

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. **Crl. Appeal D-279-DB of 2011**
Date of Decision : February 26, 2015

Atul Kumar @ Chuppa and another
.....Appellants

VERSUS

State of Punjab
.....Respondent

2. **Crl. Appeal D-134-DB of 2011**

Rajinder Kumar @ Mintu and another
.....Appellants

VERSUS

State of Punjab
.....Respondent

3. **Crl. Appeal D-420-DB of 2011**

Neeru @ Pooja
.....Appellant

VERSUS

State of Punjab
.....Respondent

4. **Crl. Appeal D-445-DB of 2011**

Rajiv @ Raja
.....Appellant

VERSUS

State of Punjab
.....Respondent

5. **Crl. Appeal D-1208-DB of 2014**

Sanjeev Kumar @ Sonu
.....Appellant

VERSUS

State of Punjab
.....Respondent

**CORAM: HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE GURMIT RAM**

Present : Mr. Baldev Singh, Senior Advocate with
Mr. Deepender Singh, Advocate and
Mr. Sudhir Sharma, Advocate
for the appellants in Crl. Appeal D-134-DB of 2011 and
Crl. Appeal D-445-DB of 2011.

Mr. S.S.Rana, Advocate
for the appellants in Crl. Appeal D-279-DB of 2011 and
Crl. Appeal D-1208-DB of 2014.

Mr. Navjeet Singh Malmajra, Advocate
for the appellant in Crl. Appeal D-420-DB of 2011.

Mr. Rajesh Bhardwaj, Addl. A.G., Punjab.

Mr. Manjit Singh, Advocate
for the complainant.

T.P.S. MANN, J.

All the aforementioned appeals are being disposed of
by a common judgment as the appellants therein have challenged
the judgment and order dated 22.1.2011 passed by the Additional
Sessions Judge, Ludhiana.

Vide impugned judgment and order, the trial Court
convicted and sentenced the appellants as under:-

- i) under Sections 302/149 IPC Rigorous imprisonment for
life and to pay a fine of
Rs.5,000/- each and in
default of payment of fine to
further undergo simple
imprisonment for six months;

- ii) under Sections 364/149 IPC Rigorous imprisonment for ten years and to pay a fine of Rs.2,000/- each and in default of payment of fine to further undergo simple imprisonment for two months;
- iii) under Sections 457/149 IPC Rigorous imprisonment for seven years and to pay a fine of Rs.2,000/- each and in default of payment of fine to undergo further simple imprisonment for two months;
- iv) under Sections 395/149 IPC Rigorous imprisonment for seven years and to pay a fine of Rs.2,000/- each and in default of payment of fine to further undergo simple imprisonment for two months;
- v) under Sections 436/149 IPC Rigorous imprisonment for five years and to pay a fine of Rs.1,000/- each and in default of payment of fine to further undergo simple imprisonment for one month;

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| vi) | under Section 201 IPC | Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- each and in default of payment of fine to undergo further simple imprisonment for two months; |
| vii) | under Section 404 IPC | Rigorous imprisonment for one year and to pay a fine of Rs.1,000/- each and in default of payment of fine to undergo further simple imprisonment for one month; and |
| viii) | under Section 148 IPC | Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- each and in default of payment of fine to undergo further simple imprisonment for one month. |

All the sentences were ordered to run concurrently.

The facts of the case are that on 12.5.2006 at 7.20 a.m. ASI Balwinder Singh was present at Ghumar Mandi in connection with patrolling where Savi Sachdeva alongwith her brother-in-law Ravi Sachdeva appeared and got recorded her statement that her husband Rajesh Sachdeva was running a shop under the name and style of 'Raghav Jewellers'. Her brother-in-law Ravi Sachdeva was also running the shop with his brother Rajesh Sachdeva. On 11.5.2006, her husband had

closed the shop at about 8.15 p.m. She called him at about 10.30 p.m. to know as to why he had not reached home, who told her that he was taking something with his friend and would reach home soon. Her husband called her some time later and told her that he was going with his friend in connection with some urgent work. She asked him to come back home and change clothes as he might have to stay out for 2/3 days. However, on the morning of 12.5.2006, when she learnt that the shop of her husband had been set on fire, she alongwith her brother-in-law Ravi Sachdeva reached the shop and saw that the air conditioner of the shop was burnt and the locks were lying open with keys. She stated that the keys of the shop always remained in the possession of her husband, who had not returned home.

