

In the High Court of Punjab and Haryana at Chandigarh

CRA-D-909-DB-2011 (O&M)

Date of decision: 22.12.2015

Jatinder Singh @ Tota

..... Appellant

Vs.

State of Punjab

..... Respondent

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Argued by: Mr. R.P.Dhir, Advocate
for the appellant.

Mrs. Manjari Nehru Kaul, Additional Advocate General,
Punjab.

RAJ RAHUL GARG.J.

This appeal is directed against the judgment dated 13.09.2011 rendered by learned Addition Sessions Judge, Hoshiarpur, whereby, the appellant-accused Jatinder Singh @ Tota was held guilty for committing offence punishable under Section 302 of Indian Penal Code (for short 'IPC'), whereas, regarding co-accused Raminder Singh @ Grewal, Manjit Singh @ Lali and Dilbagh @ Bagga, it was held that prosecution has failed to prove its case against them regarding destroying of evidence to save the offender from legal punishment. As

such, they were acquitted of the charges framed against them under Section 201 IPC. Vide order of sentence of even date, appellant-accused Jatinder Singh was sentenced to undergo imprisonment for life and to pay a fine of ₹20,000/-. In case of default of payment of fine, to further undergo RI for 2 years.

Brief facts of the case are like this; that on 05.11.2007, SI Jatinderpal Singh, Additional SHO, Police Station Garhshankar, District Hoshiarpur, along with police officials were present in the area of village Binewal on patrolling duty. Darshan Lal, Sarpanch of village Haibowal, met him and got recorded his statement Ex.PC to the effect that on that very day i.e. on 05.11.2007, at about 1:00 P.M., residents of village informed him that a partly burnt dead body of a female was lying ahead about half kilometers from village Haibowal, on link road leading to main road, Anandpur Sahib. On reaching the aforesaid place, he found that a partly burnt dead body of a female was lying with face downwards, in a tied condition whose only left foot was secured and who was wearing a *pajami* of greenish blue colour. The dead body was lying in bushes near the road. Darshal Lal complainant expressed that an unknown persons after killing the aforesaid woman, tied her and brought her in an isolated area at night and burnt her. A plastic bottle was lying near the dead body. Darshan Lal left behind Manoj Kumar, Panch of the village, near the dead body at the spot and himself had gone to the police to inform about the aforesaid, when the police met him in the area of village Binewal, where FIR Ex.PC was got recorded.

On this statement of complainant, Investigating Officer Jatinderpal Singh, made his endorsement Ex.PC/1 and sent the same to police station Garhshankar for recording the FIR, whereupon, formal FIR Ex.PC/2 was recorded. Thereafter, Investigating Officer Jatinderpal Singh, visited the spot. Photographer, dog squad and Finger Print Expert were called at the spot. This incident was also reported to the Senior Police Officers, by the Investigating Officer of this case. Photographs of the spot, from where the aforesaid dead body was recovered, were taken from different angles. Finger Print Expert also examined the spot and submitted his report to the Investigating Officer. Rough site plan of the spot was prepared as Ex.PW18/A. The fact regarding recovery of dead body of an unknown lady was announced in the nearby villages. In the meanwhile, Major Singh and Mandip Singh came at the spot and identified the dead body of deceased as that of Rajwinder Kaur, d/o late Bhag Singh, R/o village Golian, Police Station Garhshankar. Inquest report was prepared as Ex.PW18/B. Statements of Mandip Singh and Major Singh were recorded. Two empty bottles, from which smell of petrol was coming, recovered from the spot. The same were made into a parcel and sealed with the seal of 'JPS' and then was taken into police possession vide memo Ex.PW18/C. Earth and ash from the spot were also taken into police possession. The same were also converted into a parcel and sealed with the seal of 'JPS' and then taken into possession vide memo Ex.PW18/D. Request Ex.PW18/E was made to the SMO, Civil

Hospital, Garhshankar for getting the post-mortem of dead body of Rajwinder Kaur done. Jaswinder Kaur, mother of the deceased, had come at the spot. She also identified the dead body of her daughter Rajwinder Kaur and she suspected that Rajwinder Kaur was killed by Jatinder Singh @ Tota and his friends namely Lakhvir Singh @ Lakha. From Civil Hospital, Garhshankar, the dead body of Rajwinder Kaur was sent to Civil Hospital, Hoshiarpur, for post-mortem examination by the Board of Doctors.

