



**In The High Court for the States of Punjab and Haryana
At Chandigarh**

I **CRA-D-240-DB-2004 (O&M)**
Date of Decision:- 29.05.2025

Naib Singh ... Appellant

Versus

State of Punjab ... Respondent

II **CRR-110-2006 (O&M)**

Bikramjit Singh ... Petitioner

Versus

Mohinder Singh ... Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Prabhdeep Singh Dhaliwal, Advocate,
Amicus Curiae, for the appellant in CRA-D-240-DB-2004.

Mr. Anmol Jeevan Singh Gill, Advocate,
Amicus Curiae, for the petitioner in CRR-110-2006.

Mr. Siddharth Attri, AAG, Punjab.

None for the respondent in CRR-110-2006.

GURVINDER SINGH GILL, J.

1. This judgment shall dispose off the above mentioned appeal and a criminal revision petition, as both are directed against the same very judgment dated 28.08.2003 passed by learned Additional Sessions



Judge, Ferozepur whereby the learned trial Court while acquitting accused-Mohinder Singh, has convicted and sentenced appellant-Naib Singh is as under:-

Section	Sentence
302 IPC	To undergo life imprisonment and to pay a fine of Rs.5000/- and in default thereof to further undergo rigorous imprisonment for a period of two years
27 Arms Act	To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.2000/- and in default thereof to further undergo rigorous imprisonment for a period of six months

2. The matter arises out of FIR No. 02, dated 03.01.2002, Police Station Mallanwala, District Ferozepur, under Section 302, 120-B IPC and Section 25/27 of Arms Act (Ex.PA/2), lodged at the instance of Bikramjit Singh. The translated gist of statement (Ex.PA) of Bikramjit Singh leading to FIR reads as under:

“I am resident of village Jattanwali. We are two brothers and one sister. I am Matriculate. My father Mohinder Singh son of Mehanga Singh was working as Secretary in Cooperative Society Limited Ashia Ke Jallawala. Today, when I and my mother were coming back to village Jattanwali after paying obeisance at Baba Tahli Peer, then we met my father who was coming on a scooter along with Kartar Singh from Makhu side. My father stopped the scooter and inquired from us as to from where we were coming. My father thereafter walked towards the canal and started urinating. It was about 4.30 pm. At that time, Naib Singh salesman came from the side of Makhu on a motorcycle, armed with a double barrel 12 bore gun and fired shots at my father Mohinder Singh after stopping his motorcycle. One of the shots hit my father near his left ear and my father fell down at the spot. I and my mother raised alarm ‘*maar ditta, maar ditta*’. Naib Singh fled away from the spot on his motorcycle towards Makhu along with his gun. My father died at the



spot. Naib Singh who had been working with my father in the society had committed huge embezzlement and was nursing a grudge against my father. Inspector Mohinder Singh was Incharge at that point of time. Naib Singh had been suspended due to embezzlement and the entire record of embezzlement was in the custody of my father and my father used to produce the record before the officers. We strongly believe that the murder has been committed in connivance with Inspector Mohinder Singh. After leaving my mother and Kartar Singh near the dead body of my father I proceeded to village Jattanwali when Ajit Singh, Sarpanch resident of Butewala met me at bus stand. I have narrated the entire story to him and both of us were proceeding to the police station when you met me. I have got my statement recorded. Action be taken.

Sd/-
Bikramjit Singh
03.01.2002”

3. The aforesaid statement (Ex.PA), recorded by SI Lakhwinder Singh (PW-8), led to lodging of formal FIR (Ex.PA-2). SI Lakhwinder Singh proceeded to the spot from where two empty cartridges were recovered and taken into possession. Blood stained soil was also collected from the spot. A rough site plan of the place of occurrence was prepared. Inquest proceedings were conducted and the dead body was sent to the hospital for post mortem examination.
4. It is the case of prosecution that on 07.01.2002 when a police party was holding “*nakabandi*” on the bridge of Gurditiwala, then Naib Singh came there on a motorcycle and was stopped and checked. He was found to be carrying a 12 bore gun on his shoulder. Naib Singh could not produce any licence regarding the gun and was consequently arrested. The gun was taken into possession. Co-



accused Mohinder Singh was formally arrested on 02.02.2002 when he appeared before the Investigating Officer and produced an order granting anticipatory bail to him. Upon conclusion of investigation challan was presented against both the accused in the Court of learned Judicial Magistrate 1st Class, Zira on 09.02.2002 who committed the case to the Court of Sessions vide order dated 19.03.2002. Learned Additional Sessions Judge, Ferozepur framed charges against both the accused on 11.4.2002 for offence under Section 302/120-B IPC. The accused Naib Singh was additionally charged for offence under Section 27 of Arms Act to which the accused pleaded not guilty and claimed trial.

