



In the High Court of Punjab and Haryana at Chandigarh

1. CRA-D-131-DB-2012 (O&M)
Reserved on: 15.1.2025
Date of Decision: 11.2.2025

Gurmail Singh Appellant

Versus

State of Punjab Respondent

2. CRR-894-2012

Gurnam Singh Petitioner

Versus

Modan Singh and others Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Argued by: Mr. G.P.S.Bal, Advocate with
Ms. Anmol Thakur, Advocate
for the appellant (in CRA-D-131-DB-2012).

Mr. Vishal R. Lamba, Advocate and
Mr. Himmat Singh Deol, Advocate
for the petitioner (in CRR-894-2012) and
for the complainant (in CRA-D-131-DB-2012).

Mr. Maninder Singh, Sr. DAG, Punjab.

Proceedings against respondent No. 1 Modan Singh
stands abated vide order dated 13.1.2025 (in CRR-894-2012).

SURESHWAR THAKUR, J.

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



2. ***CRA-D-131-DB-2012*** is directed against the impugned verdict, as made on 10.12.2011, upon Sessions Case bearing No. 4 of 17.12.2010, by the learned Sessions Judge, Fatehgarh Sahib, wherethrough in respect of charges respectively drawn against the convicts-accused qua offences punishable under Sections 302 read with Section 34 IPC, thus the learned trial Judge concerned, proceeded to record a finding of conviction against convicts-accused Modan Singh and Gurmail Singh (appellant).

3. Moreover, through a separate sentencing order of even date, the learned trial Judge concerned, sentenced both the convicts to undergo rigorous imprisonment for life qua an offence punishable under Section 302 read with Section IPC, besides also imposed, upon the convicts sentence of fine, comprised in a sum of Rs. 10000/-, and, in default of payment of fine amount, he sentenced the convicts to undergo rigorous imprisonment for a period of ten months.

4. The period of detention undergone by the accused-appellants, 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.

5. Convict-appellant Gurmail Singh becomes aggrieved from the above drawn verdict of conviction, besides also, become aggrieved from the consequent thereto sentences of imprisonment, and, of fine as became imposed, upon him, by the learned convicting Court concerned, and, hence has chosen to institute thereagainst the instant criminal appeal.

6. Accused Modan Singh also preferred ***CRA-D-202-DB-2012*** against the above drawn verdict of conviction, and, the consequent thereto sentences of imprisonment, and, of fine as became imposed him. However,



during the pendency of the appeal (supra), accused Modan Singh died, and, vide order dated 25.11.2024, the proceedings qua him were ordered to become abated.

7. ***Criminal Revision No. 894 of 2012*** has been preferred by Gurnam Singh, son of the deceased, seeking a directions upon the accused to pay Rs. 2,00,000/- (Rs. Two lacs) as compensation to the legal heirs of deceased Joga Singh under Section 378(4) Cr.P.C.

Factual Background

8. The genesis of the prosecution case, becomes embodied in the appeal FIR, to which Ex. P-20 is assigned. As per the prosecution case, on 15.6.2010, complainant Gurnam Singh got recorded his statement with the police. The said statement becomes extracted hereinafter.

“I am resident of above mentioned address. We are two brothers. My elder brother Gurdev Singh is retired as Subedar. My father Joga Singh are three brothers in all. The eldest namely (Mohinder Singh was unmarried and younger to my father is Modan Singh Land measuring 7-1/2 acres falls to the share of each of the three brothers. Mohinder Singh resides with my 'Chacha' (uncle) Modan Singh and due to which Mohinder Singh had transferred his share of land measuring 7- 1/2 Killas in favour of Modan Singh about 10-12 years back. Mohinder Singh expired about 2 years back. My father Joga Singh is aged about 70 years, who is a pensioner having retired as Hawaldar from Army. Our land is adjacent to the land of Modan Singh. Today at about 1.00 p.m in the afternoon, my father after having meals went to the fields to pluck 'Moongi crop. At about 3.00 pm when I and my mother Gurmeet Kaur went on motor cycle from metaled road to serve tea to my father in the fields and when we took a turn near our fields in order to approach the fields, then we saw that Modan Singh alongwith his two sons namely Randhir Singh and Gurmail Singh causing injuries to my father with the help of a 'salang'



