh and her

elder son Satnam Singh, who is aged about 20 years, were not happy to see his second wife Palwinder Kaur and were threatening to oust and kill

her. On the day of occurrence, i.e. 16.2.2001, Gurnam Singh, another son of the complainant from first wife Parkash Kaur and Harjit Kaur,

daughter from the second marriage with Palwinder Kaur, had gone to school for studies. Baldev Singh, his second wife Palwinder Kaur, son

Karanjit and daughter Sarbjit Kaur alongwith his first wife Parkash Kaur and son Satnam Singh were present in the house. At about 11:00 AM,

Baldev Singh alongwith his son Karanjit went to the fields to bring fodder. At about 2:00 PM, when Baldev Singh and his son Karanjit returned

home, they saw that Palwinder Kaur was lying dead in the bath room. There were marks of abrasions on the mouth, nose, ankle and knees of

Palwinder Kaur. Sarbjit Kaur, daughter of the complainant from second marriage with Palwinder Kaur, was present in the house and was

weeping. She disclosed to the complainant that Parkash Kaur and Satnam Singh had killed her mother by beating her and then by asphyxia of her

mouth and nose in the courtyard and then placed the dead body of Palwinder Kaur in the bath room. Sarbjit Kaur further disclosed that she was

weeping and out of fear, she wanted to go out, but she was not allowed to go out. Both the accused also threatened her not to disclose this matter

to anybody, otherwise she will be killed. Baldev Singh further alleged that Parkash Kaur and Satnam Singh were absent from the house after

committing the murder of Palwinder Kaur. He alleged that the accused wanted to oust Palwinder Kaur from the house and for this motive, they

have committed the murder of his second wife Palwinder Kaur. Baldev Singh then raised alarm, on which the neighbours gathered. Chain Singh,

Ex-Sarpanch and other people were left in the house. Then, Baldev Singh accompanied by Mukhtiar Singh was going to report the matter to the

police when he met a police party headed by SI Shangara Singh on the turning of village Jande Sarai, where his statement (Ex. PD) was reduced

into writing. SI Shangara Singh made the endorsement (Ex. PD/1) and sent the same to the police station at 4:30 PM, on which FIR No. 16, dated

16.2.2001 (Ex. PD/2) was registered at Police Station Kartarpur.

4. Police conducted the inquest and prepared the report (Ex. PC). Rough site plan (Ex. PK) of place of occurrence was prepared. Post mortem of

the dead body of Palwinder Kaur (deceased) was got conducted. Accused Parkash Kaur and Satnam Singh were arrested on 18.2.2001 by SI

Shangara Singh.

5. After completion of the investigation, challan was presented in Court.

6. Both the accused were chargesheeted by learned Sessions Judge, Jalandhar, u/s 302 read with Section 34 IPC.

7. In support of its case, prosecution examined Dr. A.S. Saini, Senior Medical Officer, Civil Hospital, Jalandhar (PW1), Baldev Singh,

complainant (PW2), HC Bachittar Singh (PW3), Constable Daljit Singh, (PW4), CII Sukhwinder Singh (PW5), Sarbjit Kaur (PW6), Rishi

Kumar Verma (PW7), SI Shangara Singh (PW8) and thereafter prosecution closed the evidence.

8. When examined u/s 313 Cr.P.C., accused Parkash Kaur admitted that she is the first wife of Baldev Singh and that Baldev Singh had

contracted second marriage with Palwinder Kaur in the year 1986. The children of the parties were also admitted. However, she denied that she

started living in the house of Baldev Singh in village Ali Khelan. She pleaded that she is innocent and has been falsely implicated at the instance of

Baldev Singh against whom she had obtained order of maintenance from the Court. Baldev Singh wanted to avoid the payment of maintenance and

as a counter blast, the present case has been registered against her.

9. Similarly, Satnam Singh in his statement u/s 313 Cr.P.C. also admitted the relationship and raised the similar plea.

10. In defence, accused examined Meena Rani, Teacher, Sri Guru Arjan Dev Public School, Kartarpur, and closed the defence evidence.

11. After hearing the learned Public Prosecutor for the State and the learned counsel for the accused and going through the file, learned Sessions

Judge, Jalandhar, convicted and sentenced the accused aforesaid.