On 06.11.2007, post-mortem examination of the dead body of deceased Rajwinder Kaur was conducted by the Board of Doctors and, thereafter, the dead body was handed over to Mandip Singh (son) and Major Singh (uncle) in the presence of Harjinder Singh, Sarpanch against receipt Ex.PD. After the post-mortem, one sealed packet containing belongings of the deceased i.e. wire, piece of salwar, ear rings and golden coloured bangles, a sealed envelope containing copy of post-mortem report, forwarding letter to chemical examiner and inquest papers, sealed plastic jar containing viscera of the deceased for chemical examination, sealed envelope containing letter to head of Pathology Department Govt. Medical College Amritsar, copy of post-mortem report and photocopy of inquest report, plastic jar containing skin and muscles for histo pathology examination, a jar containing skin with muscles, bones marrow for DNA test and sample seals were handed over by the doctors and the same were deposited with the MHC. Thereafter, the investigations of this case were conducted by

Lakhbir Singh, SHO, Police Station Garhshankar, who arrested the accused Jatinder Singh @ Tota and Lakhvir Singh @ Lakha on 12.11.2007 whereas on 14.11.2007, again investigations of this case were entrusted to SI Jatinderpal Singh.

During interrogation, Jatinder Singh @ Tota suffered disclosure statement Ex.PW18/F which is as follows:-

“ I am residing at the above said address my parents had already died. I have two elder brothers Rajwinder Kaur @ Rinku d/o Bhag Singh r/o Vill. Gholian who was earlier married in our Vill. Sadhowal with Ranjit Singh who died 3 years ago. For the last 2½ years I was having love affair with Rajwinder Kaur @ Rinku. We use to meet each other. Rinku wanted to marry with me but I was not ready After the death of her husband Rajwinder Kaur @ Rinku living in her parentl village at Golian. On 04.11.2007 Rajwinder Kaur @ Rinku telephoned me and called me. Initially I was not ready but her insistence I got ready. At about 12:30 PM, we met each other at Saini Fast Food which is the shop of Raminder Singh @ Garewal son of Gurmukh Singh Saini resident of Ward No.11 Nagal Road, Garhshanker. Firstly we took tea in the cabin built on the first floor of the shop then on my asking Rajwinder Kaur @ Rinku Got arranged two quarters of liquor for me and I consume the liquor then in the store built on the back of the kitchen adjoining the cabin we committed

sexual intercourse with consent. Then after sexual intercourse Rajwinder Kaur @ Rinku became emotional and said that nobody was ready for their marriage and they should die by consuming poisonous substance. On the asking of Rajwinder Kaur 4 months back I had taken the poisonous substance but Rajwinder Kaur did not take the poison and fortunately I was saved. Thereafter, I was having grudge against Rajwinder Kaur. She wanted to marry me but I did not want to do so when she again told to take poison then I asked her that you want to kill me, your activities are not good, on that she started to use filthy language with me and also used bad words for my mother who is already died. I could not bear this and I killed her by throttling her neck with her chunni. Thereafter I got perplex, I told all the matter to Raminder Singh @ Garewal. Firstly he scolded me but thereafter on my request he got ready to help me. Raminder Singh @ Garewal went upstairs and put the pajami to Rinku, who was till in half naked condition. then we took a blanket and wrapped the dead body in the same and the blanket tied with cable wire which was brought by Garewal. Then we tried to arrange a car but we did not get the car. When it became dark then we put the dead body on Bullet Motorcycle of Garewal and left for Nangal Road. Motorcycle was drove by Garewal. I sat at the back seat of Motorcycle carrying dead body. When we reached at Ghata of Khanpur, we

