

In the High Court of Punjab and Haryana at Chandigarh

1. **CRA-D-901-DB-2011 (O&M)**
Reserved on: 28.4.2023
Date of Decision: 17.5.2023

Paramjit Kaur Appellant

Versus

Gurpreet Singh Respondent

2. **CRA-S-2317-SB-2011 (O&M)**

Gurpreet Singh Appellant

Versus

State of Punjab Respondent

3. **CRA-D-343-DB-2012 (O&M)**

Paramjit Kaur Appellant

Versus

Chamak Singh and others Respondent

4. CRM-A-943-MA-2011

State of Punjab Applicant

Versus

Gurpreet Singh and others Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Paramjit Kaur-applicant/appellant in person
(in CRA-D-901-DB-2011 and CRA-D-343-DB-2012).

Ms. Monika Jalota, Sr. DAG, Punjab.

Mr. Manoj Kumar, Advocate
for the respondent(s)
(in CRA-D-901-DB-2011, CRA-D-343-DB-2012 and
CRM-A-943-MA-2011)
and for the appellant (in CRA-S-2317-SB-2011).

SURESHWAR THAKUR, J.

1. The learned Additional Sessions Judge, Barnala, through a verdict drawn on 1.8.2011, upon case bearing S.C. No. 12 of 10.5.2008, thereby recorded a finding of conviction against accused Gurpreet Singh, for the commission of offences punishable, under Section(s) 307 and 427 of the IPC. Moreover, through a separate sentencing order of even date, the learned trial Judge concerned, imposed upon the convict (supra), sentence(s) of imprisonment as well as of fine, but in the hereinafter extracted manner:-

Under Section 307 of the IPC	To undergo rigorous imprisonment for a period of five years and to pay a fine of Rs. 2000/- and in default of payment of fine to further undergo rigorous imprisonment for three months.
Under Section 427 of the IPC	To undergo rigorous imprisonment for six months and to pay a fine of Rs. 500/- and in default of payment of fine to further undergo rigorous imprisonment for one month.

2. Both the above imposed sentence(s) of imprisonment, were ordered to run concurrently but the period of detention, as, undergone by the convict, during the investigations, and, trial of the case, was, in terms of Section 428 of the Cr.P.C., rather ordered to be set off, from the above imposed sentence(s) of imprisonment.

3. However, through the verdict (supra), the other co-accused were ordered to be acquitted of the charges framed against them.

4. The State of Punjab, as also the complainant are aggrieved from the findings of acquittal, thus recorded through the above verdict, qua the other co-accused concerned. Therefore, through theirs respectively instituting **CRM-A-943-MA-2011**, and, **CRA-D-343-DB-2012**, before this Court, they have made a challenge to the above finding of acquittal, as became recorded qua the other co-accused concerned.

5. Convict Gurpreet Singh being also aggrieved from the above made verdict of conviction, and, also becoming aggrieved from the consequent thereto sentence(s) of imprisonment, as well as of fine, as became imposed, upon him, thus becomes led to institute thereagainst **CRA-S-2317-SB-2011**, before this Court.

6. Moreover, the complainant has instituted **CRA-D-901-DB-2011**, whereby she has asked for enhancement of the substantive sentence(s) of imprisonment, besides enhancement of the sentence(s) of fine, as became imposed, upon convict Gurpreet Singh, by the learned Convicting Court concerned.

7. Since all the above appeals arise from a common verdict, made by the learned trial Judge concerned, upon Sessions case (supra), hence all the appeals (supra) are amenable for a common verdict being made thereons.

Factual Background

8. The genesis of the prosecution case, becomes embodied in the appeal FIR, to which Ex. P-JJ is assigned. The narrations carried in Ex. P-JJ, are that on 1.4.2007, ASI Manjit Singh while being posted in Police Station City, Barnala, after receipt of medical information Ex. PJ, regarding admission of Paramjit Kaur and Chhota Singh in Civil Hospital, Barnala, owing to injuries received by them, thus he along with other police officials reached Civil Hospital, Barnala, and, moved an application for obtaining the opinion of the doctor regarding fitness of Paramjit Kaur and Chhota Singh, but on that day both of them were declared unfit to make statement vide endorsement Ex.PA/1 by Medical Officer. On 2.4.2007, he along with other police officials again reached Civil Hospital concerned, and, moved a request Ex. PW16/A for statement of Paramjit Kaur, and, it

