
DARSHAN SINGH versus STATE OF PUNJAB

2024 (SC) 13

This case is relevant in discussing the **scope of Section 106 of the Indian Evidence Act (now, Section 109 Bharatiya Sakshya Adhiniyam, 2023)**. It also deals with the issue of acute aluminium phosphide poisoning in North India. The case of [*Trimukh Maroti Kirkan v. State of Maharashtra \(2006\) SC*](#) is a significant reference in this context.

➤ **BRIEF FACTS OF THE CASE**

The deceased was married to Darshan Singh (the accused), but their marital relationship was strained due to Darshan Singh's illicit relationship with one Rani Kaur, who was also an accused in the case.

The prosecution's case was that on the intervening night of 18th and 19th May 1999, Darshan Singh and Rani Kaur, with the motive to eliminate Amrik Kaur, administered poison to her. Both were charged under Section 302 read with Section 34 of the IPC (now Section 103(1) read with Section 3(5) of Bharatiya Nyaya Sanhita, 2023.)

The trial court convicted both the accused, concluding that the death was a case of homicide, not suicide. It found that both the accused had a strong motive and were present at the house. Therefore, the burden shifted to them to explain how deceased Amrik Kaur, who was alive the previous night, died the next morning. The theory of suicide was rejected by the court, noting that merely because there were no injuries on the body of the deceased, that by itself would not obviate the possibility of forceful administration of the poisonous substance.

However, on appeal, the High Court acquitted Rani Kaur, extending her the benefit of the doubt. Consequently, Darshan Singh (the accused) preferred the present appeal before the Supreme Court.

➤ **CONTENTION OF THE APPELLANT**

i. Unreliable Testimony of PW

The contention of the appellant was that the appellant's presence at the crime scene, on the intervening night of 18th and 19th May 1999, is based primarily on the testimony of PW3, Melo Kaur, which is entirely unreliable as it contains several contradictions and improvements.

ii. Aluminium Phosphide Poisoning

It was argued that aluminium phosphide cannot be administered deceitfully due to its distinct, pungent smell. Additionally, the absence of any injury marks on the deceased supports the claim that the poisoning was not forcibly administered.

iii. Acquittal of Rani Kaur

It was pointed out that Rani Kaur (another accused) was acquitted by the High Court due to benefit of the doubt. The appellant contends that it is contradictory to exclude the same benefit for him when the prosecution's case was based on the assumption that both accused were present at the scene and committed the offence together.

➤ **CONTENTION OF THE STATE**

i. Reliable Testimony of PW

The contention of the state was minor inconsistencies in testimonies are natural and should not be held against the PW. The Trial Court rightly assessed the testimony of PW3 by excluding the uncorroborated parts of her testimony while relying on the corroborated parts.

ii. Circumstantial Evidence

The case is based on circumstantial evidence, and the prosecution has successfully proven the circumstances leading to the inference of the appellant's guilt.

Relying on *Trimukh Maroti Kirkan v. State of Maharashtra (2006)*, the counsel for the state contended that the standard of evidence required for proving a case based on circumstantial evidence is not as high as in other types of cases.

➤ **LEGAL ISSUES INVOLVED**

- I. **Section 106 of the Indian Evidence Act:** The issue of whether the accused should be required to explain the circumstances surrounding the crime once their presence at the scene has been proven through circumstantial evidence.
- II. **Circumstantial Evidence and Standard of Proof:** Whether the presence of the accused can be established based solely on circumstantial evidence, and whether such evidence can shift the burden of proof to the accused.

III. **Aluminium Phosphide Poisoning:** The nature of aluminium phosphide poisoning and whether the evidence substantiates the claim of forceful administration of poison.

➤ **OBSERVATIONS OF THE SUPREME COURT**

i. **Reliance on *Trimukh Maroti Kirkan Case***

The contention of the state was that since the presence of the accused was proved by way of testimony of PW3, PW4 and PW5, as such as per section 106 of the Indian evidence act, the burden of proof shifted upon the accused to give a cogent explanation as to how the crime was committed.

