

Before S.S. Saron & S.P. Bangarh, JJ.

KALA SINGH @ GULZAR SINGH—Appellant

versus

STATE OF PUNJAB—Respondent

CRA No. D-870-DB of 2003

January 7, 2013

Indian Penal Code, 1860 - S. 302 - Evidence Act 1872 - S. 32 (1) - Dying Declaration - Appellant was convicted and sentenced under Section 302 IPC for commission of murder of his wife - Contention that the dying declaration is recorded by ASI and not corroborated by any other evidence - Held - deceased was fully conscious when she made this statement- - Certificate to the effect that deceased was fully conscious, when she made this statement dispels any type of suspicion - Evidence during cross examination could not be shattered - If a dying declaration is found to be voluntary, reliable and made in a fit mental condition, it can be relied upon without any corroboration - Appeal dismissed.

Held, that in the case in hand, statement Ex.PC of the deceased recorded by PW3 was rightly treated as her dying declaration by the learned trial Court, Before recording this statement Ex.PC, PW3 took the opinion Ex.PB/1 of PW7 that deceased was fully conscious, when she made this statement. Evidence of PW7 and PW3, during cross examination, could not be shattered. No motive can be ascribed to them to depose falsely in this case. The certificate Ex.PB/1 to the effect that Jinder Kaur was fully conscious, when she made this statement dispels any type of suspicion of Ex.PC, which is admissible under Section 32 (1) of the Evidence Act.

(Para 32)

Further held, that dying declaration Ex.PC of deceased, no doubt, has not been corroborated by PW2, which was not essential. It is to be seen as to whether the dying declaration is trustworthy. It has been held by the Hon'ble Supreme Court of India in Amol Singh versus State of

M.P. 2008(3) RCR(Cr.) 602, that if a dying declaration is found to be voluntary, reliable and made in a fit mental condition, it can be relied upon without any corroboration.

(Para 33)

Further held, that this dying declaration Ex.PC cannot be discarded on the naïve reason that the doctor did not remain present at the time of recording of the dying declaration Ex.PC and did not append certificate at the end of Ex.PC. In the statement Ex.PC, which is dying declaration, the deceased clearly alleged that the appellatant poured kerosene oil over her body and set her ablaze.

(Para 34)

Further held, that Hon'ble Supreme Court of India in Ongole Ravikanth V. State of M.P. 2009(7) JT 88, also held in a case of murder of wife by husband that conviction can be passed against accused solely on the basis of dying declaration of deceased. Simply dying declaration Ex.PC, in hand, was not got recorded from Magistrate, cannot be held to be ground for rejection, thereof.

(Para 35)

S.S.Rangi, Advocate with Mr. Jagnahar Singh, Advocate, *for the appellatant*.

P.S.Thethi, Additional Advocate General, Punjab for respondent.

S.P. BANGARII, J.

(1) The appellatant has assailed the judgment of conviction and order of sentence dated 09.09.2003, passed by the learned Sessions Judge, Ludhiana in Sessions Case No. 07 of 14.03.2001, emanating from FIR No.150 dated 01.12.2000, under Section 302 of the Indian Penal Code (IPC for Short) of Police Station Sadar, Khanna, whereby, he was convicted for commission of offence punishable under Section 302 IPC and sentenced to undergo imprisonment for life and to pay fine of Rs.10,000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of six months.

(2) Case of the prosecution is that appellant was married with Jinder Kaur (deceased) about 12 years prior to this occurrence. Two sons and a daughter were born out of their wedlock. Appellant, after sometime of marriage, started maltreating his wife Jinder Kaur (deceased). He also picked up quarrel with her on many occasions. She used to go to her natal place. Respectables of the village used to intervene and send her to her matrimonial house. On 24.11.2000, at about 05:00 p.m, Jinder Kaur (deceased) wife of the appellant was preparing *saag* in her house in Kartar Nagar at Khanna. Appellant asked her to bring Rs.500/- from her employer with whom she was working as a domestic help. She replied that she could bring money on the first day of the ensuing month and she would also pay instalment of the money pooling scheme. They exchanged hot words. In the meantime, their relative Hans Raj also came to their house. Jinder Kaur (deceased) went inside a room of the house to bring her headgear (chunni in the local parlance). Appellant chased her to that room and poured kerosene oil on her. Later, he ignited a match stick and set her ablaze in the presence of Hans Raj. She started writhing in pain. Thereupon, appellant poured water on her contained in a bucket, while Hans Raj put blanket on her. She received burn injuries, but was not taken to hospital for treatment. On the contrary, she was kept in the house by the appellant.