threw the dead body on the side of the road and by taking out petrol from the motorcycle set the dead body to fire and we came back. I dropped Garewal on his shop and I took his motorcycle and went to Lakhbir Singh @ lakha son of Gurdial Singh caste Jatt resident of Vill. Duggri and disclosed all the matter to him. He scolded me but thereafter he got ready to help me. We returned the motorcycle of Garewal to him and came back to village on the scooter of Lakhbir Singh. We sent Manjit Singh @ Lali, who is brother of Lakhbir, to village to bring the Car. He brought the Indica car of Ajay Kumar son of Raghubir Singh caste Rajput resident of village Dugri as he is driver of that car. We told Ajay Kumar that my father is ill and we have to go to meet him and we went with him to village Fatehpur Kalan from where we took Dilbag Singh @ Bagha, son of Darshan Singh Jatt with us and came at my house to village Sadhowal, there we freed Ajay Kumar alongwith the car and took my Zen car white colour bearing Registration No. PB07-J-9477 and we took two empty plastic bottles with us and we started going and from the Patrol pump on the Chandigarh Road, Garhshanker we got filled the patrol in the car and bottles. Then, I, Lakhvir, Manjit and Dilbag lifted the dead body from the Ghatta of Khanpur and put the same in the car and took it in the deserted forest of Village Haibowal and threw it there and by putting the patrol on

the dead body we sat it on fire with a view to destroy it then we brought his purse to village Dugri which contained her horoscope bank passbook, her and my photographs and other articles and in the fields set the same on fire. I can get the same recovered. Her mobile phone were broken by me by thronging on the road and her Juti was also thrown in jungle by putting it in an envelop. I can point out the places of occurrence to you.”

On interrogation, accused Lakhvir Singh @ Lakha suffered disclosure statement Ex.PW18/G which is as follows:-

“ I am resident of abovesaid address. My mother have been expired and I have no any sister. I know Jatinder Singh @ Tota son of Gurmej Singh Caste Jatt resident of Sadhowal from the last 7/8 years. He was having love affair with Rajinder Kaur @ Rinku daughter of Bhag Singh Caste Jatt resident of Golian PS Garhshankar for the last 2½ years. Jatinder Singh @ Tota had taken the poisonous substance on the asking of Rajwinder Kaur 4 months back but Rajwinder Kaur did not take the poison and fortunately he was saved. Jatinder Singh @ Tota and Rajinder Kaur @ Rinku usually met each other at Saini Fast Food, Nangal Raod, Garhshankar, dated 4-11-07 night time about 9-30 PM, the shop of Raminder Singh @ Garewal but they quarreled with each other and in anger he killed Jatinder Kaur by throttling her neck with her chunni.

After that with the connivance of Garewal wrapping the dead body with blanket threw the dead body in ghata near village Khanpur at Nangal road and by taking out petrol from the motorcycle set the dead body to fire. Therefore I got perplexed and scolded him but on his several requests I took the scooter and firstly we returned the motorcycle of Garewal and came back and then I sent my brother Manjit Singh @ Lali, to bring the Car from village. Manjit Singh brought the Indica car of Ajay Kumar son of Raghubir Singh as he is driver of that car. We told Ajay Kumar that father of Jatinder Kumar @ Tota is ill, we have to go to meet him. Then we, I, Jatinder Singh and Manjit Singh came to village Fatehpur Kalan on Indica car which was driven by Ajay, from where we took Dilbag Singh @ Bagha son of Late Darshan Singh with us and came to the house of Jatinder Singh @ Tota at village Sadhowal, there we freed Ajay Kumar alongwith the car and we all four persons took Zen car bearing No. PB07-J-9477 and left the house. We took two empty plastic bottles and filed the patrol in the car and in empty bottles from the Patrol pump on the Chandigarh Raod, Garhshankar and then, I, Jatinder Singh, Manjit Singh @ Lali and Dilbag Singh @ Bagha lifted the dead body from the Ghatta of Khanpur and put the same in the car and took it in the deserted forest of Village Haibowal and threw it there and by putting the patrol

from both of the bottles on the dead body we sat it on fire. We threw the bottle near the dead body. Zen car was driving by me. After destroying the dead body I hide the Zen car on my motor. Which I can get the same recovered to you.”

