

ITEM NO.1B
[FOR JUDGMENT]

COURT NO.7

SECTION IIB

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No. 1098/2012

RAJVINDER SINGH

Appellant(s)

VERSUS

STATE OF HARYANA

Respondent(s)

Date : 16/10/2015 This appeal was called on for pronouncement of judgment today.

For Appellant(s) Mr. Shashi Bhushan, Adv.
Mr. Vinay Garg, A.O.R.

For Respondent(s) Mr. Sanjay Kumar Visen, A.O.R.

Hon'ble Mr. Justice Uday Umesh Lalit pronounced the judgment of the Court for a Bench comprising of Hon'ble Mr. Justice Fakkir Mohamed Ibrahim Kalifulla and His Lordship.

For the reasons recorded in the signed non-reportable judgment, the appeal is disposed of.

[KALYANI GUPTA]
COURT MASTER

[SHARDA KAPOOR]
COURT MASTER

[SIGNED NON-REPORTABLE JUDGMENT IS PLACED ON THE FILE.]

Non-reportable

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1098 OF 2012

RAJVINDER SINGH

.... Appellant

Versus

STATE OF HARYANA

.... Respondent

J U D G M E N T

Uday Umesh Lalit, J.

1. This appeal by special leave challenges the judgment and order dated 12.12.2011 passed by the High Court of Punjab and Haryana dismissing Criminal Appeal No.800-DB of 2007 and thereby confirming the conviction and sentence of the appellant for the offences under Sections 364, 302 and 201 of the I.P.C.

2. One Ms. Pushpa Verma, an unmarried lady, after retiring from her job as Head Mistress in the year 1993, was residing at Karnal. She had set up a marriage bureau and also used to work as a property dealer. Her two married sisters were also

residing at Karnal. Two sons of one of the sisters were practicing advocates. Brother of Pushpa Verma named Chander Prakash had retired as Executive Engineer and was residing at Hissar. Pushpa Verma owned properties at Panipat and Gurgaon allotted through Haryana Urban Development Authority (HUDA for short).

3. The appellant stands convicted for the offences of kidnapping Pushpa Verma and thereafter murdering her and for destroying the evidence by throwing her body in a canal. He is sentenced to life imprisonment and payment of fine of Rs.10,000/- for the offence under Section 302 I.P.C. and to rigorous imprisonment for five years and payment of fine of Rs.5,000/- in default whereof to undergo further rigorous imprisonment for six months under Section 364 I.P.C. and to rigorous imprisonment for five years and payment of fine of Rs.5,000/-, in default whereof to undergo further rigorous imprisonment for six months under Section 201 I.P.C. All the sentences are to run concurrently. The conviction and sentence as recorded by the trial court has been affirmed by the High Court in the judgment under appeal.

4. The instant matter has genesis in Daily Diary Report (Ext.

PA) lodged with Police Post, Sector 13, Karnal, by Chander Prakash on 16.03.2003 giving "missing report" about his sister Pushpa Verma. According to the report, she was missing since 20/22 January, 2003 and had not been receiving any calls since then. The follow-up action on this report indicates that information was sent to all the districts and all the police stations were intimated through wireless. On 18.05.2003 Chander Prakash moved an application (Ext. PC) for registration of an offence against the appellant stating that he suspected that the appellant wanted to grab her plots at Panipat and Gurgaon by preparing forged documents and that he had kidnapped her or murdered her. This reporting led to registration of FIR No.144 dated 18.05.2003 with Police Station Civil Lines, Karnal under Section 364 I.P.C. against the appellant.

5. After due investigation, charge-sheet was filed against the appellant for the offences punishable under Sections 364, 302 and 201 I.P.C. in the Court of Additional Sessions Judge, Karnal and the appellant was tried for aforesaid offences in Sessions Case No.53 of 2005. During investigation the body of Pushpa Verma could not be recovered nor was there any eye-witness to

the actual act of kidnapping or murder. The prosecution mainly relied upon following circumstances to bring home the charges against the accused:

A. The documents pertaining to properties of Pushpa Verma at Panipat and Gurgaon showed that general powers of attorney were allegedly executed in favour of the appellant, on the basis of which he had entered into transactions in respect of properties at Panipat and Gurgaon and had pocketed the consideration. The transactions as placed on record were as under:-

a. On 26.09.2002 a general power of attorney Ext. PF-1 was allegedly executed by Pushpa Verma in favour of the appellant in respect of her property at Panipat. Though she was resident of Karnal and the property was at Panipat, this general power of attorney was executed and registered with the office of the Sub-Registrar at Delhi. This document empowered the appellant with all rights including power to dispose of the property at Panipat.

