



**In the High Court for the States of Punjab and Haryana  
At Chandigarh**

CRA-D-123-DB-2004 (O&M)  
Date of Decision:-8.7.2025

Lakha Singh ... Appellant

Versus

State of Punjab ... Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL  
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Arshdeep Singh Brar, Advocate as Amicus Curiae and  
Mr. Rajesh Dhiman, Legal Aid Counsel,  
for the appellant.

Mr. Siddharth Attri, AAG, Punjab.

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**GURVINDER SINGH GILL, J.**

1. The appellant – Lakha Singh assails judgment dated 13.11.2003 passed by learned Additional Sessions Judge, Ferozepur vide which he has been held guilty of having committed offence punishable under Section 302 of Indian Penal Code and has been sentenced to undergo rigorous imprisonment for life and to pay a fine amounting to Rs.2,000/-.
2. The matter arises out of FIR No.116 dated 2.8.2001 registered at Police Station Khuyian Sarwar, under Section 302 of Indian Penal Code (Ex.P-1/B) at the instance of Babu Singh (PW-1). The translated gist of his statement (Ex.P-1) leading to FIR, is reproduced herein-under:



“I am a resident of Village Kikker Khera and am a labourer. I have 3 daughters and a son. My eldest daughter Simri was married to Lakha Singh about 20 years back and was blessed with 2 daughters and a son. Her eldest daughter Rani was married. There used to remain a quarrel between my daughter and my son-in-law Lakha Singh as Lakha Singh used to doubt the character of my daughter and used to give beatings to her. Lakha Singh was not doing any work. We being poor send out daughter to her matrimonial home after counseling her that it would be in the interest of her children. About 20/22 days back my son-in-law Lakha Singh gave beatings to my daughter and sent her to our home. We reasoned out with our son-in-law for 4/5 days pursuant to which he took my daughter back to his house. Yesterday evening I (Babu Singh) and Het Ram son of Sukha Ram went to Patti Sadiq to enquire about the well being of my daughter. After having dinner we slept in the courtyard. My son-in-law Lakha Singh, however, quarreled with my daughter while telling her to shun bad habits failing which he will kill her. I and Het Ram reasoned out with them and we all slept in the courtyard. After midnight i.e. at about 12:00 P.M./01:00 A.M. we heard shrieks of my daughter. I and Het Ram rose up and saw that Lakha Singh was sitting on my daughter on the cot lying in the room and was strangulating her forcefully by putting a rope around her neck and was saying that since she had not mended her ways, therefore, he will get rid of her. My daughter was struggling on account of the rope around her neck and was shrieking. I and Het Ram gave push to Lakha Singh and tried to rescue my daughter, but Lakha Singh picked up a ‘*toki*’ (sharp edged farming implement) lying on the cot and advanced towards us. We fled away outside the house being scared and raised alarm. In a shortwhile, Lakha Singh also fled away from the spot alongwith his ‘*toki*’. After sometime, when we entered the room we saw that the rope was still wrapped around the neck of my daughter and there was an incised wound on her left arm from which blood was oozing and she was lying dead. A kerosene oil lamp was lit, which was lying on a ‘*petti*’ in the room. I an Het Ram had seen my son-in-law Lakha Singh strangulating my daughter Simri with a rope in the light of the said



lamp. My daughter's son Bittu and also her daughter Reena were residing with us at our residence in Kikker Khera since the last several days. Being scared, we remained sitting near the dead-body of my daughter during the night. In the morning, after leaving Het Ram near the dead-body I informed other members of my family and also the Panchayat of Kikker Khera. I alongwith my son Gagan and Karnail Singh, Sarpanch returned back to the house of my daughter Simri. After leaving my son Gagan & Karnail Singh, Sarpanch near the dead-body I alongwith Het Ram proceeded towards the police station to lodge report when I met you at the bus stand and have got my statement recorded. The motive for killing my daughter is that Lakha Singh was having suspicion against the character of my daughter Simri. Action be taken.