After recording the aforementioned statement of Savi Sachdeva, ASI Balwinder Singh considered it to be a family matter. However, as the matter was still to be enquired into, he sent the statement to Police Station Division No.5, Ludhiana on the basis of which DDR No. 35 was recorded on 13.5.2006 at 7.45 a.m.

During the enquiry of the aforementioned DDR, ASI Balwinder Singh alongwith his fellow police officials reached 'Raghav Jewellers' situated in Ghumar Mandi where Rakesh Kumar, brother of Savi Sachdeva got recorded his statement that he was resident of plot No. 4, Aggar Nagar, Tanda Road,

Jalandhar. His younger sister Savi Sachdeva was married with Rajesh Sachdeva in the year 1996 and used to reside at Ludhiana. They had two children, a son and a daughter, aged 8 years and 6 years, respectively. Rajesh Sachdeva was running a jewellery shop jointly with his brother Ravi Sachdeva under the name and style of 'Raghav Jewellers'. They had kept one sales girl Neeru @ Shannu besides one servant. On 12.5.2006, Savi Sachdeva called him on telephone that her husband Rajesh Sachdeva did not return home during the night regarding which she had got entered DDR at the Police Station. Accordingly, Rakesh Kumar alongwith his brother Pardeep Kumar and their father Joginder Pal reached Ludhiana at 9.30 a.m. for tracing out the whereabouts of Rajesh Sachdeva. They came to know that on the night of 11.5.2006, Rajesh Sachdeva went alongwith the sales girl Neeru in his car bearing No. PB-10-BL-4757. However, the complainant was of the belief that Neeru and her accomplices had enticed his brother-in-law Rajesh Sachdeva and after taking the gold and silver ornaments lying in the shop, kidnapped him with an intent to kill him as he learnt from Ravi Sachdeva that the keys of the shop were with Rajesh Sachdeva. He also learnt that some gold and silver ornaments were missing from the shop. Accordingly, he prayed for taking action. On the basis of the said statement, FIR under Sections 364, 34 IPC was registered at Police Station Division No.5, Ludhiana.

After the registration of the FIR, Inspector Anil Joshi, SHO alongwith SI Surjit Singh, Additional SHO and other police officials reached the spot. Two locks and three keys were lying which were taken into possession. The site was got photographed and finger prints were also taken into possession. Site-plan was prepared and the statements of the witnesses were recorded. An attempt was made to trace Rajesh Sachdeva but was not successful. On 13.5.2006 at about 3.00 a.m. AMHC Chetan Singh informed Inspector Anil Joshi on telephone that he had received message from SI Gurmit Singh, Additional SHO, Police Station Chamkaur Sahib that an abandoned Santro car bearing No. PB-10-BL-4757 was found parked on the bank of Sirhind canal at a distance of 9 kms from Chamkaur Sahib in which dead body of a young person was lying. There were marks of injuries visible on the dead body. On receipt of the information, Inspector Anil Joshi alongwith police officials proceeded to Chamkaur Sahib. The services of a photographer and a finger print expert were requisitioned. Complainant-Rakesh Kumar identified the dead body to be that of his brother-in-law Rajesh Sachdeva. From the pocket of the trouser worn by the deceased, one purse containing four ATM cards, Rs.40/- in cash and one condom were recovered. One baseball bat which was blood stained and lying on the back seat of the car was taken into possession. The search of the car also led to recovery of specs,

cold drink opener, a pair of socks, handkerchief and one blood stained piece of cloth were found lying near the dead body. Two blood stained kirchs were also recovered and taken into possession. Pardeep Kumar, Finger Print Expert took the finger prints from the window-panes of the car. HC Darshan Singh took photographs of the dead body from different angles. Site-plan of the place of occurrence was prepared. Inquest report was prepared. The offence under Section 302 IPC was added in the investigation. Statements of the witnesses under Section 175 Cr.P.C. were recorded. The dead body was, thereafter, sent to Civil Hospital, Ludhiana for post-mortem.