(3) On 25.11.2000, Om Parkash @ Billu, elder brother of the appellant, went to the natal place of Jinder Kaur (deceased) and informed her mother that she was suffering from fever. Thereupon, her mother came to Jinder Kaur on 25.11.2000 itself. On 29.11.2000, Jaswinder Singh, brother of Jinder Kaur and her uncles also came and took her to Civil Hospital, Khanna for treatment, from where, she was referred to Rajindra Hospital, Patiala for treatment, where she was admitted on 29.11.2000. She eventually on 21.01.2001, succumbed to her 70% burn injuries in Rajindra Hospital, Patiala.

(4) Mohan Lal, ASI of Police Station, Khanna, on 01.12.2000, on receipt of telephonic message reached Rajindra Hospital, Patiala for recording the statement of Jinder Kaur. He moved application Ex.PB before the doctor seeking opinion, as to whether Jinder Kaur was fit to make statement. Dr.Pawanjit Kaur, on the application Ex.PB, made her endorsement Ex.PB/1 dated 01.12.2000 at 06:25 p.m opining, therein, that Jinder Kaur was fit to make statement at that moment. Later, Mohan Lal, ASI recorded

the statement Ex.PC of Jinder Kaur, which was read over to him and she thumb marked the same after admitting the correctness, thereof. She, *inter alia*, stated that her husband, with intent to kill her, poured kerosene oil and set her ablaze. Mohan Lal, ASI made his endorsement Ex.PC/1 on the statement Ex.PC and sent the same to Police Station Sadar, Khanna, where formal FIR (copy Ex.PC/2) was recorded by Swaran Dass, SI.

(5) Mohan Lal, ASI, then on 01.12.2000, went to the house of appellant located at Kartar Nagar, Mohalla Khanna. He inspected the place of occurrence and prepared site plan Ex.PD at the instance of Hans Raj, prosecution witness. He arrested the appellant in this case on 01.12.2000. On 04.12.2000, Mohan Lal, ASI interrogated the appellant and the latter suffered disclosure statement Ex.PE to the effect that he had kept concealed a plastic can of five litres capacity and a match box under the bed in his room and could get those recovered. This statement Ex.PE was also attested by Virender Singh, Constable. Later, the appellant led the police party to the place of concealment and got recovered the plastic can Ex.P1 and match box Ex.P2 from the place disclosed in the disclosure statement *supra* and these were seized vide memo Ex.PE/1, which was attested by Virender Singh, Constable.

(6) After completion of investigation, Station House Officer of Police Station Khanna, instituted police report under Section 173 of the Code of Criminal Procedure ('Cr.P.C' for short) before the learned Illaqa Magistrate to the effect that it appeared that the appellant has committed offence punishable under Section 302 IPC.

(7) On presentation of police report, copies of documents, as required under Section 207 Cr.P.C were furnished to the appellant and the case was committed to the Court of Session for trial, where charge under Section 302 IPC was framed against the appellant, whereto, the latter pleaded not guilty and claimed trial. Consequently, prosecution evidence was summoned.

(8) At the trial, prosecution examined Dr.Achhar Singh as PW1, Hans Raj as PW2, Mohan Lal, ASI as PW3, Jaswinder Singh as PW4, Baldev Singh, ASI as PW5, Dr. Pawanjit Kaur as PW6, Dr.Suresh Kaushal as PW7, Dr.Harjinder Singh as PW8 and closed the evidence later.