L.T.I. Babu Singh”

3. The aforesaid statement Ex.P-1 was recorded by Sub Inspector Jaswinder Singh (PW-7) pursuant to which formal FIR (Ex.P-1/B) was lodged. Sub Inspector Jaswinder Singh thereafter proceeded to the spot and conducted inquest proceedings in respect of the dead-body. Rough site plan of the place of occurrence was prepared. The dead-body was sent for post-mortem examination. The kerosene lamp, a piece of rope found at the spot were taken into possession. The statement of witnesses were recorded in terms of provisions of Section 161 Cr.P.C. The accused was arrested on 3.8.2001.
4. Upon conclusion of investigation, challan was presented against accused Lakha Singh in the Court of learned Judicial Magistrate 1<sup>st</sup> Class, Ferozpur on 3.9.2001, who committed the case to the Court of Sessions vide commitment order dated 5.10.2001. Learned Additional Sessions Judge, Ferozpur to whom the case was entrusted framed charges against the accused for offence under Section 302 of Indian Penal Code on 19.10.2001 to which the accused pleaded not guilty and claimed trial.



5. The prosecution, in order to substantiate the charges framed against the accused, examined as many as 7 PWs. The gist of their testimonies is being briefly referred to herein under:-

**PW-1** Babu Singh father of the deceased, who is the complainant in the instant case, stated in tune with his statement (Ex.P-1) on the basis of which FIR (Ex.P-1/B) was lodged. He broadly stated to the effect that the accused had strangled the deceased in his presence and also in the presence of Het Ram on the day of occurrence, when he alongwith Het Ram had visited the house of his son-in-law.

**PW-2** Het Ram, who was accompanying the complainant when the occurrence had taken place, stated identically as regards the manner of occurrence specifically to the effect that the accused had strangled the deceased in his presence as well as in the presence of Babu Singh.

**PW-3** Dr. Dayal Singh, Medical Officer, Civil Hospital, Abohar stated that he had conducted post-mortem examination on the dead-body of Simri on 3.8.2001 and proved the post-mortem report as Ex.P-7. While describing the injuries found on the dead-body he opined that the cause of death was strangulation (constriction of neck) causing asphyxia.

**PW-4** Raj Kumar, Draftsman, Tehsil Complex, Abohar stated that he had prepared the scaled site plan of the place of occurrence and proved the same as Ex.P-10.



- PW-5** Head Constable Bhola Singh tendered into evidence his affidavit Ex.P-11, wherein he deposed that on 2.8.2001 he was present at the place of occurrence at Villate Patti Sadiq with Sub Inspector/SHO Jaswinder Singh in connection with investigation of the present case and that SHO had sent him along with PHG Chhinderpal Singh to Civil Hospital, Abohar for getting the post-mortem examination conducted on the dead-body of Simri.
- PW-6** LC Sukhpal Singh tendered into evidence his affidavit Ex.P-12, wherein he deposed that on 2.8.2001 he was posted at Police Station Khuian Sarwar and that on the said day he had delivered the special reports to Illaqa Magistrate and to higher police officials.
- PW-7** Sub Inspector Jaswinder Singh, who is the Investigating Officer in the present case stated in detail with regard to the investigation conducted by him in the case right from lodging of FIR upto the filing of challan. He proved various memos and documents prepared during the course of investigation.
6. Upon closure of the prosecution evidence, statement of the accused was recorded in terms of provisions of Section 313 Cr.P.C., wherein he took a stand that his wife had committed suicide and that he has been falsely implicated by his father-in-law. The accused, however, did not lead any evidence in his defence.
7. Learned Trial Court upon examining and appreciating the evidence brought on record held the accused guilty of having committed offence punishable under Section 302 of Indian Penal Code vide impugned judgment and sentenced him accordingly.



