

**Bhupinder Singh Vs. the State**

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**Court :** Delhi

**Decided On :** Aug-19-1985

**Reported in :** 29(1986)DLT27

**Judge :** R.N. Aggarwal and; Malik Sharief-ud-Din, JJ.

**Acts :** [Indian Penal Code \(IPC\), 1860](#) - Sections 302

**Appeal No. :** Criminal Appeal No. 229 of 1981

**Appellant :** Bhupinder Singh

**Respondent :** The State

**Advocate for Pet/Ap. :** K.K. Sud and; Rajiv Chauhan, Advs

**Judgement :**

**R.N. Aggarwal, J.**

(1) The appellant Bhupinder Singh was tried by Shri D.C. Aggarwal, Additional Sessions Judge, on the charge of murdering Manjit Kaur, alias Billo, resident of A-308, Pandav Nagar, Delhi. The Additional Sessions Judge found the accused guilty of the offence charged with and sentenced him to imprisonment for life. Against his conviction and sentence the accused has filed this appeal.

(2) The case for the prosecution is this. Gian Kaur (PW 1) with her family including the daughter Manjit Kaur resided at A-308, Pandav Nagar, Manjit Kaur was married to Amrik Singh of Bharatpur. She left Amrik Singh some years back and started living with the mother. Manjit Kaur married Tilak Raj of West Patel Nagar and lived with him for some years. Manjit Kaur also left Tilak Raj and again returned to the house of her mother. Accused Bhupinder Singh was a friend of Kuldip Singh (brother of Manjit Kaur) Bhupinder Singh used to visit Kuldip Singh and during his visits he came to know Manjit Kaur. They developed intimacy with each other and about 22 months before the occurrence they married and started living as husband and wife in the upper room of house A-308, Pandav Nagar.

(3) The case for the prosecution further is that on 11/08/1980 there was a quarrel between Manjit and Bhupinder over money and Manjit said to Bhupinder that if he could not bear her expenses she would go to Tilak Raj. Manjit left on 11/08/1980 and returned on 12/08/1980 at about 1.30 p.m. On the asking of the mother as to where she had gone thereafter she went upstairs. After about half-an-hour both Bhupinder and Manjit came down and talked to each other outside the house. Bhupinder asked Manjit not to visit other men in future but she did not obey him and left. Bhupinder went back to his room. Manjit returned the next day, i.e. 13/08/1980 at about 9.30 p.m. and went upstairs.

(4) The case of Gian Kaur further is that at about 12.30 am. she heard the shrieks of her daughter 'Hai Maa Main Maar DEE'. Gian Kaur rushed upstairs. She found the room bolted from inside. She peeped inside the room through the chinks in the door and saw Bhupinder Singh giving a kirpan blow on the chest of Manjit. Gian Kaur forced the door open and she saw Bhupinder holding a kirpan in his hand. On the asking of Gian Kaur as to what he had done Bhupinder replied that he had taught her a lesson for going out and thereafter ran away.

(5) Gian Kaur went to the police station and made a cryptic reported Public Witness 17/A that her son-in-law had injured her daughter Manjit Kaur with a knife. Assistant Sub-Inspector Didar Singh reached the spot and he recorded the detailed statement Ex. Public Witness 5/A of Gian Kaur. The Assistant Sub-Inspector along with his endorsement Ex. Public Witness 17/B sent the report Ex.

Public Witness 5/A to the police station for normal registration of the case on the basis of which the formal report Ex. Public Witness 5/B was recorded at 2.20 am.

(6) The accused was arrested on 14/08/1980 from near Shadipur bridge and he was found wearing pant P-7 and shirt P-8. The pant was found stained with blood. On Chemical examination the blood on the pant was found to be human blood. The blood group could not be determined.

(7) Public Witness 4 Dr. Ramani conducted the post-mortem on the dead body of Manjit Kaur on 14/08/1980 at 3.30 p.m. and he found the following injuries on her person :

'1. Incised wound 1/2' x 2/10' muscle deep on the left side front of the chest 2' above the left nipple. 2. Incised wound 3/4' X 2/10' X just below the left nipple. 3. Incised wound 1/2' x 1/4' x on the left costal margin. 4. Incised wound 2' x 2/10' X muscle deep on the middle of left arm. 5. Incised wound 1' X 1/2' X muscle deep on the left arm 2 inches above the front of left elbow. 6. Incised wound 1 1/2' X 1/2' x muscle deep on the medial side of the left knee. 7. Incised wound 1' X 1/2' X muscle deep on the lateral aspect of left thigh. 8. Incised wound 1' x 1/2' x muscle deep on the left knee lateral aspect. 9. Incised wound 2' X 1' muscle deep on the middle of shin.

(8) The doctor gave the opinion that injury no. 2 was sufficient to cause death in the ordinary course of nature. The other injuries were found to be simple.

(9) Public Witness 2 Amrik Singh is the first husband of Manjit Kaur. Public Witness 2 gave evidence that he was married to Manjit in the year 1964-65 and she remained with him as his wife for 8 or 9 years and that thereafter she deserted him. He further testified that Manjit was a woman of loose character and she had become a vagabond.

(10) Public Witness 1 Tilak Raj is alleged to be the second husband of Manjit Kaur. PW 1 gave evidence that he had known Manjit Kaur but he had no illicit relations with her. The witness was declared hostile and was cross-examined by the public prosecutor. In cross-examination by the counsel for the accused PW 1 stated that Manjit Kaur had illicit relations with Inder Raj who was resident of C-

162, West Patel Nagar and she was living with him. PW14 Kuldip Singh, brother of Manjit gave evidence that Manjit was married to Amrik Singh and she became vagabond and deserted Amrik Singh, that after deserting Amrik Singh she started living with them at A-308, Pandav Nagar, that thereafter she started living with Tilak Raj in his house at West Patel Nagar, that she also deserted Tilak Raj and started moving with Bhupinder Singh.

