

In the High Court of Punjab and Haryana at Chandigarh

CRA-D-720-DB-2003 (O&M)

Reserved on: 23.7.2024

Date of Decision: 05.8.2024

Gurdip Singh

.....Appellant

Versus

State of Punjab

.....Respondent

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

Present: Mr. Harminder Singh Sidhu, Advocate
for the appellant.

Mr. Maninderjit Singh Bedi, Addl. A.G., Punjab.

Mr. K.B.Raheja, Advocate
for the complainant.

SURESHWAR THAKUR, J.

1. The instant appeal is directed against the impugned verdict, as made on 14.7.2003, upon Sessions Case No. 101 of 2000, by the learned Sessions Judge, Ferozepur, wherethrough in respect of charges drawn against the accused-appellant qua offence punishable under Sections 302 of the IPC, the learned trial Judge concerned, proceeded to record a finding of conviction against the accused-appellant. Moreover, through a separate sentencing order of even date, the learned trial Judge concerned, sentenced the convict to undergo life imprisonment for an offence punishable under Section 302 of the IPC, besides also imposed, upon the convict sentence of fine, comprised in a sum of Rs. 500/-, and, in default of payment of fine amount, he sentenced the convict to undergo rigorous imprisonment for a period of six months.

2. However, the period of detention undergone by the accused-appellant, 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.

Factual Background

3. The genesis of the prosecution case, becomes embodied in the appeal FIR, to which Ex P-8/B is assigned. As per the prosecution case, on 15.9.2000 two ruqas-one regarding arrival of Chiman Singh with injuries and the second Ex. P6 regarding his expiry in Trauma Ward, Civil Hospital, Ferozepore were received by SI Wassan Singh. Thereafter, the said SI Wasan Singh went to Civil Hospital Ferozepore, where he met Kakkan Singh, who made statement Ex. PB before him in the hospital, wherein he stated that he is the resident of village Peereke Uttar and do agricultural work. Their land is situated in the revenue estate of village Peereke Uttar on its northern side. His father Chiman Singh on the last night irrigated the paddy field with tubewell water. He went to his father in the fields to serve him tea. On that day, in the morning, he alongwith his father Chiman Singh were coming back towards their house through the Kacha Path after irrigating the paddy fields. When they reached near the fields of Mehal Singh son of Surain Singh of village Peerke Uttar in the area of village Peerke Uttar, while he was little behind of his father, Gurdip Singh son of Guddar Singh, Rai Sikh, resident of village Peerke Uttar met them. It was 9.00 A.M. in the morning at that time. Gurdip Singh, who was armed with Sota, abused his father, and, his father also abused him. Thereupon, Gurdip Singh accused attacked his father with sota in his hand, which landed on the head of his father on the temporal region on the left side. Thereafter Gurdip Singh inflicted two more injuries on the head of his father with the said sota on the temporal region on which, his father fell on the ground in the paddy

field. Thereafter, Gurdip Singh inflicted injuries with sota in his hand thrust-



wise on the eyes and nose of his father. Upon his raising alarm, one Chhina Singh son of Munsha Singh, who was working in the fields, came there. When they challenged accused Gurdip Singh, he escaped from the spot along with his sota. He further stated, that the motive to commit crime is that about one week ago, Gurdip Singh and his father had a dispute regarding some amount and Gurdip Singh had threatened him that he would teach a lesson to his father. He arranged a vehicle for his father and went to Civil Hospital, Jalalabad for treatment where the doctor declared the condition of my father serious and referred him to Civil Hospital, Ferozepore. He then arranged a jeep and took his father to Civil Hospital, Ferozepore and got him admitted there where after sometime his father succumbed to his injuries. On the basis of the said statement, the appeal FIR was registered.

Investigation proceedings

4. During the course of investigations, inquest report (Ex. P-2) was prepared. The investigating officer concerned, recorded the statements of Rajinder Singh and Lachhman Singh under the section 175 Cr.P.C. He also sent the dead body for post mortem examination alongwith police request Ex. P3 through LC-Jagir Singh, who after post mortem examination handed over the clothes worn by the deceased to SI Massan Singh. SI Wassan Singh converted the clothes (Ex. MO-2) into a parcel and sealed the parcel with his seal bearing letters 'WS' and took the same into police possession vide Memo Ex. P10. On return to the police station, SI Wassan Singh deposited the parcel with the MHC. On 16.9.2000 SI Wassan Singh visited the place of occurrence and prepared its rough site plan Ex. P11 with correct marginal notes. Accused Gurdip Singh was produced by Mohinder



Singh Sarpanch before SI Wassan Singh on 19.9.2000. Disclosure statement of the accused was recorded, and, in pursuance thereof, the accused got recovered the sota, which he used to commit the crime. 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

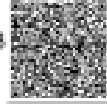
5. Since the offence under Section 302 of the IPC was exclusively triable by the Court of Session, thus, the learned committal Court concerned, through a committal order made on 6.12.2000, hence proceeded to commit the accused to face trial before the Court of Session.

Trial Proceedings

6. 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 the accused-appellant for the offence punishable under Section 302 of the IPC. The afore drawn charge was put to the accused, to which he pleaded not guilty, and, claimed trial.