(9) After the closure of the prosecution evidence, appellant was examined under Section 313 Cr. P.C, wherein, he denied the allegations of prosecution, pleaded innocence and false implications in the case. He gave his own version that on 24.11.2000, he was away from his house for labour work and when he returned in the evening, he found burn injuries on his wife Jinder Kaur. He further stated that Jinder Kaur told her that she was putting kerosene oil in the stove, when it was in a working condition and she caught fire and received burn injuries. Since, no one was responsible for these injuries, no report was lodged with the police. He further stated that her burn injuries could not heal and, therefore, she was taken to Civil Hospital, Khanna on 29.11.2000 for treatment; her condition of burn became worse and then she was referred to Rajindra Hospital, Patiala. He further stated that he remained with her there for treatment. He also stated that he purchased blood for her, as also, purchased medicine and he paid all the expenses. He further stated that he also donated his own blood, but police fabricated the documents of the hospital and later arrested him in Rajindra Hospital, Patiala on 02.12.2000. He further stated that he neither poured kerosene oil on Jinder Kaur nor set her on fire. He further stated that story of the prosecution is altogether false.

(10) The appellant was called upon to enter in defence. He examined Gurcharan Singh, Laboratory Technician of blood bank of Rajindra Hospital, Patiala as DW1, who brought the blood collection register starting from 20.11.2000. He deposed that this register contains entry 9196 relating to donation of blood by Kala Singh (appellant, herein) and as per this entry, his blood group was B positive and his age was 35 years, male, labourer, husband of Jinder Kaur (deceased) for whom, the blood was donated. He further deposed that Jinder Kaur was admitted in Ward No. 7 of Rajindra Hospital, Patiala vide CR No. 27584 and this entry shows that blood group of the patient was also B positive. He further deposed that the entry also contains the signatures of the doner. He proved the photocopy of the entry Ex.PD, regarding donation of blood dated 30.11.2000. He also deposed that this blood was also donated on 30.11.2000. Thereafter, the defence evidence was closed.

(11) After hearing both the sides, learned trial Court vide impugned judgment and order of sentence, convicted and sentenced the appellant, as described in the first paragraph of this judgment. Aggrieved, thereagainst,

the appellant, who was accused before the learned trial Court, has come up in this appeal with prayer for acceptance, thereof, and for acquittal of the charge framed against him.

(12) Learned counsel for the appellant and learned Additional Advocate General for the respondent have been heard and record of the learned trial Court perused with their assistance.

(13) First of all, it is to be seen as to what the prosecution witnesses deposed against the appellant:-

(14) PW1 Dr. Achhar Singh produced in door admission register of Civil Hospital, Khanna. He deposed that as per entry at serial No. 5962 dated 29.11.2000, Jinder Kaur wife of Kala Singh, resident of Kartar Nagar, Khanna, aged 32 years was admitted as indoor patient in emergency. He further deposed that it was a case of alleged burns of six days before, since there was no sufficient arrangement in the hospital, Jinder Kaur was referred to Rajindra Hospital, Patiala.

(15) PW2 Hans Raj deposed that he knew appellant, as also, his wife Jinder Kaur (deceased) because of being related to him. He further deposed that he had never seen the appellant and his deceased wife Jinder Kaur quarrelling with each others, as also, he never saw former maltreating and beating the latter in his presence. He also deposed that the appellant neither poured kerosene on the body of Jinder Kaur nor set her on fire. This witness did not support the prosecution case and he was declared hostile to the prosecution, cross examined by the learned public prosecutor for the respondent before the learned trial Court.

(16) PW3 deposed that he went to Kartar Nagar Mohalla, Khanna to the house of the appellant, inspected the place of occurrence and prepared its site plan Ex.PD with correct marginal notes at the instance of Hans Raj, PW. He further deposed that he later arrested appellant in this case on 02.12.2000, interrogated him on 04.12.2000 and the latter suffered disclosure statement Ex.PE to the effect that he had kept concealed five litres plastic can and a match box under the bed in his room and could get those recovered. PW3 further deposed that pursuant to his disclosure statement Ex.PE, the appellant led the police party to the place of concealment and got recovered plastic can Ex.P1 and match box Ex.P2 from the place

disclosed in the disclosure statement and those articles were seized vide memo Ex.PE/1. He further deposed that he had correctly recorded the statement Ex.PA of Hans Raj, PW without any omission or addition on his part. He further deposed that on his return to Police Station, he deposited the case property with the MHC.