On demarcation of accused Jatinder Singh, site plan of the place of occurrence was prepared as Ex.PW18/H. On demarcation of accused Jatinder Singh, site plan of the place, where Raminder Singh and Jatinder Singh accused threw the dead body of Rajwinder Kaur and sat the same on fire, was prepared as Ex.PW18/J. In this very site plan Mark 'C' has been shown as the place from where the piece of cloth of *pajami* of suit, worn by Rajwinder Kaur (deceased), was recovered and taken into possession by the police. Part of burnt suit of deceased, which is of greenish blue colour, was taken into possession from the spot demarcated by the accused Jatinder Singh at Ghata of village Khanpur vide memo Ex.PW16/M. Accused Jatinder Singh also got recovered one half burnt ladies purse of black colour containing burnt horoscope, bank pass-book, ladies artificial *karas* from the fields in the area of village Dugri, identified by Jaswinder Kuar, mother of deceased, at the spot and the same reduced into a parcel, sealed with the seal of '*JPS*' and then taken into police possession vide memo Ex.PW16/B

Accused Lakhvir Singh @ Lakha also got recovered one car bearing No. PB-07J-9477 from his tube-well motor house and the same was taken into possession vide memo Ex.PW16/A.

On 16.11.2007, accused Manjit singh @ Lali and Dilbagh Singh @ Begha were produced before Investigating Officer by Harpreet Singh, Ex. Samiti Member, and both the accused were arrested.

On 22.11.2007, accused Raminder Singh got recovered one Bill/cash memo Ex.PE dated 04.11.2007 vide which waterproof wire was purchased from Walia Electrical and the same was taken into possession vide memo Ex.PW16/K.

On 12.12.2007, Constable Gurmaninder Singh produced 11 photographs without negatives and the same were taken into possession vide memo Ex.PW16/L. On 06.02.2008, Jaspreet Singh, s/o Gurmej Singh, produced RC Ex.PW17/A of Car No. PB-07J-9477 and the same was taken into possession vide memo Ex.PW18/K. On the same day, an application Ex.PW18/L was moved by the police before DTO, Hoshiarpur for the verification of ownership of the car and the office of DTO vide its endorsement Ex.PW18/M verified that the ownership of the said car belongs to Jaspreet Singh, s/o Gurmej Singh, R/o village Sadhowal, Garhshankar. After completion of necessary investigations, the challan was put in the Court against the accused.

It would not be out of place to mention here that at the time of presentation of challen, accused Lakhvir Singh @ Lakha was proclaimed offender.

Finding a *prima-facie* case against accused Jatinder Singh for committing offence punishable under Section 302 IPC, he was

charge-sheeted accordingly whereas he along with co-accused was also charge sheeted for offence under Section 201 IPC.

After taking entire prosecution evidence, statements of accused under Section 313 Cr.P.C. were recorded wherein they denied each prosecution allegation appearing against them and pleaded their innocence and false implication in this case.

After hearing counsel for the parties and appraising the entire material and evidence on record, the learned trial Court passed the impugned judgment of conviction dated 13.09.2011 and order of sentence of even date, as mentioned in the earlier part of this judgment.

We have heard learned counsel for the parties, besides appraising the entire material and evidence on record.

This is a case based upon circumstantial evidence. Before convicting the accused, parameters as provided in Arvind @ Pappu Vs. State (Delhi Administration), 1999(2)R.C.R.(Criminal),810, have to be complied with. These parameters are as follows:-

- (i) Circumstances relied upon in support of conviction must be fully established and the chain of evidence furnished by those circumstances must be so complete as not to leave any reasonable ground for a conclusion consistent with the innocence of accused.*
- (ii) The circumstances from which conclusion of guilt is to be drawn have not only to be fully established but also that all the circumstances so established should be of a conclusive nature and consistent only with the hypothesis of the guilt of the accused and should not be capable of being explained by any other hypothesis except the guilt of the accused.*

(iii) All the circumstances cumulatively taken together should lead to only irresistible conclusion that accused alone is the perpetrator of the crime.