(two pronged agricultural implement having a long wooden handle), 'Kahi (spade) and 'tangli (7 pronged agricultural implement having long wooden handle) in the sugarcane fields of Mewa Singh. When we raised alarm, then the aforesaid three ran away from the spot alongwith their respective weapons towards 'sua' (small canal). I and my mother Gurmeet Kaur attended to my father and who disclosed that the aforesaid three had started causing him injuries while he was plucking 'Moongi in his fields and that he ran from there to save himself and that they chased him and Gurmail Singh gave a blow with his 'salang' on his back and due to which he fell down and that Modan Singh gave blow from the reverse side of his 'Kahi on his head and chest and Randhir Singh caused injuries to him while he was lying fallen on both of his arms and chest with the help of 'Tangli. Immediately, thereafter my father breathed his last. The motive is that Modan Singh etc. used to plough the 'watt' (demarcation of fields made by raising soil along the boundary) and my father Joga Singh objected to the same and used to say that why they are not satisfied even after taking the share of Mohinder Singh. Because of this Modan Singh and his two sons nursed a grudge against my father and used to issue threats to my father to kill him. Due to the said grudge the aforesaid three persons. upon finding a chance today, have murdered my father by causing injuries to him. I have left my brother Gurdeep Singh, mother Gurmeet Kaur and other respectables of the village near the dead body and I alongwith Panch Sarbjit Singh and Rajinder Singh son of Naib Singh resident of Jhallan was proceeding towards the Police Station to lodge a report, when you met me near the bridge on minor canal Badesha Kalan. I have got my statement recorded and have heard the same, which is correct. Action be taken."

On the basis of the said statement, the appeal formal FIR

became registered

Investigation proceedings

9. During the course of investigations, inquest proceedings were



conduct. Rough site plan was prepared, and, the statements of the witnesses were recorded. Accused Modan Singh and Randhir Singh were arrested. 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 against accused Modan Singh and Randhir Singh on 30.8.2010. However, accused-appellant Gurmail Singh was kept in column No. 2.

Committal Proceedings

10. 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 6.12.2010, hence proceeded to commit the accused to face trial before the Court of Session.

Trial Proceedings

11. The learned trial Judge concerned, after receiving the case for trial, after its becoming committed to him, made an objective analysis of the incriminatory material, adduced before him. Resultantly, he proceeded to draw charges against accused Modan Singh and Randhir Singh, for the offence punishable under Section 302/34 IPC. The afore drawn charges were put to the accused, to which they pleaded not guilty, and, claimed trial.

12. During trial, an application under Section 319 Cr.P.C was moved by the prosecution for summoning accused-appellant Gurmail Singh as an additional accused, which was allowed by the learned trial Court vide order dated 14.1.2011. Consequently, the said accused was summoned to face trial along with other co-accused.

13. Subsequently, vide order dated 30.5.2011 amended charge sheet was framed against all the accused qua commission of the offence



punishable under Section 302/34 IPC. The afore drawn charges were put to the accused, to which they pleaded not guilty, and, claimed trial.

14. In proof of its case, the prosecution examined 06 witnesses, and, thereafter the prosecution evidence was closed.

15. During the pendency of the trial, accused Randhir Singh expired. Consequently, vide order dated 27.9.2011, the proceedings qua the said accused became abated.

16. 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, they did not lead any witness into the witness box.

Submissions of the learned counsel for the appellant

17. 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 supports the above submission on the ground, that they are based on a gross misappreciation, and, non-appreciation of evidence germane to the charge. He further submits, that during investigations, the appellant was found innocent, and, on an application moved by the prosecution under Section 319, he was summoned to face trial as an additional accused. The learned counsel further submits that the appellant has been falsely implicated in the present case, and, there are material inconsistencies in the statements of the eye witnesses.

Submissions of the learned State counsel

18. 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 all the appeal (supra), as preferred by the convict-appellant be dismissed.

Submissions of the learned counsel for the petitioner (in CRR-894-2012)

19. The learned counsel for the petitioner has argued before this Court the judgment of conviction and order of sentence, passed by the learned convicting Court below, be upheld. However, he has prayed that sum of Rs. 2.00 lacs (Rs. two lacs) be ordered to be paid as compensation to the legal heirs of the deceased.

