



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

I **CRA-D-79-DB-2004 (O&M)**
Date of Decision:- 13.05.2025

Balbir Singh and another ... Appellants

Versus

State of Punjab ... Respondent

II **CRA-D-633-DBA-2004 (O&M)**

State of Punjab ... Appellant

Versus

Jagjit Singh and others ... Respondents

III **CRR-962-2004 (O&M)**

Ranjit Singh ... Petitioner

Versus

Jagjit Singh and others ... Respondents

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

Present:- Mr. Ankur Bali, Advocate,
for appellant No.1-Balbir Singh @ Yamla,
in CRA-D-79-DB-2004.

Mr. Ankur Bali, Advocate, Amicus Curiae,
for appellant No.2-Gurmail Singh @ Tota,
in CRA-D-79-DB-2004.



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Mr. Siddharth Attri, AAG, Punjab.

Mr. Narinder Singh, Advocate,
for respondent No.1-Jagjit Singh in CRA-D-633-DBA-2004
and CRR-962-2004.

Mr. Arshdeep Singh Cheema, Advocate, Amicus Curiae,
for respondents No.2 & 3 in CRA-D-633-DBA-2004
and CRR-962-2004.

Mr. A.P.S.Deol, Senior Advocate with
Mr. Himmat Singh Deol, Advocate,
for the petitioner/victim in CRR-962-2004.

GURVINDER SINGH GILL, J.

1. This judgment shall dispose off the above mentioned two appeals and a criminal revision as all three of them arise out of the same very judgment i.e. judgment dated 06.12.2003 and order dated 08.12.2003 passed by learned Additional Sessions Judge, Bathinda. The convicted accused namely Balbir Singh @ Yamla and Gurmail Singh @ Tota assail their conviction having been held guilty and sentenced as under:-

Section	Sentence
302 IPC	To undergo rigorous imprisonment for life and to pay a fine of Rs.5000/-. In default of payment of fine, they shall have to further undergo rigorous imprisonment for one year
201 IPC	To undergo rigorous imprisonment for five years and to pay a fine of Rs.2000/-. In default of payment of fine, they shall have to further undergo rigorous imprisonment for four months
323/34 IPC	To undergo rigorous imprisonment for 9 months

2. On the other hand, the State in its appeal i.e. CRA-D-633-DBA-2004 challenges acquittal of Jagjit Singh @ Jattu, Gora Singh son of



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Karnail Singh and Amarbir Singh. Ranjit Singh in his criminal revision i.e. CRR-962-2004 also assails acquittal of three accused namely Jagjit Singh @ Jattu, Gora Singh son of Karnail Singh and Amarbir Singh.

3. The matter arises out of FIR No. 40, dated 22.5.2000, Police Station Phul, District Bathinda (Ex.PK/2), lodged at the instance of Amarjit. The translated gist of the statement (Ex.PK) leading to FIR reads as under:

“I am a resident of village Gumti Kalan and I am an agriculturist. We are four brothers. I am the eldest and younger to me is Jagjit Singh and Balbir Singh and the youngest is Gurmail Singh. My father resides with my brother Balbir Singh and all four of us (brothers) are residing separately. My case regarding partition of land is pending against my brothers. Proceedings under Section 107/151 Cr.P.C. are also pending in the Court of SDJM, Phul wherein I and Gurdeep Singh son of Ujaggar Singh are pitted against my other brothers. The said matter was fixed today in the Court. To attend the Court, I and Ranjit Singh son of Gurdeep Singh were proceeding on a scooter wherein Ranjit Singh was sitting on the pillion seat. Gurdeep Singh and Gurdial Singh were accompanying us on another scooter wherein Gurdial Singh was sitting on the pillion seat. We were all proceeding to Phul. At about 9:30 AM, when we reached near the canal bridge situated on Phul/Salabatpura main road, then my brother Tota Singh @ Gurmail Singh carrying an ‘axe’, Jagjit Singh armed with a ‘sword’ and Balbir Singh armed with a handle of pump accompanied by Amarbir Singh who was carrying a .12 bore double barrel gun came from