referred to Rajindra Hospital, Patiala and on the same day he reached nursing home of Dr. Pardeep Sharma, Sharma Hospital, at Kutcha College Road and moved written request Ex.PW16/B regarding fitness of Paramjit Kaur and when she was declared fit to make statement of Paramjit Kaur Ex.PA was recorded, wherein she stated, that she is the resident of Kothe Guru, Police Station, Dialpur, District Bathinda at present Gali No.1 Mohalla Guru Nanak Nagar, Barnala, aged about 45 years. They are two brothers and sister. Her brother Rajpal Singh is elder to her, who is settled in Canada. Her brother Rajpal Singh had two children, namely, Gurpreet Singh and Harpreet Kaur. Gurpreet Singh is residing at Janda Wala Road, Street no.1, Barnala and Harpreet Kaur is settled in Canada. Her (complainant) marriage was solemnized with Malkiat Singh son of Chand Singh, resident of Kothe Guru about 20 years. For the last 12-13 years she is residing with her father Gurcharan Singh at Barnala. She stated that for the last about one and half years, her father is bed ridden, and, she is looking after him. Her father filed a criminal case against Rajpal Singh, Gurpreet Singh, Chamak Singh son of Gajjan Singh, Gajjan Singh son of Nikka Singh, Harnek Singh son of Jangir Singh. Gurdarshan Singh, Lambardar bearing FIR No. 22 dated 2.3.2007 under Sections 420/465/467/468/471/120B IPC read with section 13 (1) and 13 (2) of Prevention of Corruption Act, Police Station City, Barnala for forging a will alleged to be executed by her father. It was stated that on 1.4.2007 at about 3.00 P.M., she was driving her Activa Honda No. PB-19-6311, Chhota Singh son of Jagat Singh was pillion rider, and, she was going on Thikriwala road. When they reached near brick kiln at about 4.00p.m. she was coming on correct left side of the road, one Sumo vehicle bearing No. MH-04-4891 white coloured came from behind, and, at a high speed which was being driven by her nephew Gurpreet Singh and Chamak

Singh, Gajjan Singh, Gurdial Singh, Binder Singh were sitting in the vehicle, collided from behind with her Aactiva with intention to kill her due to which, she fell on the kacha path. These persons have intentionally collided with their vehicle with her Aactiva to commit their murder, and, she received injuries on different parts of her body along with Chhota Singh. She further stated that the vehicle was being driven by Gurpreet Singh, while Chamak Singh was sitting with him, whereas Gajjan Singh, Gurdial Singh and Bikkar Singh were sitting on the rear seat and thereafter all these persons ran away in their vehicle. In the meantime, Darshan Singh son of Joginder Singh stopped his vehicle, who was going to Thikriwal, and, they were admitted to Civil Hospital, Barnala. She stated that due to lack of proper treatment at Barnala, she got her admitted herself in a private hospital where she is under treatment. She stated that all these persons have caused injuries on her person due to pending cases between them, and, she was pursuing the case on behalf of her father. On the basis of the above statement, FIR Ex. PJJ was recorded by ASI Darshan Singh.

Investigation proceedings

9. During investigation, application Ex.PW16/D was moved for recording the statement of Chhota Singh, in Civil Hospital, Barnala and when he was declared fit to make a statement, thus Chhota Singh also got recorded his statement and thereafter they prepared rough site plan Ex. PB. Photographs of the place of occurrence were taken. Aactiva bearing No. PB-19-6311 along with RC and driving licence of Paramjit Kaur were taken into possession by the police vide recovery memo Ex. PC attested by the witnesses. On 23.4.2007, accused Gurpreet Singh was arrested, as he was present in vehicle Tata Sumo bearing No. MH-04Q-4891, which was taken

into possession vide recovery memo Ex. PNN along with its RC and driving

licence of accused Gurpreet Singh. After conclusion of investigations, the investigating officer concerned, proceeded to institute a report under Section 173 of the Cr.P.C., before the learned committal Court concerned.

Committal Proceedings

10. Since the offence under Section 307 of the IPC was exclusively triable by the Court of Session, thus, the learned committal Court concerned, through a committal order made on 23.4.2008, hence proceeded to commit the accused to face trial before the Court of Session.