7. In proof of its case, the prosecution examined 09 witnesses, and, thereafter the learned Public Prosecutor concerned, closed the prosecution evidence.

8. 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. Though, the accused chose to adduce defence evidence, however, he did not lead any witness into the witness box.



convict the accused-appellant for the charge(s) (supra), as became drawn against him, and, also as above stated, proceeded to, in the hereinabove manner, impose the sentence(s) of imprisonment, as well as of fine, upon the accused-appellant.

Submissions of the learned counsel for the appellant

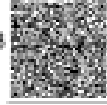
10. The learned counsel for the aggrieved convict-appellant has argued before this Court, that both the impugned verdict of conviction, and, the consequent thereto order of sentence, thus require an interference. He support the above submission on the ground, that they are based on a gross misappreciation, and, non-appreciation of evidence germane to the charge.

Submissions of the learned State counsel

11. On the other hand, the learned State counsel has argued before this Court, that the verdict of conviction, and, consequent thereto sentence(s) (supra), as become imposed upon the convict, are well merited, and, do not require any interference, being made by this Court in the exercise of its appellate jurisdiction. Therefore, he has argued that the instant appeal, as preferred by the convict-appellant be dismissed.

Reasons for dismissing the instant appeal

12. For the reasons to be assigned hereinafter the contentions (supra), as become raised before this Court, by the learned counsel for the appellant rather are unworthy of acceptance, and, thereby they are rejected. Consequently, finding no merit in the instant appeal, the same is hereby dismissed, and, the verdict of conviction, and, consequent thereto sentence of imprisonment, and of fine, as imposed upon the convict-appellant are maintained, and, affirmed.



**Analysis of the depositions of the eye witnesses to the occurrence,
who respectively stepped into the witness box as PW-5 and PW-6**

13. Complainant Kakkan Singh, stepped into the witness box as PW-5, and, in his examination-in-chief, he thus made an articulation, that on the fateful day, at about 9.00 A.M., he along with his deceased-father were going to their house after working in their fields. He further stated in his examination-in-chief, that when he was following his father, thereupon, accused-appellant Gurdeep Singh came from the opposite side, and, started abusing his deceased father. Thereafter, accused Gurdeep Singh gave sota (stick) blow on the left side of the head of his father. The accused-appellant gave two more sota (stick) blows to his father. When his father fell on the ground, thereupon the accused also inflicted injuries with sota (stick) on the eyes and nose of his deceased father. On the raising of alarm by the said witness, Chhina Singh reached at the spot. Thereafter the accused fled away from the spot along with the said sota (stick). In his examination-in-chief, the said witness has voiced a narrative, qua the genesis of the prosecution case, which is in complete tandem with his previously made statement, in writing, and, to which Ex.P8 becomes assigned. Though, he was subjected to the ordeal of a grilling cross-examination by the learned counsel for the accused, but he remained unscathed in the said ordeal.

14. Since a wholesome reading of his testification, as carried in his examination-in-chief, and, in his cross-examination, does not unfold, qua therein rather becoming carried any rife improvements or embellishments viz-a-viz his previously recorded statement, in writing, nor when his testification suffers from any further taint of its being ridden with any *intra se* contradiction, thus *intra se* his examination-in-chief, and, his cross-examination, therefore, utmost sanctity is to be assigned to his testification.



15. The depositions of PW-5 are supported by the deposition of the other eye witness to the occurrence, namely Chhina Singh, who stepped into the witness box as PW-6. The echoings occurring in the examination-in-chief of PW-6 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-5, and, PW-6 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, as aptly done by the learned trial Court concerned.

Signatures disclosure statement of convict-appellant
Gurdip Singh Ex. P-12

16. During the course of investigations, being made into the appeal FIR, convict-appellant Gurdip Singh, thus made his signed disclosure statement, to which Ex. P-12 becomes assigned. The signed disclosure statement, as made by the accused is *ad verbatim* extracted hereinafter.

“x x x x

I have kept concealed one sota in the northern side of village Peer ke Uttar, in the bank (fant) of river in Sarkandas after digging the earth, which is only known to me and can produce on pointing out.”

17. Pursuant to the above made signed disclosure statement, the convict-appellant ensured the recovery of sota (stick), which was taken into police possession, through recovery memo, to which Ex. P-13 becomes assigned.

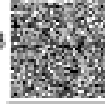
18. The disclosure statement (supra), carries thereons the signature, in Punjabi, of the convict-appellant. In his signed disclosure statement (supra), the convict-appellant, confessed his guilt in committing the crime



event, by inflicting fatal injuries on the deceased concerned, hence with the user of the incriminatory weapon of offence. The further speaking therein is qua his keeping, and, concealing the incriminatory weapon of offence, at the place concerned, and, qua his alone being aware about the location of his hiding and keeping the same, and, also revealed his willingness to cause the recovery of the incriminatory weapon of offence to the investigating officer concerned, thus from the place of his hiding, and, keeping the same.