5. The prosecution in order to substantiate its case examined as many as 12 PWs. The gist of their testimonies is referred to herein under:-

PW-1 Vikram Singh (complainant) at whose instance the FIR was lodged narrated the occurrence in the same manner as got recorded by him in his statement (Ex.PA) leading to lodging of FIR.

PW-2 Joginder Kaur, widow of deceased-Mohinder Singh who is also an eye witness has also narrated the occurrence in the same manner as was got recorded in the FIR by her son Bikramjit Singh. She has categorically stated that on the day of occurrence when she along with her son was returning back to their village at about 4.30 pm, then her husband Mohinder Singh met them on the way and while he went towards the canal for urinating, Naib Singh came there on a



motorcycle with a double barrel gun and fired at her husband leading to his death.

PW-3 Krishan Lal, Draftsman, who had prepared a scaled site plan of the place of occurrence, proved the same as Ex.PC.

PW-4 Head Constable Balbir Singh tendered his affidavit Ex.PD in evidence wherein he deposed that on 03.01.2002 he was posted as MHC at Police Station Mallanwala and that on the said day SI Lakhwinder Singh had deposited plastic box containing empty cartridges of 12 bore and another two plastic boxes containing blood stained soil. He further deposed that the above said parcels were handed over to HC Jaswant Singh on 06.01.2002 for depositing the same in the office of Forensic Science Laboratory, Chandigarh which were deposited in FSL, Chandigarh on 07.01.2002. PW-4 further deposed that on 07.01.2002 SI Lakhwinder Singh deposited 12 bore small double barrel gun along with 10 live cartridges of 12 bore which he had handed over to HC Jaswant Singh on 17.01.2002 for depositing the same in the office of FSL, Chandigarh and he deposited the said case property in the office of FSL, Chandigarh on 18.01.2002. He further deposed that as long as the aforesaid parcels remained in his possession, the same were not tampered with.

PW-5 Dr. Nirmal Dass, Senior Medical Officer, Civil Hospital, Zira who had conducted the post mortem examination on the dead body of Mohinder Singh son of Mehanga Singh proved the post mortem



report as Ex.PE and opined that the cause of death was laceration of heart and both lungs as a result of injury No.1.

PW-6 Sukhwinder Singh stated that deceased-Mohinder Singh was known to him who was Secretary of Cooperative Society Limited Ashia Ke Jallawala, but he had never seen him writing or signing and nor had he received any letter written by him and that he could not recognize his writing. The witness was declared hostile and was permitted to be cross-examined by the prosecution.

PW-7 Joginder Kumar, Clerk, Office of SDM, Zira produced the record pertaining to registration of vehicle bearing registration No.PB-47-A-1138 and stated that the same was registered in the name of Ravinder Singh son of Mohinder Singh.

PW-8 SI Lakhwinder Singh who is the Investigating Officer in the present case stated in detail with regard to the entire investigation conducted in the matter right from lodging of the FIR upto the filing of challan. He proved various documents and memos prepared during the course of investigation.

PW-9 Head Constable Kuldip Singh tendered his affidavit Ex.PX in evidence wherein he deposed that on on 03.01.2002 he was posted at Police Station Mallanwala and on said day SI Lakhwinder Singh handed over to him the dead body of Mohinder Singh for getting post mortem examination conducted and that after the same was conducted he handed over the dead body to heirs.



PW-10 ASI Bachan Singh stated that on 03.01.2002 when he along with SI Lakhwinder Singh and other police officials was present at bus stand Mallanwala, Bikramjit Singh (complainant) along with Ajit Singh had come there and got his statement recorded before SI Lakhwinder Singh. He further stated that after recording the statement, he along with SI Lakhwinder Singh went to the place of occurrence from where empty cartridges were recovered. He stated about the investigation conducted in the matter, while corroborating the statement made by SI Lakhwinder Singh (PW-8).