b. On 08.11.2002 the appellant sold away the property at Panipat for Rs.12.5 Lakhs. The property was an industrial plot of 1050 square meters at Panipat and the entire consideration was received by the appellant in cash. It appears that there were dues in respect of penalty for not having constructed upon within the prescribed period, which were got cleared by the appellant.

c. On 12.11.2002 a Will (Ext. PG-1) was allegedly executed by said Pushpa Verma in favour of the appellant in respect of her Gurgaon property. On the

next day i.e. 13.11.2002 a general power of attorney was allegedly executed with respect to Gurgaon property in favour of the appellant. The Will and the general power of attorney were also executed and registered with the office of the Sub-Registrar at Delhi.

d. On 24.01.2003 an agreement (Mark PH) was entered into under which the appellant agreed to transfer Gurgaon property in favour of prospective purchasers and received part consideration of Rupees 2.5 Lakhs (Rupees 1.5 Lakhs in cash while Rupees One Lakhs by way of a cheque in the name of the appellant himself). On 24.03.2003, further sum of Rupees Three Lakhs was received by the appellant and endorsement to that effect was made on the agreement itself.

e. On 31.03.2003 a demand draft of Rupees Five Thousand towards the fees for seeking permission to transfer Gurgaon property was taken out and enclosed along with the application (Ext. PJ) seeking permission to transfer that property. This application was preferred by the appellant in his capacity as general power of attorney and was received in the office of HUDA on 03.04.2003.

f. It appears that the signatures of Pushpa Verma on the general power of attorney submitted by the appellant did not tally with her original signatures available on record with HUDA and a letter to that effect was dispatched on 07.04.2003. This was followed by another letter dated 24.04.2003 (Ext. PH) by HUDA addressed to Pushpa Verma with a copy to the appellant asking her to remain present personally in the office in connection with her application seeking permission to transfer.

- B. PW 22 Harsh Vardhan, Handwriting expert was examined who opined that the signatures of Pushpa Verma on

aforementioned documents do not tally with the specimen signatures taken from the available record with her bank.

C. The consideration received in respect of the aforesaid transactions was never credited to the account of Pushpa Verma.

D. S.P. Meena, Sub-Registrar, Delhi was examined as PW 10.

The relevant portion of his testimony is as under:

“After the document is written the receipt for the fee is issued by the clerk concerned the document is presented before another clerk who verifies the document and the attestation of the witnesses and parties and initials the photographs and affixes seals and fills in the blanks in the seal, the document after his signature is presented before me. Thereafter I sign the documents on the faith of the clerk concerned. Documents Ext. PG and Ext. PG/1 is power of attorney and will respectively were presented before me by Naresh Kumar, Clerk after initialing at point ‘A’ in Ext. PG and at point ‘B’ in Ext PG/1 signed these documents.

Thereafter the documents were entered in the register of the registration maintained in our office. I have seen my signatures at points ‘B’ and Ext. PG and at points ‘C’ in Ext. PG/1. These signatures are mine. The person who executes the document and in whose favour it is executed do not appear before me. I have been working in this manner from 26.07.2000 to 13.11.2002 as Sub-Registrar and attested the documents.”

E. On 21.05.2003 the appellant made an extra judicial confession to PW16 Sunil Rana advocate who later took

the appellant to the police and caused his arrest. The appellant confessed that Pushpa Verma was known to him for more than a year, that he started meeting her often, that she started treating him as her son, that having come to know that she owned properties at different places he had become greedy, that he had given her some sedative in her tea, taken her to Delhi and got her signatures on the General power of attorney, that he sold away property at Panipat but kept all the money with himself and that he again took her to Delhi and got another general power of attorney executed in respect of Gurgaon plot. It was further confessed that in the month of January the appellant felt that Pushpa Verma suspected some foul play and therefore the appellant plotted a scheme to finish her. On 23.01.2003 she expressed desire to visit Haridwar, on which pretext he took her in a car and after having administered a sedative, throttled her and while she was unconscious near Roorkee, threw her body in a canal known as Gang Canal in between villages Liverheri and Mangalore.

F. After the arrest of the appellant, voter identity card Ext.

P-12 of Pushpa Verma was recovered from the bushes near Gang Canal where her dead body was thrown. Such recovery was in pursuance of the disclosure statement of the appellant under Section 27 of the Evidence Act. In order to prove this part, the prosecution relied upon the testimony of PW 12 Mahir Hussain, Photographer and the testimony of PW 19 Investigating Officer Vijay Anand.

G. Pursuant to the disclosure statement of the appellant, a gold ring bearing inscription "PV" was also recovered from the house of the appellant. The evidence in that behalf was available through PW5 Muktiyar Singh and PW6 Ashok Sharma.