The learned trial Court convicted the accused Jatinder Singh mainly for the reason that he suffered disclosure statement Ex.PW18/F and further got recovered articles of deceased i.e. purse black colour containing burnt horoscope and burnt passbook along with ladies *karas* (bangles) from the fields under the Hadbast of village Dugri, which were identified by Jaswinder Kaur, mother of deceased as the one belonging to her deceased's daughter Rajwinder Kaur. However, since, PW Rakesh Kumar, owner of the Electrical shop, did not support the prosecution case regarding purchase of wire vide cash memo. Ex.PE, therefore, the learned trial Court concluded that prosecution has failed to prove its case against the accused for the offence under Section 201 IPC.

Before convicting the appellant-accused, we have to see as to if the prosecution has succeeded in completing the chain of evidence furnished by circumstances pointing towards the guilt of the accused and which do not leave any reasonable ground for a conclusion consistent with the innocence of accused.

Darshan Lal, Sarpanch of village Haibowal, Police Station, Garhshankar, District Hoshiarpur, received information from the residents of the village regarding partly burnt dead body of a female lying ahead about half kilometers from village Haibowal, on link road leading to main road, Anandpur Sahib. He is the first one to reach the

spot and found the partly burnt dead body of a female with face downwards. The dead body was found in a tied condition. He is the first who had gone to the police and lodged the report Ex.PC. This Darshan Lal was examined as PW2. In the Court, he simply stated that when he came to know about burnt dead body lying at a distance of half kilometers from the village, he reached there. He made a telephonic call to the Police Station, Garhshankar. Police came at the spot and took the burnt dead body into its possession. As he did not state anything else regarding condition of the dead body, in which the same was found lying at the aforesaid place, and further about the fact that left foot was secured and wearing *pajami* of greenish blue colour, he was cross-examined by the learned PP but he denied having made such a statement to the police.,As such, he was confronted with his statement Ex.PC.

As per disclosure statement made by appellant-accused Jatinder Singh, he was having love affair with the deceased. Deceased wanted to marry him but he was not ready. After the death of her husband, she had been living at her parents' house at village Golian. On 04.11.2007, deceased gave a telephonic call to him. Though, initially he was not ready but later on, on her insistence, they met at about 12:30 P.M. at Saini Fast Food, shop of Raminder Singh (accused). There, firstly, they took tea in the cabin on the first floor and, thereafter, they had sex. When deceased gave proposal that since nobody was ready for their marriage, therefore, they should die by consuming poisonous

substance. This irritated him, as four months back as well, on her asking to die together, he consumed poisonous substance but Rajwinder Kaur did not. At this, he asked her that she wanted to kill him and further that her activities were not good, whereupon, she started giving filthy abuses to him and also used bad words for her mother who was no more. As such, since he could bear all this, he killed her by throttling her neck with her *chuuni*. Jaswinder Kaur as PW6 gave a different story. She deposed that her daughter planned to perform court marriage with Jatinder and the marriage was to be solemnized on 05.11.2007. The factum of this marriage became known to Jassa @ Jaspreet who happened to be brother of Jatinder Singh-accused. Jaspreet picked up a quarrel with Jatinder and, thereafter, Jatinder consumed some medicine, however, he was saved. She further deposed that one computer centre was being run by Satta @ Satnam Singh and his wife Poonam. Deceased used to learn computer application from the said computer centre. On 04.11.2007, Jaspreet, Satnam Singh and his wife Poonam called her daughter on telephone on the pretext that some shopping was to be done. Lakha, resident of village Dugri had also called Rajwinder Kaur on the phone. Rajwinder Kaur, then, had gone over there. When she did not return till evening, she gave telephonic call to her which was firstly answered by Lakha and he informed her that Rajwinder Kaur had already left for her house. However, when uptill 8:30 P.M. she did not return, then again they made telephonic call to her on her phone but the same was found