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the opposite side. Amarbir Singh raised a *lalkara* exhorting his companions that we be not spared. Tota Singh @ Gurmail Singh inflicted a blow with axe on the chest of Gurdeep Singh as a result of which he fell down. Balbir Singh gave two blows with handle of pump one on my left hand and another on my left elbow due to which I fell off my scooter. While I was lying on the ground Yamla @ Balbir Singh inflicted a blow with a handle on my left leg and left arm. We all grappled with each other. Amarbir Singh raised a *lalkara* telling us to go back failing which he will fire a shot. Being scared we retraced back. Balbir @ Yamla, Tota @ Gurmail and Jagjit Singh @ Jattu threw Gurdeep Singh in the canal by dragging him and thereafter all the four accused fled away from the spot in the Maruti vehicle belonging to Jagjit Singh, which was being driven by Gora Singh son of Karnail Singh. Gurdeep Singh, who had been thrown in water would have surely died. The motive behind the occurrence is partition of land amongst the brothers. Gurdeep Singh had been helping me. About 1 ½ years back Ranjit Singh son of Gurdeep Singh had caused injury to Tota Singh in respect of which a case is pending in the Courts. The accused, on account of the said grudge had murdered Gurdeep Singh with an intention to kill him and after causing injuries to him had thrown him in the water canal and had also inflicted injuries to us. Ranjit Singh etc. went to the village for intimating others about the occurrence. I was got admitted in hospital at Rampura by Kuldeep Singh, Panch who had come there. I am being treated at the hospital by doctor. I have heard my statement which is correct. Action be taken.

Sd/-
Amarjit Singh”



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4. It was pursuant to an intimation sent by the hospital authorities to the police station regarding admission of injured that SI Amritpal alongwith ASI Rajinder Singh went to the hospital and recorded statement of Amarjit Singh at about 1:30 pm on 22.5.2000. SI Amritpal Singh (PW-11) along with other police officials visited the place of occurrence from where two scooters which were lying on the ground were taken into possession. Rough site plan of the place of occurrence was prepared. Statement of witnesses were recorded. The dead body was recovered on 24.5.2000. Inquest proceedings were conducted. Post mortem examination was got conducted on the dead body. On 31.5.2000 all the accused except Amarbir Singh were arrested.
5. Upon completion of investigation, a challan was presented in the Court of learned Sub Divisional Judicial Magistrate, Phul on 21.8.2000, who committed the case to the Court of Sessions vide order dated 14.09.2000. Charges were framed against all the accused for offence punishable under Sections 148, 302/149, 323/149, 201, 506/149 IPC and Section 27 of Arms Act by learned Additional Sessions Judge, Bathinda on 16.11.2000, to which accused pleaded not guilty and claimed trial.
6. The prosecution in order to substantiate its case examined as many as 11 PWs. The gist of their testimonies is referred to herein under:-



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PW-1 Dr. Krishan Gopal, EMO, Civil Hospital, Rampura, Phul stated that on 25.5.2000 he had conducted post mortem examination on the dead body of Gurdeep Singh and that the features had become bloated and distorted and skin had blackened and was peeled off at many places and maggots were crawling over the face. He recorded the injuries found on the dead body and opined that the cause of death was haemorrhage and shock and that injury No.1 on the brain was sufficient to cause death in ordinary course of nature.

PW-2 Dr. Davinderpal Bansal, stated that on 22.5.2000 he had medico legally examined Amarjit Singh. PW-2 described five injuries found on the person of Amarjit Singh. He stated that while injury Nos.2 and 3 were simple injuries, the remaining injuries were kept under observation. He was shown the handle of pump and asked to opine as to whether the injuries could be caused with the same to which he answered affirmatively.

PW-3 Jaswinder Kaur, Ahlmad, produced the summoned record pertaining to civil suit titled as Baba Moti Ram Vs. Gram Panchayat and proved a certified copy of the plaint as Ex.PJ.

PW-4 Amarjit Singh (complainant) narrated the incident in the same manner as he had stated to the police on the basis of which FIR had been lodged.



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PW-5 Ranjit Singh who is an eye witness stated that deceased Gurdeep Singh was his father and that security proceedings were going on between his father and Amarjit Singh on one side and the accused Jagdeep Singh on the other side. He stated that on 22.5.2000 he along with Amarjit Singh was proceeding to the office of SDM on scooter and they were also accompanied by Gurdeep Singh and Gurdial Singh who were going on another scooter. He stated that they were waylaid by the accused on the bridge of canal in the area of Phul. He has described the occurrence identically as narrated by the complainant.