(17) PW4 Jaswinder Singh deposed that Jinder Kaur (deceased) was his elder sister and was married to the appellant about 8/9 years ago. He further deposed that the appellant resides at Khanna and he further deposed that firstly Jinder Kaur was got admitted because of burn injuries at Civil Hospital, Khanna and, therefrom, she was referred to Rajindra Hospital, Patiala, where she died on 21.01.2001. He further deposed that he identified her corpse during inquest proceedings and his statement was also recorded.

(18) PW5 Baldev Singh, ASI deposed that on 21.01.2000, he was posted at Civil Hospital, Khanna, where Jaswinder Singh came present and informed about the death of his sister Jinder Kaur (deceased) on account of burn injuries. He further deposed that he recorded daily diary report No. 10 in that respect on the same day and converted the offence from 307 to 302 IPC. He also deposed that copy of DDR is Ex.D5/A, which is correct as per the original. He further deposed that he was sent to Patiala to get conducted autopsy on the corpse of Jinder Kaur and he went to Rajindra hospital, Patiala, where, corpse of Jinder Kaur was lying in the mortuary and he prepared its inquest report Ex.PW5/8 in the presence of witnesses and recorded their statements. He also deposed that he requested the doctor vide his application Ex.PW5/C for conducting autopsy on the corpse of Jinder Kaur. He also recorded the statements of witnesses.

(19) PW6 Dr.Pawanjit Kaur deposed that she was posted at Rajindra Hospital, Patiala on 01.12.2000 where police application Ex.PB enquiring about the fitness of Jinder Kaur was put before her on that day and, thereon, she made endorsement Ex.PB/1 and declared Jinder Kaur patient fit to make statement at 06:25 p.m.

(20) PW7 Dr. Suresh Kaushal deposed that on 29.11.2000, he was posted as Junior Resident in Surgical Unit No.11 of Rajindra Hospital, Patiala, where, Jinder Kaur remained admitted w.e.f 29.11.2000 and she

expired on 21.01.2001. PW7 brought her bed head ticket Ex.PF. He also deposed that he had prepared the case summary in this case and some of the entries are in his hand. He also deposed that he was present at the time of death of said Jinder Kaur. He also deposed that he received query Ex.PF/1 and, thereon, he made endorsement Ex.PF/2. He further deposed that Jinder Kaur expired due to 70% burn injuries.

(21) PW8 deposed that on 21.01.2001 at 03:30 p.m, he conducted autopsy on the corpse of Jinder Kaur along with Dr. Harish Tuli, which was moderately built and nourished, covered with one chadar only, burns were present all over the body except upper part of face, back of scalp, part of the back, back of upper limbs both, parts of back of both lower limbs and dorsum of right foot; burn were about 70%.

(22) He further deposed that peritonium was injected and cause of death, in their opinion, was due to burns, which were ante mortem in nature and sufficient to cause death in the ordinary course of nature. He further deposed that they handed over to the police copy of autopsy report, all police, papers duly signed by them and corpse after autopsy. He further deposed that probable time elapsed between burns and death was about 7 to 8 weeks and between death and autopsy was about 8 to 12 hours. He further deposed that Ex.PG is the carbon copy of post mortem report, which was prepared in the same process along with the original and is correct, which bears his signatures, as also, of Dr. Harish Tuli. He further deposed that he conducted autopsy on the police report Ex.PW5/C, which was marked to him by Dr. Harish Tuli vide his endorsement Ex.PW5/1. He further deposed that police request for autopsy was accompanied by inquest report Ex.PW5/B, copy of DDR Ex.PW5/A and copy of statement Ex.PC of Jinder Kaur and all these papers were initialled by him at the time of autopsy.