Trial Proceedings

11. The learned trial Judge concerned, after receiving the case for trial, after its becoming committed to him, made an objective analysis of the incriminatory material, adduced before him. Resultantly, he proceeded to draw charges against accused, for the offences punishable under Sections 307 and 427 of the IPC. The afore drawn charges were put to the accused, to which they pleaded not guilty, and, claimed trial.

12. In proof of its case, the prosecution examined 21 witnesses, and, thereafter the learned Public Prosecutor concerned, closed the prosecution evidence. After the closure of prosecution evidence, the learned trial Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused pleaded innocence, and, claimed false implication. The accused also chose to adduce defence evidence, and, led three witnesses into the witness box.

Introductory

13. The ill-fated incident occurred on 1.4.2007, and, in the said ill-fated incident, an Honda Activa bearing No. PB-19-6311, whereons the complainant was atop at the relevant time, became struck by the offending

vehicle bearing No. MH-04Q-4891. The said offending vehicle was, at the

relevant time, being driven by her nephew Gurpreet Singh. Moreover, the said vehicle was, at the relevant time, occupied by co-accused Chamak Singh, Gajjan Singh, Gurdial Singh, and, Binder Singh. The Honda Active was taken into police possession through seizure memo Ex. PC, and, the offending vehicle (supra) became taken into police possession through recovery memo Ex. PNIX.

14. The mechanical expert (PW-6), made examinations of both the vehicles (supra), and, prepared the mechanical reports, to which respectively Ex. PEE and PFF are assigned. On stepping into the witness box, during the course of his examination-in-chief, he tendered the above mechanical reports, and, on them the above exhibit(s) marks became made. The mechanical report Ex. PEE makes the hereinafter extracted speakings.

- “1. Left side front indicator of sumo has broken and bumper has been damaged.*
- 2. Left side of sumo on the “Palla” of vehicle have scratch marks, colour white, bumper colour is black.*
- 3. Break, clutch, tyre and side glasses and steering system of the car is in good condition.*
- 4. Sumo is fit to start and driveable.”*

15. Ex. PFF, as relates to the Honda Activa whereons the complainant was atop, as its driver at the relevant time, makes the hereinafter speakings.

- “1. Head light of the scooter has been broken, front body also has been broken.*
- 2. On the right side of scooter on engine cover, there are dents and pushed towards inside.*
- 3. Current system and petrol system has been damaged due to accident.*
- 4. Scooter is not fit for start and drive.”*

The damages (supra), as became entailed upon the scooty, do

prima facie boost an inference, that as a matter of fact, the said Honda Aactiva, was struck by the offending vehicle, as there is complete dysfunctionality caused to its current and petrol system, besides therein it becomes echoed, that the scooter was not fit for start and drive. Even the said dysfunctions, are echoed by PW-6, in his examination-in-chief, to but occur, on a collision of the said Aactiva, thus taking place with the offending vehicle. The prosecution case became supported by the complainant on her stepping into the witness box as PW-1. In her deposition, as comprised in her examination-in-chief, she made echoings which are almost consistent with the echoings, as made by her in her previously made statement in writing, to the police, and, to which Ex. PA, is assigned, and, which resulted in the registration of the FIR (supra), to which Ex. PJJ, is assigned. The deposition of the above victim-injured, who suffered injuries on her person, are echoed in Ex. PL, exhibit whereof became tendered into evidence by PW-4, during the course of his examination-in-chief. The injuries which are echoed therein to be carried on the person of the victim-complainant, are reproduced in the hereinafter terms.

“x x x x x

2. That x-ray forearm was taken which had fracture of both bones. Right forearm and there was stitched wound scalp.
3. She was operated upon for fracture both bones forearm for which operation O.R. & IF (Nailing and Plating) was done.

x x x x x”