On 17.5.2006 SI Sandeep Kumar arrested Rajinder Kumar @ Mintu, Atul Kumar @ Chuppa, Anil Kumar @ Kaka, Vicky, Tripta Devi and Sanjeev Kumar @ Sonu. During investigation, stolen gold and silver ornaments were recovered from their possession. From the possession of Anil Kumar @ Kaka and Atul Kumar @ Chuppa, a motor cycle was taken into possession which was used by them in committing the crime. On 18.5.2006, Anil Kumar @ Kaka suffered a disclosure statement and got recovered sheath of sword which was used by him in committing the crime. On the basis of the disclosure statement made by Vicky, sheaths of two kirchs were also taken into possession. Neeru @ Pooja and Rajiv Kumar @ Raja were subsequently arrested. After completion of the investigation,

challan was presented against all the eight accused including the seven appellants. However, the proceedings against accused-Anil Kumar @ Kaka, who was declared juvenile, were ordered to be separated from the appellants and sent to the Juvenile Justice Board, Ludhiana.

After hearing learned counsel for the accused and the learned Additional Public Prosecutor, the trial Court framed charges under Sections 148, 364, 457, 395, 436, 201, 302 read with Section 149 and 404 IPC to which they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined as many as sixteen witnesses.

PW1 Ravi Sachdeva, brother of deceased Rajesh Sachdeva deposed that he and his brother Rajesh Sachdeva were running business under the name and style of 'Raghav Jewellers' and they were partners in equal share. They had employed one girl, namely, Muskan as a sales girl. Accused-Neeru @ Pooja used to visit their shop to meet Muskan and both of them would discuss business matters. However, he and his brother Rajesh Sachdeva never objected to the same. Muskan left the shop after her marriage which was about 6/8 months prior to the occurrence. Thereafter, Neeru @ Pooja visited their shop a month prior with the request that she be employed as a sales woman. Accordingly, she was given employment. Accused Rajiv

Kumar @ Raja alongwith his mother Tripta Devi used to meet Neeru @ Pooja but the witness and his brother never objected to their visit. Neeru @ Pooja was assigned the work of presentation of ornaments to the customers after taking out from the safe. She would place them back in the safe in case the customers did not purchase them. The entire business was dealt by Neeru @ Pooja on behalf of the witness and his brother. However, the keys of the shop and safe remained with Rajesh Sachdeva which fact was known to accused-Neeru @ Pooja. On 11.5.2006, the two brothers opened the shop as usual. At about 10.00 a.m., accused-Neeru @ Pooja also attended to her job. Accused Rajiv Kumar @ Raja and his mother Tripta Devi came to see accused-Neeru @ Pooja on that day in their shop. The shop was closed at about 8.15 p.m. At that time, accused-Neeru @ Pooja told Rajesh Sachdeva that she was sick and be dropped at her residence. Rajesh Sachdeva closed the shop and took accused-Neeru @ Pooja with him in his Santro car whereas the witness left on a motor cycle to his house. At about 11.00 p.m., the witness received a telephone call from Rajesh Sachdeva that he would return late as he had some work. However, during the night, Rajesh Sachdeva did not return home. On 12.5.2006 at about 7.00 a.m., the witness received a call from the wife of his brother Rajesh Sachdeva informing him that Rajesh Sachdeva did not reach home during the night. Immediately, the witness

contacted accused-Neeru @ Pooja on her mobile phone to ascertain the whereabouts of Rajesh Sachdeva. At first she became nervous but, thereafter, told him that after dropping her at her house, Rajesh Sachdeva had left for his house. The witness made one more call on her mobile but the same had been switched off by then. Subsequently, he received a call from the owner of the adjoining shop that their shop had been set on fire and the gold and silver ornaments lying there had been stolen. The witness reached his shop and noticed that the safe had been opened with the keys. There were no ornaments inside the shop and the shop had been set on fire. The witness reached the house of accused-Neeru @ Pooja but she was not present there and the house was lying locked. The witness went to the house of Rajiv Kumar @ Raja but his house was also lying locked. The witness then called Rakesh Kumar brother-in-law of Rajesh Sachdeva, who reached the shop and made statement on the basis of which FIR was registered. The witness further stated that on the night intervening 12.5.2006 and 13.5.2006, the police informed him on telephone that the dead body of Rajesh Sachdeva was lying in a car at a distance of 9 kms from Chamkaur Sahib which was lying parked on the bank of Sirhind canal. He accompanied the police officials and found the dead body to be that of his brother. Inquest proceedings were conducted. The police visited the shop and took into possession

