



In the High Court of Punjab and Haryana at Chandigarh

1. CRA-D-847-DBA-2003 (O&M)
Reserved on: 01.8.2024
Date of Decision: 09.8.2024

The State of Punjab Appellant

Versus

Bahadur Singh and others Respondents

2. CRR-108-2003 (O&M)

Leela Singh Petitioner

Versus

Bahadur Singh and others Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Argued by: Mr. Maninderjit Singh Bedi, Addl. A.G., Punjab
for the appellant (in CRA-D-847-DBA-2003).

Mr. Prateek Pandit, Advocate
for respondents No. 1 and 3 (in both cases).

Mr. Shubhkaran Singh Sandhu, Advocate for
Mr. Ranjan Lakhanpal, Advocate
for the complainant-petitioner (in CRR-108-2023).

Respondents No. 2 and 4 already died.

SURESHWAR THAKUR, J.

1. Since both the appeal (supra) as well as criminal revision (supra) arise from a common verdict, made by the learned trial Judge concerned, hence both are amenable for a common verdict being made thereons.



2. Both the appeal as well as the revision petition are directed against the verdict drawn on 30.9.2002, upon Sessions Case No. 84 of 4.12.1993, by the learned Additional Sessions Judge (Adhoc), Sangrur, wherethrough in respect of charge drawn for offence punishable under Section 302 read with Section 34 IPC, she made a verdict of acquittal qua all the accused.

3. Therefore, the State of Punjab, and, complainant Leela Singh become aggrieved from the above drawn verdict, and, are led to respectively institute thereagainst the instant appeal and the criminal revision.

Factual Background

4. The genesis of the prosecution case, becomes embodied in the appeal FIR, to which Ex PL/1 is assigned. As per the prosecution story, on 23.4.1993, Leela Singh son of Harnek Singh, Agriculturist, resident of village Sadihari, lodged a report to the effect that they were four brothers, eldest was Mohinder Singh, who had been residing with his sister at village Jakhepal, while he and his brother Gurcharan Singh deal in agriculture and Bhura Singh, now deceased, used to sit idle. It is further stated therein, that on the previous night, while he alongwith his brother Gurcharan Singh and his father were working in the field, then he received an information in the evening that Bhura Singh, who was taking liquor since morning, alongwith Bahadur Singh Master, Hardial Singh Master, School Chowkidar Kirpal Singh alias Dev and Jang Singh son of Daria Singh, has died, and his dead-body has been brought at the residence. On receiving the said information, he alongwith his father came to house. His brother Gurcharan Singh told them that the body of Bhura Singh was brought by Jang Singh Nihang, assisted by his(complainant's) nephew Ramtej Singh son of Mohinder Singh,



in the Bullock Cart from school to home. The complainant raised suspicion that his brother Bhura Singh might have been killed by Bahadur Singh, Hardial Singh, Chowkidar Kirpal Singh alias Dev, and Jang Singh Nihang after giving him the internal injuries, or he might have died of taking excessive liquor, and made request to investigate the matter. On the statement (supra) of complainant, DDR Ex. PL recorded. Thereafter, the appeal FIR became registered under Section 302/34 of the IPC.

Investigation proceedings

5. During the course of investigations, police proceedings, Ex. PL/1 were carried. The dead body was sent for post-mortem examination. Viscera was sent for detecting alcohol or other poisonous substance. After conclusion of investigations, the investigating officer concerned, proceeded to institute a report under Section 173 of the Cr.P.C., against accused-respondent Bahadur Singh and Hardial Singh, before the learned committal Court concerned.

Committal Proceedings

6. Since the offence under Section 302 of the IPC was exclusively triable by the Court of Session, thus, the learned committal Court concerned, through a committal order made on 20.11.1993, hence proceeded to commit the accused to face trial before the Court of Session.

Trial Proceedings

7. 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, on 16.12.1993, he proceeded to draw charges against accused-respondents Bahadur Singh and

Hardial Singh, thus for an offence punishable under Section 302 read with



Section 34 of the IPC. The afore drawn charges were put to the accused, to which they pleaded not guilty, and, claimed trial.

