

# IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.A No.217 of 2003

Decided on : November 30, 2006

---

Jeet Singh

....Appellant.

**VERSUS**

State of Himachal Pradesh

....Respondent.

---

**Coram**

The Hon'ble Mr. Justice Surjit Singh, Judge.

The Hon'ble Mr. Justice Dev Darshan Sud, Judge.

***Whether approved for reporting? No.***

For the Appellant : Mr. M.S. Guleria, Advocate.

For the Respondent : Mr. Som Dutt Vasudeva, Additional Advocate General, with Mr. D.S. Nainta, Deputy Advocate General.

---

**Per Surjit Singh, Judge (Oral)**

Heard and gone through the record.

2. Accused-appellant was put on trial for offence punishable under Section 302 IPC for allegedly murdering one Sohan Lal.

3. As per prosecution version, Sohan Lal was employed as a servant with the appellant-accused. On the night intervening 26<sup>th</sup> and 27<sup>th</sup> July, 2001, when two brothers, named Chet Ram (PW-1) and Kaku Ram (PW-2) had allegedly gone towards the house of appellant Jeet Singh, in search of their third brother, named Roop Lal, who got late in returning to his place that evening, they heard the cries of someone, erupting from the house of the accused-appellant. Attracted by the cries, they went to the house of the accused-

---

***Whether the reporters of the local papers may be allowed to see the Judgment?***

...2...

appellant. They noticed that the accused-appellant was giving blows of a *Barchha* to the deceased in his kitchen. The time was around 8.30 p.m. One of the two brothers, namely Chet Ram, tried to rescue the deceased and even held him in his arms by the waist, but the appellant-accused threatened him. The two brothers then went to the house of Raj Kumar, Up-Pradhan, in village Reun and informed him about the incident. Raj Kumar, in turn, passed on the information telephonically to Police Post Dagshai. The Incharge, Police Post Dagshai, informed the SHO, Police Station, Dharampur, on telephone, and then proceeded to the spot. After some time, the SHO also reached the spot. The SHO recorded the statement of Chet Ram, under Section 154 Cr.P.C. and sent the same to the Police Station for the formal registration of the case. Then he conducted the inquest and filled in the requisite forms. The dead body was sent to the hospital for postmortem examination. The doctor found the following ante mortem injuries on the dead body:

Injury No.1

Elliptical stab wound with clean cut margin starting from right upper sternum to mid clavicle cutting through IInd intercostals muscle and penetrating to chest wall in a direction of laterally and posterially liquid dark blood was oozing from the wound cavity.

Injury No.2

1.2 cm x 5 cm stab elliptical wound with clear cut Margin penetrating over right pectoralis muscle and intercortal space from third rib to 4<sup>th</sup> rib on anterior axillary line. Liquid blood present on wound. Direction was upward and posteriorly to chest cavity.

...3...

Injury No.3

1.3 x 4 cm. elliptical stab wound right with clean cut margin on 6<sup>th</sup> rib to 8<sup>th</sup> rib penetrating to thoracic cavity. Blood clots oozing present from the wound.

Injury No.4

5.2 cm x 2 cm stab wound cutting through Xiphisternum to Epigastric area elliptical in shape communicating to chest cavity going posteriorly and clear cut margin blood clots and oozing present on wound.

Injury No.5

2" x 3" chop wound on right anterior aspect of wrist cutting through S/C tissue, tendons and nerves and vessels clots present over the wound.

Injury No.6

Stab wound 1 cm x 2 cm over right knee cutting through tendon and muscle with S/C vessels.

Injury No.7

Punctured wound over left gluteal region parallel to each other of 4 cm x 1 cm size dark red coloured penetrating to inner muscle layer up 5 cm deep.

Injury No.8

3 cm x 1 cm incised wound on perianal area communicating to anal canal 8 cm deep. Dark clotted blood present oozing from the wound.

Injury No.9

3 cm x 1 cm incised 7 cm deep cutting anus and anorectal sphincters including external sphincters. Blood clots and oozing present from the wound.

Injury No.10

1 cm x 2 cm incised wound over left and near iliac crest penetrating the posterior muscles of back clotted blood present over the wound.