8. Learned counsel representing the appellant submitted that it is a case where the deceased had in fact committed suicide on account of depression and the complainant has falsely implicated the appellant and neither he (complainant) nor Het Ram was present at the spot. Learned counsel submitted that there is a delay of about 15 hours in lodging of the FIR and, as such, it is highly unsafe to rely upon the testimony of the complainant, who would be an interested witness being father of the deceased. Learned counsel submitted that there are some inconsistencies also in the statements of the two eye-witnesses, which would cause a serious dent on their credibility. Learned counsel thus submitted that under these circumstances, the impugned judgment could not sustain and is liable to set aside.
9. On the other hand, learned State counsel submitted that it is a case where the medical evidence clearly suggests that it is a case of homicidal death and not a suicidal death and since the death had taken place in the matrimonial home of the appellant, which was also witnessed by two eye-witnesses, the case of the prosecution stands fully established and, as such, there being no infirmity in the impugned judgment, the instant appeal deserves to be dismissed.
10. We have considered rival submissions addressed before this Court and with the assistance of learned counsel have also perused the record of the case.
11. Since the accused has taken a specific plea that the deceased had not been killed but had herself committed suicide, it is apposite to refer to the medical evidence in this regard. The prosecution examined PW-3 Dr. Dayal Singh, Medical Officer, Civil Hospital, Abohar, who had conducted post-mortem examination on the dead-body of Simri on 3.8.2001. PW-3 described the injuries found on the dead-body as under:



- “1. A depressed ligature mark on the lower part of neck encircling the whole neck (4 cms. in breadth) horizontally. The mark was dry, echymosis was present on margins, there was extravasation of blood in subcutaneous tissue hyoid bone after dissection was found fractured. Thyroid cartilage was also fractured. On further dissection larynx and trachea contained frothy mucous and congested.
  2. A lacerated wound 8 cms. x 4 cms. present on the front and just above the elbow. Clotted blood was present.
  3. A swelling 4 cms. x 3 cms. was present at sternum level on the front of chest in midline. On dissection blood like fluid came out.”
12. PW-3 has given a very specific opinion that the cause of death was strangulation (constriction of neck) causing asphyxia. The aforesaid specific opinion rules out the case to be a case of suicidal death due to hanging. The symptoms of a death due to hanging would be much different from the symptoms in the case of death by strangulation. The doctor having specifically opined it to be a case of strangulation (constriction of neck) and there being nothing in the cross-examination of the witness to doubt his opinion, we do not find any ground to doubt the same. Causing death by strangulation (constriction of neck) causing asphyxia would be a homicidal death and not a suicidal death. It is specific case of the prosecution that the accused had been giving beatings to the deceased even on earlier occasions as he nursed some suspicion regarding her character. The deceased had also been sent back to her parental home several times. PW-1 Babu Singh complainant alongwith PW-2 Het Ram had visited his daughter's matrimonial home to inquire about the welfare of his daughter and had stayed there for the night alongwith Het Ram and that it was during night that they heard shrieks of his daughter and saw that the accused was sitting on the deceased and was



strangulating while tying a rope around her neck. Both PW-1 Babu Singh complainant and PW-2 Het Ram have stated consistently on all the material aspects of the case. The medical evidence is also in tune with the ocular version brought forth by the complainant and Het Ram, which would establish the case of the prosecution.

13. During the course of arguments, learned counsel for the appellant pointed out that there is delay in lodging of the FIR inasmuch while the occurrence is stated to have taken place during midnight i.e. night intervening 1/2.08.2001, the FIR came to be lodged after about 15 hours i.e. at about 03:15 P.M. on 2.8.2001. Learned counsel submitted that such like delay clearly shows that the FIR came to be recorded after consultations and, as such, false implication is evident.
14. We find that it is a case where the occurrence had taken place in a rural setup wherein the complainant is apparently an illiterate, who could not even sign and has affixed thumb impression on documents. The place of occurrence is situated at a distance of about 16 kilometers from the police station. The complainant has stated that he was scared and apparently would have been under a shock and it was later that he informed other members of his family and panchayat including Sarpanch. It was thereafter that he was able to report the matter to the police. In any case, it is well settled that delay in lodging FIR *ipso facto* would not throw out the case of the prosecution unless there is something which clearly points that the delay has been used in cooking up a false case, which is not the case in hand. Given the fact that the complainant happens to be father of the deceased would not make him an unreliable



witness particularly when he as well as Het Ram have stated consistently about the occurrence.

