

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ Crl. Appeal 633/2014

% Reserved on: 10th February, 2015
Date of Decision: 22nd May, 2015

JASBIR KAUR @ CHINDER PAL KAUR & ANR. Appellants
Through Mr. Naveen Gaur, Mr. Vijay Gaur
And Ms. Kamna Gupta, Advocates.

Versus

STATE ...Respondent
Through Ms. Aashaa Tiwari, APP.

Crl. A. 1413/2014

RANJEET SINGH @ SONI ALIAS BAAZ SINGH ...Appellant
Through Ms. Saahila Lamba, Advocate.

Versus

STATE ...Respondent
Through Ms. Aashaa Tiwari, APP.

Crl. A. 1040/2014

SUKHPAL SINGH ALIAS DEEP SINGH ...Appellant
Through Ms. Rakhi Dubey, Advocate.

Versus

STATE ...Respondent
Through Ms. Aashaa Tiwari, APP.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

SANJIV KHANNA, J.

The appellants Jasbir Kaur, Malkeet Singh, Sukhpal Singh and Ranjeet Singh @ Baaz Singh have challenged the impugned judgment dated 25th January, 2014, convicting them for murder of Lakhbir

Singh @ Lakha, in the charge-sheet arising out of FIR No. 31/10, P.S. Adarsh Nagar. By order on sentence dated 22nd February, 2014, the appellants have been sentenced for the offence under Section 302 IPC to imprisonment for life, fine of Rs.25,000/- each and in default of payment of fine to undergo simple imprisonment of 3 months. They have also been convicted under Section 201 IPC and sentenced to rigorous imprisonment of 5 years, fine of Rs.5,000/- and in default of payment of fine to undergo simple imprisonment for 15 days each. The impugned judgment also convicts them under Section 120B read with Section 302/201 IPC and they stand sentenced for imprisonment for life, fine of Rs.2,000/- and in default to undergo simple imprisonment for one week each. Rs.1,00,000/- out of the total amount of fine, if realized, it stands directed would be paid to legal heirs of the deceased Lakhbir Singh @ Lakha as compensation under Section 357 of the Code of Criminal Procedure, 1973 (Cr.P.C., for short). The sentences are to run concurrently and benefit of Section 428 Cr.P.C. has been granted.

2. Before referring to the arguments raised by the appellants, it would be appropriate to reproduce the prosecution version in brief.

3. The deceased Lakhbir Singh @ Lakha was a *Mehant* and used to reside in the Gurudwara Rab da Kutta, Azadpur. The appellants also used to reside in the same Gurudwara. However, the deceased Lakhbir Singh @ Lakha belonged to the faction headed by Baba Baldev Singh, whereas the appellant Jasbir Kaur belonged to the faction headed by Baba Surjeet Singh and there were *inter se* disputes between the two factions on the control of the said Gurudwara and

other Gurudwaras. Lakhbir Singh was last seen at about 10 PM on 3rd February, 2010. He was not to be seen on or after 5 AM on 4th February, 2010. On 5th February, 2010 at about 4.30 PM, Lakhbir Singh's son, Rajender Singh (PW12) made a missing report at police station Adarsh Nagar, and FIR No.31/2010 was registered under Section 365/34 IPC. Details of Lakhbir Singh were uploaded on the ZIPNet website. Coincidentally, a dead body of unknown person was found in the area of police station, Timarpur on 5th February, 2010. On 10th February, 2010, this body was identified as that of Lakhbir Singh. On investigation, it was learnt that the appellants herein are the perpetrators who have committed the crime.

4. Learned counsel for the appellants have primarily contested the findings on facts, *inter alia*, highlighting that this is a case of circumstantial evidence but there are gaps which have been ignored in the impugned judgment. Specific challenge is made to the testimony of Karnail Singh (PW20) and the assertion that on 11th February, 2010 and 13th February, 2010, incriminating material was purportedly lifted from inside the Gurudwara, which it is submitted, should be disbelieved and is not reliable. The said evidence was planted. We shall be referring to the contentions in detail when we refer the evidence.

5. It is not disputed that the deceased Lakhbir Singh was residing in the Gurudwara Rab da Kutta, Azadpur being the *Mehant* of the said Gurudwara. There is ample evidence and material to show that the deceased Lakhbir Singh belonged to Baba Baldev Singh group/faction and the appellant Jasbir Kaur belonged to Baba Surjeet

Singh Group/faction. Malkeet Singh is the son of Jasbir Kaur. Noticeably, the aforesaid facts and position has been asserted by the appellants themselves in the cross-examination of the witnesses and is deposed to by Harsimran (PW11), Rajender Singh (PW12), Hakum Singh (PW13), Karnail Singh (PW20), Arjun Singh (PW21) and Avtar Singh (PW27). The appellants Sukhpal Singh, Jasbir Kaur, Malkeet Singh and Ranjeet Singh have accepted that there were disputes regarding the Gurudwara between the two groups and a civil case was pending. The dispute as per the prosecution was pre-cursor and the motive for the offence in question. The appellants claim that they have been falsely implicated in the crime, because of the said differences.

6. To examine the contentions, we begin with the testimony of Harsimran (PW11), a student who was also giving tuitions and had been residing in the Gurudwara for last 2½ to 3 months. Harsimran (PW11) has deposed that on 3rd February, 2010 at about 10 PM, he had knocked at the door of the Gurudwara. Lakhbir Singh had opened the door and thereafter, they had conversed about the court proceedings regarding Baljeet Nagar Gurudwara. Lakhbir Singh had effervescently consoled him stating that everything was fine and had asked PW11 to go to sleep and that he (Lakhbir Singh) would remain awake. Harsimran (PW11) had then questioned Lakhbir Singh, on which he replied that there was nothing as such and since Harsimran was tired, he should go to sleep. Harsimran, thereupon, went to his room and slept. At 5 AM., the appellant Ranjeet Singh @ Baaz, who was a *sewadaar*, came to his room and asked him to take bath and

perform the daily morning prayers (*paath/ardaas*). PW11 had then enquired from the appellant Ranjeet Singh about Lakhbir Singh. It is apparent that Lakhbir Singh used to perform *paath/ardaas* in the morning. The appellant Ranjeet Singh had replied that Lakhbir Singh had gone somewhere and would return by evening. PW11 felt anomalous for Lakhbir Singh would, before leaving, hand over the keys of the Gurudwara to him. PW11 performed the prayers and left to give tuitions. When PW11 returned in the evening and met the appellant Jasbir Kaur, PW11 was asked to move out of the Gurudwara and shift to his relative's residence at Uttam Nagar. PW11 had then asserted that he would not leave till Lakhbir Singh returned. The appellant Ranjeet Singh had, thereupon, instigated PW11 by stating that Lakhbir Singh had an 'evil eye' on his sister. PW11 did not believe the appellant Ranjeet Singh as his sister had never suspected Lakhbir Singh or made any complaint in this regard.