PW-11 Head Constable Jaswant Singh tendered his affidavit Ex.P-22 (Ex.PY) in evidence wherein he deposed that he was posted at Police Station Mallanwala and that on 03.01.2002 SI Harbans Singh handed over special reports to him for delivering the same to learned Magistrate Zira and to other higher officers and he accordingly delivered the same day. PW-11 further deposed that on 06.01.2002 MHC Balbir Singh handed over him one sealed plastic box containing empty cartridges of 12 bore and two more parcels and directed him to deposit the same to FSL and he accordingly accordingly deposited aforesaid sealed parcels in the office of FSL, Chandigarh on 07.01.2002. PW-11 further deposed that on 17.01.2002 MHC Balbir Singh handed over him a sealed parcel of double barrel gun of 12 bore and 10 live cartridges of 12 bore for depositing the same to office of FSL, Chandigarh and he deposited the said sealed parcels to the office of FSL, Chandigarh on 18.01.2002. He further deposed



that as long as the aforesaid parcels remained in his possession the same were not tampered with.

PW-12 Inspector Harbans Singh stated that he was posted as Inspector Cooperative Societies at Bharwali Focal Point, Zira and that in the month of August, 2001 he was having additional charge of Cooperative Societies The Ashie Ke Jallewala Society and that previously accused Mohinder Singh was Incharge of said Cooperative Society and Naib Singh was salesman. PW-12 stated that he had detected an embezzlement of Rs.5,88,269/- and had accordingly made his report and enquiry was conducted, pursuant to which the case was even sent for lodging of FIR. He stated that at that point of time deceased-Mohinder Singh was the Secretary of the said Society. He further stated that on 31.12.2001 a “party” had been hosted on account of retirement of Bhima Ram Garg, Assistant Registrar, Cooperative Society at Zira, where he was present along with deceased-Mohinder Singh and both the accused had also attended the party and that he had heard Mohinder Singh (accused) telling Naib Singh that they (deceased) should not be allowed to go unharmed and that Naib Singh should kill Mohinder Singh (deceased).

6. The prosecution tendered into evidence report of the FSL as Ex.P-24, P-25 and P-26 and closed its evidence. Upon conclusion of prosecution evidence, the entire incriminating evidence was put to the accused in terms of Section 313 Cr.P.C. to enable them to explain the same, but the accused denied the entire prosecution case in toto and



pleaded false implication. The accused in their defence examined one DW namely Vijay Kumar, Superintendent, Office of Deputy Registrar, Cooperative Societies, Ferozepur who produced the summoned record pertaining to a charge-sheet prepared against Mohinder Singh (accused), list of witnesses and some other documents. He stated that police vide letter dated 04.09.2002 had asked for copy of charge-sheet framed against Mohinder Singh to which their office had replied that since charge-sheet so framed had not been served upon Mohinder Singh (accused) so far, therefore, no inquiry was pending against him. He stated that Inspector Harbans Singh was not on speaking terms with accused Mohinder Singh and that Harbans Singh, Smt. Rajinderpal Kaur, Junior Assistant and Janak Raj Sharma, Junior Assistant had been cited as witnesses in the list of witnesses.

7. The trial Court upon marshaling the evidence on record returned its findings to the effect that while charges against Mohinder Singh could not be established, the case of prosecution stood fully proved against Naib Singh qua offence punishable under Section 302 IPC and offence under Section 27 of Arms Act, vide impugned judgment dated 28.08.2003.
8. Learned counsel for the appellant while assailing the impugned judgment submitted that it is in fact a case of blind murder wherein the accused has been falsely implicated and that both the eye-witnesses namely PW-1 Vikram Singh and PW-2 Joginder Kaur are



interested witnesses being son and wife of the deceased. It has been submitted that the manner in which the accused is said to have been arrested and that too while carrying a 12 bore gun is highly improbable inasmuch as in case the accused had really killed the deceased he would not be carrying the gun on his shoulder three days after the occurrence in question. Learned counsel further submitted that the medical evidence is also not in tune with the case of prosecution inasmuch as the medical evidence suggests that the fire-arm shots had been fired from a higher level as evident from the trajectory of the shots and the pellets found in the dead body. Learned counsel further submitted that the ownership of the gun is also not fully established inasmuch as it is one Pardeep who is the owner of the gun in question and for reasons best known to the prosecution, it has not chosen to examine said Pardeep. Learned counsel for the appellant thus prayed for setting aside the impugned judgment and for acquittal of the accused.