gas cutters and gas cylinder. One or two days later, he was again called by the police to a place near Amaltas Hotel. The police arrested Anil Kumar @ Kaka and Atul Kumar @ Chuppa, who were carrying two bags containing the gold ornaments. Those ornaments were weighed and turned out to be half a kilogram each. He identified the ornaments to be belonging to him. On the same day, he accompanied the police to Urban Estate, Ludhiana where accused-Rajinder Kumar, Sanjeev Kumar and Vicky were found present and were carrying separate bags in their hands. The search of the bags led to recovery of gold ornaments. The bag carried by Rajinder Kumar contained 300 grams of gold, the one carried by Sanjeev Kumar contained 81 grams of gold while the one in the possession of Vicky contained 630 grams of gold. The witness was, thereafter, taken to House No. 311-C, Urban Estate, Phase-I from where 113 artificial ladies karra and 29 artificial gents karra were recovered from the almirah. Tags of 'Raghav Jewellers' were attached with those karras. The police, thereafter, proceeded to the house of Tripta Devi, mother of accused Rajinder Kumar @ Raja from where a bag containing three packets of gold and silver jewellery were recovered. The gold jewellery weighed 2 kgs and 700 grams whereas the one packet of silver jewellery weighed 2583.9 grams while the other 2553.7 grams. The witness also produced the various details and receipts concerning the purchase of the

jewellery.

PW2 Paramjit Kaur, Clerk, District Transport Office, Ludhiana proved the ownership of Santo Car to be in the name of deceased-Rajesh Sachdeva.

PW3 Inspector Pardeep Kumar, Finger Print Expert deposed that on 12.5.2006 after receiving a message from the Police Control Room, Ludhiana, he alongwith his team proceeded to 'Raghav Jewellers' from where chance prints were taken from the safe/almirah which were sent to the Director, Finger Prints Bureau, Phillaur for the purpose of comparison. On 13.5.2006, he alongwith his team visited the canal side in village Bassi Gujran, falling under Police Station Chamkaur Sahib where the suspected articles were shown. Chance prints from the side glass window of the car and from the two kirchs lying in the car were taken. They were also sent to the Finger Prints Bureau for the purpose of comparison.

PW4 Constable Ram Saran proved the scaled site-plan prepared at the instance of complainant-Rakesh Kumar after visiting 'Raghav Jewellers' at Ghumar Mandi. He also visited village Bassi Gujran and at the canal side he prepared another scaled site-plan.

PW5 ASI Darshan Singh testified that on 12.5.2006 he visited the shop of 'Raghav Jewellers', Ghumar Mandi which shop was lying in the burnt condition and the articles scattered every

where. He took photographs of the scene of crime. On 13.5.2006, he reached in the area of village Bassi Gujran on the canal side and took 15 photographs.

PW6 HC Didar Singh tendered into evidence his affidavit in respect of the deposit of the various articles in the malkhana and sent them, thereafter, to the expert for their examination.

PW7 Sheetal Parkash, retired HC tendered into evidence his affidavit regarding the deposit of the material objects with the Laboratory.

PW8 Constable Paramjit Kumar also tendered into evidence his affidavit regarding deposit of the case property with the Forensic Science Laboratory.

PW9 SI Surjit Singh, who at the relevant time was posted as Additional SHO, Police Station Division No. 5, Ludhiana testified about the recovery of the two locks lying on both sides of the shutters of the shop, bunch of keys from the counter of the shop, two kirchs lying on the back seat of the car, baseball bat lying underneath the foot mat, one spectacles, cold drink opener, pair of blood stained socks, blood stained handkerchief and one blood stained cloth from the foot mat on the back seat of the car. He also deposed regarding the recovery of the purse from the pant worn by the deceased from which 4 ATM cards, Rs.40/- in cash and one packet of condom were recovered. He

further testified about the taking into possession of the car.

