

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

CRA-D-936-DB of 2002
Date of decision:-1.8.2016

Mangal Singh and anr.

...Appellants

Versus

State of Punjab

...Respondent

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

Present: Mr. Karanjit Singh, Advocate
for the appellants.

Dr.Deipa Singh, Additional A.G., Punjab.

GURMIT RAM, J.

The above noted criminal appeal at the instance of above-said appellants (accused) has been preferred against the judgment of conviction and order of sentence dated 4.10.2002 passed by the Court of learned Sessions Judge, Ferozepur in criminal case bearing FIR No.41 dated 13.5.1997 under Sections 302 read with Section 34 and 201 of the Indian Penal Code (for short – 'IPC'), Police Station Makhu, vide which

they were held guilty for the offences punishable under Sections 302 read with Section 34 and 201 of the IPC and awarded sentences as narrated below:

Under Section 302 read with Section 34, IPC	Both the accused were sentenced to undergo life imprisonment and to pay a fine of Rs.500/- each and in default of payment of fine, both accused shall suffer further rigorous imprisonment for a period of six months.
Under Section 201, IPC	Both the accused were sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.200/- each and in default of payment of fine, both accused shall suffer further rigorous imprisonment for a period of two months.

Both the sentences were ordered to run concurrently.

2. Concisely stated, the case of prosecution as put up before the learned trial Court was that on 10.5.1997, Surinder Paul, SI/SHO, Police Station, Makhu along with ASI Tarlok Singh and other police officials was present at Bus Stand, Makhu. There came to him complainant Pipal Singh, Sarpanch of village Arayianwala and got recorded his statement Ex.P12, the long and short of which was as under:

“That about 3 ½ killas of *panchayati* land which is near the cremation ground was given on lease to one Fateh Singh, Ex-Sarpanch of his village, who had cultivated the wheat crop in this land and wheat was harvested with combine on 1.5.1997. Today i.e. on 10.5.1997, he along with said Fateh Singh, Ex-Sarpanch went towards the *panchayati* land, where they found a human trunk lying in the harvested wheat field which was totally naked and decomposed

one. Its head, arms and legs were chopped off from the trunk. There was neither any grappling mark at the spot nor the blood had oozed out nearby. Nobody from his village and of the nearby villages was missing. It appeared that somebody had brought this dead body from somewhere-else and threw the same in the said *panchayati* land. It also appeared that death had occurred many days prior to this date.”

Complainant Pipal Singh, Sarpanch, put his left thumb impression on his above-said statement, after admitting it to be correct. SI/SHO Surinder Paul made his endorsement on the above-said statement of complainant and sent ruqqa to the police station for lodging the report.

Since it was the body of a human being, so proceedings under Section 174 of Cr.P.C. were conducted. During search of nearby fields, two legs, two arms and a skull of which hair was cut without mouth were recovered. Post-mortem examination on the dead body of deceased was got conducted from Guru Gobind Singh Medical College and Hospital, Faridkot on 11.5.1997. Police again visited the above-said spot on 13.5.1997 from where the trunk of a human being was recovered. On the basis of post-mortem report and investigation, it was found to be a case of murder and as such the instant case was got registered. Then during search, one *chola* (tunic) of light blue colour smeared with extensive blood was recovered on the same day. Then on the same day, Balbir Kaur wife of Bakshish Singh, Avtar Singh son of Bakshish Singh, residents of village Sham Khera and Baba Avtar Singh son of Baba Daya

Singh, resident of Sur Singhwala also reached at the spot, who on seeing the said *chola* (tunicle) identified the same to be of Manjit Singh son of Bakshish Singh, resident of Sham Khera. On the basis of this *chola* (tunicle), the dead body of deceased was identified to be of above-said Manjit Singh son of Bakshish Singh. Statements of above-said witnesses Balbir Kaur, Avtar Singh son of Bakshish Singh and Baba Avtar Singh were recorded, who expressed suspicion regarding involvement of Mangal Singh, resident of village Talwandi Sobha Singh and Malkiat Singh resident of Frandipur (both *NIHANGS*) in the commission of alleged crime.