switched off. On 05.11.2007, they went to village Sadhowal, where Jaspreet met them and upon seeing them, he escaped from his house. Then Jaswinder Kaur accompanied by her son had gone to Police Station, Garhshankar, where they got recorded the report regarding missing of Rajwinder Kaur. Thus, with this statement of Jaswinder Kaur, mother of deceased, it is evident that deceased was called by Jaspreet @ Jassa, Satnam Singh @ Satta and his wife Poonam, on the pretext that some shopping was to be made. As per Jaswinder Kaur (PW6), Jassa was not happy with the fact that Jatinder should marry deceased. Even, on this point, he picked up a quarrel with Jatinder. Confessional statement made by accused Jatinder as Ex.PW18/F is not admissible in evidence. As such, on the basis of this disclosure statement, it cannot be concluded that Jatinder had caused death of deceased. In the light of aforesaid two different versions as to the place and the persons where and to whom deceased had gone on the fateful day, is not free from doubt. Even the recovery part is also not free from doubt. In fact, the story put forward by Jatinder-accused in his disclosure statement Ex.PW18/F as to how he disposed off the dead body of deceased, firstly by throwing it at Ghata of Khanpur on the side of the road by carrying the same on bullet motorcycle of Raminder Singh-accused and after tying the dead body, in a blanket, with cable wire, setting it on fire after taking petrol from the motorcycle and; thereafter, again going to the aforesaid place, by Zen Car along with co-accused and then to lift the dead body from that

place and taking the same by aforesaid car to the deserted forest of village Haibowal, where it was thrown and then putting the petrol on the dead body and setting the same on fire with a view to destroy it, does not appeal to the reason. When once the dead body was set on fire by pouring petrol on it, nobody would dare to again go to the same place and would lift the dead body and then take the same by car to some other place and then again set it on fire. Further, if Jatinder was having Zen car, there was no point for him to firstly take the dead body on a scooter and then to make efforts for arranging Indica Car of Ajay Kumar, son of Raghubir Singh, and then after getting it, not to use it. On this aspect as well, the disclosure statement of accused Jatinder is not free from doubt.

It is again not believable that when accused were destroying the dead body by pouring petrol on it, they would also burn the purse at that very place. It would again be quite risky to bring the purse of the deceased and then to burn the same in the fields. Besides this, even in his disclosure statement, no where accused Jatinder stated that he alone knew about the place where they burnt the purse of the deceased. Likewise, if we peruse the recovery memo of purse Ex.PW16/B, no where it finds mention that in pursuance with his disclosure statement, accused Jatinder led the police party to the pointed place and then got recovered ladies purse black colour, containing burnt horoscope and passbook etc. In the absence of the same, it cannot be said that this recovery is at the instance of accused

Jatinder. The dead body was found on 05.11.2007. The purse of deceased was recovered on 14.11.2007 from the fields in the area of village Dugri. It is not understandable that at the open place, the burnt purse would be lying even after the passage of about 10 days. Even, no site plan of the place of recovery of purse was prepared by the police for the reasons best known to it. Jaswinder Kaur (PW6), during the course of her cross-examination, deposed that the burnt passbook and the burnt horoscope do not bear the name and address of her daughter nor there was any specific mark on them that the same belongs to her. There was no specific mark or name of the deceased on the purse. In the absence of the same, burnt passbook and burnt horoscope are not connected with the deceased. Thus, with this type of disclosure statement as well recovery, it cannot be said that recovered articles belong to deceased and that the alleged recovery at the instance of accused is beyond any shadow of doubt.

As per prosecution case, part of suit, which is greenish blue colour, was recovered from the place i.e. Ghata of village Khanpur at the time when on the demarcation of accused Jatinder, site plan of the spot, where the dead body was firstly thrown, was prepared. This site plan is Ex. PW18/J. This piece of evidence also does not fasten the accused with this crime. This piece of cloth of the deceased was not got identified from Jaswinder Kaur or anyone who was able to identify the same. Even, it was not made into a parcel nor sealed. This recovery was also made on 14.11.2007 i.e. after about 9-10 days of the occurrence.