To answer this, the Supreme Court referred to the case of *Trimukh Maroti Kirkan vs. State of Maharashtra (2006) SC*, where it was stated that that there are **two important consequences** that play out **when an offence is said to have taken place in the privacy of a house**, where the accused is said to have been present.

1. **Firstly**, the standard of proof expected to prove such a case based on circumstantial evidence is lesser than other cases of circumstantial evidence.
2. **Secondly**, the appellant would be under a duty to explain as to the circumstances that led to the death of the deceased. In that sense, there is a limited shifting of the onus of proof. If he remains quiet or offers a false explanation, then such a response would become an additional link in the chain of circumstances.

However, on scrutiny of the evidence, Supreme Court observed that though both PW3 and PW4 gave similar testimonies about the presence of the accused

and Rani Kaur at the crime scene, however, their statements were inconsistent with their previous statements recorded under Section 161 CrPC, leading the Court to conclude that there was a major improvement in their evidence.

PW5, an independent witness, testified that he saw the accused and Rani Kaur in a jeep around 6 AM, but, during his cross-examination, he admitted that his face was on the other side, and he just saw the Jeep going, which makes it difficult that he could have clearly seen the accused along with Rani Kaur. In his evidence he had also deposed that he had heard from persons at the bus stop that appellant had murdered his wife, however, he omitted to say this in his statement recorded by the police under section 161 CrPC. Thus, the Court found that PW5's testimony was unreliable due to discrepancies in his statements.

Therefore, with regard to the presence of both the accused persons, the hon'ble Supreme Court held that the prosecution failed to prove beyond a reasonable doubt the presence of the accused and Rani Kaur at the deceased's home on the fateful night and as such, the question regarding the applicability of Section 106 of the Evidence Act does not arise.

ii. **Statement Under Section 313 CrPC**

To prove the presence of the accused and Rani Kaur, the prosecution had relied upon the testimony of PW3, PW4 and PW5 and also the statement of the accused under section 313 CrPC.

The Court emphasized that a statement made under Section 313 CrPC cannot be the sole basis for conviction, as it is not recorded on oath and the accused cannot be cross-examined. The mere omission of a specific defence in

the statement is not enough to deny the accused the right to a fair defence, especially when the testimony of key witnesses is doubtful.

In the present case, the court held that where the testimony of PW3, PW4 and PW5 are itself doubtful then relying upon the statement under section 313 CRPC alone would be unsafe.

iii. On Aluminium Phosphide Poisoning

The Court relied on the case of [Jaipal v. State of Haryana \(2003\) SC](#), where in the Apex Court discussed the nature of aluminium phosphate.

The court observed that when these tablets are swallowed, the chemical reaction is accelerated by the presence of hydrochloric acid in the stomach. Within minutes, fine gas is released and spreads throughout the body. The gas is highly toxic and damages almost every organ, but maximal damage is caused to the heart and lungs. Sudden cardiovascular collapse is the hallmark of acute poisoning. The patient will have foul-smelling breath. Somehow, these patients remain conscious until the end and even continue to pass urine despite having unrecordable blood pressure. As such, due to its pungent smell, it cannot be taken accidentally.

In the present case, given the nature of the poisoning and the absence of forced administration marks on the body, the Court found the claim of forceful poisoning unlikely.

iv. Role of the State in Rani Kaur's Acquittal

Another important aspect observed by the Supreme Court in this case was the role of the prosecution. According to the Supreme Court, the state did not challenge the acquittal of Rani Kaur before the Supreme Court, and thus, her

acquittal has reached finality. The state cannot, on one hand, accept the verdict of the court that the presence of Rani Kaur along with the accused is doubtful, and on the other hand, maintain its case that both were jointly present, committed the offence together, and even escaped together.

Hence, based on the above discussion, the conviction of the accused, Darshan Singh, was set aside, granting him the benefit of the doubt.