15. Still further, the instant case is a case where the deceased had been done to death in her matrimonial home and her dead body was also found lying there. In these circumstances, a burden lay heavy on the accused, who is none else, but husband of the deceased, in terms of Section 106 of the Evidence Act to explain the circumstances regarding death and recovery of dead body from his own house. The accused has, however, not come out with any justifiable explanation in this regard. His stand that his wife had committed suicide is negated by medical evidence. In this context, a reference may be made to provisions of Section 106 of Indian Evidence Act, 1872. Section 106 of Indian Evidence Act is in the nature of an exception to general rule enshrined in Section 101 of Indian Evidence Act, which mandates that the burden of proof lies on the person who asserts the existence of such fact. Section 106 in the Indian Evidence Act, 1872 reads as follows :-

**"106. Burden of proving fact especially within knowledge. -**

When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him."

16. In a judgment reported as (2012) 1 SCC 10, Prithipal Singh v. State of Punjab, the Hon'ble Apex Court has held that if a fact is especially in the knowledge of any person, then burden of proving that fact is upon him and that it would be impossible for the prosecution to prove certain facts particularly within the knowledge of the accused. It was further held therein that Section 106 is not intended to relieve the prosecution of its burden to prove the guilt of the accused beyond reasonable doubt, but the section would



apply to cases where the prosecution has succeeded in proving facts from which a reasonable inference can be drawn regarding existence of certain other facts, unless the accused by virtue of his special knowledge regarding such facts, offers any explanation which might drive the court to draw a different inference. Thus, it was held that Section 106 of the Evidence Act is designed to meet certain exceptional cases, in which, it would be impossible for the prosecution to establish certain facts which are particularly within the knowledge of the accused.

17. The Hon'ble Apex Court, in another judgment reported as (2009) 6 SCC 61, Narendra v. State of Karnataka, where a woman was done to death in the bedroom of the matrimonial home and the accused raised a plea of alibi that he had gone to another place for purchase of milk and was therefore not involved with the crime, upheld conviction of accused wherein the plea of alibi was rejected, while resorting to provisions of Section 106 of the Indian Evidence Act.
18. The Hon'ble Apex Court in (2016) 12 SCC 665, Harijan Bhala Teja v. State of Gujarat in somewhat identical circumstances where the dead-body had been found in the house of the accused affirmed the judgment of the High Court reversing acquittal of accused. The relevant extract from cited judgment is reproduced below for the sake of ready reference:

"Section 106 of the Evidence Act, 1872 provides that when any fact is special within the knowledge of any person, the burden of proving that fact is upon him. Since it is proved on the record that it was only the appellant who was staying with his wife at the time of her death, it is for him to show as to in what manner she died, particularly when the prosecution has successfully proved that she died homicidal death."



19. The accused having failed to explain the circumstances under which the dead body of deceased was found in his house though a burden lay on him in terms of provisions of Section 106 of Evidence Act, is a fact which points towards complicity of the accused.
20. In view of the discussion made above, wherein the homicidal death of the deceased had occurred in the house of her husband i.e. the appellant, which was also witnessed by the complainant and Het Ram, who have both stated consistently and which is also borne out from the medical evidence, we do not find any ground to interfere with the findings of guilt as recorded by learned Trial Court and the same are hereby affirmed. Finding no merit in the instant appeal, the same is hereby dismissed.
21. Necessary Intimation be sent to quarters concerned for effecting arrest of the appellant – Lakha Singh so as to undergo remaining part of his sentence. Case property be dealt with under rules upon expiry of limitation for filing appeal.
22. A copy of this judgment be sent to the quarters concerned. Case property be dealt with under rules upon expiry of limitation for filing appeal.

**( GURVINDER SINGH GILL )  
JUDGE**

**8.7.2025**

Pankaj

**( JASJIT SINGH BEDI )  
JUDGE**

Whether speaking /reasoned                      Yes / No

Whether Reportable                                      Yes / No