Analysis of Ex. PL and the effect of delay in the registration of the FIR

17. A reading of Ex. PL manifests, that the said injuries were grievous. Though, also therein occurs an echoing, that the doctor

concerned had, on 2.4.2007, declared the complainant to be fit to make a

statement. However, since the FIR in respect of the crime event, became lodged on 2.4.2007, at 5.30 P.M., whereas the ill-fated occurrence took place on 1.4.2007, therefore on the above purported delay in the lodging of the FIR, the learned counsel for the appellant-convict contends, that thereby the contents contained therein are concocted and tainted. However, the above submission becomes unhinged, from the factum, that the victim/complainant became admitted at the medical centre concerned, on 1.4.2007, and, she, as revealed by Ex. PA/1, was then unfit to make the statement. Therefore, she could not obviously in prompt sequel to the accident taking place, at the crime site, make the promptest reportings thereof to the police. Since she, on 2.4.2007, hence a day subsequent to the ill-fated occurrence taking place at the crime site, recorded Ex. PA, resultantly, the said delay when, for the above reasons, becomes per se explicable, thus the said purported delay does not get beget the stains of any premeditation or concoction, thus percolating into the FIR (supra).

Analysis of oral evidence

18. The statement of the complainant, who testified in support of Ex. P-1, garners corroboration from the testifications, as made by the ocular witnesses to the occurrence, who upon theirs stepping into the witness box, as PW-3 and PW-8, thus in their respective examination-in-chief, thus made consistent speakings, which but render corroboration to the testification, as made by the complainant.

19. The statements made by the above witnesses are free from any gross or blatant improvements or embellishments, rather being made by them, from their previously made respective statements in writing.

Therefore, also when they render testifications with utmost inter se

corroboration, as such, credence is to be assigned to their respectively made

testifications.

20. Though, on the above score, the prosecution has been able to convincingly prove the charge drawn against convict Gurpreet Singh. However, the learned counsel for the appellant submits, that since the above witnesses, is/are, interested witnesses, therefore, no sanctity is to be assigned to their respective depositions. The said submission is ideally made, as unless they had in their testifications, made gross or open improvements or embellishments, thus from their previously made respective statements in writing, to the police officer, thereupon their credibility was not impeachable, but merely on the above ground. However, since as above stated, the above taint is not manifested in their consistently made statements about the penal occurrence, thereby credence is to be assigned to their respectively made depositions.

21. Moreover, Dr. Suresh Kumar Singhal, who stepped into the witness box as PW-2, has also in his affidavit to which Ex. PF, is assigned, thus detailed therein the various injuries, as became entailed, upon the person of the complainant. Therefore, the said exhibit also corroborates the testification of the ocular witnesses to the occurrence. Thus, with inter se corroboration emanating inter se, the credible testifications rendered qua the crime event by the ocular witnesses thereto, hence with credible medical evidence, resultantly the prosecution has been able to prove the charge drawn against convict Gurpreet Singh.

22. Even otherwise, irrespective of the above, there is a complete denial of incriminatory participation in the relevant occurrence, rather by convict Gurpreet Singh. However, he becomes estopped from making the above denial, as he has, on an opportunity being assigned to him by the

learned trial Judge concerned, to adduce defence evidence, thus relied upon

inquiry report Ex. DC, which became proven by DW-2/A SP Pargat Singh. Significantly therein the accused admitted the happening of the crime event, at the crime site. If so, the denial of criminal liability, as urged by the convict, becomes an extremely feeble denial.

23. Though, the injuries suffered by the complainant, and, as are reported in Ex. PF, are not declared to be life endangering injuries. However, the mere factum that the injuries sustained by the complainant, thus not being life endangering injuries, rather would not make convict Gurpreet Singh to escape from penal liability, as enshrined in Section 307 of the IPC. The reason for drawing the above conclusion, arises from the factum, that evidently there is an entrenched litigation amongst the convict (supra), and, the complainant. Since in the face of the above, it but obviously appears, that the ill-fated collision, which occurred amongst the vehicles (supra), was thus with a mensrea, being etched in the mind of the convict to thus, make an attempt to commit the murder of the complainant, as thereby the menace of the litigation, in which both were embroiled, rather would become ebbed. Resultantly, with proof of motive, as also with proof of the requisite mensrea, thus making imminent displays, thereby, the verdict of conviction, as recorded, upon convict Gurpreet Singh, is required to be maintained, and, affirmed, and, the appeal bearing No. CRA-S-2317-SB-2011, is also required to be dismissed.