12. We have heard the learned counsel for the appellants, learned Additional Advocate General for the State and have also carefully gone through

the file.

13. First of all, medical evidence needs to be examined to examine the injuries and cause of death. Dr. A.S. Saini, Senior Medical Officer, Civil

Hospital, Jalandhar (PW1), who conducted the post mortem on the dead body of Palwinder Kaur, aged 38 years on 17.2.2001, noted down the

following injuries on the person of deceased :-

1. Linear disc shaped abrasions 2 in number on right side of nose just below inner and of right eye 1 cm in diameter abrasion.

2. Linear disc shaped abrasions 1 cm in diameter 4 in number on left side of nose down ward and outward in position. Bluish red discoloration of

whole of nose. Bleeding through nostrils present.

3. Eyes congested conjunctive congested with petechial hemorrhage with eyes open.

14. The doctor also found multiple abrasions of different sizes and shapes on both elbows and anterior aspect knees with clotted blood present.

According to the doctor, the cause of death in this case was asphyxia due to said injuries, which were sufficient to cause death in the ordinary

course of nature. All the injuries were ante mortem in nature. The probable time between injuries and death was within minutes. The doctor further

stated that if mouth and nose are closed for sufficiently long time, it can result in death of the person due to lack of oxygen.

15. Baldev Singh (complainant), while appearing as PW2 stated that Parkash Kaur (accused) is his first wife and Satnam Singh is his son. He

reiterated the story of his second marriage, which has been reproduced above. Stating about the occurrence, he stated that on 16.2.2001, he

alongwith his son Karanjit Singh had gone to the fields to bring fodder at 11:00 AM. Palwinder Kaur, Sarbjit Kaur, Parkash Kaur and Satnam

Singh were in the house. He returned at 2:00 PM and saw the dead body of Palwinder Kaur in the bath room. He found injuries/abrasions on the

knees and marks of throttling on the mouth. Then, his daughter Sarbjit told him that Parkash Kaur had caught hold of Palwinder Kaur from the

legs, whereas Satnam Singh had suffocated her from the mouth and nose. Complainant stated that when he returned home, Sarbjit Kaur was

weeping and further told him that she was told by the accused that if she tried to raise alarm, she will be killed.

16. Crucial in this case is the statement of only eye witness Sarbjit Kaur, who appeared as PW6.

17. Sarbjit Kaur (PW6) testified that Parkash Kaur, is the first wife of her father Baldev Singh, from which two sons Satnam Singh and Gurnam

Singh were born. She identified both the accused present in Court as her step mother and step brother. She stated that then Baldev Singh married

her mother Palwinder Kaur in the year 1986. Out of that wedlock, two girls and a boy were born. She is the eldest child of Palwinder Kaur. She

stated that at the time of marriage of her mother with Baldev Singh, accused Parkash Kaur was residing in her parental house with her children.

About 10 months prior to the present occurrence, Parkash Kaur alongwith her both sons started living in village Ali Khelan in their house. After

their arrival to the house, quarrels started in the family. The accused were not happy with her mother Palwinder Kaur (deceased) and were

threatening to kill her mother. About the day of occurrence, she stated that on 16.2.2001, her younger sister Harjit Kaur and step brother Gurnam

Singh son of Parkash Kaur had gone to the school in morning. Her father Baldev Singh and brother Karanjit had gone out to bring fodder. She

alongwith her mother Palwinder Kaur, accused Parkash Kaur and Satnam Singh was present in the house. She was not feeling well. At about 1:00

PM, she was lying in the courtyard. Her mother was sitting in the courtyard. Then, Parkash Kaur and Satnam Singh caught hold of her mother

Palwinder Kaur. Parkash Kaur had caught hold of legs of Palwinder Kaur, whereas Satnam Singh put his hand on the mouth of Palwinder Kaur

and suffocated her. He had also caught the neck of her mother and pressed it. Her mother started writhing with pain. Thereafter, her mother died.

When she tried to raise the alarm and run away, then accused threatened her and did not allow her to go out. Accused then removed the dead

body of her mother to bath room. When her father came at 2:00 PM, she narrated the occurrence to her father. Sarbjit Kaur was 14 years at time

of examination in the Court.