PW-6 Head Constable Balwant Singh tendered his affidavit Ex.PR in evidence wherein he stated that on 24.5.2000 he was associated with the investigation along with SI Amritpal Singh SHO. He deposed with regard to getting the post mortem examination conducted and also as regards the inquest proceedings.

PW-7 Balwinder Singh stated that Gurdeep Singh was his uncle who was murdered on 22.5.2000 and his dead body had been thrown in canal. He stated that on 24.5.2000 he along with Bhupinder Singh, Gurtej Singh and Randhir Singh were looking for the dead body which was found in the canal area of village Mehraj. He stated that while leaving Gurtej Singh and Randhir Singh at the spot he went to the police station to inform about the recovery. He stated that he



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identified the body before the police and that the dead body was fished out and was photographed.

PW-8 ASI Rajinder Singh stated that on 22.5.2000 while he was posted at Police Station Phul, he had received telephonic message to the effect that Amarjit Singh was admitted in Civil Hospital Rampura and upon receipt of same he along with SI Amritpal Singh and other police officials went to the Civil Hospital Rampura where statement of Amarjit Singh was recorded leading to registration of FIR. He further stated that he remained associated with investigation of the case and has stated with regard to the investigation conducted in the matter. He specifically stated with regard to the disclosure statement made by accused Jagdeep Singh leading to recovery of sword and also with regard to disclosure statement made by Balbir Singh leading to recovery of handle of hand pump and also with regard to interrogation of Gurmail Singh and his disclosure statement leading to recovery of '*kulhari*' (axe).

PW-9 Head Constable Krishan Singh who is a formal witness produced the copy of FIR No.85 dated 28.10.1998 and proved a copy of the said FIR as Ex.PQ.

PW-10 DSP Surjit Singh Khosa, stated that on 29.5.2000 the investigation of the case was entrusted to him. He stated that on the said day he along with PW Balwinder Singh went to the house of Jagjit Singh accused where they met his wife. He stated that a car



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bearing registration No.PB-10-3010 was found parked in the house and that on search of the car, its registration certificate and two affidavits (photo copies) were taken into possession as Ex.P-7, P-8 and P-9. He further stated that on 01.06.2000 he had interrogated accused Jagdeep Singh, Balbir Singh and Gurmail Singh who made separate disclosure statements and got recovered a 'kirpan', handle of pump and axe.

PW-11 SI Amritpal Singh stated that on 22.5.2000 he was posted at Police Station Phul and upon receipt of an intimation from Civil Hospital, Rampura regarding admission of Amarjit Singh he along with ASI Rajinder Singh and other police officials went to the hospital and recorded the statement of Amarjit Singh which was taken down in writing by ASI Rajinder Singh on his dictation. He further stated with regard to the investigation conducted by him in the matter including proceedings conducted at the spot. He further stated that on 31.5.2000 all the accused except Amarbir Singh were arrested and that upon completion of investigation the challan had been presented.

7. 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. Accused Jagjit Singh stated therein that he had been falsely implicated at the instance of his brother Amarjit Singh and Ranjit Singh because Ranjit Singh



and his father Gurdeep Singh were facing trial for causing injuries to his brother Balbir Singh and the complainant suspected that he (Jagjit Singh) was supporting Balbir Singh. He further stated that Gurdeep Singh fell in the canal as his scooter had skidded and that Ranjit Singh and Amarjit Singh were not with Gurdeep Singh at the time of occurrence. Accused Balbir Singh raised a plea that he has been falsely implicated by Amarjit Singh complainant who is inimical towards him and his brothers because he (Jagjit Singh) was assisting his mother in cultivation of her share of land which was about 22 acres and the proceeds of which were being given to him (Jagjit Singh) by his mother. He further stated that his father used to give the entire income of 22 acres to his brother Balbir Singh and that the complainant was cultivating only 8 ½ acres of land. He further stated that PW Ranjit Singh was inimical towards him on account of another criminal case pending against him. Jagjit Singh stated that Gurdeep Singh had fallen in the canal on account of skidding of his scooter. He further stated that Ranjit Singh and Amarjit Singh were not accompanying Gurdeep Singh. Accused Amarbir Singh stated that he has falsely implicated as he was an eye witness in a case registered against Ranjit Singh (PW-5) and his father Gurdeep Singh (deceased).