24. The complainant through casting criminal appeal bearing No. CRA-D-901-DB-2011, has prayed for enhancement of the substantive sentence(s) of imprisonment, besides for enhancement of the sentence(s) of fine, as became imposed, upon the said convict, through a sentencing order, drawn on 1.8.2011, by the learned convicting Court concerned. Though, in

respect of a charge punishable under Section 307 of the IPC, impose the substantive sentence rather extending upto life imprisonment. However, even the imposed substantive sentence, upon him, of his facing rigorous imprisonment for a term of five years, does in the factual matrix prevailing in the instant case, appear to both just and reasonable, and, the same does not require any interference. The reason being that it balances the incriminatory role of the convict, and, also balances the pain caused in sequel to the penal occurrence perpetrated, thus upon the victim. In other words, since victimology becomes subserved by the imposition of the substantive sentence(s) of imprisonment, upon the convict, as such also, this Court does not find any occasion to enhance the above imposed substantive sentence(s) of imprisonment, thus to the substantive sentence of life imprisonment, rather becoming imposed upon the convict. Insofar as sentence(s) of fine is concerned, the same has been imposed, upon the convict respectively in a sum of Rs. 2,000/- and Rs. 500/-. Therefore the interest of justice would be met, upon the sentence(s) of fine, being respectively modified in a sum of Rs. 20,000/- each. However, in default of payment of fine, the convict (supra) shall undergo rigorous imprisonment for three months each on both counts. On the said fine amount becoming deposited forthwith by the convict, the same shall be disbursed as compensation to the victim-complainant.

25. Consequently, in the above terms, criminal appeal bearing No. **CRA-D-901-DB-2011**, is partly allowed, and, also in the above terms, the sentence of fine, as imposed, upon the convict (supra), on two counts, is also thus modified.

26. In the application seeking leave to appeal bearing No. CRM-A-

bearing No. CRA-D-343-DB-2012, instituted by the victim-complainant, thereby there is a challenge to the finding of acquittal, as became made upon other co-accused, other than convict Gurpreet Singh. However, for the reasons to be assigned hereinafter, the said verdict of acquittal, does not require any interference, being made. The reason is but simple, inasmuch as, only convict Gurpreet Singh was in command of the steering wheel of the offending vehicle, whereas, the other co-accused were sitting therein with him. Unless, there was evidence on record suggestive, that the other co-accused, who were sitting along with convict Gurpreet Singh, in the offending vehicle, thus instigating him to ply the offending vehicle in an ill-manner, so as to result in its colliding with the Activa Honda, thus driven, as its driver by the complainant-victim, thereupon, there would be no sharing of mensrea by other co-accused along with the principal convict Gurpreet Singh. However, no such evidence is existing on record. Resultantly, thus only co-convict Gurpreet Singh, who was in command of the steering wheel of the offending vehicle, thereby mis-maneuvered the vehicle, so as to lead to the happening of the ill-collision inter se the offending vehicle, thus with the Honda Activa scooty, driven by the victim. In the said act, since as stated (supra), the other co-accused did not join him, through theirs instigating or goading him. Thus there is a complete lack of evidence denotative of the other co-accused, thus sharing the relevant mensrea along with principal offender co-convict Gurpreet Singh.

27. Resultantly, both the application seeking leave to appeal **CRM-A-943-MA-2011**, instituted by the State of Punjab, and, the criminal appeal bearing No. **CRA-D-343-DB-2012**, are dismissed.

28. The appeal filed by convict Gupreet Singh bearing No. **CRA-S-2317-SB-2011**, is also dismissed. The impugned verdict of conviction, as

becomes recorded upon the convict-appellant (supra), by the learned convicting Court, is maintained, and, affirmed. Moreover, though the substantive sentence(s) of imprisonment, imposed upon the convict is affirmed, but the sentence(s) of fine, as imposed on two counts, upon the convict, is thus modified in terms (supra). If the convict is on bail, thereupon, the sentence(s) of imprisonment as imposed upon the convict-appellant, be ensured to be forthwith executed by the learned trial Judge concerned, through his drawing committal warrants.

29. Personal, and, surety bonds, if any, furnished by the acquitted co-accused, are ordered to be forthwith cancelled, and, discharged. The case property be dealt with, in accordance with law, but after the expiry of the period of limitation for the filing of an appeal.

30. Records be sent down forthwith.

31. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

May 17, 2023
Gurpreet

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