7. It is thus clear from the testimony of PW11 that Lakhbir Singh was last seen alive at 10 PM on 3rd February, 2010. He was missing and not seen in the Gurudwara at 5.00 AM on 4th February, 2010. PW11 has made the following important assertions; (1) Ranjeet Singh @ Baaz who was a *sewadaar*, had woken him up and had asked PW11 to perform the prayers in the Gurudwara; (2) Ranjeet Singh @ Baaz had told PW11 that Lakhbir Singh had gone somewhere and would come back in the evening; (3) On 4th February, 2010, in the evening Jasbir Kaur met him and had asked PW11 to leave the Gurudwara; and, (4) Ranjit Singh tried to instigate PW11 by stating that Lakhbir Singh had an 'evil eye' on the sister of PW11.

8. Rajender Singh (PW12), son of the deceased Lakhbir Singh, used to reside in Nabha, Punjab. On 3rd February, 2010, he had received a call from one Karnail Singh who had a shop outside Gurudwara that his father Lakhbir Singh was missing. He had then contacted his relatives and acquaintances but whereabouts of his father, Lakhbir Singh could not be ascertained. He came to Delhi and found slippers of his father in the toilet, but he could not locate the keys of the Gurudwara and the *Kirpan* of his father Lakhbir Singh. He had made enquiries from Harsimran (PW11) who had then narrated what has been stated by PW11 in his court deposition. His *chacha* (paternal uncle) Anil Kumar who was also resident of Punjab had come to Delhi and on 4th February, 2010 at 5 PM had made enquiries from PW11. Enquiries were also made from the appellant Ranjeet Singh @ Baaz who was elusive and preferred to go away with the appellant Sukhpal Singh. Rajender Singh (PW12) felt suspicious as he suspected that the appellant Sukhpal had kidnapped his father. PW12 went to the police station Adarsh Nagar and had made the complaint (Ex.PW12/A) which was signed by him at point 'A'. Thereafter, FIR No.31/2010 under Section 365, IPC was registered.

9. Counsel for the appellants have referred to the complaint (Ex.PW12/A) to contend that it is bereft of particulars. Ex.PW12/A records that Rajender Singh (PW12) aged about 18 years was informed on phone by Karnail Singh that his father Lakhbir Singh was missing for last 3-4 days and there was no *sewadaar* in the Gurudwara. PW12 came to Delhi from Punjab and was informed by

Karnail Singh that his father Lakhbir Singh was not traceable. Rajender Singh (PW12) had tried to call his father but his phone was switched off. The shoes/slippers of his father were found in the latrine and keys of the Gurudwara were missing. He had spoken to Harsimran (PW11) who had seen his father on 3rd February, 2010 at 10 PM and narrated the sequence of events. The time period of 3-4 days as mentioned in Ex.PW12/A, it apparent is an estimate and not a specific or certain period. We do not think that appellants can derive any benefit on this basis. Ex.PW12/A specifically records the presence of Harsimran (PW11) and his interaction with Lakhbir Singh on 3rd February, 2010 at 10 PM.

10. On the question of disappearance of Lakhbir Singh, we would now refer to deposition of Karnail Singh (PW20), who used to sell building material from Shop Nos.9 and 10 at Gurudwara Rab da Kutta, Azadpur. In his examination-in-chief, PW20 did not specifically depose about his conversation with Rajender Singh (PW12), but in his cross-examination, PW20 asserted that had not seen Lakhbir Singh for 2-3 days and had become suspicious as the appellants Jasbir Kaur and Sukhpal Singh had called him and had tried to speak to him. He was aware of the differences and disputes between the two factions. PW20 was concerned and had on 5th February, 2010, gone to the police station when PW12 had made the complaint.

11. In view of the aforesaid evidence, there cannot be any doubt or debate that the deceased Lakhbir Singh was missing and was not traceable in the Gurudwara on or after 5 AM on 4th February, 2010.

He was last seen at 10.00 PM on 3rd February, 2010 by Harsimran (PW11).

12. In the intervening night of 4th and 5th February, 2010, SI Sheo Raj Singh (PW18) attached to PCR van, North Zone at about 1.55 AM had gone to Majnu Ka Tila, Wazirabad Road, while on night patrol duty. A barking dog had drawn their attention towards the drain. On examination, they found a gunny bag (*bori*) and a piece of white cloth having blood stains. The *bori* was tied with a yellow *pattil*/cloth. Apprehensive, SI Sheo Raj Singh (PW18) informed the Police Control Room, on which the SHO, P.S. Timarpur came there with the staff. On checking the bag, a dead body of a Sikh person with his hands tied, was found in half-naked condition. Statement of PW18 (Ex.PW18/A) was recorded and FIR No.32/2010, PS Timarpur (Ex.PW9/E) was registered. In his cross-examination, PW18 affirmed the said factum but accepted that in the statement (Ex.PW18/A) it was not stated that the dead body was of a Sikh who was tied and half naked. However, he deposed that the said facts were correct. Rakesh Bhardwaj (PW19), who had a photo studio at Jawahar Market, Mall Road, Timarpur, proved the photographs of the dead body which were marked Ex.PW19/A-1 to A-11. PW19 deposed that the photographs were taken at Nehru Vihar turn (*mor*). He affirmed that a cloth was removed from the dead body and dead body was of a Sikh male of about 35 years. PW19 has inadvertently mentioned the date on which the photographs were taken as intervening night of 5th & 6th February, 2010 but this, it is apparent, was on account of a memory-loss or a mistake as the dead body was found in the intervening night

of 4th and 5th February, 2010. Insp. Rajnish Parmar, then SHO PS Timarpur has deposed as PW22. He has testified that on 5th February, 2010 at about 2.45 PM, he had received DD No.4A (Ex.PW22/A) regarding an abandoned gunny bag at Nehru Vihar turn between the road and the drain (*Ganda Nala*). He had reached the spot where several others were already present and found a gunny bag wrapped in a white cloth closed from the top. On opening, a dead body of a Sikh male aged around 42-43 years was recovered. Beard and hair on the head was partly burnt. Unstitched clothes were tied around the neck. There were injury marks on the forehead and elbow. Both knees had bruises. The body had stiffened. The crime team and a photographer were called. PW22 had recorded statement of ASI Sheo Raj Singh (Ex.PW18/A) and made endorsement (Ex.PW22/B) for registration of the FIR. The crime team report (Ex.PW5/A) was proved by SI Devender Purang (PW5). The said witness had reached the spot at 3.50 AM on 5th February, 2010. The dead body, gunny bag, one blanket, blood stained earth under the dead body and earth control were seized and put in separate containers vide seizure memo Ex.PW22/D. The dead body was sent to mortuary at Sabzi Mandi for being preserved as the identity could not be ascertained. Wireless messages and ZIPNet were sent/uploaded and hue-and-cry notices were issued. Unidentified dead body (UIDB) form was filled up.