8. The accused in their defence examined as many as 4 DWs. The gist of their testimonies is referred to herein under:-



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DW-1 Darshan Singh stated that on 22.5.2000 he was posted as a Peon in the Office of Co-operative Society, Gumti Kalan. He stated that on 22.5.2000 Amarbir Singh had hired “disks” (farming implement) from the society and at about 8.05 AM and had returned the same back at 11.30 AM the same day. He stated that Amarbir Singh was in possession of Panchayat land as a lessee of Gram Panchayat. He proved the relevant entries made in the register with regard to hiring of agricultural implements by Amarbir Singh on 22.5.2000.

DW-2 Sukhdev Singh stated that he is a Member of Panchayat of Village Gumti Kalan and on 22.5.2000 at about 8:00 AM he had gone to the store of Co-operative Society Gumti Kalan and had seen Amarbir Singh at the back of the store who was plowing his fields with the help of disks. He stated that he had seen Amarbir Singh plowing the fields at about 10.30 AM.

DW-3 Janak Raj stated that he is proprietor of M/s Gumti Bus Service whereas Amarbir Singh was proprietor of Roop Kamal Service and since there remains a dispute regarding time table, he had gone to the house of Amarbir Singh on the evening of 21.5.2000 to make a request to him to visit the office of Regional Transport Officer, Ferozepur for adjustment of time table and that Amarbir Singh asked him (Janak Raj) to accompany him on the next day. He stated that on 22.5.2000 when he went to the house of Amarbir Singh at about 8 AM



he was not present in the house and came to know that Amarbir Singh was ploughing his land on the back side of the store of Co-operative Society and when he went to the said place he saw Amarbir Singh was ploughing his fields with the help of a tractor and disks and that Amarbir Singh told him that he could not accompany him to the office of the RTO and accordingly he left the place at about 9.15 AM and boarded a tempo at 9.30 AM.

DW-4 Harbhajan Singh stated that in the year 2000 he was posted as SP(D), Faridkot and had conducted investigation in the matter and had recorded the statements of Darshan Singh, Janak Raj, Sukhdev Singh and of some persons and had come to the conclusion that Amarbir Singh was innocent. He proved his report as Ex.DF.

9. Learned trial Court upon considering evidence on record held Balbir Singh and Gurmail Singh to be responsible for murder of Gurdeep Singh and for causing injuries to the complainant, but acquitted the remaining accused namely Jagjit Singh, Gora Singh and Amarbir Singh vide impugned judgment dated 06.12.2003. While Balbir Singh and Gurmail Singh challenge their conviction by way of filing the appeal, the State challenges the acquittal of the remaining three accused. Ranjit Singh son of deceased has also preferred revision petition challenging acquittal of three co-accused.
10. Learned counsel representing accused Balbir Singh and Gurmail Singh submitted that admittedly it is a case where there was a dispute



between brothers i.e. between complainant Amarjit Singh and his three brothers who are amongst the accused namely Jagjit Singh, Balbir Singh and Gurmail Singh and in respect of which security proceedings were also pending and it is apparent that the complainant had implicated the accused falsely though the deceased had fallen in the canal on account of skidding of his scooter. It has also been submitted that the fact that Gurdeep Singh had died is also questionable inasmuch as the dead body, when recovered was beyond identification.