(23) Ex.PC is the statement of Jinder Kaur deceased, which formed the basis of formal FIR Ex.PC/2. This statement Ex.PC, which is dying declaration was recorded by Mohan Lal, ASI, wherein, Jinder Kaur stated that her natal village is Kapurgarh, Police Station Amloh in District Fatchgarh Sahib. She was married about 12 years ago with appellant, herein. She had two sons and a daughter. After some time of marriage, her husband Kala Singh started oppressing her. He quarrelled with her many times and she

used to go to her natal place. The respectables of the vilage used to intervene and there used to be a compromise and she used to be sent to her in-laws house. On 24.11.2000 at 05:00 p.m, she was preparing *saag* in her house. Her husband asked her to bring Rs. 500/- from her employer, where she worked as domestic servant. She replied that she could bring the money on the first day of the ensuing month and she would also pay instalment of the money pooling scheme. They exchanged hot words. In the meantime, their relative Hans Raj also came to their house. She went inside a room to bring her handgear (chunni in the local parlance). Her husband followed her in that room and poured kerosene oil on her and ignited a match stick and set her ablaze in the presence of Hans Raj. She was writhing in pain. Her husband poured water on her contained in a bucket. Hans Raj put a blanket on her. She was not taken for treatment to any hospital. She remained at the house. Then on 25.11.2000, her husband's elder brother Om Parkash @ Bittu went to her natal village Kapurgarh and gave information to her mother that she was suffering from fever. Her mother came to her on 25.11.2000. Then on 29.11.2000, her brother Jaswinder Singh and her uncles came and took her to Civil Hospital, Khanna for treatment, from where, doctor referred her to Rajindra Hospital, Patiala, wherein, she was admitted. She further stated that her husband Kala Singh, with intent to kill her, poured kerosene oil and set her ablaze.

(24) Learned counsel for the appellant contended that the dying declaration Ex.PC, having not been corroborated by any other evidence is required to be repelled. He also contended that PW2 Hans Raj, who allegedly happened to be present at the time of alleged occurrence, did not support the prosecution version and was declared hostile to the prosecution and cross examined by the learned public prosecutor for the respondent in the learned trial Court, but this witness maintained his stand in the examination-in-chief to the effect that no occurrence took place in his presence. So, learned counsel for the appellant contended that the evidence of PW2 is inconsequential to the prosecution and this evidence does not give corroboration to the alleged dying declaration Ex.PC of the deceased.

(25) Learned counsel for the appellant also contended that the parents of the deceased were also not examined; even PW4, brother of the deceased, did not depose that her sister Jinder Kaur (deceased) was set on fire by the appellant. He also contended that the effort made by the

prosecution during trial to get PW4 re-examined on these lines to prove that the deceased was put on fire by the appellant could not succeed as their application in this respect was dismissed by the learned trial Court.

(26) Learned counsel for the appellant also contended that deceased was taken to private hospital for treatment and even as per testimony of DW1, blood was donated to the deceased by the appellant and, he had no motive to set her on fire and if he had set her on fire, in that event, he would not have donated blood for her transfusion.

(27) We have given our thoughtful consideration to the contentions raised by the learned counsel for the appellant, but find no merit, therein, as the contention that the deceased was taken to private hospital by the appellant is being raised for the first time before us and therefore, it being after thought must be repelled.

(28) There was no strained relationship between appellant and his parents-in-law and brothers-in-law and relatives of the deceased. Even in his statement under Section 313 Cr. P.C, appellant did not state that he had strained relations with the relatives of the deceased and therefore, they influenced her to suffer dying declaration Ex.PC accusing him of putting her on fire. Such, thus, being the situation, there was no motive on the part of the relatives of the deceased to influence the latter to implicate the appellant falsely in this case.

(29) Incident, wherein, deceased suffered the burn injuries, took place on 24.11.2000 at 05:00 p.m. According to the medical evidence provided by PW7, there were 70% burn injuries on the person of the deceased. It was a internecine and horrible occurrence. If the occurrence would not have been ascribeable to the appellant, in that event, he would have got deceased admitted in some private or government hospital. It is not version of the appellant in his statement under Section 313 Cr. P.C, that he got the deceased admitted in some hospital after receipt of burn injuries by her. No person from the neighbourhood has been examined by the appellant in this regard in defence evidence. Even, such type of defence evidence could be led by the appellant, if he had stated in his statement under Section 313 Cr. P.C that after the incident, he got the deceased admitted in some hospital.