13. On 10th February, 2010, Insp. Mahavir Kaushik (PW31) took over the investigation in FIR No.31/2010 (Ex.PW26/B), registered at P.S. Adarsh Nagar. On the same day, he came to know that an unidentified dead body had been found in the jurisdiction of P.S.

Timarpur. Concerned, he went to the said police station and contacted the SHO and collected FIR No.32/2010 of P.S. Timarpur. He learnt that the dead body had been preserved at the Mortuary at Sabzi Mandi. PW31 in his deposition has stated that the dead body was identical and matched physical description of Lakhbir Singh. On 11th February, 2010, PW31 called the crime team to inspect and scan the room where Lakhbir Singh used to reside. They noticed blood-stains on the *chatai* (mat), the *rajai* (quilt) and the two legs of a wooden table.

14. SI Matadin Meena of the crime team had appeared as PW2. He affirmed and proved his evidence by way of affidavit (Ex.PW2/1) and Inspection report (Ex.PW2/A). In his cross-examination, SI Matadin Meena (PW2) has deposed that they had reached the spot on 11th February, 2010 at 9.00 AM and had remained there for 45 minutes. They had inspected the Gurudwara from outside and only one room inside the Gurudwara, as per the direction of the Investigating Officer who had not directed them to inspect other rooms. Ct. Parvinder (PW1) had taken photographs. Ct. Parvinder (PW1) proved the photographs marked Ex.PW1/A-1 to A-9. The two legs of the table were cut were sealed in a cloth with the seal of MK vide seizure memo Ex.PW12/B. The *Rajai* and the *chatai* were also seized vide seizure memo Ex.PW12/C and a site plan of the aforesaid room and the Gurudwara were prepared and proved as Ex.PW21/A.

15. The dead body was recognized and identified by Rajender Singh (PW12) and Hakum Singh (PW13) on 12th February, 2010 at the Mortuary, Sabzi Mandi along with police officers of P.S.

Timarpur. The said witnesses namely Rajender Singh (PW12) and Hakum Singh (PW13) have deposed about their visit to the Mortuary. Rajender Singh (PW12) has also deposed about the seizure memo of the *chatai*, the *Rajai* and the legs of the table. He identified the quilt (*rajai*) as Ex.P1, the mat (*chatai*) as Ex.P2 and the legs of the table as Ex.P3. Hakum Singh (PW13) has deposed that on 12th February, 2010, the police officers had asked him to identify the dead body of Lakhbir Singh and he identified the same vide Ex.PW12/A. He also identified the *rajai* (Ex.P1), the *chatai* (Ex.P2) and legs of the table (Ex.P3).

16. HC Sudhir (PW28) has deposed on similar lines; that on 11th February, 2010 on the direction of the Investigating Officer, crime team was called to the Gurudwara. They had inspected the scene of crime. Photographs were taken. Blood was found on the two legs of the table which were cut from the table. Blood was also found on *rajai* (quilt) and also on *chatai* (mat). They were seized and sealed.

17. At this stage we would now like to refer to the statement of Sunita Suman, Sr. Scientific Officer (Biology), FSL, Rohini (PW30) who had proved the biological and serological reports marked Ex.PW30/A and B, respectively. Blood was found on *chatai*, *rajai* and two pieces (legs) of wooden table. Blood found on the *rajai* was of group “B”. Blood group could not be ascertained on the *chatai* and wooden legs. The blood group of the deceased as per the serological report was “B”.

18. The aforesaid evidence shows that the offence in question had taken place within the premises of the Gurudwara and in the room in question, i.e. the room in occupation of the deceased Lakhbir Singh had blood stains/marks, indicative of the violence and crime. Learned counsel for the appellants have submitted that the room of Lakhbir Singh in normal circumstances would have been sanitized and checked earlier and, therefore, the testimony of Insp. Mahavir Kaushik (PW31) and SI Matadin Meena (PW2) is far-fetched and unbelievable. We are unable to accept the said contention. Initially FIR No.31/2010, P.S. Adarsh Nagar, was investigated by SI Kuldeep Singh (PW26). He has deposed that on 5th February, 2010, the complaint of Rajender Singh was marked to him. On the next morning, i.e. 6th February, 2010, he had visited the Gurudwara and questioned Karnail Singh, Simranjeet (*sic*, Harsimran), Anil and Rajender and recorded their statements. He also met the appellant Jasbir Kaur and recorded her statement. He had discussed the matter with the SHO and an FIR under Section 364 IPC was registered. Endorsement on the complaint by Kuldeep Singh (PW26) was marked Ex.PW26/A. Thereafter, WT message was flashed and missing report/details were uploaded on ZIPNet. On 8th February, 2010, PW26 recorded statement of Arjun Singh. On 9th February, 2010, PW26 handed over the investigation of the case to the Addl. SHO. In his cross-examination, SI Kuldeep Singh (PW26) has stated that Karnail Singh, Simranjeet (*sic*, Harsimran), Anil and Rajender Singh had not suspected anyone. He volunteered that Simranjeet (*sic*, Harsimran) had seen Lakhbir Singh on 3rd February, 2010 at 10.00 PM. He was the last person to have seen Lakhbir Singh. He also

volunteered that Rajender Singh (PW12) had told him that he came to Delhi after being told by Karnail Singh that Lakhbir Singh was missing. PW26 had recorded their statements in the Gurudwara complex. SI Kuldeep Singh (PW26) affirmed that he did not go inside the room and had not searched the room. Room of Lakhbir Singh was identified by Rajender Singh (PW12) and Hakum Singh (PW13) but the same was locked and he did not try to open the room. As no doubt was expressed on any person, he did not feel it necessary to enter the room of Lakhbir Singh. Neither did he search the Gurudwara as he did not believe anything incriminating would be available.