11. On the other hand learned State counsel submitted that it is a case where the eye witness i.e. complainant Amarjit Singh had himself sustained multiple injuries and as such, being a stamped witness, his statement rests on a very higher pedestal and in the absence of any evidence to any contrary, his testimony cannot be discarded. Learned State counsel submitted that since the factum of the enmity is fully substantiated from the fact that the security proceedings had also been initiated amongst the parties, therefore, apart from conviction of the two accused namely Balbir Singh and Gurmail Singh, the remaining accused also ought to have been convicted particularly when it had come on record that the vehicle in which accused had come belongs to Jagjit Singh, another brother of the complainant, who was also against the complainant. Learned State counsel further submitted that Gora son of Karnail Singh was driving the vehicle in question and



had thus facilitated the commission of crime. It has been submitted that Amarbir Singh was carrying a double barrel gun and had issued threats to kill the complainant and others and it was on the strength of his being armed with gun and issuing threats that the offence came to be committed and as such their acquittal was not justified. Mr. A.P.S.Deol, Senior Advocate representing the complainant and the petitioner Ranjit Singh submitted that the trial Court fell in error in acquitting the three co-accused namely Jagjit Singh @ Jattu, Gora Singh and Amarbir Singh although there was sufficient evidence to establish their complicity. It has been submitted that Jagjit Singh was owner of the vehicle in which the accused had come while Gora Singh was driving the said vehicle and had thus facilitated in commission of crime. It has further been submitted that Amarbir Singh was brandishing a gun and had issued threats to the complainant and others and that it was on the strength of his presence while carrying a gun which also facilitated the co-accused to commit offence in question and as such even though the said three accused had not physically assaulted the deceased, but having shared a common intention and having facilitated the commission of crime they are equally liable for murder of the deceased.

12. This Court has considered rival submissions and have also perused the record of the case.



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13. It is apposite to first of all refer to the medical evidence particularly as regards the cause of death. While the occurrence is stated to have taken place on 22.5.2000, the dead body was recovered from a canal on 24.5.2000. The dead body was got subjected to post mortem examination which was conducted by PW-1 Dr. Krishan Gopal. The relevant extract from his statement is reproduced here in under:

“Body was of a moderately built male wearing *kurta, pyjama, kachha, bunian* wet with water. Body was emitting a nauseating and unpleasant smell. Abdomen was distended with gases. The features had become bloated and distorted. Eyes were forced out and tongue protruded out. Lips were swolled and everted. Cellular tissue was inflated throughout. Skin was blackened and blisters had appeared. Skin was peeled off at many places. Hair were peeled off easily. Maggots were crawling over the face. I noted down the following injuries:-

1. Lacerated wound on the front of face 10 cm x 6 cm in size. On the lower part of middle of forehead. On the nose and mouth. Bones of nose and jaws were fractured. Teeth of front side were broken. On further dissection base of skull and bones of front side of skull were fractured. Menings were contused and brain matter was lacerated.

There was no other injury on any part of the body. Organs of thorax and abdomen were putrefied. Stomach was empty and there was faecal matter present in large testines. Cause of death in my opinion was haemorrhage and shock. (injury to brain). Injury No.1 was sufficient to cause death in the ordinary course of nature and it was ante mortem.”

14. A perusal of the testimony of PW-1 shows that the death is not attributed to drowning but to the injuries inflicted to the deceased. Injuries were found on his forehead and the bones of his nose and jaw were found to be fractured. His teeth were also found to be broken



and so was the base of his skull and bones which were fractured. Although, the witness was cross-examined at length, but the opinion of the doctor as regards the cause of death could not be shattered. The aforesaid opinion of the doctor would clearly negate the plea of the accused to the effect that the deceased had fallen in the canal on his own as his scooter had skidded. The fact that a large number of injuries were found on his head including fractures of his nose, jaw, skull clearly shows that he had been hit with a heavy object on his face as is the specific case of the prosecution.

15. At this stage, it is also apposite to refer to the testimony of the complainant i.e. PW-4 Amarjit Singh who has clearly stated that on 22.5.2000 when he along with Gurdeep Singh, Ranjit Singh and Gurdial Singh were proceeding to the Court of SDM, to attend to security proceedings and when they were near bridge of canal in the area of Phul, then the accused emerged from near the bank of canal. He stated that while Gora Singh kept standing near the car, the other four came forward and that while Jagjit Singh was carrying a 'kirpan', Balbir Singh was carrying a handle of hand pump, Gurmail Singh @ Tota was carrying a 'kulhari' and Amarbir Singh was carrying a gun. He further specifically stated that Gora Singh was empty handed. He stated that Amarbir Singh raised a *lalkara* that the complainant be not spared upon which Gurmail Singh @ Tota gave a blow with axe on the forehead of Gurdeep Singh on account of which