PW10 Rakesh Kumar deposed that his brother-in-law Rajesh Sachdeva alongwith his brother Ravi Sachdeva used to run goldsmith shop in the name and style of 'Raghav Jewellers' and had employed one sales girl, namely, Neeru @ Shanu besides one servant. Neeru used to display the jewellery before the customers after taking it from the safe. The keys of the shop as well as of the safe were usually kept by deceased Rajesh Sachdeva and Neeru and the servant were well aware of the same. He further deposed that on 12.5.2006 his sister Savi Sachdeva informed him on telephone that Rajesh Sachdeva did not return home from his shop last night. On this, he alongwith his brother and father reached Ludhiana at about 9.30 a.m. On reaching there, they learnt that on the night of 11.5.2006, accused-Neeru had taken Rajesh Sachdeva in the latter's car with an intention to rob him of the jewellery and to commit his murder in connivance with her co-accused. He stated about the shop having been set on fire. He further stated that on 12.5.2006 at about 11.00 p.m. he was called in the Police Station from where the police took him to a place by the side of the canal in the area of Chamkaur Sahib where Santro Car belonging to his brother-in-law was standing. He saw the dead body of his brother-in-law in that car with trails of blood lying on the back seat of the car. Both the hands of his brother-in-law were found tied

with the help of some wires. The inquest report was prepared and he signed the same. The photographer, who was called to the place, took various photographs of the scene of crime.

PW11 DSP Anil Kumar, who at the relevant time, was posted as Inspector, PW12 SI Arvind Puri and PW13 Inspector Sandeep Wadhera testified about the various steps taken by them during the investigation of the case.

PW14 HC Bishan Singh testified about the making of disclosure statements and effecting of recoveries at the instance of Atul Kumar @ Chuppa and Vicky.

PW14 Dr. U.S.Sooch testified that he alongwith Dr.R.K.Sharma and Dr. J.S.Salhan conducted the post-mortem on the dead body of Rajesh Sachdeva on 13.5.2006 at about 2.30 p.m. and observed as under:-

“On examination the dead body 5-11 long moderately built and nourished. Eyes and mouth were partially open. Post mortem staining was present on the back and rigor mortis was present in the lower limb only. Both legs were tied with a white cloth near ankles which was doubled. Plastic cord of mobile phone charger was tied around the wrist and a separate cloth with a note was lying along the side of the dead body. All these articles were sealed in a parcel of cloth. The blood was coming out of the nostrils and mouth. The dead body was wearing a pair of shoes, pant with belt, full sleeve shirt with sleeves folded and a banyan. There were

cuts in the shirt and banyan. All these clothes were sealed in a separate parcel of cloth bearing one seal with impression LMCH. No cynosis of nails and lips. Eyes were not congested. Mouth was containing blood.”

He also described the injuries on the dead body as under:-

- “1. A white cloth stained with blood was loosely encircling all around the neck, in its middle with double knot on the right side of the neck. The ligature cut and preserved in a parcel of cloth. Underneath there were superficial linear abrasion on the mid front and lateral side of neck with multiple abrasions lying on the area 9” x 2” on the neck and there was no subcutaneous echhymosis.
2. Lacerated wound 5 x 2.5 inch evulsion of skin flap on the left occipito-parietal area placed verticle with clotted blood around. On exploration of skull there was diffused subdural haemotomma on the right parieto occipital area and the brain matter was contused (counter coupe injury).
3. Incised stab wound 1-1/4 x 1/2 inch into chest cavity deep on the left para sternal area and on exploration there was cut in the muscles and rib. Pericardium and right ventricle of the heart were pierced through and through. The pericardium and chest cavity was full of blood.
4. Incised stab wound 1-1/4 x 1/3 and 2-1/2 below the injury No. 3 with cut in the

pericardium.

5. Incised wound 1.5 x ½ into muscle deep horizontal just above the medial end of left clavicle.
6. Incised stab wound 1-1/2 x ½ on the front and upper part of the neck just below the tip of chin. Underneath muscles and the thyroid cartilage and oesophagus were pierced with extravasation of blood.

The stomach was healthy and containing gastric juices. Small and large intestines were healthy and contains gases and faeces. Liver, spleen and kidney were found healthy.

The cause of death in this case in the opinion of the board of the doctors was haemorrhage and shock as a result of multiple stab injuries of the chest, neck and head injury which were sufficient to cause death in the ordinary course of nature.”

PW15 HC Avtar Singh testified about taking of photographs of the dead body into possession and arrest of Rajiv Kumar @ Raja-accused and Neeru-accused.

PW16 Som Nath Arora deposed that he was working as a part time accountant with Raghav Jewellers and recording the entries in the ledger. He stated that accused-Neeru was working as a sales girl at Raghav Jewellers and her salary was Rs.3,000/-. He proved the entry regarding the payments of the salary in the ledger.