(30) This silence and complacency on the part of the appellant in this matter of non admission of the deceased in some hospital for treatment after the incident, whereon, he should have acted with alacrity is indeed intriguing and must lead to the inevitable conclusion that he set the deceased on fire and later did not get her admitted in some hospital for the reason that she will expose his complicity in this incident. So for the fear of being caught by the police, he preferred to keep the deceased in the house without treatment and if her parents had not appeared on the scene, she would have died unnatural death at her place.

(31) If the deceased had accidentally caught fire, in that event also, it was required of the appellant to inform her parents, as also, the police to prove his bonafide, but he did not do so and the accusing finger, thus, goes toward him and he alone is the author of this incident. Even, if she had died unnatural death in the house without suffering dying declaration Ex.PC, it was for the appellant to explain the circumstances, whereunder, deceased had turned into corpse.

(32) In the case in hand, statement Ex.PC of the deceased recorded by PW3 was rightly treated as her dying declaration by the learned trial Court, Before recording this statement Ex.PC, PW3 took the opinion Ex.PB/1 of PW7 that deceased was fully conscious, when she made this statement. Evidence of PW7 and PW3, during cross examination, could not be shattered. No motive can be ascribed to them to depose falsely in this case. The certificate Ex.PB/1 to the effect that Jinder Kaur was fully conscious, when she made this statement dispels any type of suspicion of Ex.PC, which is admissible under Section 32(1) of the Evidence Act.

(33) Dying declaration Ex.PC of deceased, no doubt, has not been corroborated by PW2, which was not essential. It is to be seen as to whether the dying declaration is trustworthy. It has been held by the Hon'ble Supreme Court of India in *Amol Singh versus State of M.P (1)*, that if a dying declaration is found to be voluntary, reliable and made in a fit mental condition, it can be relied upon without any corroboration.

(34) Hon'ble Supreme Court of India in *Natha Shankar Mahajan versus State Maharashtra (2)*, also held that conviction can be based on sole basis of dying declaration. That is the position in the case in hand. As

(1) 2008(3) RCR (Cri.) 602

(2) 2011(74)ACrC 189

already held, as per the testimony of PW7 Dr.Suresh Kaushal, deceased was in a position to understand herself and was in a position to give statement. This dying declaration Ex.PC cannot be discarded on the naive reason that the doctor did not remain present at the time of recording of the dying declaration Ex.PC and did not append certificate at the end of Ex.PC. In the statement Ex.PC, which is dying declaration, the deceased clearly alleged that the appellant poured kerosene oil over her body and set her ablaze.

(35) Hon'ble Supreme Court of India in *Ongole Ravikanth* versus *State of M.P (3)*, also held in a case of murder of wife by husband that conviction can be passed against accused solely on the basis of dying declaration of deceased. Simply dying declaration Ex.PC, in hand, was not got recorded from Magistrate, cannot be held to be ground for rejection, thereof.

(36) The Hon'ble Supreme Court of India in *Panneerselvam* versus *State of Tamil Nadu (4)*, has held that where there is more than one statement of dying declaration, one first in time must be preferred. So, this judgment also fully supports the case of the respondent, as Ex.PC is the only dying declaration of the deceased and that was rightly relied upon by the learned trial Court for basing conviction upon the appellant, as no motive could be ascribed to the deceased to implicate appellant falsely in this case.

(37) On the basis of statement Ex.PC, initially the case was registered under Section 307 IPC on 01.12.2000 and when the deceased succumbed to her 70% burn injuries, offence under Section 307 IPC was converted to 302 IPC, as can be seen from the copy of DDR Ex.PW5/A. Jinder Kaur (deceased) remained alive for 54 days after the occurrence. No circumstance has come on the record that she was influenced by any one to make statement Ex.PC. Blood, as per the testimony of DW1, was donated by appellant on 30.11.2000. There is no further evidence that blood was transfused to the deceased. Even, if the blood was donated by the appellant for the deceased on 30.11.2000, his role is still culpable, as he did not make any effort for the treatment of the deceased on 24.11.2000, when the incident had taken place in his house. Even, DW1 was not present

(3) JT 2009 (7) SC 88

(4) 2008(3) RCR (Cri.) 54

at the time of transfusion of blood to the deceased. Even, he was not knowing the appellant personally. So no benefit can be taken by the appellant from the testimony of DW1.