he fell down. He further stated that Balbir Singh gave three blows with handle of pump on the left arm of PW-4 Amarjit Singh and he fell down and while he was lying fallen Balbir Singh inflicted more blows with the handle of pump on his left leg and that he grappled with Gurmail Singh. He further stated that Amarbir Singh raised a *lalkara* that they should step back failing which he will fire a shot and upon hearing the said *lalkara*, they (complainant and others) receded back. He further stated that Jagjit Singh, Gurmail Singh and Balbir Singh threw Gurdeep Singh in the canal and thereafter all five of them escaped from the spot in the car driven by Gora Singh.

16. To a similar effect is the statement of Ranjit Singh (PW-5). Although, the learned counsel for the convicted accused Balbir Singh and Gurmail Singh attempted to assail the statements of the aforesaid two witnesses particularly that of Ranjit Singh on the ground that he is an interested witness being son of the deceased, but this Court finds that it is a case where the complainant who is the prime eye witness himself was injured in the occurrence and sustained as many as five injuries. The complainant had been medically examined within about two hours of the occurrence. PW-2 Dr. Devinderpal Bansal categorically stated that he had examined Amarjit Singh at about 11.35 AM on 22.5.2000 and had found the following five injuries on his body:



- “1. Lacerated wound in between second and third finger of left hand. Size 3 cm x 2 cm. Fresh bleeding was present.
2. Abrasion on the lateral side of left forearm. Size 10 cm x 2 cm. Redish in colour.
3. Abrasion on the lateral side of left forearm 5 cm below injury No.2 size 10 cm x 1 cm. Redish in colour.
4. Abrasion on the lateral side of left leg. 10 cm lateral to knee joint. Size 3 cm x 1 cm. Redish in colour. (X-ray was advised).
5. Abrasion on the lateral side of left leg 5 cm below the injury No.4. Size 4 cm x 1 cm. Redish in colour. Advised for x-ray.”

17. The complainant as well as the accused have specifically stated with regard to the injuries inflicted to Amarjit Singh by the accused. The factum of existence of injuries fully lends support to the case of the prosecution. Although, the learned counsel submitted that the injuries were self suffered by Amarjit Singh, but having regard to the totality of the facts and circumstances of the case particularly the fact that Amarjit Singh was examined within about 2 hours of the occurrence in the hospital, this Court is not inclined to accept the contention of the accused that the injuries were self suffered. The factum of the complainant having himself being injured in the occurrence as specifically stated by him in the FIR and in the witness box and which is fully corroborated by the medical evidence leaves no room to doubt his statement wherein his statement clearly points towards the guilt of the accused.



18. Still further the factum of the pendency of security proceedings between the complainant Amarjit Singh and Gurdeep Singh on one side and the accused on the other side is admitted by accused and in fact the copy of one of the order dated 22.5.2000 (Ex.PP) clearly shows that the security proceedings were pending before the Court of SDM, Rampura, Phul on the day of occurrence i.e. on 22.5.2000 and as such both the parties were required to be present before the said Court as is also the specific case of the complainant to the effect that on the day of occurrence they were proceeding to the Court of SDM to attend the security proceedings when they were attacked by the accused. Consequently, it is not only the motive which stands established, but also the time and place of occurrence is found to be absolutely consistent and probable. The occurrence had taken place around 9.30 AM in the morning i.e. around the time when the Courts would start functioning and the complainant was on his way to attend the proceedings.
19. During the course of arguments it is also been submitted by learned counsel for the accused that the dead body could not possibly have been identified being in putrefied state wherein maggots had also set in which was found after more than two days of the occurrence and had remained immersed in water. Learned counsel in this regard has referred to the examination-in-chief of PW-1 Dr. Krishan Gopal who had conducted the post mortem examination wherein he stated that



the features had become bloated and distorted and maggots were crawling over the face. However, during the course of cross-examination he has categorically denied the suggestion given to him that the dead body was not recognizable at any time. PW-7 Balwinder Singh who had first noticed the dead body when he along with Bhupinder Singh and Gurtej Singh were looking for the same has identified the dead body. PW-7 has categorically stated that he was uncle of the deceased. Under these circumstances having regard to the sequence of the events and the fact that Balwinder Singh was closely related to the deceased and had identified the dead body which was not absolutely beyond identification at the time when the same was recovered, this Court is unable to agree with the contentions raised before this Court regarding identification of the dead body.