18. Learned counsel for the appellants has argued that Sarbjit Kaur is a planted witness. She was not present in the house. She has admitted in

cross examination that she used to go to school at 9:00 AM daily. There were nine periods in the school. She was studying in Sri Guru Arjan Dev

Senior Secondary Public School, Kartarpur. Therefore, she was present in the school and was not present in house at the time of occurrence.

19. Accused have also relied upon the statement of Meena Rani, Teacher, Sri Guru Arjan Dev Senior Secondary Public School, Kartarpur

(DW1), who stated that she is Punjabi teacher and used to take 2nd period of 8th class last year. Sarbjit Kaur did not get any leave from her nor

her father came to her on the said date. In her cross examination she stated that if the child leaves after 2nd/3rd period, the teacher taking 2nd/3rd

period may not be knowing and only class incharge may be knowing about the absence of child. However, the peon does not allow the student to

leave the school premises without leave.

20. On the other hand, learned Additional Advocate General for the State has stated that the cross examination of Sarbjit Kaur makes it clear that

on the day of occurrence though, she had gone to the school as usual, but she attended only two periods. She has stated that first period was taken

by Harpal Madam and second period by Meena Madam. On the day of occurrence, she had left the school at 10:00/10:30 AM. She denied that

the attendance is marked in each period. She further clarified that on 16.2.2001 at 10:30 AM, her father had brought her home from the school.

Baldev Singh has also stated that his children used to go to Kartarpur from the village by bus. Sarbjit was student of 8th class, Karanjit was

student of 6th class and the youngest was student of 2nd class. On the day of occurrence, Karanjit had a holiday, whereas Sarbjit Kaur and Harjit

Kaur had gone to school, but she (Sarbjit Kaur) was brought back home at 10:30 AM by Baldev Singh as she had stomach problem, for which he

had got telephonic message. He had gone to the school at 10:00 AM and brought Sarbjit back home at 10:30 AM and left her in the house. She

was given some medicines from the house.

21. In this case, Baldev Singh had brought back Sarbjit Kaur home on receiving telephonic message. We are of the view that the presence of

Sarbjit Kaur at the time of occurrence cannot be doubted. If the police or Baldev Singh wanted to improve the case, Baldev Singh or his son

Karanjit could easily be cited as witnesses. In any case, Baldev Singh was the best bet as he could easily say that he had seen the entire

occurrence when he returned home by preponing the time of his return. However, in this case, the version is natural. The statement of Sarbjit Kaur

is supported by medical evidence. It is to be noted that accused are none else than the wife Parkash Kaur and young son Satnam Singh of the

complainant. There is nothing on file to show that at the time of occurrence, some litigation was still pending between complainant and accused.

Baldev Singh and Sarbjit Kaur have specifically stated that about 10 months prior to the occurrence, Parkash Kaur, the estranged wife of Baldev

Singh, came back and starting residing in the house of Baldev Singh with her two children and thereafter, the quarrel started with Palwinder Kaur,

the second wife of Baldev Singh. Even if, it is assumed that Baldev Singh did not like his first wife, but same cannot be said about his young son

Satnam Singh, aged only 20 years. It is to be noted that Baldev Singh has not levelled any allegation against his second son Gurnam Singh from the

first marriage. Therefore, the prosecution story, as put forward, is natural and has to be believed. The defence story of false implication on account

of maintenance case is not probable. At the time of crime, Parkash Kaur alongwith her two children was living in the house of Baldev Singh and

Baldev Singh has stated that he has also given 3 killas of land for cultivation to his first family. It shows that Baldev Singh was concerned about the

maintenance and welfare of his first wife and two sons from the first marriage. Both the accused were found missing from the house after the crime.

Their conduct after the crime is admissible as Res Gesta. If the accused had not committed the murder, there was no reason for them to run away

from the house.

22. Therefore, we are of the view that the statement of eye witness Sarbjit Kaur is duly corroborated by medical evidence. It is also supported by

the natural conduct of Sarbjit Kaur in explaining the incidence to his father when he returned from the fields. As such, we do not find any illegality

or infirmity in the impugned judgment of conviction and order of sentence. Accordingly, the present appeal is found to be without any merit and is

dismissed.

23. Accused/appellants, who are on bail, are ordered to be immediately arrested and committed to jail to undergo the remaining part of sentence.