19. The aforesaid statements show that SI Kuldeep Singh (PW26) did not think it appropriate and necessary to inspect the room of Lakhbir Singh. The said room was locked and was in a Gurudwara. There appears to be some hesitation for the said reason. Moreover, no one had suspected that Lakhbir Singh had been murdered and the offence was committed in Gurudwara and that too by the present appellants.

20. Rajender Singh (PW12) in his court deposition has not stated that the police had physically inspected the room of Lakhbir Singh till the inspection on 11th February, 2010. PW12 has stated that the day after the complaint was made on 5th February, 2010, the police had checked the Gurudwara including the rooms, toilet, bathroom and the store-room. Police had remained there for one hour. After the dead body of his father deceased Lakhbir Singh was recovered, police had come again to the Gurudwara after 8.00 PM and at that time, room of

his father was checked and blood stains were found on the *rajai*, the *chatai* and on the legs of the table kept in his room. The articles were lifted. He has deposed that dead body of his father was identified on 10th February, 2010 and by then the appellants Sukhpal Singh, Malkeet Singh, Ranjeet Singh and Jasbir Kaur had absconded from the Gurudwara.

21. Similarly, Hakum Singh (PW13) stated that he had not asked Rajender singh (PW12) to open the room of Lakhbir Singh and check if Lakhbir Singh had left any note. On 11th February, 2010, police had come to the Gurudwara and had inspected the room of Lakhbir Singh. Hakum Singh (PW13) was not aware whether the police had earlier come to the Gurudwara.

22. Hakum Singh (PW13) has deposed that the deceased Lakhbir Singh was his nephew and *Mehant* of the Gurudwara Rab da Kutta and used to reside therein. The appellant Jasbir Kaur was residing in the same Gurudwara with her children and as per his information, one Sukhpal was also residing in Gurudwara. Husband of the appellant Jasbir Kaur was involved in a criminal case and confined to jail. PW13 had signed the recovery memos prepared by the police officers on 11th February, 2010, when blood stained mat (*chatai*), quilt (*rajai*) and two legs of table were cut were taken into possession and seized. On 12th February, 2010, PW13 had identified the dead body of Lakhbir Singh in the mortuary. He had identified the appellants, though he had difficulty in identifying the appellant Ranjeet Singh @ Baaz as he had beard and earlier PW13 had seen him without a beard. In his cross-examination, PW13 accepted that there were disputes

over control of many Gurudwaras and one Baldev Singh who belonged to Sardar Sarjit Singh group had claimed his right as *Mehant* of the Gurudwara in question. Subsequently, Baldev Singh was arrested in a criminal case at Patiala, Punjab. Appellant Jasbir Kaur was wife of said Baldev Singh.

23. Pyara Singh (PW14) has affirmed the aforesaid facts that Baldev Singh had forcibly tried to take control of the Gurudwara Rab da Kutta by claiming himself to be a *Granthi*, but was subsequently arrested in a murder case. His wife, i.e. the appellant Jasbir Kaur was in possession of three rooms in the Gurudwara. PW14 was a *sewadaar* in the Gurudwara Rab da Kutta but had gone out of station and was not present in the Gurudwara on the intervening night of 3rd and 4th February, 2010. He had returned only on 13th February, 2010. PW14 had seen the police arresting the appellants Sukhpal and Jasbir Kaur and observed that they had made disclosure statements, Ex.PW14/D and E, respectively, which were signed by him. PW14 had also seen the two appellants taking the police team to the store-room, from where blood-stained hair and *tirpal* were taken into possession and seized. Blood was also found on the floor, and earth control was lifted. Pyara Singh (PW14) had also deposed about recovery of *Chola* belonging to the appellant Sukhpal at the instance of the appellant Jasbir Kaur, which was sealed and seized vide seizure memo, Ex.PW14/J. *Noon Kutna* was recovered at the behest of the appellant Sukhpal and taken into possession vide seizure memo, Ex.PW14/K. The appellant Jasbir Kaur had got recovered one Jacket,

which was worn by Malkeet Singh at the time of occurrence. The said Jacket was seized vide seizure memo, Ex.PW14/N.

24. Our attention was drawn to the cross-examination of Pyara Singh (PW14) by counsel for the accused wherein he was confronted and shown a complaint marked Ex.PW14/DA purportedly made by him. PW14 denied his signatures on the said complaint and had also stated that mobile No.9463553510 did not belong to him. The court, thereafter, had confronted Pyara Singh (PW14) with his statement under Section 161 Cr.P.C. wherein the same number has been mentioned. PW14 had then claimed that the police had not read out his statement under Section 161 Cr.P.C. We do not think the appellants can derive any benefit even if we accept the position that the mobile No.9463553510 belonged to Pyara Singh (PW14). We have also gone through the Ex.PW14/DA and we find that unsubstantiated allegations have been made. The said document Ex.PW14/DA would not tilt or affect the prosecution case.

25. Arjun Singh (PW21) has also identically and similarly deposed on the differences between the two factions and Lakhbir Singh was the *Mehant* of the Gurudwara Rab da Kutta and that he had tried to pacify the two factions but the appellant Jasbir Kaur was insisting that the deceased Lakhbir Singh should vacate the Gurudwara as she claimed that Lakhbir Singh was wrongfully made the *Mehant*. The appellant Sukhpal was residing with Jasbir Kaur and that on 3rd February, 2010 at about 2 P.M., he had attended a meeting in which the deceased Lakhbir Singh was also present. The meeting had continued till 6-6.30 P.M. Thereafter, they had boarded the Metro

and at about 7 PM, Lakhbir Singh had left for Azadpur from the Rajiv Chowk Metro Station. This shows that Lakhbir Singh was alive on 3rd February, 2010 till about 7 P.M. and had proceeded to the Gurudwara.

26. Avtar Singh (PW27) has stated that Lakhbir Singh, the appellant Jasbir Kaur, her son and one daughter were residing in the Gurudwara, but he did not know the appellant Sukhpal, though he met him on 2-3 occasions. However, he accepted that on 3rd February, 2010, there was a meeting in which the deceased Lakhbir Singh and others were present and the deceased Lakhbir Singh had left the meeting at about 6.30 P.M. When cross-examined by the Addl. Public Prosecutor, PW27 accepted that Lakhbir Singh and the appellant Jasbir Kaur used to quarrel with each other.

27. It may be relevant to state that Harsimran (PW11) has stated that one *mataji*, the deceased Lakhbir Singh and his family members, the appellant Jasbir Kaur and his family members and the appellant Sukhpal used to reside in the Gurudwara.