Prior to that, several people including police had already visited this place. It is not understandable that when the police had already visited this place, it would not detect such a piece of cloth of deceased. This recovery is not in pursuance with any disclosure statement made by the accused nor this piece of cloth was kept hidden by the accused. As such, it cannot be said that accused alone was in knowledge of lying of this piece of cloth of the deceased at that place or that this recovery is sufficient to connect the accused Jatinder with this crime.

Dr. Jaswinder Singh (PW1), who conducted the post-mortem examination of dead body of deceased, deposed that the cause of death in this case could not be detected at this stage as the body was badly burnt. This opinion of the doctor is Ex.PB. However, as per doctor, the burns were post-mortem in nature.

Rakesh Kumar (PW4) is the shopkeeper, running a shop in the name of Walia Electrical from whom Raminder accused had bought 6 yards waterproof wire Wega vide bill Ex.PE. This witness did not support the prosecution case. He categorically denied that Raminder Singh ever purchased wire from his shop. He was cross-examined at length by learned PP but nothing material could be extracted from him.

Avtar Singh (PW5), who had seen Raminder and Jatinder accused carrying a heavy object wrapped in blanket which was tied with electrical wire and were going towards Nangal road, Garhshankar, also did not support the prosecution case. He was also cross-examined by learned PP but denied having given statement Mark B to the police.

Madan Lal Nigha (PW7) before whom, as per prosecution case, accused confessed their guilt, also did not support the prosecution case at all in spite of lengthy cross-examination by learned PP. Even Pardeep Kumar (PW8), from whom, as per prosecution case, accused purchased petrol during the intervening night of 4/5-11-2007, also categorically stated that none of the accused came to his petrol pump to get petrol in Zen car during the intervening night. This witness was also cross-examined by learned PP but nothing could be extracted from him. Ajay Kumar (PW9), driver of Indica car, deposed that nobody came to his house to hire Indica car nor he went with him to Fatehpur Kalan. Accused Manjit Singh never came to him for hiring his car. Thus, this witness also did not support the disclosure statement made by accused Jatinder which is Ex.PW18/F. Rajinder Singh (PW15), who had allegedly sold the bullet motorcycle to Raminder Singh, could not prove the factum of sale of bullet motorcycle to him. Bullet motorcycle was taken into police possession from Raminder Singh-accused vide memo Ex.PW16/C. This motorcycle does not bear any mark of identification. In this memo, no registration number of the motorcycle finds mention nor even chasis number or engine number. PW15 deposed that no document was executed regarding sale of motorcycle to Raminder Singh. In the absence of any documentary evidence, the prosecution has failed to prove that Raminder Singh was owning/possessing the motorcycle which could be said to have been used for disposal of dead body of deceased.

Amarjit Kaur, Clerk (PW17) is from the office of DTO, Hoshiarpur. From the record, she deposed that Maruti Zen Car bearing No. PB-07J-9477 was registered in the name of Ranjodh Singh, son of Naranjan Singh. Later on, it was transferred in the name of Jaspreet Singh, son of Gurmej Singh. This Jaspreet is the brother of Jatinder accused. This Jaspreet was not wanting that Jatinder should marry Rajwinder Kaur. As per statement of Jaswinder Kaur (PW6), the court marriage of Rajwinder Kaur was to be solemnized with Jatinder on 05.11.2007. Jaspreet had earlier picked up a quarrel with Jatinder on this count. PW6 also deposed that Jaspreet accompanied with Satnam and Poonam, called Rajwinder Kaur deceased on 04.11.2007 on the pretext of shopping for marriage. Under these circumstances, with the statement of PW17, it is not proved that Zen car in question was owned by Jatinder Singh on the other hand, it established that this car was owned by Jaspreet Singh, brother of Jatinder Singh. As such, the entire prosecution story as set up, cannot be said to be free from doubt.

For the reasons recorded above, finding merit in this appeal, setting aside the judgment of conviction dated 13.09.2011 and order of sentence of even date, this appeal is accepted and the appellant- Jatinder Singh is acquitted of the charges for which he faced trial. He be set at liberty at once, if no required in any other case.

(HEMANT GUPTA)
JUDGE

(RAJ RAHUL GARG)
JUDGE

22 Dec 2015
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