8. However, when the case was at the stage of adduction of prosecution evidence, thus an application was moved by the prosecution on 5.12.1994, rather for the summoning of Kirpal Singh and Jang Singh as additional accused. During the pendency of the said application, a fresh application for re-investigation of the case was moved on 3.4.1995, which vide order dated 8.8.1995 became dismissed by the then Additional Sessions Judge, Sangrur. Against the order (supra), a revision petition became preferred before this Court, wherein, the trial proceedings became stayed by this Court through an order made on the relevant application on 23.7.1996. Thereafter the investigation of the present case was entrusted on 2.12.1996 to the CBI. Resultantly, after investigations being made by the CBI, it filed an additional challan against the said Kirpal Singh and Jang Singh, in the Court concerned.

9. Subsequently, on 20.8.1997, a fresh charge sheet was framed against all the accused-respondents qua commission of an offence punishable under Section 302 read with Section 34 of the IPC. The afore drawn charges were put to the accused, to which they pleaded not guilty, and, claimed trial.

10. In proof of its case, the prosecution examined 29 witnesses. Thereafter the evidence of the prosecution was ordered to be closed.

11. 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 led four witness in their defence.



12. During the pendency of the instant appeal as well as the revision petition, respondent No. 2-Gurdial Singh and respondent No. 4-Jang Singh have died.

**Submissions of the learned State counsel and of the learned counsel
for the petitioner**

13. The learned counsel for the appellant-State (in CRA-D-847-DBA-2003) as well as the learned counsel for the petitioner (in CRR-108-2003), have made vehement submissions before this Court, that the reasons assigned by the learned trial Judge concerned, thus for making an order of acquittal, upon the accused are extremely frail, besides are not based upon a sound appreciation of the evidence on record. Therefore, they contend, that the impugned verdict of acquittal be quashed, and, set aside.

**Submissions on behalf of the learned counsel for the accused-
respondents No. 1 and 3**

14. On the other hand, the learned counsel for the accused-respondents No. 1 and 3 submits, that the verdict of acquittal as has been challenged before this Court, is well merited, thus it does not require any interference being made by this Court.

Reasons for dismissing both the appeal and the revision petition

15. For the reasons to be assigned hereinafter the contentions (supra), as become raised before this Court, by the learned counsel for the appellant, and, by the learned counsel for the petitioner rather are unworthy of acceptance, and, therebys they are rejected. Consequently, finding no merit in both the appeal as well as in the petition, the same are hereby dismissed, and, the verdict of acquittal, as made by the learned trial Court, is maintained, and, affirmed.



Analysis of the depositions of the eye witnesses to the occurrence,

16. In order to prove its case, the prosecution examined two alleged eye witnesses, namely Binder Kaur (PW-4) and one Rani Kaur (PW-5). PW-4 Binder Kaur deposed that on 22.4.1993 she had gone to Atta Chakki from her house along with Rani Kaur. Since Bhura Singh, who is her brother, had gone to Primary School, Shadihari, thus, they both went to the said school where they found that accused Bahadur Singh, Hardial Singh, Kirpal Singh and Jang Singh, rather were belaboring the deceased Bhura Singh with the piece(s) of wood. She further deposed that they also tried to intervene but the accused did not pay any heed. She has also testified that Bhura Singh died there. Thereafter She and Rani went to their fields and informed Harcharan Singh, Lila Singh and Harnek Singh about the incident.

17. Moreover, though the depositions of PW-4 are supported by the deposition of the other eye witness to the occurrence, namely Rani Kaur, who stepped into the witness box as PW-5. Significantly, though the echoings occurring in the examination-in-chief of PW-4 are in complete harmony with the echoings, as became rendered in respect of the crime event by PW-5. In sequel, the testifications rendered by PW-4, and, PW-5 vis-a-vis the crime event, when rather are in complete inter se alignment, as such, their respectively made testifications were amenable to become relied upon.