9. On the other hand learned State counsel while opposing the appeal submitted that it is a case based on direct evidence wherein both the eye-witnesses have stated consistently regarding the occurrence and that the ocular version set forth is duly established by the medical evidence leaving no manner of doubt as regards the fact that it is appellant-Naib Singh who had fired at the deceased leading to his death.



10. Learned counsel representing petitioner-Bikramjit Singh (complainant) in (CRR-110-2006) submitted that it is a case where even co-accused Mohinder Singh ought to have been convicted since the deceased had in fact been murdered at the instance of accused-Mohinder against whom proceedings regarding embezzlement of funds of the Cooperative society had been initiated which was being pursued by the deceased who was a Secretary of the Cooperative Society Limited Ashia Ke Jallawala. Learned counsel for the petitioner thus submitted that having regard to the motive which lay with accused-Mohinder Singh, his connivance with Naib Singh is evident from the evidence led by the prosecution and as such accused-Mohinder Singh be also held guilty and be sentenced.
11. This Court has considered rival submissions and has also perused the record of the case.
12. It is apposite to first of all to examine the medical evidence to find out as to whether the same is consistent with the case of prosecution as regards the cause of death. It is the specific case of the prosecution that the accused had fired shots from 12 bore double barrel gun hitting the deceased leading to his death. PW-5 Dr. Nirmal Dass who had conducted the post mortem examination on the dead body of Mohinder Singh described the injury found on the dead body and as under:

“1. a lacerated wound 11.0x5.5cm size oval in shape vertically with inverted margine was present on the left side of face, 3cm in front of



the tragus of the left ear, 2cm above the angle of the mandible and extending upto the temporal region of the head the upper margin being 4cm from the outer angle of the left eye. Clotted blood was present. No blackening, tattooing and scorching was present. The abrasion collar was present on the upper and upper 1/3rd of the posterior margin of the wound on dissection the injury had penetrated into the both plural cavities and the left ventricle of the heart after injuring/fracturing and lacerating the intervening structures through and through that is skin subcutaneous tissues of left side neck and temporal region, fracturing the left part of the mandible and maxilla into multiple pieces, lacerating the carotid and jugular vessels of the left side of neck and soft tissues, the orechia and lower part of the esophagus both left and right pleurae, media stinum, both the lungs, the great vessel of heart the parcardium and the heart the left second rib found fractured at the coscochondral junction, The 7th rib on the back of right side of chest was found fractured at the junction of upper 1/3rd with its lower 23rd both the pleural cavities contained 900cc of fluid and clotted blood. The heart was found empty two wads were removed one each from the soft tissues of the left side of neck and the Parwnxhyma of the right lung. Five matalic pieces were removed. i.e. one from the upper part of the right lung, two from the upper and middle part of the left lung, one from the venticle of the left side of heart and one from the soft tissues of the left side of the neck. Clotted blood was present in the tracks of wounds. After removing the wads and matalic pieces these were packed levelled and sealed in the glass vital containing cotton wool duly signed bearing one seal and handed over to the police.”

13. A perusal of the aforesaid description of injury clearly points out that the said injury had been inflicted with a fire-arm inasmuch as not only several of the ribs were found fractured, but as a matter of fact five metallic pieces were also removed from the lungs, heart and neck which is in tune with the case of prosecution that the shot was fired



from a 12 bore gun. During the course of cross-examination questions were put to the said witness regarding the shot having been fired from some distance to which the witness replied that the possibility of the shot having been fired from a distance of more than 9 feet cannot be ruled out. He further stated that the shot must have been fired from a higher level from the place where the deceased was. PW-5 however, specifically opined that the cause of death was laceration of heart and both the lungs, as a result of injury No.1.

14. The aforesaid evidence is absolutely in tune with the case of prosecution regarding death having been caused with a fire-arm shot from 12 bore gun. A 12 bore cartridge is filled with pellets which explains the multiple fracture of ribs and presence of metallic objects in the lungs, heart etc. The contention of learned counsel for the appellant regarding shot having been fired from a higher level, based on the opinion of the doctor, would not merit acceptance as against the crisp and consistent testimony of the eye-witnesses particularly when it is not even known as to whether the place from where the gun shot was fired and the place where the deceased was urinating by the side of the canal was the same or as to whether the deceased was urinating while standing or in a squat position. It is well settled that a firm ocular version cannot be doubted merely on account of some suggestive opinion of a doctor. As already noticed above, it is a case where the factum of death by a gun shot stands fully established from medical evidence as even the metallic objects were found in the



lungs, heart and neck of the dead body. As such the opinion of the doctor that the shot had been fired at from a higher level would not demolish the case of the prosecution.