3. Said Mangal Singh and Malkiat Singh were produced before the police on 1.6.1997 by Gurcharan Singh, Sarpanch of village Mallanwala. Both of them were arrested formally in this case on the same day. Both the accused during interrogation pointed out the place of occurrence and memos in this regard were prepared separately. Rough site-plan in this regard was also prepared. Then during interrogation, both the accused Mangal Singh and Malkiat Singh suffered disclosure statements Ex.P20 and Ex.P23 separately regarding the concealment of Kirpans. Thereafter, accused Mangal Singh got recovered the *Kirpan* as per his disclosure statement which was taken into police possession vide memo Ex.P21, whereas accused Malkiat Singh also got recovered the *Kirpan* as per his above disclosure statement which was also taken into police possession vide memo Ex.P24. Rough site plans of both the places of these recoveries were also prepared. Before taking these *Kirpans* into police possession, their rough sketches were also prepared. Statements of

witnesses were recorded. Weapons of offence recovered in this case were sent to the office of FSL (Punjab), Chandigarh. On completion of investigation, challan in this case was presented in the Court of learned Area Magistrate, who further committed this case to the Court of learned Sessions Judge, Ferozepur for trial, after making compliance of the provisions of Section 207 of Code of Criminal Procedure (for short – Cr.P.C.).

4. Finding a prima-facie case under Sections 302 read with Section 34 and 201 of the IPC against both the accused, they were charge-sheeted accordingly vide order dated 21.8.1997, to which, they pleaded not guilty and claimed trial.

5. During trial of the case, the prosecution examined as many as twelve witnesses in total in order to prove its version and further to punish the accused according to law.

6. Then the accused were duly examined as required under Section 313 of Cr.P.C. Entire incriminating evidence and other culpable circumstances as brought and appearing on the file against them were put to them, which they denied entirely and pleaded their innocence and false implication in this case. But they did not lead any evidence in their defence.

7. The learned trial Court after hearing the counsel for both the parties and going through the record as well held both the accused guilty for the offences punishable under Section 302 read with Section 34 and 201 of the IPC and awarded them sentences as mentioned in para No.1 of this judgment.

8. The appellants (accused) being not satisfied with the impugned judgment of conviction and order of sentence have approached this Court by way of instant appeal, notice of which was given to the respondent – State. Record of the learned trial Court was also requisitioned.

9. We have heard the learned counsel for both the parties at length and made appraisal of the evidence as available on the record with their assistance.

10. Learned counsel for the appellants – herein (accused) has contended that the version of prosecution as stated by PW11 – Avtar Singh was that the appellants – herein (accused) in the company of his brother Manjit Singh (since deceased) had gone towards the field to attend the call of nature on 6.5.1997 after 8:30 p.m., who (all the three) did not come back till 10:00 p.m. Herein he has further submitted that despite the missing of above-said three persons, the aggrieved party did not apprise the police concerned about this incident for a period of about one week. In order to illuminate his above contention further, he contended that this period of about one week for not reporting the matter to the police is an important factor to create suspicion about the genuineness of the prosecution version as alleged. This period of one week was good enough to carve out a concocted version on the part of the aggrieved party i.e. PW11 – Avtar Singh in connivance with the police to entrap the appellants in the present case in order to solve the mystery which in fact was a blind murder case. The matter, who murdered the deceased, was a vexed question which the prosecution failed to crack out

properly and planted the same against the appellants in a hurriedly manner without going into its roots by conducting a fair and proper enquiry. Lastly, he has contended that due to above-said delay of about one week in not informing the police about the alleged occurrence on the part of the aggrieved party and the fact that dead body of deceased was recovered after four days from the date when he (deceased) was last seen in the company of the appellants, the alleged theory of last seen as set up by the prosecution goes down the drain without mustering any strength to prosecution version.

11. But on the other hand, learned State counsel has contended that when the deceased and the appellants – herein (accused) did not come back to *Dera* after attending the call of nature till 10:00 p.m., PW11 – Avtar Singh, brother of deceased, immediately reported this matter to his superiors in the *Dera* and started the operation for their search. This witness in the company of his mother Balbir Kaur and Suba Singh – Sarpanch of his village even went to several Gurudwaras for 2-3 days to get any clue about the above-said three missing persons in their search, but to no effect. Further, he contended that this act and conduct on the part of this witness alongwith the above-said two persons was somewhat natural and the delay of about one week as pointed out above in not informing the police qua this occurrence is not to cut any ice on the merits of this case.