28. As per the depositions of ASI Shashi Kumar (PW23), Ct. Saroj (PW24), and Mahavir Kaushik (PW31), the appellants Jasbir Kaur and Sukhpal Singh were arrested vide arrest memos, Ex.PW14/A & B on 13th February, 2010 at 2.30 PM and 3.00 PM, respectively. The appellant Malkeet Singh was arrested on 15th February, 2010 at 9.30 PM as per arrest memo Ex.PW14/L and the appellant Ranjeet Singh was arrested on 18th February, 2010 at 8.00 PM from village Badawal, PS Sadar, Distt. Manshu, Punjab vide arrest memo Ex.PW13/A. They had made disclosure statements marked

Ex.PW14/E, Ex.PW14/D, Ex.PW14/R and Ex.PW13/C, respectively. On the basis of the disclosure statements, Ex.PW14/E & D made by the appellants Jasbir Kaur and Sukhpal respectively, the Gurudwara was visited and inspected by the crime team on 13th February, 2010 vide report Ex.PW3/A. As per the testimony of SI Devender Singh (PW3), he had inspected the store-room of the Gurudwara, and blood stains were found and human hairs lying near the wall were seized. In an adjacent room, one white plastic *tirpal* having blood stains was also seized. Photographs were taken and have been proved by Ct Dalbir (PW6). The photographs have been marked Ex.PW6/A-1 to A-10. On the basis of the disclosure statements following articles were recovered as per the recovery memos:

Disclosure Statement	Disclosure by	Item(s) recovered	Exhibit
Ex.PW14/D	Sukhpal Singh	Noon kutna	Ex.P11
		Plastic tirpal	Ex.P4
Ex.PW14/E	Jasbir Kaur	Blood-stained jacket	Ex.P8
		Chola Sukhpal	Ex.P7
Ex.PW13/C	Ranjeet Singh	Yellow coloured chequered shirt	Ex.P9 colly.
		Blood-stained clothes from Gurudwara	Ex.P10 colly.

29. As per CFSL report marked Ex.PW30/B and A, human blood of group “B” was found on:

FSL Exhibits	Particulars	Blood detected	Blood Group
Exhibit “1”	<i>Chatai</i> (Mat)	Yes	--
Exhibit “2”	<i>Rajai</i> (Quilt)	Yes	B
Exhibit “3”	Two pieces of wooden table legs	Yes	--
Exhibit “4”	Dirty plastic <i>katta</i> described as “ <i>Tirpal</i> ”	No	
Exhibit “5”	Stone pieces – “earth with blood”	Yes	--
Exhibit “6”	Stone pieces – “earth control”	Yes	--

Exhibit “7”	One kurta – “ <i>chola</i> of the accused”	<i>No</i>	
Exhibit “8”	One jacket	Yes	--
Exhibit “9a”	One dirty lower	<i>No</i>	
Exhibit “9b”	One shirt	<i>No</i>	
Exhibit “10”	One dirty cloth piece – “rough cloth used for cleaning blood by the accused”	Yes	--
Exhibit “11”	One wooden <i>danda</i> (<i>sotta</i>) – “ <i>Noon Kutna</i> ”	<i>No</i>	
Exhibit “12”	One cloth piece – “in which dead body was tied”	Yes	B
Exhibit “13”	One <i>bori</i> (jute) – “gunny bag in which dead body was kept”	Yes	B
Exhibit “14”	One towel	Yes	B
Exhibit “15”	One blanket	Yes	B
Exhibit “16”	Soil – “earth with blood”	Yes	--
Exhibit “17”	Soil – “earth control”	<i>No</i>	
Exhibit “18”	Cloth piece – “tying material around waist”	Yes	B
Exhibit “19”	Cloth piece – “tying material around ankle joints”	<i>No</i>	
Exhibit “20”	Cloth piece – “ligature material”	Yes	--
Exhibit “21a”	One dirty T-shirt	Yes	--
Exhibit “21b”	One sleeve with dirty stains	Yes	--
Exhibit “22”	Bunch of hair – “Scalp hair of the deceased”	Yes	--
Exhibit “23”	Blood stained gauze	Yes	B
Exhibit “24”	Cloth piece gauze – “blood from Maruti car”	Yes	B

30. The serological report, therefore, confirms presence of human blood of group “B” which was the blood group of the deceased and recoveries were made on disclosure statements made by Sukhpal Singh (Ex.PW14/D), Jasbir Kaur (Ex.PW14/E) and Ranjeet Singh (Ex.PW13/C). Recoveries without blood would not be relevant.

31. It would now be appropriate to refer to the deposition of Krishan Murari Tiwari (PW17) and Karnail Singh (PW20) on how the dead body was taken out of the Gurudwara and thrown at a distance of 5-6 km at Nehru Vihar turn between the road and the Ganda Nala (see deposition of Insp. Rajnish Parmar (PW22) wherein

he has stated that distance between police station Adarsh Nagar and police station Timarpur is 5-6 km). Krishan Murari Tiwari (PW17), owner of Maruti Car bearing No.DL2CB-4256, testified that he had known the appellant Jasbir Kaur for many years and that her son Malkeet Singh had borrowed the said car on 3rd February, 2010 in the morning hours between 3-4 AM and had returned the car on 4th February, 2010 by about 7-8 AM. Malkeet Singh had taken the car on the pretext that he had to pick up a relative. In his examination in chief, Krishan Murari Tiwari (PW17) did not accept the prosecution version that his car was borrowed in the intervening night of 4th and 5th February, 2010. The Addl. Public Prosecutor was first permitted to ask leading questions and then cross-examine PW17. In response to a leading question, PW17 had reiterated that Malkeet Singh had not taken the key and the car in the intervening night of 4th and 5th February, 2010 at 12.30 AM but had taken the car at 4-5 AM. Interestingly, in his examination in chief, PW17 had stated that the car was borrowed at 3-4 AM. In PW17's cross-examination by the Addl Public Prosecutor, the witness was confronted with his statement under Section 161 Cr.P.C. marked Ex.PW17/PX-1, portion A to A, which was read over and explained. Thereupon, PW17 admitted having made the said statement before the police. PW17 hesitatingly deposed that he had forgotten the facts due to lapse of time. Thus, PW17 accepted that Malkeet Singh had borrowed the car in the intervening night of 4th-5th, February, 2010. In his cross-examination by the counsel for the accused, PW17 again oscillated and stated that Jasbir Kaur had taken the car on 3rd February, 2010 and returned the same on 4th February, 2010 after a telephonic

conversation. He and Jasbir Kaur used to regularly converse. He had used the car on 4th February, 2010 as it was his birthday.