Analysis of the depositions of the eye witnesses to the occurrence, who respectively stepped into the witness box as PW-1 and PW-2

20. Complainant Gurnam Singh, who is the purported eye witness to the occurrence, stepped into the witness box as PW-1, and, deposed that his father Joga Singh has two brothers. His elder uncle is Mohinder Singh, who was a bachelor, whereas, Modan Singh is the younger brother of his father, and, each of them were having share of 7 ½ killa of lands in village Hawar Kalan. The said witness further deposed that about 10-12 years, Mohinder Singh had given his share to Modan Singh, and, that Mohinder Singh had died about 2-2 ½ years ago. He further deposed that on 15.6.2010, at about 3.00 P.M., his father went in the fields for plucking the moongi crop, whereupon when the said witness along with his mother Gurmeet Kaur went to serve tea to his father, then they saw that Modan Singh, armed with a *kahi*, Gurmail Singh armed with a *sangha*, and Randhir Singh armed a *Tangli* (pitch fork) were beating his father with the said weapons. The said



side on the head and chest of his father. Randhir Singh gave tangli blow from its reverse side on the arm of his father, whereas, Gurmail Singh gave *salang* blow (pitch fork) from its reverse side on the back of the shoulder of his father. Upon the raising of alarm by them, all the accused fled away from the spot along with their weapons. The witness (supra) further deposed that his father told them that all the accused (supra) gave him beatings in the moongi field, and, thereafter he ran away from that place. His father also told them that Gurmail Singh had inflicted two blows upon him with *salang* i.e. one on the backside of his chest, and, the other on his neck, while he was running, besides accused Modan Singh inflicted injuries on his head and chest with the reverse side of the spade. His father also told him that accused Randhir Singh inflicted injuries on his arms, chest and knees with tangli, whereafter his father died at the spot.

21. The learned counsel for the petitioner has vigorously argued before this Court, that only after making a wholesome reading of the testification of the witness (supra), as becomes comprised respectively in his examination-in-chief, and, in his cross-examination, qua therebys alone a just and fair appraisal would be made of the supra testification(s). Therefore, he submits that when this Court proceeds to read the echoings, as made by the witness (supra) in his cross-examination, thereupon the hereinafter inference would arise.

(a) That the supra witness though being the informant complainant, and, who lodged Ex. P1, yet with his omitting to therein but with pin-pointed specificity rather detailing the exact regions of the body of the deceased, whereons became inflicted wounds, thus with the users of weapons of offence at



the instance of the accused.

22. Consequently, he submits since on the witness (supra) becoming cross-examined by the learned defence counsel whereupon, upon his becoming confronted with his previously made statement in writing (Ex. P1), since it emerged, that the speakings made by him in his examination-in-chief relating to his attributing to each of the accused, thus with pin-pointed specificity qua theirs respectively with the weapons of offence, thus striking them upon the specific regions of the body of the deceased, rather are improvements over his previously made statement in writing. Therefore, he argues, that the omissions (supra) in the previously made statement (Ex. P-1), and, yet there being a specific pin-pointed attribution of incriminatory roles to each of the accused, thus reiteratedly makes his testification, as comprised in the examination-in-chief of the witness (supra), to be a dire improvement or gross embellishment vis-a-vis his previously recorded statement in writing. Resultantly, he argues that therebys the witness PW-1 has rendered an account vis-a-vis the crime event, which is not amenable for being assigned any credence.

23. However, for the reasons to be assigned hereinafter, the said made argument is of no consequence, and, requires rejections.

24. The prime reason for stating so, ensues from the factum, that since there is trite law to the effect, that the informant is not required to, in the report lodged in respect of the crime event before the police authorities, detail therein an encyclopedic version with respect to the crime event. If so, since the witness after eye witnessing the crime event, did make Ex. P1 before the police, wherein, though he did not with specificity assign to each of the accused, the incriminatory roles relating to each of the accused with



theirs respectively wielded weapons of offence concerned, thus theirs striking them on the specific regions of the body of the deceased. Resultantly, yet if the said omission became purportedly improved through the witness (supra) rather in his examination-in-chief ascribing with specificity vis-a-vis each of the accused qua theirs respectively through wielding the respective weapons of offence, theirs striking them on the specific regions of the body of the deceased, but it cannot be construed to be undermining the prosecution case.

