
(2011) 03 P&H CK 0432
In the Punjab And Haryana At Chandigarh
Case No : CRM No. M-27745 of 2010

Jagtar Singh @ Kaka

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 04-03-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 302, 34

Citation : (2011) 7 RCR(Criminal) 2518

Hon'ble Judges : S.S. Saron, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.S. Saron, J.—Heard counsel for the parties.

2. The Petitioner seeks regular bail in a case registered against him on 15.1.2010 for the offences under Sections 302, 34 and 201 IPC.

3. The FIR has been registered on the statement of Ram Singh alias Ram (complainant) who was working as a servant in the house of the neighbor of Jagtar Singh (Petitioner) and his son Jagminder Singh. The complainant Ram Singh @ Ram on 1.12.2009 at about 7 o" Clock heard a loud noise from the house of the Petitioner Jagtar Singh and his son Jagminder Singh. When he looked through the adjoining wall, he was surprised to see that the Petitioner Jagtar Singh and his son Jagminder Singh were severely beating Pappu who was a migrant labour as also their daughter-in-law namely Sukhwinder Kaur. In the scuffle, Sukhwinder Kaur, daughter-in-law of the Petitioner ran away from the house by rescuing herself. She took shelter in the house of Jaswant Singh, Ex-Sarpanch. The Petitioner and his son beat Pappu continuously and blood was oozing out from his head. On seeing the beating of Pappu, the complainant raised an alarm and he called others for help him. In the meanwhile, Jagtar Singh (Petitioner) and his son Jagminder Singh put Pappu in their car and fled away in it. On the next day, the complainant Ram Singh @ Ram asked about the

whereabouts of Pappu from the Petitioner and his son and they told him that he was admitted in the hospital. They also objected as to why the complainant was inquiring about him. The complainant continued to inquire about Pappu on many days from the Petitioner and his son, but they always asked him to remain quiet and represented that he was admitted in the hospital and after his discharge, he would meet him. When the complainant did not come to know about the whereabouts of Pappu, he felt that he had been killed and his dead body was disposed of. Accordingly, the FIR was registered in which a prayer was made by the complainant for recovering the dead body of Pappu and taking legal action against the Petitioner Jagtar Singh and his son Jagminder Singh.

4. The incident of beating Pappu had occurred on 1.12.2009. However, the matter was reported to the Police on 15.1.2010 on which date, the FIR was registered. The complainant Ram Singh @ Ram in his statement recorded by the Police stated that Jagtar Singh (Petitioner) and his son Jagminder Singh had killed Pappu by beating him severely. Thereafter, his dead body was disposed of on 1.12.2009. Ravinder Kumar son of Mohinder Rishi also stated that Jagtar Singh (Petitioner) and Jagminder Singh had killed their servant Pappu by beating him and they had disposed of his dead body. Jagminder Kaur widow of Bant Singh stated that Jagtar Singh (Petitioner) and his son Jagminder Singh had killed Pappu by severely beating him and disposed of his dead body by taking him their car. Darshan CRM No. M-27745 of 2010 [3] Singh, Jaswant Singh, Ex-Sarpanch, Mohinder Singh, Sewa Singh, Harpal Singh and Tejvir Singh stated in their joint statements that Pappu had been serving in the house of Jagtar Singh (Petitioner) and his son Jagminder Singh for the last 7-8 years. They had killed Pappu by beating him and thereafter, disposed of his dead body. In the statement of Jagminder Singh, son of the Petitioner, he stated that his father namely Jagtar Singh (Petitioner) gave a blow with bhukna (a hollow pipe) on the head of Pappu, while he (Jagminder Singh) put him (Pappu) in the vehicle for taking him to hospital, but he (Pappu) died on the way to the hospital. He got nervous and called his father and then they threw the dead body of Pappu in the canal situated on the bridge of village Khattria. Amarjit Kaur wife of Jagtar Singh (Petitioner) stated that Pappu was a servant and he had relations with their daughter-in-law Sukwinder Kaur. Therefore, it appears that reasons for the incident of beating Pappu is that he had illicit relations with Sukwinder Kaur, daughter-in-law of the Petitioner-Jagtar Singh. His son Jagminder Singh came to know about it. Therefore, they beat him. The statements of other witnesses were also recorded. Balwinder Singh stated that the dead body of Pappu was thrown in the Rarra Sahib Canal. The Petitioner along with his son Jagminder Singh was arrested on 16.1.2010.

5. Learned Counsel for the Petitioner has stated that there is a delay of one and a half months in lodging the FIR; besides, till date, the dead body of Pappu has not been recovered. Therefore, it cannot be said that Pappu has died. It is submitted that in any case, the fatal blow is attributed to Jagminder Singh and not to Jagtar Singh (Petitioner).

6. During the course of inquiry, it has been observed that bhukna blow is attributed to Jagminder Singh son of the Petitioner and thereafter, the Petitioner and Jagminder Singh by lifting Pappu in their vehicle make "Uno" had taken him from the house and as per their statements, Pappu Bhaia died on the way and then Jagtar Singh and Jagminder Singh for disposing of the dead body of Pappu had thrown it in the Rarra Sahib Wali Nehar (canal) situated on the bridge of village Khatrria.

7. It may be noticed that the fatal blow is not attributed to the Petitioner; besides, the dead body of Pappu has not been recovered. In case the dead body was thrown in the canal, the same would have been recovered by now. To establish the charge of murder it is quite necessary that the dead body is recovered and identified. The proof of corpus delicti is to be established before a finding of guilt is recorded. In the absence of the dead body it is debatable whether the charge would be established or not. The Petitioner is in custody for the last one year and during trial, not a single witness has been examined till date. Therefore, it would be just and expedient if the Petitioner is granted the concession of bail.

8. Accordingly, the Crl. Misc. petition is allowed and the Petitioner on his furnishing personal bond and surety to the satisfaction of the learned Chief Judicial Magistrate, Ludhiana shall be admitted to bail. However, nothing stated herein shall be construed as an expression of opinion on the merits of the case and the learned trial Court shall consider the evidence and material as produced before it uninfluenced by any observations made herein.