Injury No.11

Few and small abrasions on multiple area with clotted blood present over the wound.

...4...

It was opined by the doctor that the cause of death was sudden cardiac arrest, due to penetrating of heart and lungs.

**4.** During the course of trial, prosecution examined the two brothers, who allegedly saw the occurrence, the Up-Pradhan Raj Kumar whom the two brothers first informed about the incident, the Pradhan of the Panchayat Savitri Devi, the doctor who conducted the postmortem, the Investigating Officer and some other witnesses, who were on the spot, when the police arrived at the scene.

**5.** The trial Court, after recording the evidence of the prosecution, examined the accused-appellant, under Section 313 Cr.P.C. The accused denied that he had killed deceased Sohan Lal. He even denied that Sohan Lal was his servant. The accused also examined some defence witnesses, including his wife, namely Banto alias Kalawati (DW-2).

**6.** Trial Court has found the accused-appellant guilty of the offence, under Section 302 IPC, and convicted him of the said offence and sentenced him to undergo life imprisonment and to pay fine of Rs.5,000/- and in default of payment of fine to undergo simple imprisonment for one year.

**7.** Having heard the learned counsel for the appellant and the learned Additional Advocate General, we find that the evidence on record does not prove the charge of murder, for which the accused-appellant was put on trial, beyond reasonable doubt. The evidence is full of contradictions, inconsistencies, improbabilities, besides being discrepant.

8. The first telephonic message, which was received at Police Post Dagshai and which was entered in the *Rojnamcha* (copy Ex. PW-11/A), was that the accused-appellant had been seen by the two alleged eye-witnesses, namely PW-1 Chet Ram and PW-2 Kaku, giving blows to the deceased by means of a knife in his (appellant's) house. However, in the statement, under Section 154 Cr.P.C. (copy Ex. PW-1/A), as also testimony of PW-1 Chet Ram and PW-2 Kaku Ram, it is stated that the accused-appellant was seen causing injuries to the deceased by means of a *Barchha* in his kitchen. This contradiction has not been explained.

9. Even though, as per prosecution evidence, particularly the Medico Legal evidence, in the form of the postmortem report Ex. PW-9/A, and the evidence of PW-9 Dr. A.K. Saini, the deceased had as many as eleven wounds on his body and all the injuries were ante-mortem, no blood was found in the kitchen where the murder had allegedly been committed. The Investigating Officer, namely PW-12 Shri Ramesh Chauhan, Sub Inspection, nowhere says that he had noticed any blood on the floor of the kitchen. Chet Ram PW-1, Kaku Ram PW-2 and Raj Kumar PW-3, the Up-Pradhan, also do not say that the blood was found on the floor of the kitchen. The absence of blood on the floor of the kitchen gives the impression that murder had been committed elsewhere and the dead body had been planted in the kitchen. This impression is strengthened by the fact that one witness, namely PW-4 Savitri Devi, Pradhan of the Panchayat, says that the dead body was lying on a plank in the kitchen, which fact implies that the dead body was carried to the kitchen on a plank.

...6...

Another witness, named PW-6 Paras Ram, who happens to be a brother of the deceased, has stated that the dead body was lying on a bed inside the kitchen and this fact also lends credence to the aforesaid impression. This very witness, i.e. PW-6 Paras Ram, further stated that some blood was noticed below the bed, which fact strengthens the view that the dead body had been brought from elsewhere and planted in the kitchen.

**10.** Different shapes of the wounds noticed on the dead body also create doubt about the version testified by PW-1 Chet Ram and PW-1 Kaku Ram, because out of 11 wounds found on the dead body only three are elliptical and the rest are either stab wounds or punctured wounds and one of them is even a chopped wound. *Barchha*, which is a double-edged weapon, would normally cause elliptical wounds and the other wounds cannot be said to have been caused by means of *Barchha* and, therefore, it can ultimately be presumed that more than one weapons was used in causing fatal wounds and, if that is so, it is quite likely that more than one persons were involved in the commission of the crime. Otherwise also, the appellant, who at the relevant time was more than 60 years of age, could not have single-handedly been able to kill the deceased, who was younger to him by about 10 years.