6. In defence, the appellant examined four witnesses. It was projected that an unidentified dead body of a woman was found in the agricultural fields in District Muzaffar Nagar, U.P. on 22.01.2003. The photograph of the dead body taken by the police was produced in this trial and marked as DB. One Brahmpal Singh, Sub-Inspector, Saharanpur was also examined as Defence witness who stated that he had prepared Inquest proceedings regarding the dead body and thereafter the investigation was conducted by SSI Rajinder Beer Singh. By

examining these witnesses it was submitted that the dead body so found in Muzaffar Nagar on 22.01.2003 was in fact that of Pushpa Verma. The trial court rejected this defence. Relying upon the circumstances as culled out hereinabove, the trial court found that the case against the appellant was completely proved by the prosecution. The trial court, thus, awarded the sentence as stated hereinabove.

7. The appellant carried the matter further by filing Criminal Appeal No.800-DB/2007 in the High Court. During the pendency of this appeal, the appellant filed CRM No.52692 of 2008 along with documents pertaining to a case registered against one Suresh under Section 25 of the Arms Act. Copy of the General Diary pertaining to investigation of said crime was also filed which contained statement of said accused Suresh according to which Suresh and one Baljeet had taken Pushpa Verma from Karnal in a car, that Baljeet had strangled her and that thereafter they both had thrown her dead body in sugar-cane fields. The record as filed did not indicate whether any case under Section 302 IPC was registered against said Baljeet and Suresh. The appellant also filed a report of a privately engaged Forensic Expert stating that the photograph

of the dead body of the lady found in Muzaffar Nagar was that of Pushpa Verma. Relying on these materials, the appellant submitted an application under Section 391 Cr.P.C. praying that additional evidence be recorded at the appellate stage. The High Court directed that these applications be considered along with the appeal itself.

8. The High Court considered the matter and the circumstantial evidence placed on record. It found that the signatures of Pushpa Verma on the documents in question were a crude attempt at imitation and in one of the documents, namely, Will Ext. PG-1, the signature was "Puspha Verma" instead of normal signature being "Pushpa Verma". The High Court found that the case against the appellant stood completely established. As regards application under Section 391 Cr.P.C., it was observed that the appellant had taken the defence that the dead body recovered in Muzaffar Nagar was actually that of Pushpa Verma and in such circumstances it was imperative for him to have examined the expert in his defence at the trial court stage itself and that the report of the privately engaged Forensic Expert at such belated stage could not be allowed to be taken on record. The High Court thus dismissed

the appeal affirming the conviction and sentence of the appellant.

9. This judgment of the High Court is presently under appeal. Crl. Miscellaneous Petition No.10525 of 2012 was filed in the present matter seeking leave to bring on record additional documents which include the order of conviction in so far as aforementioned Suresh is concerned under Section 25 of the Arms Act as well as deposition of the very same Sub Registrar S.P. Meena in Civil Suit No.142 of 2009. Said Civil Suit was filed by Chander Prakash against the present appellant seeking to invalidate the transactions allegedly entered into by Pushpa Verma. In that suit S.P. Meena, Sub- Registrar was examined as his witness by the appellant. His deposition now states that he had read over the contents of the general power of attorney and the Will to Pushpa Verma and after understanding the same she had signed in the presence of said S.P. Meena.

10. Mr. Brijender Chahar, learned Senior Advocate appearing for the appellant submitted that none of the aforesaid circumstances were proved and in any event these circumstances do not form a complete chain excluding every other hypothesis except the guilt of the appellant. It was

submitted that the dead body of Pushpa Verma was never recovered from Gang Canal or thereabouts. On the other hand a dead body of an unidentified female was found in agricultural fields in District Muzaffar Nagar and FIR No.427-12 of 2003 was registered against unknown persons at Police Station Nai Mandi, Muzaffar Nagar. It was submitted that the High Court ought to have allowed the prayer for leading additional evidence at the appellate stage. It was accepted that the documents referred to above had given the appellant full authority to dispose of the properties of Pushpa Verma and that the appellant had entered into transactions in question. It was however submitted that all the payments that he had received were made over to Pushpa Verma and that an attaché kept with one Ram Kishore was taken by son of the complainant. The attaché used to contain valuable securities of Pushpa Verma and was kept with Ram Kishore with instructions to hand over to her relations in case anything were to happen to her. It was suggested that the money received in cash must have been kept in that attaché. Mr. Devender Kumar Saini, learned Additional Advocate General appearing for the State submitted that the concurrent view taken by the trial court and the High Court did not call for any interference and the appeal be

dismissed.