25. The reason for so stating becomes further generated from the factum, that when the learned defence counsel proceeded to subject the witness (supra), to a rigorous cross-examination, and, though therein, he attempted to confront him, with his previously made statement in writing, whereby he also further attempted to rid of efficacy, thus the testification occurring in his examination-in-chief, whereby he proceeded to but to the extent (supra), rather make purported gross embellishments or rife improvements vis-a-vis his previously made statement in writing. Nonetheless, the learned defence counsel failed to either mete such suggestions to the witness (supra), nor any answer became rendered, to suggest that as a matter of fact, the said witness did not, excepting the said purported improvements or embellishments being made by him, vis-a-vis, his previously made statement, rather as a matter of fact eye witness the occurrence. The supra endeavour of the learned defence counsel was required to be well maneuvered to the extent, that irrespective of the FIR not being required to be enclosed therein any encyclopedic version vis-a-vis the crime event, and, theretos some dilations being made, yet the making of purported improvements or embellishments vis-a-vis the previously made



statement in writing, but also required that as a matter of fact, the eye witness to the occurrence did not eye witness the crime event. However, reiteratedly the learned defence counsel while subjecting the witness (supra) to a rigorous cross-examination, thus excepting the afore, but did not bely the creditworthiness of the unencyclopedic version, as encapsulated in Ex. P1, nor belied the fact, that the said witness did not eye witness the occurrence. Resultantly, the said improvements or embellishments over the previously made statement in writing by the witness (supra), do not overcome the fact that the witness (supra) had, in fact eye witnessed the occurrence.

26. Moreover, the manners of the defence counsel, thus confronting the witness (supra) with his previously made statement in writing (Ex. P-1), as stated above, rather became quartered with the realm of his merely attempting to only blemish the creditworthiness of his testification, as enclosed in his examination-in-chief, and only to the extent, that despite what he had not stated earlier, yet he proceeded to testify an earlier unstated fact, thus in his examination-in-chief. However, yet he did not put any suggestion to the witness (supra) to the effect that none of the accused were witnessed by him to be available at the crime event, nor he attempted to bely the previously made statement of the witness (supra), wherein, it becomes spoken that the accused had seen by him to be wielding weapons of offence, and, theirs thus assaulting the deceased. If the said unencyclopedic version remains unbelied, thereupon, this Court is to conclude, that as such the defence concedes to the availability of the witness (supra) at the crime site, besides also concedes that he had in his previously made statement in writing, rendered a truthful version vis-a-vis the crime event, whereby he



attributed criminality to the accused. Resultantly therebys, the said purported improvements, do not minimise the effect of the witness (supra), on his stepping into the witness box, after admitting the contents of Ex. P1 proceeded to elaborate, and, dilate but with specificity the attributions of criminality to the accused, which however, he appears not to do so earlier.

27. Furthermore, during the course of makings of cross-examination, upon, the said witness, the learned defence counsel meted suggestions to the witness (supra), whereto affirmative answers became rendered by the said witness. The said suggestions, and, the affirmative answers theretos are reproduced hereinafter.

“X X X X

The place where I was standing and the place of occurrence of about 1 ½ killa. When I saw for the first time my father on that day at the said place he was standing at the said at the said place in semi bowed condition.

x x x x

When I saw my father on 15.6.2010 at the said time, he was having his back towards me. I left the spot on motor cycle for going to police station Khamano. I reached at the spot where my father was lying in between the period of 2.30 P.M. to 3.00 P.M. on 15.6.2010. I stayed at the spot for less than 10 minutes.

X x x x

I had shown the field of Moongi where the said occurrence had taken place.

x x x x”

28. The said suggestions and the said affirmative answers theretos but are the ones relating to the fact that the present witness was standing near the place of occurrence, therebys also the defence concedes to his eye witnessing the occurrence.



29. Be that as it may, assuming that PW-1 did not eye witness, the occurrence, but when he states that an oral dying declaration in respect of the genesis of the crime event, was rendered to him by the deceased, thereupon the said rendered oral dying declaration by the deceased to the witness concerned, was required to become belied through a rigorous cross-examination being conducted upon the witness (supra). However, there is no effective cross-examination made upon the witness (supra) so as to bely the makings of an oral dying declaration to him by the deceased, vis-a-vis the cause of his demise. Resultantly therebys too, the effect, if any of any improvements or embellishments being made by the witness (supra), vis-a-vis, his previously made statement, thus also becomes completely irrelevant.