**11.** There are several houses at short distances from the house of accused-appellant, where the crime is alleged to have been committed, but PW-1 Chet Ram and PW-2 Kaku Ram, the alleged eye-witnesses, instead of approaching the inhabitants of those nearby houses, chose to go to the house of PW-3 Raj Kumar, which

...7...

is half an hour walk from the place of occurrence. There is no explanation for this unnatural conduct of the witnesses. It has come in evidence that Raj Kumar is on inimical terms with the accused-appellant, because the latter had lodged a report with the police against him and on the basis of that report a case was instituted in a criminal Court. This fact is admitted by PW-3 Raj Kumar himself.

**12.** Accused is alleged to have produced the key of the kitchen from the pocket of some garment worn by him, but the Investigating Officer, namely PW-12 Sub Inspector Ramesh Chauhan, while in the witness-box, though stated that the key was produced by the accused, could not tell from where did he produce the same. It appears that the story regarding the kitchen being locked and its key having been produced by the accused-appellant to the police may not be correct.

**13.** It has been admitted by the prosecution witnesses that no blood was found on the clothes of the accused-appellant. Admittedly, the police arrived at the scene within a few hours of the alleged occurrence. It is not the case of the prosecution that the accused had changed his clothes. Now, if the accused-appellant had committed the murder and caused as many as eleven fatal bleeding wounds and that too by means of a *Barchha*, his clothes in all probabilities were to have some stains of blood.

**14.** Also, there are contradictions in the testimony of the witnesses on the point whether the room in which the accused was present that night, was bolted from inside or it was lying just shut. While the above named two eye-witnesses and Up-Pradhan Raj

Kumar and Pradhan Savitri Devi say that when the SHO came on the spot the door was bolted from inside and that the accused-appellant did not open it even when it was knocked at and, therefore, the police had to enter the room via cow-shed, the SHO, PW-12 Ramesh Chauhan, himself says that the door had not been bolted from inside but was just shut and he entered the room by pushing it.

**15.** The initial story of the prosecution how the two alleged eye-witnesses chanced to reach the place of occurrence has not been proved. The two witnesses have their residence across a *Nallah*, vis-a-vis the house of the accused-appellant, where the crime was allegedly committed. According to the earliest version, they happened to be near the house of the accused and heard the cries of the deceased, when they had gone in search of their brother Roop Ram, who got late that evening. The two witnesses have not uttered a word about this part of the earliest version. That means they had no occasion to be near the site of the occurrence. Otherwise also, during the month of July, 8.30 p.m. is not that late an hour that if a man running a tea-stall, as Roop Ram runs, does not reach home, his family members would start worrying for his safety and go in search of him.

**16.** Contradictions are also there in the prosecution version as to the place from where the weapon of offence, i.e. *Barchha*, was recovered. PW-1 Chet Ram, PW-2 Kaku Ram and PW-3 Raj Kumar have categorically stated that the *Barchha* was lying inside the kitchen where the dead body lay and it was from there that the police took the same into possession. Statement of PW-4 Savitri Devi gives



...9...

the impression that *Barchha* was lying in the room where the accused-appellant was found sleeping, because she has stated that it was lying on the bed on which the accused-appellant was asleep. And the Investigating Officer of the case, namely PW-12 Ramesh Chauhan, has very categorically stated that the *Barchha* was recovered by him from the residential room of the accused-appellant.

**17.** Furthermore, the dead body was completely naked, meaning thereby that the clothes of the deceased were removed by his killer(s). If the accused-appellant were the killer, he would have been in the know where the clothes were, and in that situation, the police could have recovered the same from him or at his instance. In the present case the clothes of the deceased have not been recovered meaning thereby that the accused had no knowledge where the clothes were.

**18.** Looking to the contradictions, improbabilities, inconsistencies and discrepancies noticed above, we are convinced that the case of the prosecution does not stand proved beyond reasonable doubt. Consequently, the appeal is accepted. The judgment of the trial Court is set aside and the accused-appellant is acquitted. His sentence having not been suspended, it is ordered that he be released forthwith, if his detention is not required in connection with any other case.

**( Surjit Singh ), J.**

**November 30, 2006<sub>(sd)</sub>**

**( Dev Darshan Sud), J.**