20. The above referred evidence leaves no manner of doubt that while Gurmail Singh @ Tota had inflicted injury to the deceased on his fore-head with an axe, Balbir Singh was also accompanying him and had inflicted injuries to the complainant with the help of handle of hand pump.
21. As far as the case of the remaining accused namely Jagjit Singh, Gora Singh and Amarbir Singh is concerned, while it is correct that Jagjit Singh is real brother of the other two co-accused namely Balbir Singh and Gurmail Singh and also of the complainant and is also stated to



be carrying a '*kirpan*' at the time of occurrence, but admittedly he is not attributed any injury even though stated to be carrying a '*kirpan*'. However, he is alleged to have thrown the dead body in the canal along with Balbir Singh and Gurmail Singh. Learned State counsel vehemently argued that given the fact that the car in which the accused had come belonged to Jagjit Singh and had been recovered from his house and he is the real brother of the convicted co-accused, his complicity is clearly evident. However, we find that neither the registration number of the car in question finds mention in the FIR or even in the statement of the witnesses and nor the car in question is registered in the name of the accused Jagjit Singh. Although, the prosecution relies upon photocopies of affidavits recovered from the car i.e. Ex.P-8, but in the absence of any record pertaining to transfer of car or even the original affidavits or the statement of the registered owner it is not safe to hold that the car belongs to Jagjit Singh.

22. A perusal of the registration certificate (Ex.P-7) shows that the vehicle in question was originally registered in the name of one Ishween Kaur. There is an endorsement in the said registration certificate that the vehicle in question was later transferred to one Rakesh Gupta. A perusal of a photo copy of affidavit (Ex.P-9) shows that said Rakesh Gupta had furnished affidavit regarding sale of the said vehicle to one Sukhjit Singh. Another photo copy of affidavit which was recovered from the car shows that said Sukhjit Singh had



further sold the car to Jagjit Singh. However, it needs to be noticed that neither the registration number of the car is mentioned anywhere in the FIR or in the statement of prosecution witnesses. The vehicle as per registration certificate was originally in the name of Ishween Kaur and was later transferred to Rakesh Gupta. Although, prosecution had collected photocopies of two affidavits, but no authenticity can be attached to the said photocopies of affidavits particularly in the absence of any statement of the earlier owners or the deponents. Under these circumstances the mere fact that car was recovered from the house of the accused Jagjit Singh would not connect him in any manner particularly when the registration of the car is not forthcoming in testimony of any of the witnesses.

23. Under these circumstances, when Jagjit Singh is not even attributed any injury, he does deserve to be extended the benefit of doubt. Consequently, interference in his acquittal would not be justified.
24. As far as the acquittal of other two accused namely Gora Singh and Amarbir Singh is concerned, Gora Singh was admittedly un-armed and had not even participated in the occurrence and remained away standing nearby the car. Similarly, Amarbir Singh although stated to have raised a '*lalkara*' and is also stated to be carrying a gun but is not stated to have fired from the same or inflicted any injury either to the injured or to the deceased. As such, it will not be justifiable to



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reverse the findings of their acquittal as well and the same are hereby upheld.

25. As a sequel made to the discussion made above, we do not find any infirmity in the findings of conviction of accused Balbir Singh @ Yamla and Gurmail Singh @ Tota and their conviction is upheld. Consequently, the appeal filed by accused Balbir Singh @ Yamla and Gurmail Singh @ Tota i.e. CRA-D-79-DB-2004 is dismissed. The acquittal of three remaining accused is also upheld and the appeal i.e. CRA-D-633-DBA-2004 as well as CRR-962-2004 challenging their acquittal are dismissed.
26. A copy of this judgment be sent to the quarters concerned. The convicted accused be arrested to undergo their remaining sentence.
27. Case property be destroyed as per rules after expiry of limitation for filing appeal or revision as the case may be.
28. A photocopy of this order be placed on the connected cases.

(GURVINDER SINGH GILL)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

13.05.2025
Mohan

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