



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

102

CRA-D-424-DBA-2004  
Date of decision: 20.08.2025

State of Haryana

.....Appellant

Versus

Bhagwanti

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL  
HON'BLE MR. JUSTICE H.S. GREWAL**

Present : Mr. Karan Sharma, DAG, Haryana.

Mr. H.S. Deol, Advocate as Amicus Curiae  
for the respondent.

\*\*\*\*

**MANJARI NEHRU KAUL, J.**

1. The present appeal filed by the State of Haryana is directed against the judgement dated 18.07.2003, rendered by learned Additional Sessions Judge (Adhoc), Jhajjar, acquitting the respondent/accused, Bhagwanti of the charges under Sections 302/309 of the IPC, arising from FIR No.180 dated 17.09.1999 under Sections 302/309 of the IPC registered at Police Station Beri, District Jhajjar.

2. The prosecution case arises out of the unfortunate deaths of two minor boys, Sunny (5 years) and Ajay Kumar (4 years), sons of the respondent/accused and PW-1, complainant Mir Singh. As per the allegations, the respondent, being of quarrelsome temperament, deliberately drowned both her children in the village water tank and then jumped in herself, allegedly with suicidal intent. The learned Trial Court disbelieved the prosecution version and acquitted the accused.

3. Learned State counsel contends that the acquittal is based on conjectures, whereas the ocular testimony and medical evidence clearly establish her guilt.

4. Learned counsel for the respondent, on the other hand, asserts that the prosecution case is riddled with contradictions, delay, and omissions, and the learned Trial Court rightly extended the benefit of doubt to her.

5. As per the case of the prosecution, on 16.09.1999, at about 6.00 p.m., PW-6 Dalbir Singh and PW-7 Satish Kumar, returning from the fields, allegedly saw the accused throw her elder son Sunny into the water tank, followed by Ajay Kumar, and thereafter jumped into the tank herself. The witnesses claimed to have immediately rushed, jumped into the tank, rescued the accused alive, and brought out the two children, who had unfortunately succumbed to drowning despite their attempts at revival.

6. The dead bodies were carried to the house of PW-1 Mir Singh, husband of the accused. At that time, he was away at Hisar, on his return the next morning, his mother, Smt. Bedo, narrated the incident to him. PW-1 Mir Singh then got recorded his statement before police, forming the basis of FIR No.180 dated 17.09.1999 under Sections 302/309 of the IPC.

7. The investigation was conducted by PW-11, Sub Inspector Pop Singh. Inquest proceedings were prepared, site plan (Ex.PE) drawn, and photographs (Ex.P1 to P4), of the deceased were taken. Post-mortem was conducted by PW-12, Dr. Jai Kishore, which revealed

features consistent with drowning, and death was opined as due to asphyxia caused by drowning, anti-mortem in nature.

8. The accused was arrested on 18.09.1999 and sent up for trial.

9. The respondent/accused during her statement recorded under Section 313 of the Cr.P.C. denied the allegations. She stated that while she was washing clothes at the water tank, both her children accidentally slipped into the water and she jumped to save them but failed. She alleged false implication at the behest of her mother-in-law, with whom relations were strained and who bore animosity towards her.

10. The learned Trial Court, on appreciation of evidence, held that the case of the prosecution rested solely on PW-6 Dalbir Singh and PW-7 Satish Kumar whose testimonies were contradictory and unreliable; their conduct in failing to inform the police, sarpanch, or villagers was unnatural. The learned Trial Court also referred to the abnormal delay in lodging the FIR despite knowledge of the incident on 16.09.1999. The learned Trial Court also took note of there being no independent corroboration, although the alleged occurrence was at a public place. The learned Trial Court in the wake of the evidence led held that the possibility of accidental drowning could not be excluded and thereafter proceeded to acquit the respondent/accused.

#### **Submissions on Behalf of the Appellant/State**

11. Learned counsel for the State vehemently argued that the learned Trial Court gravely erred in acquitting the accused despite

clear, direct, and natural eyewitness testimony of PW-6 Dalbir Singh and PW-7 Satish Kumar. It was asserted that both of these witnesses had no enmity with the accused and there was no motive, therefore, to falsely implicate her. It was also argued that the occult account was cogent and consistent, duly corroborated by medical evidence of drowning as given by PW-12 Dr. Jai Kishore. While drawing the attention of this Court to the testimony of PW-1 Mir Singh, it was further argued that it clearly stood established that the respondent/accused was of quarrelsome nature, and had often threatened to end his lineage and, therefore, had a motive to commit the crime. The conduct of the accused in not reporting the matter, coupled with her disappearance from the spot after being rescued, as per the learned State counsel clearly pointed to her guilt.

12. Learned State counsel, therefore, submitted that the learned Trial Court had adopted conjectures in discarding reliable evidence and thereby erred in extending benefit of doubt to the respondent/accused. A prayer was, therefore, made that the impugned judgement be set aside and the accused be convicted.

#### **Submissions on Behalf of the Respondent/Accused**

13. Learned Amicus Curiae appearing on behalf of the respondent/accused, on the other hand, supported the impugned judgement and contended that the prosecution case came across as wholly unreliable and rested on hearsay. PW-6 Dalbir Singh and PW-7 Satish Kumar, though claiming to have witnessed the occurrence, did

not even bother to inform the police, sarpanch or any villager. Their unnatural conduct, therefore, rendered their version highly suspect. While referring to the unexplained and abnormal delay in lodging the FIR, learned Amicus Curiae contended that although the grandmother, Bedo, and father of the children i.e. the complainant PW-1 Mir Singh, learnt of the incident on 16.09.1999 itself, the FIR was lodged only on 17.09.1999 at 9.15 a.m. The special report reached the Magistrate belatedly at 12.30 p.m. Such delay created a real possibility of embellishment and afterthought.