18. Be that as it may, significantly, the names of the said Binder Kaur and Rani Kaur, did not occur in the FIR bearing No. 42 of 24.4.1993, nor their names figured during the investigations, which became conducted by the police, rather their names surfaced, but after an elapse of two years since the crime event taking place at the crime site. Moreover, their names



this Court to the CBI. Therefore, at the outset, their statements which became belatedly recorded after more than three years elapsing since the crime event taking place, thereupon, the said belatedly made statements are hit by the vices of delay and latches, and, therebys they are to be also construed to be engineered and doctored versions qua the crime event. Resultantly, prima facie therebys no credence can be assigned to the respectively made purported ocular account vis-a-vis the crime event.

19. Moreover, in the initial signed statement made by complainant Leela Singh, statement whereof was recorded on 23.4.1993, and, to which Ex. PH is assigned, he stated therein that while they were working in the fields, he had received a message about the occurrence. However, in the above statement, he has not named the person(s) who conveyed the said message to him, but in his subsequently made statement to the investigating officer of the CBI, statement whereof was made, after more than three years elapsing since the crime event taking place, thus on 23.5.1996, he therein made a version that Binder Kaur and Rani informing him about the belaborings being delivered to Bhura Singh, rather by the accused persons. The inference(s) which emanate from the above are-

(a) That since in the initial recorded signed statement in writing by Leela Singh, he omitted to name the persons who had eye witnessed the occurrence, but when he subsequently made a statement to the CBI, and, that too after more than three years elapsing since the happening of the crime event at the crime site, therein he named the supra to eye witness the occurrence. Resultantly, the somersault (supra), as made subsequently by Leela Singh, from his earlier signed statement, thus engineers an inference, that the subsequently rendered version by him to the



CBI, but obviously being a purely concocted and invented version, merely for falsely implicating the accused.

(b) Though in the face of the previously made signed statement by Leela Singh, therebys estopped him from reneging from the contents of the said statement. However, Leela Singh, to renege from his previously made signed statement in writing to the police officer, took to deny his signatures, as occurred thereons. Significantly, since the above denial remained an idly made denial, inasmuch as, the same remaining unproven through adduction of best evidence, therebys too, the said denial is to be concluded to be most mechanically and perfunctorily made, and, therebys it does not underwhelm the efficacy of his previously made signed statement in writing before the police officer concerned, wherein, he omitted to name the purported eye witnesses (supra) to the occurrence. Therefore, the subsequent appearances of the purported eye witnesses (supra) to the crime event, rather before the CBI officer concerned, is obviously, thus a sequel of inter se collusion and connivance inter se Leela Singh and the eye witnesses concerned, besides is an afterthought, and, invention ill-deployed by the investigating officer concerned.

(c) The consequential telling effect thereof, is but naturally that the purported eye witnesses of the crime event are also engineered or invented witnesses to the occurrence, therebys their testimonies are too, ridden with a vice of falsity, and/or with the vice that they have rendered a tutored, and, engineered version vis-a-vis the crime event. Resultantly, therebys no credence is to be assigned theretos.

20. The prosecution has also led another alleged eye witness namely Darshan Singh, who stepped into the witness box as PW-16. The



said witness deposed that on 22.4.1993, when he was present at Bus Stand of his village, and, was standing on the chabutra to board the bus, thereupon he saw all the four accused and deceased Bhura Singh grappling with each other. He further states, that in the meantime the bus arrived and he boarded the bus. He further deposed that on the next day, he came to know about the crime event taking place.

21. However, the said purported eye witness to the occurrence (supra) but cannot be formidably inferred to eye witness the crime event. The prime reason for striking the above conclusion, stems from the factum, that the investigating officer SI Darbara Singh (PW-29), rather in his examination-in-chief has omitted to state that he had recorded the statement of the said witness. On the contrary the statement of the said witness, as evident on a reading of the deposition of A.P.Singh (PW-23), was recorded on 23.5.1996. Therefore, the statement previously made by PW-16 to the police officer concerned, was made after three years, thus elapsing since the crime event taking place. As such, the said delay in the making of the statement (supra) before by the investigating officer concerned, by the witness (supra), but therebys makes it stained with a stench of gross delay and latches, wherebys, it is also to be concluded to be an engineered and concocted version vis-a-vis the crime event. Emphasizingly also for the reasons (supra), that PW-16, in his testification admitted that he also became interrogated by the police officer concerned. Therefore, it appears that since he was also suspected to be an accused in the crime event. Resultantly, it prima facie appears that for saving his becoming inculpated in the crime event, he succumbed to the pressure of the police officer concerned, to make a statement before him. In sequel, his statement is also therebys besmirched



with taints of duress and compulsion becoming exerted upon him by the police officer concerned.