30. The deposition of PW-1 is supported by the deposition of the other eye witness to the occurrence, namely Gurmeet Kaur, who stepped into the witness box as PW-2. The echoings occurring in the examination-in-chief of PW-2 are in complete harmony with the echoings, as became rendered in respect of the crime event by PW-1.

31. In sequel, the testifications rendered by PW-1, and, by PW-2 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.

32. Furthermore, since no recovery has been effected from the present appellant, as he became arraigned as an accused, only on an affirmative order becoming rendered on an application preferred by the prosecution under Section 319 Cr.P.C. Moreover, when the said order also remained unchallenged, thereupon the said lack of challenge to the supra order arraigning the appellant, as an additional accused along with the earlier



arraigned co-accused, appears to be accepted by the accused-appellant. Moreover, when the above alluded to order, thus pin-pointedly unveils the criminality of the present appellant.

Post-mortem report

33. The post-mortem report, to which Ex. P3 is assigned, became proven by PW-3. PW-3 in his examination-in-chief, has deposed that on making an autopsy on the body of deceased Joga Singh, thus his noticing thereons the hereinafter extracted ante mortem injuries-

- “(a). A reddish swelling 8 cm x 5 cm present on the right temporoparietal region of scalp with a reddish contusion 5 cm x 3 cm on it. On exploration there is diffused extra cranial heamatoma under the scalp underlying bone is fractured lacerating the corresponding parts of the meninges and brain dark coloured fluid is present in the cranial cavity.*
- (b). A reddish contusion 8 cm x 2 cm on the right scapular region of back vertically placed 3 cm lateral to the vertebral column.*
- (c). A reddish contusion 3 cm x 1 cm on the right scapular region of back 6 m lateral to injury No. (ii).*
- (d). A reddish swelling 2 cm x 2 cm on the left side neck on its lower part with a reddish abrasion 1 cm x 1 cm on it.*
- (e). A reddish contusion 12 cm x 2 cm on the lateral aspect of right shoulder.*
- (f). A reddish contusion involving right upper arm and lateral aspect of right side of chest 30 cm x 4 cm involving anterior aspect of right side of chest.*
- (g). A reddish abrasion 8 cm x 5 cm on the anterior aspect of left arm 10 cm above wrist joint.*
- (h). A reddish abrasion 8 cm x 2 cm on the right side of anterior aspect of abdomen 4 cm lateral to umblicus.*
- (i). A reddish abrasion 3 cm x 2 cm on the medial aspect of left knee.*
- (j). A reddish contusion 3 cm x 1 cm on the medial aspect of right leg 10 cm below knee joint.”*

34. Furthermore, PW-3 also made a speaking in his examination-in-chief, that the cause of demise of the deceased was owing to head injuries, which were stated to be ante mortem in nature, and, also sufficient to cause



death in the ordinary course of nature.

35. The above made echoings by PW-3, 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-3 qua the demise of both the deceased, thus acquires formidable force. Consequently, the above echoings, as made by PW-3, 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.

36. Thus, conjoint readings of the report of the doctor concerned, who proved the apposite post-mortem report of the deceased concerned, does therebys foster an inference, that therebys there is *inter se* corroboration *inter se the* ocular account with the medical account. 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.

37. Consequently, with the afore observations, the instant criminal appeal (supra) filed by the appellant is dismissed.

38. Insofar as **CRR-894-2012**, filed by the son of the deceased, is concerned, the accused-respondent No. 2-Gurmail Singh is directed to pay Rs. 50,000/-, as compensation amount to the petitioner. Moreover, on realization of the fine amount from the present appellant, the same shall be disbursed, as compensation to the family members of the victim.

Final Order

39. The result of the above discussion, is that, this Court does not find any merit in the appeal (supra) preferred by the appellant, and, is constrained to dismiss it. Consequently, **CRA-D-131-DB-2012** stands



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-appellant 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.

40. **CRR-894-2012** stands disposed of in the above terms.

41. 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.

42. Records be sent down forthwith.

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

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

February 11th, 2025
Gurpreet

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