15. Learned counsel for the appellant has mainly stressed on his contention that it is a case of blind murder and that the accused has been falsely implicated on the basis of testimonies of interested witnesses. We find that the eye-witnesses are indeed closely related to the deceased being his son and wife, but at the same time their presence at the spot cannot be doubted merely because they are related to the deceased. Further, the fact that there is no such delay between the occurrence and the time when the FIR was lodged, hardly leaves any room for discarding the complainant's version inasmuch as while the occurrence is stated to have taken place at about 4.30 pm, the matter came to be reported to the police by 6.15 pm. As per the version recorded in the FIR, accused-Naib Singh had come on a motorcycle armed with a double barrel gun and had shot at the deceased while the deceased was urinating by the side of the canal. While Bikramjit Singh (complainant) and his mother were returning to their village after paying obeisance at Baba Tahli Peer on 03.01.2002 being a Thursday, the deceased had met them on the way while coming on a scooter and after meeting he had walked towards the canal to urinate when he was shot. PW-1 Vikram Singh (complainant) while in the witness box has stated absolutely in conformity with the FIR. Similarly, PW-2 Joginder Kaur who was



accompanying PW-1 Vikram Singh (complainant) also stated about the occurrence in the same very manner. Both the witnesses were cross-examined at length, but nothing substantial could be elicited during the course of their cross-examination so as to doubt their credibility in any manner. The specific motive attributed for causing death is that while the deceased was working as Secretary in Cooperative Society Limited Ashia Ke Jallawala, accused Naib Singh was a salesman and accused Mohinder Singh was the Incharge and that Naib Singh had embezzled a huge amount in respect of which inquiry had been initiated wherein the deceased used to produce record of the society before authorities concerned. PW-12 Harbans Singh, Inspector, Cooperative Society, has stated about said embezzlement of Rs.5,88,269/- in respect of which proceedings were conducted against them and a case was even sent for lodging of FIR.

16. While, the testimony of PW-12 does point towards a possible motive with accused-Mohinder Singh who is stated to have connived with co-accused Naib Singh, but given the fact that he was not present at the spot and it was only Naib Singh who was present and had fired at the deceased and there is no other evidence to establish any connivance or conspiracy between the two accused, this Court finds that acquittal of Mohinder Singh cannot be called to question and he deserves to be given a benefit of doubt. However, the testimonies of the two eye witnesses and the medical evidence which is in tune with



the ocular version demolishes the contention of appellant-Naib Singh that he has been falsely implicated.

17. Still further, two empty cartridges which were collected from the spot on the day of occurrence itself were sent for ballistic opinion and as per the report of FSL (Ex.P-26), the said two cartridges had been fired from the gun which was recovered from the accused. Further, even the blood stained soil collected from the spot was found to be stained with human blood. The recovery of gun from the accused at the time when he was arrested by the police on a *naka* and the report of the FSL to the effect that the empty cartridges recovered from the spot had been fired from that very gun fully nails the guilt of the accused particularly when the eye witnesses and the medical evidence is also consistent to the same effect. Consequently, we do not find any ground to interfere with the findings of the trial Court as regards the commission of offence punishable under Section 302 IPC by accused Naib Singh. Since, the gun recovered from the accused was not in his name and has been used for commission of murder of deceased-Mohinder Singh, the conviction of appellant-Naib Singh for offence punishable under Section 27 of Arms Act also deserves to be upheld.
18. As an upshot of the discussion made above, the revision petition filed by complainant challenging acquittal of accused-Mohinder Singh is dismissed. Even the appeal filed by appellant-Naib Singh challenging his conviction for offences punishable under Section 302 IPC and Section 27 of Arms Act is dismissed.



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19. Accused-Naib Singh be arrested to undergo the remaining part of sentence. Case property be destroyed as per rules after expiry of limitation for filing appeal or revision, as the case may be. A copy of this judgment be sent to quarters concerned for necessary compliance.
20. A photocopy of this order be placed on the connected case.

(GURVINDER SINGH GILL)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

29.05.2025
Mohan

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No