22. Moreover, for the reasons to be assigned hereinafter, the purported credible ocular account, as rendered vis-a-vis the crime event, yet does not constrain this Court to interfere with the well made verdict of acquittal, rendered by the learned Court concerned. The reasons for forming the above view are:-

(a) That the depositions, made by the eye witnesses (supra) vis-a-vis the accused using the wooden pieces, and, as such inflicting injuries on the person of the deceased, did entail a necessity, upon the investigating officer concerned, to during the course of his holding the accused to custodial interrogation (i) thus ensure the making of a signed disclosure statement by the accused concerned, wherein, after their confessing their guilt in the crime event, their showing their readiness and willingness to cause the recovery(ies) of the weapon(s) of offence, (ii) and subsequent thereto the relevant valid recovery(ies) of the weapon(s) of offence being made to the investigating officer concerned, thus at the instance of the accused concerned.

(b) The above recorded signed disclosure statements, and, consequent thereto recovery(ies), but would have lent the fullest succor to the depositions of the eye witnesses, inasmuch as, thereby the ocular version spelt by the ocular witnesses (supra) to the crime event, as appertaining to the relevant users at the instance of the accused concerned, rather of the incriminatory weapons of offence, thus becoming tellingly corroborated through the above respectively made disclosure statements,

and, the consequent thereto recovery(ies).



(c) Enigmatically, the investigating officer concerned, completely failed to during the course of his holding the accused to custodial interrogation, ensure the recordings at their respective instances, vis-a-vis their respectively signed disclosure statements, wherein, they may have thus confessed their guilt in the crime event, besides may have revealed their willingness to cause the efficacious recovery(ies) of the incriminatory weapon(s) of offence, to the investigating officer concerned. The above omissions rather to a substantial extent, has eroded the credibility of the eye witnesses concerned, as only upon the said memos becoming drawn, and, also becoming proven, thus thereby alone corroboration thereto, rather would have assuredly come-forth at the instance of the prosecution. Resultantly, the omissions (supra), have but only smothered the emergence of the above best scientific evidence, rather to corroborate the eye witness account rendered qua the crime event.

(d) Therefore, the effect of the omission (supra), to the considered mind of this Court has also a telling consequential effect upon the veracity of the prosecution version. The above is a sequel of slipshod, inept and sketchy investigations becoming made by the investigating officer concerned, but for reasons best known to him.

23. Though, the prosecution relied upon the results of the polygraph tests, which were made upon the eye witnesses (supra) to the occurrence, and, though the results of the said polygraph tests, as made upon Binder Kaur and Rani, do suggest, that they did not reveal any deceptive responses being made to the query(ies) as put to them. However, though, no meaningful inferences were drawn in respect of the polygraph test which

became conducted upon Darshan Singh.



24. Nonetheless, it is again enigmatic, that the prosecution took to, than subjecting the accused to polygraph test, thus subject the purported eye witnesses to polygraph test. The reason for making the above conclusion ensues from the factum, that the necessity of making a polygraph test, is only for drawing incrimination against the accused, therefore other than the accused, certain witnesses to the occurrence were not required to be subjected to any polygraph test. Resultantly, any results of the polygraph tests, which the witnesses underwent are to be thus construed to be a disingenuous attempt on the part of the CBI officer concerned, to cover up the delays in the belated recordings of the statements of the witnesses.

25. Be that as it may, even if assumingly the said polygraph test, has some aura of solemnity, therebys even Leela Singh was required to be subjected to a polygraph test, as only in his subsequently made statement to the CBI officer concerned, he had declared therein, that an intimation about the crime event taking place, thus becoming purveyed to him by the said witnesses. Since only, in the subsequently recorded statement (supra), which became so recorded, after more than three years elapsing since the making of his first signed statement, he named the said eye witnesses, as the persons who after eye witnessing the occurrence, thus making a disclosure in respect thereof to him, therefore, the veracity of Leela Singh, if required/warranted under law, rather was to be tested through his being asked to undergo a polygraph test.