After the Additional Public Prosecutor closed the

prosecution evidence, all the seven appellants were examined under Section 313 Cr.P.C. They denied the prosecution allegations and pleaded false implication. They, however, examined three witnesses in defence.

DW1 HC Surjit Singh proved the copy Ex. D7 of DDR No. 35 recorded at Police Station Division No. 5, Ludhiana on 13.5.2006 at 7.45 a.m. and its attested copy is Ex. D6.

DW2 Sharanjit Singh, Ahlmad proved the certified copy of suit for permanent injunction (Ex.D8) titled Veena Sachdeva Vs. Savi Sachdeva, certified copy of counter claim (Ex.D9) for declaration in the same suit and certified copy of the civil suit (Ex.D10) titled as Savi Sachdeva Vs. Sat Pal Sachdeva for grant of permanent injunction.

DW3 Randhir Singh testified that on 15.6.2006, he was present at the shop of Ram Pal, husband of Tripta Devi where he had gone for some work of welding. At about 5/5.30 p.m., the police officials came to that shop and took Rajinder Kumar, Tripta Devi and her husband Ram Pal. When he asked the police officials as to why the accused were being taken away, he was slapped by one of the police personnel.

The trial Court, after considering the rival contentions of the Additional Public Prosecutor and the defence counsel besides going through the documents and the evidence available on the file concluded that the prosecution had proved the case

against all the appellants beyond any shadow of doubt. Accordingly, they were convicted and sentenced, as mentioned above.

This Court had heard Mr. Baldev Singh, Senior Advocate assisted by Mr. Deepender Singh, Advocate and Mr. Sudhir Sharma, Advocate, Mr. S.S. Rana, Advocate and Mr. Navjeet Singh Malmajra, Advocate for the appellants, Mr. Rajesh Bhardwaj, Addl. A.G., Punjab and Mr. Manjit Singh, Advocate for the complainant and scanned the evidence minutely with their able assistance.

As per the testimony of PW10 Rakesh Kumar, the complainant, at whose instance FIR Ex. P279 was registered at Police Station Division No.5, Ludhiana on 12.5.2006 at 11.55 p.m., his sister Savi Sachdeva was married to deceased Rajesh Sachdeva. Both Rajesh Sachdeva and his brother Ravi Sachdeva had been running a goldsmith shop under the name and style of M/s Raghav Jewellers, and had employed Neeru-accused as a sales girl. Rajesh Sachdeva used to keep the keys of the shop and the safe. On 12.5.2006, Savi Sachdeva informed complainant-Rakesh Kumar on telephone that Rajesh Sachdeva had not come back from his shop since last night. On learning about this, complainant-Rakesh Kumar along with his father and brother rushed to Ludhiana on 12.5.2006 at about 9.30 a.m. and all of them, thereafter, started searching for Rajesh Sachdeva.

The complainant also learnt from Ravi Sachdeva, brother of Rajesh Sachdeva that after closing the shop on the night of 11.5.2006, Rajesh Sachdeva gave lift to Neeru-accused in his car as she had told him that she was not feeling well and, therefore, she be dropped at her house. Accordingly, the involvement of Neeru was suspected in the disappearance of Rajesh Sachdeva as well as the commission of dacoity at his shop as various gold and silver ornaments kept in the shop were found missing and the shop had also been burnt.

It has also come on the record that at about 11.00 p.m. on 12.5.2006, complainant-Rakesh Kumar was informed by the police about the Santro car belonging to deceased Rajesh Sachdeva found parked on the canal bank at a distance of 9 kms from Chamkaur Sahib and the dead body of a young person was lying inside the said car. Accordingly, complainant-Rakesh Kumar and Ravi Sachdeva reached the said spot and identified the dead body to be that of Rajesh Sachdeva. There were blood stains on the back seat of the car and the hands of Rajesh Sachdeva were found tied with a wire. This further confirmed the suspicion against Neeru of being the kingpin in the murder of Rajesh Sachdeva as she was got employed by other accused and she had developed relations with Rajesh Sachdeva. On the pretext of being unwell, she had been able to take Rajesh Sachdeva to her house and come in possession of keys of the shop.