(38) Hon'ble Supreme Court in *Uka Ram* versus *State of Rajasthan (5)*, observed that principle on which the dying declarations are admitted in evidence, is based upon the legal maxim "nemo moriturus praesumitur mentire" i.e, a man will not meet his maker with a lie in his mouth; before relying upon a dying declaration, the Court should be satisfied that the deceased was in a fit state of mind to make the statement; once the court is satisfied that the dying declaration was true, voluntary and not influenced by any extraneous consideration, it can base its conviction without any further corroboration, as rule requiring corroboration is not a rule of law, but only a rule of prudence.

(39) Deceased had two sons and a daughter. She was 30 years old at the time of her death. We fail to understand as to what could be the motive for her to implicate her husband (appellant, herein) falsely in this case. She knew fully well that nobody shall take care of her children if the appellant is convicted. Since, the appellant, with intent to kill her, poured kerosene oil and set her on fire, she could not condone his culpability.

(40) So, in these circumstances, the learned trial Court rightly relied upon the statement Ex.PC of the deceased for basing conviction upon the appellant by rightly coming to the conclusion that the same was not influenced by any extraneous consideration. As already held, the appellant did not take deceased to any doctor or hospital on 24.11.2000 for treatment, who was admitted in the hospital only on 29.11.2000 when her brother PW4 Jaswinder Singh came to her to Civil Hospital, Khanna, wherefrom. She was referred to Rajindra Hospital, Patiala on 29.11.2000 by PW1. Doctor at Rajindra Hospital, Patiala on 01.12.2000 informed the police and her statement Ex.PC was recorded. So, the delay in lodging the FIR is not inordinate. Even, the appellant himself was responsible, as if he would not have set the deceased on fire, he would have informed the police. He kept the injured hapless lady in her house so that the police may not come to know about his culpability in this incident. The deceased, who was having 70% burn injuries herself could not go to the police to lodge the report. PW2 being the relative of the appellant did not go to the police to lodge the report about

the occurrence. Even, during trial, he turned hostile and did not support the prosecution version. So, the deceased was not responsible in any manner for the delay in lodging the FIR.

(41) Ex.PF is the bed head ticket of Jinder Kaur deceased, which shows history of 70% burns present. Initially, she responded well to the treatment, but in late phase, she developed septicaemia. She had cardiac arrest on 21.01.2001 and was declared dead on 21.01.2001. Cause of death was cardio respiratory arrest, burns 70% and septicaemia. There is no mention of transfusion of blood into her. So, even if the appellant on 30.11.2000 had donated one unit of blood, it was not transfused into deceased. If the blood would have been transfused into her, in that event, there would have been mention, thereof, in the bed head ticket Ex.PF. Learned trial Court rightly concluded that this gesture of donating one unit of blood on 30.11.2000 in Rajindra Hospital, Patiala, does not prove his innocence especially the blood was not transfused into the deceased.

(42) According to the appellant, on 24.11.2000, he was away from his house for doing labour work and Jinder Kaur accidentally caught fire in his absence. It is his case that she was putting the kerosene oil in the stove which was in the working condition. The appellant led no evidence in support of his plea of alibi.

(43) The appellant set the deceased on fire. As a result, she received 70% burn injuries. He did not call the family members of the deceased. Even his brother gave false information to the mother of the deceased on 25.11.2000 that she was sick with fever. She was taken to Rajindra Hospital, Patiala on 29.11.2000 and at that time, her condition had deteriorated and ultimately she succumbed to 70% burn injuries. So, only appellant is responsible for causing 70% burn injuries to the deceased. He caused these injuries with intent to kill her and his intention got fulfilled on 21.1.2001, when she succumbed to her 70% burn injuries.

(44) So, the learned trial Court rightly found the appellant guilty for commission of murder of his wife Jinder Kaur and rightly convicted and sentenced him vide impugned judgment and order, which ought to be and are, hereby, upheld and affirmed, as these do not suffer from any illegality or infirmity.

(45) Resultantly, the appeal fails and is, hereby, dismissed.