19. The above disclosure statement, does acquire, the utmost evidentiary solemnity, as thereons exists the signature, in Punjabi, of the convict-appellant, which, however, he has neither ably denied nor proven the said denial. Moreover, the above confession of guilt is neither a bald nor a simpliciter confession, nor is hit by the bar, encapsulated in Section 25 of the Indian Evidence Act. The reason for drawing the above inference, ensues from the factum, that in pursuance thereof, through proven recovery memo Ex. P-13, the convict-appellant, thus caused the recovery of the incriminatory weapon of offence, to the investigating officer concerned.

20. Since the recovery of the incriminatory weapon of offence, as made through recovery memo Ex. P-13, has not been proven to be false or a contrived recovery, inasmuch as, it has not been cogently established, that prior to the making of the above recovery, rather the investigating officer concerned, had taken to plant the same at the apposite site of its recovery, nor when any cogent evidence becomes adduced rather vividly exemplifying, that the place of the apposite recovery rather was an open place, hence leaving scope for any person, other than the convict-appellant to place it there. Thus, the above recovery is not only to be concluded to be a validly made recovery, but is also to be concluded to be of the very same



causing the relevant fatal assault.

MLR of injured/deceased Chiman Singh

21. Dr. R.K.Singal, who medico legally examined the injured/deceased Chiman Singh, has stepped into the witness box as PW-2, and, during the course of his examination-in-chief, he has proven the MLR of the said injured, to which Ex. P4, is assigned. He has also proven the existence of the hereinafter extracted injuries on the person of injured Chiman Singh (since deceased).

- “1. 12 cm x 12 cm diffused swelling over left side of head.
Urgent x-ray and surgical opinion was advised.*
- 2. There was blackish swelling of both upper eye lids.*
- 3. There was profuse bleedings from both nostrils mouth and left ear. X-ray was advised.*
- 4. Lacerated wound 0.5 cm x 0.1 cm with profused bleeding 8 cm left ear on top of swelling in injury No. 1.*
- 5. Two abrasions reddish with oozing blood, 1.5 cm x 1 cm, 3 cm x 1 cm on top of swelling in injury No. 1.”*

22. All the above injuries were declared to be dangerous to life. The said witness has also opined that the duration of the injuries was within 24 hours, and, the injuries were caused by blunt weapon. He has also proved Ex.P-5, whereby information was sent to the SHO concerned regarding the arrival of the said injured in the hospital concerned, and, also proved Ex. P-6 whereby information was sent to the SHO concerned, regarding the death of the said injured. The said witness was also shown the sota (stick), to which Ex. MO-1 is assigned, whereupon he stated, that the injuries on the person of the injured could be possible with user of Ex. MO-1.

Post-mortem report

23. The post-mortem report, to which Ex. P1 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 Chiman Singh, thus his noticing thereons the hereinafter ante mortem injuries-

“1. Swelling 12 cm x 2 cm on left side of head with overlying lacerated wound .75 x .25 cm over the swelling 8 cm from pinna adjoining to this wound there were two abrasions 1½ cm x 1 cm and 2 cm x 1 cm.

On dissection a haematoma was present just below scalp. There was depressed stellate and comminuted fracture of left parietal, left temporal, frontal and occipital bone of skull. There was subdural haematoma was present. Membranes and brain were damaged on left side, corresponding to fracture. Surrounding tissues was infiltrated with clotted blood.”

24. Furthermore, PW-1 also made a speaking in his examination-in-chief, that the cause of demise of the deceased was owing shock and haemorrhage as a result of injuries to brain, which were stated to be ante mortem in nature, and, also sufficient to cause death in the ordinary course of nature. The witness in his cross-examination also deposed that the injury on the head of the deceased could be the result of single forcible blow over the skull.

25. The above made echoings by PW-1, in his examination-in-chief, became never challenged through any efficacious cross-examination, being made upon him, by the learned defence counsel. Therefore, the opinion, as made by PW-6 qua the demise of the deceased thus acquires formidable force. Consequently, the above echoings, as made by PW-1, in his examination-in-chief, do relate, the fatal ante-mortem injuries to the time of the crime event hence taking place at the crime site.

26. Thus, conjoint readings of the report of the doctors concerned, who respectively proved the apposite MLR, and, of the post-mortem report



disclosure statement (Ex. P-12) as made by the convict-appellant, and, also with the consequent thereto made valid recovery through recovery memo (Ex.P-13), does therebys foster an inference, that therebys there is *inter se* corroboration *inter se* the ocular account with the medical account, besides with the memos supra. In summa, this Court finds no gross perversity or absurdity in the appreciation of the adduced relevant evidence, as became made by the learned trial Judge concerned.

Final order

27. The result of the above discussion, is that, this Court does not find any merit in the instant appeal, and, is constrained to dismiss it. Consequently, the appeal is dismissed. The impugned verdict of conviction, as becomes recorded upon the convict-appellant, by the learned convicting Court, is maintained, and, affirmed. Moreover, the consequent thereto order of sentence is also affirmed. If the convict is on bail, thereupon, the sentence as imposed upon him, be ensured to be forthwith executed by the learned trial Judge concerned, through his drawing committal warrants. 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.

28. Records be sent down forthwith.

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

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

August 5th, 2024
Gurpreet

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