26. Conspicuously the un-necessity of the witnesses to the occurrence being asked to undergo polygraph test, is comprised in the factum, that the said incriminatory evidence subject to its admissibility, but obviously is to emanate from the accused, upon the latter undergoing thus



polygraph test. Resultantly therebys alone, the said evidence may be of some probative vigour against the accused. Moreover, the rules of evidence as encompassed in the Indian Evidence Act, apart from the credit of a witness becoming impeached, through his becoming contradicted from his previously made statement in writing, rather therein occurs no other rule, thus facilitating the investigating officer to subject any witness to a polygraph test. Therefore, since the procedural norms relating to the conducting of investigations, besides collections of evidence, as carried under the Cr.P.C., and also since the rules relating to the impeaching of the credit of prosecution witnesses, thus become prima facie completely breached by the investigating officer concerned, through the investigating officer concerned, rather conducting the polygraph test(s), upon the prosecution witnesses concerned. In sequel, it appears that the said was done merely for ill covering up the relevant delay.

Post-mortem report

27. The post-mortem report, to which Ex. PA is assigned, became proven by PW-1. PW-1 in his examination-in-chief, has deposed that on his making an autopsy on the body of deceased Bhura Singh, thus his noticing thereons the hereinafter extracted ante mortem injuries-

“1. A lacerated wound 2 cm x 1 cm on the right side of forehead just above lateral end of right eyebrow. Clotted blood was present. On dissection there was haemetoma in S/c tissue and there was laceration of scalp muscles. On opening the skull and on opening the meninges there was present blood and blood clots. The blood dark in colour was present all over the top of brain tissue. Blood was present in post cranial fossa.

2. A contusion 3 cm x 5 cm on the left nipple. It is B shaped. On dissection there was blood in the sub cutaneous tissues.



3. *A contusion 3 cm x 4 cm on the left side of chest on front, 5 cm below left nipple. Reddish in colour. On dissection blood present in s/c tissue at the side of wound.*
4. *A contusion 5 cm x 2 cm obliquely placed over front of left side of abdomen, 12 cm to left and above umbilicus. On dissection s/c tissue contains blood.*
5. *A contusion 5 cm x 5 cm on the back of middle of forearm of left side. On dissection there was haematoma in s/c tissues and muscles underlying were lacerated.*
6. *A contusion 3 cm x 4 cm on the back of forearm of left side, 8 cm below left elbow joint. On dissection haematoma present in s/c tissues.*
7. *A contusion transversely placed on the left side of chest, 12 cm lateral to left nipple. It is 6 cm x 5 cm. On dissection, blood was present in s/c tissues.*
8. *A contusion over the front of nose 3 cm x 5 cm more on right side. On dissection the underlying s/c tissue containing blood and muscles of nose are lacerated.*
9. *Reddish abrasion present over the back of whole chest and also over upper 2/3rd of back of abdomen. It was present from side to side. On dissection there was blood in s/c tissue.”*

28. Furthermore, PW-1 also made a speaking in his examination-in-chief, that the cause of demise of the deceased was owing to shock and haemorrhage as a result of injuries (supra), which were stated to be ante mortem in nature, and, also sufficient to cause death in the ordinary course of nature.

29. However, the opinion recorded in the above post-mortem report, for the reasons (supra) but is not linked to the incriminatory role, as such the opinion qua the cause of demise of the deceased, as voiced in the post-mortem report (supra), is also inconsequential for returning a finding of



guilt against the accused-respondents.

Final order

30. Consequently, for the reasons assigned hereinabove, this Court finds no reason to interfere with the impugned verdict of acquittal, as made by the learned trial Court concerned. Accordingly, both the appeal as well as the revision petition are dismissed. The impugned verdict of acquittal, as made by the learned trial Court, is maintained, and, affirmed. 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. Personal, and, surety bonds, if any, furnished by the accused concerned, are ordered to be forthwith cancelled, and, discharged.

31. Records be sent down forthwith.

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

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

August 9th, 2024
Gurpreet

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