PW1 Ravi Sachdeva, brother of the deceased, also confirmed the factum of Neeru-accused visiting the shop jointly owned by him and Rajesh Sachdeva in order to meet Muskan, who had earlier worked as a sales girl with them. However, Muskan left the job after her marriage and the two brothers employed Neeru as a sales girl. During the period Neeru worked with the brothers, Raja @ Rajiv-accused alongwith his mother Tripta Devi-accused had been coming to meet Neeru at their shop. He had further testified that on 11.5.2006, Neeru-accused worked at the shop and on that day, both Raja @ Rajiv and Tripta Devi had come to meet Neeru at their shop. The shop was finally closed at about 8.15 p.m. At that point of time, Neeru told the deceased about her being unwell and requested to be dropped at her place. The deceased after closing the shop gave lift to Neeru-accused in his car. At about 11.00 p.m., Ravi Sachdeva received a call from Rajesh Sachdeva that he would return late. However, on 12.5.2006 at about 7.00 a.m., Rajesh Sachdeva's wife Savi Sachdeva informed him that Rajesh Sachdeva had not come back during the previous night. Ravi Sachdeva contacted Neeru-accused on her mobile so as to find out the whereabouts of Rajesh Sachdeva. Neeru-accused told him that Rajesh Sachdeva after leaving her at her place had gone back. When the witness tried to contact Neeru-accused, once again, her mobile had been switched off. The witness then got a call from

the owner of the adjoining shop that their shop had been set on fire and ornaments stolen. The witness reached the shop and found the safe to be lying open and there was no ornament either in the safe or in the shop and the shop had also been put on fire. The witness went to the house of Neeru-accused but could not find her there. He then went to the house of Raja @ Rajiv-accused which was also found locked. On the night intervening 12/13.5.2006, he learnt from the police about the murder of his brother and his body lying in the car on the canal bank. He accompanied the police to the said spot and saw his brother lying dead. On 17.5.2006, he was, once again, associated by the police after he was called to reach near Amaltas hospital. In his presence, Anil Kumar and Atul Kumar-accused were apprehended, who were carrying bags containing gold ornaments. He identified the ornaments to be that belonging to his shop as they bore the tags of his shop. He, thereafter, accompanied the police to Urban Estate, Ludhiana where Rajinder Kumar, Sanjiv Kumar and Vicky were found present in Kothi No. 311-C. On seeing the police, the three accused tried to escape but were apprehended. They were carrying bags in their hands. The search of those bags led to recovery of ornaments belonging to M/s Raghav Jewellers, the concern belonging to him and his deceased brother Rajesh Sachdeva. When the police party went inside the said house, artificial ladies and gents karras

were recovered from the almirah inside the said house which bore tags of M/s Raghav Jewellers. The police party then left for the house of Tripta Devi-accused situated near Gaushala, Ludhiana and from the said house, three packets containing gold and silver jewellery were recovered which belonged to M/s Raghav Jewellers.

PW3 Inspector Pardeep Kumar, Finger Print Expert had deposed that on 12.5.2006, he visited Raghav Jewellers and took chance prints available on the safe. On 13.5.2006, he visited the canal bank in the area of Chamkaur Sahib and took prints from the side glass window of the car and two kirchs lying in the car. PW12 SI Arvind Puri had testified that the sheaths of small kirpan were recovered from Atul Kumar and Vicky-accused pursuant to their disclosure statements. The post-mortem on the dead body of Rajesh Sachdeva was conducted by PW14 Dr.U.S.Sooch, who opined that the cause of death was haemorrhage and shock as a result of multiple stab injuries on the chest, neck and head which were sufficient to cause death in the ordinary course of nature. PW16 Som Nath Arora, working as a part time Accountant with Raghav Jewellers deposed about the employment of Neeru-accused as a sales girl with said concern.