14. Learned Amicus Curiae also referred to the material contradictions existing between the testimonies of PW-6 Dalbir Singh and PW-7 Satish Kumar, alleged eyewitnesses, regarding sequence of events, presence of construction workers near the place of occurrence, and existence of one or two water tanks. He submitted that their depositions were mutually destructive. Learned Amicus Curiae also argued that PW-1 Mir Singh himself admitted that when he returned from Hisar, the respondent/accused was lying in the house, contrary to the theory of the prosecution as well as the deposition of investigating officer that the accused had disappeared soon after the occurrence and was arrested only on 18.09.1999.

15. Learned Amicus Curiae argued that the relations between the respondent/accused and her mother-in-law were strained. The mother-in-law, who first narrated the incident to her son PW-1 Mir Singh, was not examined. This omission supports the defence plea of false implication at her instance. It was lastly asserted that the defence

version that both the children slipped accidentally while playing near the sloping edge of the water tank and the mother (respondent/accused) jumped in to save them, was more plausible, consistent with probabilities and, therefore, could not be ruled out.

### **Findings of the Court**

16. We have heard learned counsel for the parties and perused the relevant material on record.

17. We are of the considered view that the learned Trial Court was justified in acquitting the respondent/accused.

18. The incident occurred on 16.09.1999 at around 6.00 p.m. PW-1 Mir Singh admitted that his mother had informed him of the tragedy on his return the same night. Yet, the FIR was lodged only on 17.09.1999 at 9.15 a.m. More significantly, the special report reached the Magistrate only at 12.30 p.m., several hours after registration. Such abnormal delay without doubt is fatal.

19. The law is well settled that prompt lodging and forwarding of FIR is a safeguard against embellishment and fabrication. The unexplained delay here casts serious doubt and indicates possibility of deliberation and concoction.

20. Furthermore, the entire case of the prosecution rests on the testimonies of PW-6 Dalbir Singh and PW-7 Satish Kumar. Their conduct, to say the least, is highly unnatural. Having allegedly witnessed a mother drown her children, they neither informed the villagers, nor sarpanch, nor reported to police. Instead, they quietly left

the dead bodies at the house of the complainant and went their respective ways.

21. Such conduct is contrary to ordinary human behaviour, especially in a rural setting where information spreads quickly and people naturally gather at the scene. This silence creates grave doubt about their presence at the spot.

22. Still further, the testimonies of PW-6 Dalbir Singh and PW-7 Satish Kumar, are mutually inconsistent :

- PW-6 Dalbir Singh stated he saw the accused throw one child before jumping; PW-7 Satish Kumar claimed she threw both the children before jumping.
- PW-6 Dalbir Singh stated 20 to 30 labourers were working nearby; PW-7 Satish Kumar, on the other hand, denied the presence of any workers.
- PW-7 Satish Kumar claimed only one water tank existed; PW-8 Ranbir Singh, Halqa Patwari confirmed existence of two tanks separated by a narrow path.

23. These contradictions strike at the root of the case of the prosecution and create a big question mark as to whether both these witnesses actually witnessed the crime in question.

24. As per the case of the prosecution, the respondent/accused disappeared soon after being rescued by PW-6 Dalbir Singh and PW-7 Satish Kumar. Yet, PW-1 Mir Singh admitted during trial that when he returned from Hisar on 16.09.1999, the accused was lying on a bed in

the house. This directly falsifies the claim of the prosecution of her disappearance and supports the defence version.

25. The grandmother of the two deceased boys, Smt. Bedo, who allegedly first learnt of the incident and informed PW-1 Mir Singh, was not examined. Her testimony was crucial since it was she who informed her son about the manner in which the two boys had been done to death by the respondent/accused. The omission raises adverse inference against the prosecution.

26. Furthermore, PW-1 Mir Singh admitted that he had separated from his mother due to discord between his wife (the accused) and his mother. The possibility of false implication at the instance of the mother-in-law, who bore animosity, is real and, therefore, cannot be ruled out.

27. The defence explanation that the children accidentally slipped into the tank while playing and that the accused jumped in to save them is not improbable. The site plan shows the tank had a slope inside, making slipping possible. This version is consistent with probabilities and raises reasonable doubt.

28. To sustain a conviction under Section 302 of the IPC, the prosecution must establish guilt beyond reasonable doubt. In the present case, the prosecution case is riddled with :

- abnormal delay in FIR and forwarding of special report;
- hearsay nature of the testimony of complainant;
- material contradictions between both eyewitnesses PW-6 Dalbir Singh and PW-7 Satish Kumar;

- unnatural conduct of both the eyewitnesses PW-6 Dalbir Singh and PW-7 Satish Kumar;
- contradictory evidence regarding presence of accused after the occurrence in question;
- non-examination of the grandmother Bedo, who was a material witness;
- strained family relations suggesting motive for false implication;
- a plausible defence version consistent with innocence.

29. In light of these infirmities, we have no hesitation to hold that the prosecution failed to prove the charge beyond reasonable doubt. The learned Trial Court rightly acquitted the accused, and this Court, therefore, finds no ground to interfere with the impugned judgment. The appeal filed by the State is dismissed and the judgement of acquittal dated 18.07.2003 is hereby upheld.

(MANJARI NEHRU KAUL)  
JUDGE

(H.S. GREWAL)  
JUDGE

20.08.2025

Vinay

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No