11. At the outset, we must deal with submissions as regards application for leading additional evidence at the appellate stage. It has been the consistent defence of the appellant that the dead body found in agricultural fields in District Muzaffar Nagar was that of Pushpa Verma and he went to the extent of producing photograph of the dead body in the present trial. He also examined Brahm Pal Singh, Sub-Inspector and other witnesses. It was certainly possible to examine Forensic Expert at the trial court stage itself and the High Court was right and justified in rejecting the prayer to lead additional evidence at the appellate stage. Nonetheless, we have gone through the report of said Forensic Expert engaged by the appellant. The exercise undertaken by that expert is to start with the admitted photograph of Pushpa Verma on a computer, then remove the "bindi" by some process on the computer, then by same process remove her spectacles and by computer imaging change the image as it would have looked if the lady was lying down in an injured condition. The computer image so changed was then compared with the photograph of the dead body. We have seen both the images and we are not convinced at all

about any element of similarity. We do not therefore see any reason to differ from the view taken by the High Court.

12. In the submissions of Mr. Brijender Chahar, learned Senior Advocate the circumstances E, F and G as culled out in paragraph 5 hereinabove were not proved at all and the transactions were completely genuine. It was submitted that it is impossible to believe that the Voter Identity Card of Pushpa Verma could be recovered from the bushes four months after the incident. Similarly the recovery of gold ring was also questioned. Further, it was submitted that there was no evidence that the ring in question was that of Pushpa Verma. Mr. Chahar may be right so far as recovery of Voter Identity Card is concerned but the recovery of gold ring with inscription 'PV; recovered from the house of the appellant is definitely a relevant circumstance. The ring after recovery was given under a panchnama to Abhishek Dewan, son of Chander Prakash. No explanation has been given as to how the appellant came into possession of said gold ring. As regards the extra judicial confession made to PW 16 Sunil Rana, the documents allegedly executed by Pushpa Verma and the progression of events including the transactions completely

substantiate the case and we have no hesitation in accepting the evidence in that behalf.

13. The transactions as referred to above have been admitted by the appellant. We have seen the signatures alleged to have been put by Pushpa Verma on said documents. We have compared the signatures and find the view taken by the High Court in that behalf to be correct. It is impossible and inconceivable that a lady who had retired as head mistress would mis-spell her own name while putting signatures. The flow of signature as evident from the admitted source is completely of a different nature. The signatures on the documents in question, to a naked eye, cannot be that of Pushpa Verma. Further, there is no reason why a lady who has two sisters and two Advocate nephews staying in same town, would give power of attorney and execute a Will in favour of a total stranger. These circumstances are clinchingly against the appellant. His assertion that he had made over the payments received in cash to Pushpa Verma is not supported by any material on record. In fact, the appellant kept receiving payments even in the month of March, 2003. None of the payments are reflected in the account of Pushpa Verma.

Receipt of Rs.1,00,000/- by way of cheque in the name of appellant himself is also a circumstance against the appellant. The evidence thus shows that the appellant had fabricated the documents in question and was attempting to defraud Pushpa Verma, as stated in the extra judicial confession. Further, by Ext. PH addressed to Pushpa Verma, a copy of which was sent to the appellant, she was asked to remain personally present in the office of HUDA. There is nothing on record to show that the appellant had undertaken any attempt, if he was genuinely acting as power of attorney on her behalf. We are satisfied that the circumstances on record, even if we were to disregard that relating to the recovery of Voter Identity Card Ext.P-12, do suggest only one hypothesis and that is the guilt of the appellant. The defence set up by the appellant does not inspire any confidence and merits rejection. The appeal, therefore fails and is dismissed.

14. Before we part, we must deal with the conduct of PW10 S.P. Meena. As Sub-Registrar, it was expected of him and was fundamental part of his duty to see that the persons who are entering into transactions must appear before him in person and the documents would be registered only after the essential

formalities were undertaken. His evidence in the present case shows rank dereliction of duty. Add to it, his attempt to strike a different chord in the private proceedings is also questionable. He appeared as witness for the appellant and took a contradictory stand on oath. Such conduct must be dealt with strictly so that the matters of registration continue to have confidence in the eyes of people. We therefore recommend suitable action against said PW10 S.P. Meena and direct the authorities to initiate proceedings in that behalf. A copy of this judgment be sent to the Supervisors in the office where he was working as Sub-Registrar, Pitampura, Delhi.

15. The appeal is disposed of in the afore-mentioned terms.

.....J.
(Fakkir Mohamed Ibrahim Kalifulla)

.....J.
(Uday Umesh Lalit)

New Delhi,
October 16, 2015