(11) As regards the Occurrence, Public Witness 14, stated that on the night of 13th- 14/08/1980 he was sleeping in his house and that he had heard a noise that his sister had been murdered by some one, but he had not seen any person causing injuries to her. Kuldip Singh was also declared hostile and was cross-examined by the Additional Public Prosecutor, Kuldip Singh in cross-examination by the counsel for the accused stated that they used to ask Manjit Kaur not to stay out in the night but she never agreed to their request and continued visiting people outside during night.

(12) Public Witness 16, Gian Kaur, mother of the deceased, gave evidence that Manjit Kaur was first married to one Anank Singh and that after she left Amrik Singh she started living with Tilak Raj of Patel Nagar as his wife and that Manjit also left Tilak Raj and thereafter started living with Bhupinder Singh as his wife. Gian Kaur deposed that Manjit Kaur and Bhupinder used to live in the upper room as husband and wife. She further testified that on the morning of 11/08/1980 Manjit had left for Jahangir puri and had returned on 12th August, 19<sup>80</sup> at about 10 or 11 p.m. and that she had again left and returned on 13th August at about 9.30 p.m.

(13) The above discussed evidence shows that Manjit Kaur was a woman of loose character and she was in the habit of staying out for days and nights together with other men.

(14) There are three witnesses to the occurrence. Public Witness 10 Sadhu Ram, PW 11 Karan Singh and Public Witness 16 Gian Kaur. PWs 10 and 11 lived in the neighborhood of Public Witness 16. Public Witness 10 gave evidence that on the night of 13th 14/08/1980 he was sleeping outside his house and he was aroused from his sleep on hearing the noise and alarm and that he ran towards A-

308, Pandav Nagar and he was Bhupinder Singh from his back running away. The witness further stated that Manjit Kaur and Bhupinder Singh were living as husband and wife for the fast about 3 or 4 months. In cross-examination the witness stated that earlier he had never gone to the house of Manjit Kaur and that on the night of the occurrence he had gone to her house for the first time. The witness further deposed that Manjit Kaur was living with Tilak Raj for 3 or 4 months before the incident.

(15) Public Witness 11 supported the statement of Public Witness 10. In cross-examination the witness stated that his house is in the third land of the house of Manjit Kaur, and that he had 'earlier never gone to the house of Manjit Kaur, and that he also not known the accused.

(16) Public Witness 16 Gian Kaur gave evidence that on hearing the shrieks of Manjit she had gone upstairs and seen Bhupinder Singh giving blows with Kirpan to Manjit Kaur.

(17) EX. Public Witness 17/A is the earliest report that was made by Gian Kaur at police station. The said report was recorded at 12.15 a.m. The report made was that her son-in-law had injured Manjit Kaur by causing injuries with a knife. The name of the son-in-law is not given. The statement Ex. Public Witness 5/A was recorded sometime at 2 in the night. Public Witness 14 Kuldip Singh has not supported the prosecution case at all. Public Witness 14 gave evidence that he did not see any person causing injuries to Manjit Kaur. The presence of Kuldip Singh in the house at the time of the occurrence is both natural and probable. It is a little amazing that Gian Kaur did not awake Kuldip Singh and told him of what had happened. Public Witness 14 Kuldip Singh does not say that Bhupinder Singh lived along with Manjit Kaur in the upper room of the house. The testimony of PWs 10 and 11 regarding living of Manjit Kaur and Bhupinder Singh together in the house is not very convincing. PWs 10 and 11 in cross-examination admitted that they had never earlier gone to the house of Manjit Kaur. In fact, Public Witness 10 says that Manjit Kaur was living with Tilak Raj for the last 3 or 4 months before the incident. On the evidence produced on the record it may not be safe to hold that Bhupinder Singh and Manjit Kaur were living together in the upper room of the

house as husband and wife. It is possible that Bhupinder Singh also had picked up friendship with Manjit Kaur and he maybe visiting her. From the evidence of Gian Kaur it is clear that on 11th and 12/08/1980 Manjit Kaur had stayed out even during the night and she had returned to the house on the 13/08/1980 at about 9.30 p.m. Manjit Kaur was leading an extremely loose life and, in our opinion. It may not be safe to hold that the time of the occurrence it was only Bhupinder who was with Manjit Kaur. The possibility that Tilak Raj or some other person may have come to visit Manjit Kaur cannot be ruled out.

(18) There is another angle to the case. Even assuming that it was Bhupinder Singh who had committed the crime there is sufficient material on the record showing that the crime was committed on a sudden and grave provocation. Manjit Kaur in her first statement to the police(PW 5/A) has stated that on 11/08/1980 Bhupinder had told Manjit that she should not visit other men in the future but she had not obeyed him and left the house and that thereafter she had come on 13/08/1980 at about 9.30 p.m. It is possible that Bhupinder may have asked her as to where she had gone and on being told that she had gone to Tilak or some other men Bhupinder may have lost his control on his passions and committed the crime. The state of the mind of the person has to be gathered from the proved facts we are of the considered view that on the facts and circumstances appearing in the case a man in the position of Bhupinder Singh could lose the power of self control and commit the crime,It is true that in this case there is no pleas by the accused that he had acted on grave and sudden provocation but we find that there is sufficient material on the record for the inference that the crime was the outcome of grave and sudden provocation.

(19) For the reasons stated we allow the appeal and set aside the conviction and sentence of the appellant and direct that he be set at liberty.