From the above, it stands established that deceased-Rajesh Sachdeva and his brother Ravi Sachdeva used to run M/s Raghav Jewellers and had hired Neeru as a sales girl, who used

to be visited by Rajiv Kumar @ Raja and Tripta Devi-accused. Further, on 11.5.2006 at about 8.15 p.m., Neeru-accused was seen with the deceased, who got lift from the deceased on the pretext that she was feeling unwell and wanted to be dropped at her place. When Ravi Sachdeva learnt that his brother had not returned home, he contacted Neeru on her mobile, who became nervous and stated that Rajesh Sachdeva had left after dropping her. When Ravi Sachdeva tried to contact her, once again, her mobile phone was found to be switched off. Ravi Sachdeva then went to the house of Neeru-accused but found her house locked. He also went to the house of Rajiv @ Raja which house was also found locked. During the investigation of the case, the police recovered the dead body of Rajesh Sachdeva on the night intervening 12/13.5.2006 which was lying in his car found parked on the canal bank in the area of Police Station Chamkaur Sahib. From the car belonging to the deceased, two kirchs were recovered. During further investigation, Anil Kumar, Atul Kumar, Rajinder Kumar, Sanjeev Kumar and Vicky were apprehended and gold ornaments as well as artificial jewellery belonging to the shop of the deceased were recovered. From the house belonging to Tripta Devi-accused from where she was apprehended, gold ornaments were also recovered belonging to the shop of the deceased. Furthermore, the shop belonging to the deceased was found to have been looted and an attempt made to destroy the

evidence by setting the shop on fire. Finger prints were taken from the shop as well as from the car in which the dead body of Rajesh Sachdeva was found lying. A gas cylinder and several articles meant for cutting the locks were also recovered. Thus, the prosecution has been able to connect all the seven accused, who are appellants before this Court, with the commission of crime.

Merely because, PW1 Ravi Sachdeva is the real brother of deceased-Rajesh Sachdeva is no ground to hold that his testimony cannot be relied upon. He was subjected to lengthy cross-examination by the defence. Despite the same, the defence could not bring any material on record to establish that he had falsely deposed against the accused. The defence had suggested him that he himself was involved in the crime and in order to avoid the said tag, he came up with a false and fabricated version against the seven appellants. He specifically denied the said suggestion and stood to his ground that it was Neeru-accused, who had taken his deceased brother with her on 11.5.2006 at about 8.15 p.m. from their shop on the excuse that she was not feeling well and required to be dropped at her place. Certain improvements and discrepancies had been pointed out by the defence but they are not fatal to the prosecution especially when by leading circumstantial evidence, the prosecution has been able to prove the complicity of the accused in the

commission of the crime.

The defence pointed out that while effecting various recoveries, no independent witness was joined and, therefore, it cannot be said that the appellants were found in possession of gold and silver jewellery which belonged to the shop jointly owned by deceased-Rajesh Sachdeva and his brother Ravi Sachdeva.

At the time of apprehension of the various accused and recovery of the jewellery from them, PW1 Ravi Sachdeva was accompanying the police and in his presence various recoveries were effected. While appearing before the trial Court, said Ravi Sachdeva had stated in clear terms about the apprehension of the accused and recovery of various articles including gold and silver jewellery. Merely because, he happened to be brother of the deceased is no ground to reject his testimony.

None of the accused from whom gold and silver jewellery was recovered during the investigation of the case has been able to explain its ownership. On the other hand, the prosecution has been able to establish that the entire jewellery recovered from the accused belonged to M/s Raghav Jewellers which was jointly owned by deceased Rajesh Sachdeva and his brother Ravi Sachdeva. Rajesh Sachdeva was found to have been murdered during the night intervening 11/12.5.2006. The shop belonging to him and Ravi Sachdeva was found to have been looted as the safe was found open and the jewellery

removed from the same. The presumption in illustration (a) of Section 114 of the Evidence Act is clearly attracted making all the seven appellants guilty of the various offences. The judgment in the case of **Baiju Vs. State of Madhya Pradesh**, AIR 1978 SC 522 relied upon by the defence does not come to the rescue of the appellants as in the said judgment, it was held that recent and unexplained possession of stolen articles could be taken to be presumptive evidence of the charges of murder as well. Moreover, it was held that the question whether a presumption should be drawn under illustration (a) of Section 114 of the Evidence Act was a matter which depended on the evidence and the circumstance of each case.

The prosecution has led sufficient evidence in the present case to connect the appellants with the commission of the crime. No fault can be found with the impugned judgment of conviction passed by the trial Court while convicting the appellants of the charges under Sections 302/364/457/395/436/149, 201, 404 and 148 IPC.

Resultantly, all the appeals are without any merit and, therefore, dismissed.

**(T.P.S. MANN)
JUDGE**

February 26, 2015
ajay-1

**(GURMIT RAM)
JUDGE**