32. Several important facts emerge from the deposition of PW17. Firstly, the Maruti Car No.DL2CV-4256 belonged to Krishan Murari Tiwari (PW17). PW17 has accepted that Malkeet Singh had borrowed his car. This fact was stated twice in the first portion of PW17's examination-in-chief and reiterated in response to a leading question also. However, in his cross-examination, Krishan Murari Tiwari (PW17) did say that appellant Jasbir Kaur had taken the car on 3rd February, 2010 and returned the same on 4th February, 2010. We believe the statement made in examination-in-chief and not the unreliable version in the cross-examination that the appellant Jasbir Kaur had taken the car. There is no material or evidence to show that Jasbir Kaur knew how to drive. Malkeet Singh, a young boy it is apparent knew how to drive the car. This is so impliedly accepted by Krishan Murari Tiwari (PW17) in his examination in chief and not subjected to cross-examination. Secondly, the car was borrowed on an unearthly hour in the middle of night. As to the date, we are inclined to accept that car was taken in the intervening night of 4th and 5th February, 2010, as was accepted by PW17 when he was cross-examined by the public prosecutor. PW17 when confronted accepted that this was the true factual position and had explained that he had forgotten the timing or date due to lapse of time. It is apparent that PW17 being a close acquaintance of the appellants Jasbir Kaur and Malkeet Singh wanted to help them, but could not withstand the cross-examination by the Public Prosecutor and was compelled to

speaking the truth. The car was examined by the forensic expert on 11th March, 2010 and traces of blood were found and seized vide memo Ex.PW28/A. HC Sudhir (PW28) has testified that on 11th March, 2010, FSL Team had inspected the car in his presence and had lifted blood with the help of chemicals from the rear right gate of the car. PW28 had signed the seizure memo (Ex.PW28/A) and has testified that the gauze was sealed with the seal of MK and the seized material was deposited in the *malkhaana*. The blood lifted from the car was sent for CFSL examination and as per the report Ex.PW30/A and B, human blood of group “B” was found on the faint brown stains lifted from the car. Ms. Sunita Suman (PW30) affirmed that the blood was of group “B”, which matches the blood group of the deceased.

33. Karnail Singh (PW20) in his deposition has stated that on the intervening night of 4th and 5th February, 2010, at 12.30 AM (midnight), he was waiting outside his shop for a supply vehicle. He had then seen a steel-grey Maruti car driven by Malkeet Singh entering the Gurudwara. PW20 had often seen Malkeet Singh getting the said vehicle, thus he has affirmed that Malkeet Singh knew how to drive. After about half an hour or 45 minutes, mother of Malkeet Singh, namely Jasbir Kaur opened the Gurudwara gate and the same car came out. The car was being driven by Malkeet Singh and Sukhpal Singh was sitting in the car. Since there was ample light from the shop and from the Gurudwara, he could see that something was lying on the back seat. Jasbir Kaur had closed the door of the Gurudwara. He was called to the police station on 22nd February, 2010, and had identified the car. In his cross-examination, Karnail

Singh (PW20) has stated that he had disclosed this fact regarding Maruti car to the police on 5th February, 2010. Learned counsel for the appellants have submitted that statement of PW20 under Section 161 Cr.P.C. regarding his presence and purported event in the intervening night of 4th and 5th February, 2010 was recorded on 22nd February, 2010. However, this factum was not confronted and Insp. Mahavir Kaushik (PW31) was not questioned on the delay and cause thereof. It is apparent that only after the car was recovered, blood stains were found by the experts. In view of the blood stains, prosecution has been able to connect and link between the car in question with the dead body. The delay in recording of statement of PW20 in the present case, would not justify rejection or ignoring his court deposition. The CFSL report (Ex.PW30/A and B) affirm and corroborate the testimony of PW20. The admitted position is that Karnail Singh (PW20) had a shop in the Gurudwara complex and was dealing with building material. The contention of the appellant that Karnail Singh (PW20) had given the colour of the car as steel-grey, whereas the colour of the car was white is devoid of any substance. White and silver-grey colours look alike and can be easily mistaken to be one another. As per the store-room register also the car was of MB silver colour. The seizure memo (Ex.PW14/B) mentions the colour of the car as MB Silver.

34. Dr S. Lal (PW16) in his post-mortem report (Ex.PW16/A) opined the cause of death as asphyxia due to ante-mortem strangulation by means of ligature possibly caused by ligature material present around the neck. The said injury, i.e. Injury No.7 was

sufficient in ordinary course of nature to cause death. Injury Nos.1 to 6 could have been caused by blunt force object. The said report records the time since death as about 1 week to 1 ½ week. Dr S. Lal (PW16) in his report (Ex.PW16/B) opined that the Injury Nos.1, 2, 3, 4 and 5 could have been caused by *Noon Kutna* (Ex.P11) which was produced before him for examination. The report (Ex.PW16/B) carries a sketch of the weapon along with its dimension.

35. The post mortem report (Ex.PW16/A) records the following injuries:

1. Lacerated wound 1.5 x 1.0 cm, muscle deep in center of forehead placed 5.0 cm above the bone of nose placed just right to the midline.
2. Lacerated wound 1.0 x 0.1 cm, muscle deep just above eye-brow.
3. Lacerated wound 1.0 x 0.4 cm muscle deep over right mandibular area over lower border placed 5.0 cm right to tip of chin.
4. Lacerated wound 1.3 x 0.5 cm, muscle deep with swelling over upper 1/3rd of left leg in front placed 9.0 cm below the lower border of patella.
5. Reddish bruise with swelling of right middle of leg with fracture of both underlying bone in middle.
6. Reddish bruise 5 x 2 cm over right side upper ** of chest just above the shoulder blade.
7. Ligature marks and dry reddish brown ligature mark present around the neck, both hyoid cartilage to complete around the neck. In front, it is 3.0 cm broad and placed 9.0 cm below the tip of the chin. Right side: it is 3.0 cm broad and placed 5.0 cm below angle of mandible and extent is such of ** where it is 3.0 cm broad and placed 10 cm below the occipital protuberance. It is 3.0 cm ** and faint placed 5.0 cm below the angle of mandible.

(** → text unreadable)

36. Criminal conspiracy is defined in Section 120-A IPC and is punishable as a distinct offence under Section 120-B IPC. The aforesaid provisions require and postulate reasonable ground to

believe that two or more persons had conspired together to commit an offence or an actionable wrong. Section 120-A postulates an agreement to do or cause to be done an illegal act; or an act which was not illegal, by illegal means. If the agreement with the aforesaid intent is proved, then each and every person, who consorts in the agreement or was in league, would be liable, whether or not he was actually involved at every stage. Thus, an accused is treated as a co-conspirator, when there is unity of object and purpose, though there may be plurality of means, some of which may be unknown to a conspirator. What makes a conspirator liable, is that all means adopted or illegal acts done, must be and purported to be in furtherance of the objects of the conspiracy. A conspirator would be liable even if some of the steps were resorted to by one or other conspirators without his knowledge. This would not affect the culpability under Section 120-A, IPC, for in such cases there exists mutual interest [see *Yash Pal Mittal versus State of Punjab*, AIR 1977 SC 2433 and *State versus Nalini*, (1999) 5 SCC 253].

37. An agreement of the aforesaid nature would normally have an element of secrecy and it would seldom expressed formally in writing or rarely spoken about freely to be heard by third persons. Conspiracy is generally inferred from the surrounding circumstances, prior and subsequent to the offence, including the conduct of the person who is alleged to be a conspirator. A person is held to be a co-conspirator if it is established and proved that the offence was committed pursuant to a common design to which he was also a party. The said inference can be drawn by necessary implications

from the facts proved (see *Kehar Singh versus State*, AIR 1998 SC 1883).

38. A conspiracy may be a continuing offence and continue to subsist till it is executed, rescinded or frustrated by choice or necessity. Section 10 of the Indian Evidence Act, 1872 introduces doctrine of agency and upon satisfaction of the conditions stipulated therein, the acts done by one are admissible against other co-conspirators, provided the said acts were committed during the conspiracy. Further, for Section 10 of the Indian Evidence Act, 1872 to apply, there should be *prima facie* evidence affording a reasonable ground for a Court to believe that two or more persons were members of the conspiracy. When this is proved then anything said, done or written by one conspirator with reference to common intention during the conspiracy can be used against the other.

39. Turning to the evidence in the present case on the question of conspiracy, the following facts have emerged:-

(i) There were disputes between the two factions over control of the Gurudwara Rab da Kutta and other Gurudwaras. Lakhbir Singh, who was the *Mehant* of the Gurudwara Rab da Kutta, belonged to Baba Balbir Singh faction. The appellant Jasbir Kaur, her son Malkeet Singh, Sukhpal Singh and Ranjeet Singh belonged to the other faction headed by Baba Sarjeet Singh.

(ii) Husband of the appellant Jasbir Kaur, namely, Baldev Singh was earlier the Head *Granthi* of the Gurudwara Rab da Kutta. Baldev Singh was arrested and detained in a separate murder case at Patiala,

Punjab. Thereafter, the appellant Jasbir Kaur was appointed *Granthi/Jathedar* of the Gurudwara by Baba Sarjeet Singh group. Simultaneously, Baba Lakhbir Singh was also appointed as Head *Granthi/Jathedar* by Balbir Singh group.

(iii) Lakhbir Singh and the appellant Jasbir Kaur were residing in the Gurudwara Rab da Kutta.

(iv) There was *inter se* litigation between the appellant Jasbir Kaur and the deceased Lakhbir Singh as to the appointment of Head *Granthi* of the Gurudwara Rab da Kutta.

(v) In the night intervening 3rd and 4th February, 2010, family members of the deceased Lakhbir Singh were not present.

(vi) The *sewadaar* of the Gurudwara, namely, Pyara Singh (PW14) was also not present in the night intervening 3rd and 4th February, 2010 and had gone to Punjab.

(vii) Harsimran (PW11) who was residing in the Gurudwara for the last 2-3 months and had returned after giving tuitions at about 10 P.M. on 3rd February, 2010. He had then spoken to and interacted with Lakhbir Singh. PW11, thereafter, went to sleep. Deceased Lakhbir Singh had told PW11 that he would remain awake.

(viii) On 4th February, 2010 at about 5 A.M., the appellant Ranjeet Singh @ Baaz Singh, who was a *sewadaar*, informed Harsimran (PW11) that the deceased Lakhbir Singh had gone away and would return in the evening. PW11 was asked to perform prayers after taking bath. PW11 found this unusual and suspicious because

Lakhbir Singh would normally hand over the keys to him before having the Gurudwara. Lakhbir Singh did not return. PW11 had then questioned the appellant Ranjeet Singh, who in turn had cast aspersions on Lakhbir Singh claiming that he had an 'evil eye' on Harsimran's sister. PW11 had never seen the deceased Lakhbir Singh teasing her sister and his sister had not made any such complaint.

(ix) The appellant Jasbir Kaur on 4th February, 2010, had pressurised and asked Harsimran (PW11) to leave the Gurudwara and shift to the residence of his relative at Uttam Nagar. PW11 had refused and asserted that he would not leave till Lakhbir Singh returns.

(x) Rajender Singh, son of the deceased Lakhbir Singh came to Delhi from Punjab after being informed by Karnail Singh (PW20) that his father was missing. He had tried to contact his father on his mobile phone, which was switched off. He had also contacted acquaintances and relatives, but his father could not be traced and no clue surfaced. He noticed that the bunch of keys and *Kirpan* of his father were missing. Slippers of his father were found by him in the toilet. He also spoke to Harsimran (PW11), who had then narrated and informed him the sequence of events. Anil Kumar Lali, a relative (father's brother) of Rajender Singh (PW12) had come to Delhi on 4th October, 2010 and had also made inquiries from Harsimran (PW11) and others. Rajender Singh (PW12) deposed that on 4th October, 2010, they had spoken to the appellant Ranjeet Singh and inquired about the deceased, but he ignored them and went away with the appellant Sukhpal. At about 6.15 P.M., Sukhpal came back to the

Gurudwara. PW12 had then confronted Sukhpal and was informed that appellant Ranjeet Singh had gone to Gurudwara Bangla Sahib and would return by night. At about 7 P.M., Anil Kumar Lali went away and returned to his native place.

(xi) Rajender Singh (PW12) made a complaint marked Ex.PW12/A to the police. The complaint records that PW12 suspected that his father had been kidnapped by the appellant Sukhpal.

(xii) On 10th February, 2010, a dead body recovered in the intervening night of 4th and 5th February, 2010, near Nehru Vihar Mor, Timarpur was identified to be that of Lakhbir Singh. The dead body was subsequently identified by Rajender Singh (PW12), Hakum Singh and others. PCR van In-charge SI Sheo Raj Singh (PW18) had found the said dead body in the intervening night of 4th and 5th February, 2010, at about 2.30 P.M. Recovery of the dead body has been proved by Inspector Rajnish Parmar (PW22). The dead body was found in a jute gunny bag (*bori*) and was half-naked with the hands tied behind the waist. Hair of the beard and the head appeared to have been partially burnt. FIR No.32/2010 was registered at the police station Timarpur under Section 302 IPC. The name and identity of the dead body was ascertained by the Investigating Officer Inspector Mahavir Kaushik (PW31), who had taken over the investigation only on 10th February, 2010, on the basis of the photographs.

(xiii) On 11th February, 2010, Crime Team was called and the room, where the deceased Lakhbir Singh used to reside, was inspected. The

blood stained articles, i.e. quilt (*rajai*), the mattress (*chatai*) and the two legs of the table were seized and taken into possession. This proves that the offence in question had taken place in the Gurudwara itself. The appellants Jasbir Kaur, Malkeet Singh, Sukhpal Singh and Ranjeet Singh went missing and absconded once it was known that Lakhbir Singh had been murdered. On 13th February, 2010, the appellants Jasbir Kaur and Sukhpal were apprehended and arrested and made disclosure statements, Ex.PW14/E and Ex.PW14/D, respectively.

(xiv) Pursuant to the disclosure statement (Ex.PW14/D), made by the appellant Sukhpal, store-room of the Gurudwara was inspected on 13th February, 2010 by the Crime Team. Some burnt hair (Ex.P12) and blood was found in the store-room. On pointing out of appellant Sukhpal, blood stained *Tirpal* (Ex.P4) was recovered from the store-room. Sukhpal also got recovered the weapon of offence, i.e. *Noon Kutna* (Ex.P11) from the room of Lakhbir Singh.

(xv) The appellant Jasbir Kaur got recovered the blood-stained *chola* (Ex.P7) of Sukhpal, which was worn by Sukhpal at the time of incident and which was washed later on.

(xvi) On 18th February, 2010, the appellant Ranjeet Singh @ Baaz was apprehended from Tamtan Singh Gurudwara, Haryana and formally arrested at Punjabi Bagh, Delhi, and pursuant to the disclosure statement Ex.PW13/C, his blood-stained cloth (Ex.P9 colly.) were recovered.

(xvii) The FSL report Ex.PW30/A was proved by Dr. Sunita Suman (PW30), Senior Scientific Officer (Biology). She has deposed that human blood of group B was found on the following articles:-

(a) *Rajai*, (b) *Bori*, (c) cloth used to tie the body, (d) towel, (e) blanket, (f) cloth tied around waist, (g) blood gauze, and, (h) blood lifted from the car.

Human blood was found on the following articles, but blood group could not be ascertained on the following articles:-

(a) *Chatai*, (b) legs of the wooden table, (c) stone pieces, (d) stone pieces earth control, (e) jacket, (f) dirty cloth used for cleaning blood, (g) soil as earth with blood, (h) ligature material, (i) dirty shirt, (j) one sleeve, and (k) scalp hair.

The blood group of the deceased Lakhbir Singh was “B”.

(xviii)PW30 has also deposed that human blood of group B was found on the cloth piece having brown stains described as blood lifted from Maruti car. The said blood stains at Maruti car was lifted by the FSL Team.

(xix) Krishan Murari Tiwari (PW17) has deposed that he was the owner of Maruti car bearing No.DL2CV-4256 and the appellant Jasbir Kaur was known to him. Her son, i.e. the appellant Malkeet Singh used to borrow his car.

(xx) For the reasons mentioned above in detail, we have reached the conclusion on the basis of the testimony of PW17 that the car was

borrowed by the appellant Malkeet Singh in the late night intervening between 4th and 5th February, 2010.

(xxi) Karnail Singh (PW20) has deposed that he was having and operating a shop from the Gurudwara Rab da Kutta and dealing in building materials. On the intervening night of 4th and 5th February, 2010, he was waiting for his supply when at about 12.30 A.M. (midnight), he had noticed that the appellant Malkeet Singh had driven the car inside the Gurudwara. Malkeet Singh used to reside in the Gurudwara. He had often seen appellant Malkeet Singh driving the said car. After about half an hour or 45 minutes, the appellant Jasbir Kaur opened the door of Gurudwara and Malkeet Singh drove out the car with Sukhpal sitting by the side. In the light, PW20 could see something lying on the back seat of the car.

(xxii) The dead body of Lakhbir Singh was found near Nehru Vihar Mor, Timar Pur in the intervening night of 4th and 5th February, 2010 at about 2.30 A.M. SI Sheo Raj Singh (PW18) has deposed that when he reached the spot, he found that a dog was barking towards the drain. This indicates that the jute gunny bag had been dropped/thrown at the place in question, recently.

(xxiii) The medical evidence, i.e. the post-mortem report (Ex.PW16/A) records that the deceased had died due to asphyxia. There was ligature mark and the report opines that the death was due to ante-mortem strangulation. There were ante-mortem injury Nos.1 to 6, which could have been caused by a blunt force object. Dr. S. Lal (PW16), who had conducted the post-mortem, opined that injury

Nos.1 to 5 could have been caused by the *Noon Kutna* (Ex.P11), produced before him for examination. Time since death as per the post mortem report Ex.PW16/A was about 1 to 1½ week. PW16 in his court deposition had stated that time since death in the present case was between 1 to 1½ week. The post-mortem report examination was conducted on 12th February, 2010. The opinion given by PW16 matches and affirms with the prosecution version as to the time when the offence was committed.

40. The aforesaid enunciation of facts reflects a chain and a fluidic concert in action, which predicates and affirms existence of a conspiracy. There was a common design, motive, unison and intent of understanding relatable to the crime. Concordance is clearly perceptible and can be readily inferred.

41. In view of the aforesaid discussion, we do not find any merit in the present appeals and uphold the conviction of Jasbir Kaur, Malkeet Singh, Sukhpal, and Ranjeet Singh @ Baaz. We maintain the sentences but would reduce the fine of Rs.25,000/- each imposed for the offence under Section 302 IPC to Rs.5,000/- each and would direct the appellants to pay compensation of Rs.20,000/- each under Section 357 Cr.P.C. to the legal heirs of the deceased Lakhbir Singh. In default of payment of fine of Rs.5,000/- each, for the offence under Section 302 IPC, the appellant shall undergo simple imprisonment of three months. The sentences will run concurrently and Section 428 Cr.P.C. will apply.

42. The appeals are accordingly disposed of. Trial court record will be sent back.

(SANJIV KHANNA)
JUDGE

(ASHUTOSH KUMAR)
JUDGE

May 22nd, 2015
kkb/NA/VKR/n