12. Now let us see the evidence on the file in order to weigh properly above rival contention of the counsel for both the parties in the eyes of law. For this purpose, testimony of PW11 – Avtar Singh is held to

be crucial to clinch the above issue. He stated that in the year 1997, he, his brother Manjit Singh (since deceased) and the appellants - herein (accused) alongwith other *sewadars* had gone to village Arayianwala to perform *Akhand Path* in the transitory camp of the Incharge of the *Dera* which was started on 4.5.1997. He and his said brother Manjit Singh were putting up in one tent, whereas the appellants were putting up in a separate tent in the said camp. On 6.5.1997, there was a *bhog* ceremony in that camp, wherein he and his brother remained till 8:00 p.m. After offering last evening prayer by 8:30 p.m. in the camp, his said brother Manjit Singh in the company of appellants – herein (accused) went towards the field to attend the call of nature, who did not come back till 10:00 p.m. and he reported the matter to Saroop Singh, *Jathedaar*. Then this matter was brought to the notice of Baba Avtar Singh also. Thereafter, all the members of this camp returned to the main office at Sur Singhwala and the matter was also reported to main Baba Daya Singh who took the same in a lighter vein on the plea that all the above-said three persons alleged to be missing might have gone to some other Gurudwara. Then after getting permission from the main Babaji, this witness came to his village and brought this matter to the notice of his mother Balbir Kaur and Sarpanch – Suba Singh. Then his mother Balbir Kaur and Suba Singh – Sarpanch associated him in the search of above-said three missing persons, who were not found despite the fact that they visited different Gurudwaras for 2-3 days. Thereafter, on coming to know that dead body of an unidentified person had been recovered near Makhu, he went to Police Station Makhu, wherein the police had shown him one

chola (tunic) which he identified to be of his brother Manjit Singh (since deceased).

13. Then in the cross-examination of this witness, it came on the record that he remained in the Dera at Sur Singhwala for eight years. He was in the horse brigade, whereas the appellants and his brother (since deceased) were performing the duty of *Granthis* to recite the *path* (*Gurbani*). Then it is a fact that whenever some members of *Dal* to which this PW, his brother (since deceased) and the appellants belonged on the date of alleged occurrence used to move, they move in a convoy along with their horses, bullock/mule carts, auto vehicles and other articles of their daily use, like a complete unit of a disciplined force. As per the case of prosecution, on the date of alleged occurrence, this PW, his brother Manjit Singh (since deceased) and the appellants along with other members of their *dal* had gone to village Arayianwala to perform *Akhand Path* on 4.5.1997 by installing temporary tents, the *bhog* ceremony of which was to be concluded on 6.5.1997. This witness and his brother (since deceased) were living in one tent, whereas the appellants were living in a separate tent but in the same camp. So in these circumstances, the presence of this witness at the spot was very well established on the record since he and his said brother (since deceased) were living together in one tent and appellants were also putting up in a separate tent in the same very camp. So the fact that he had seen the deceased while going in the company of appellants in the evening of 6.5.1997 after 8:30 p.m. towards the field cannot be doubted on any score. Then as above discussed, it also came in the statement of this witness that after the *Bhog*

Ceremony of the *Akhand Path* at village Arayianwala on 6.5.1997, they came back to the main office at Sur Singhwala on 7.5.1997. He brought the fact of eloping of his brother (since deceased) along with the appellants – herein (accused) to the notice of *Jathedar* - Saroop Singh and Baba Avtar Singh at village Arayianwala and also made their search at his own level on the night of 6.5.1997. On reaching at their main office at Sur Singhwala, he brought this matter to the notice of main Baba Daya Singh and after getting his permission, he came to his village and made search of his missing brother Manjit Singh as well as of the appellants in the association of his mother Balbir Kaur and Sarpanch – Suba Singh for 2-3 days by visiting several Gurudwaras. On coming to know that dead body of an unidentified person had been recovered, he went to Police Station Makhu, where he identified the *chola* of his brother on seeing it.

Then in the case in hand, the dead body of deceased was recovered on 10.5.1997 in the *Panchayati* land of village Arayianwala and the matter in this regard was reported to the police of Police Station Makhu on the same day by PW10 Pipal Singh – Sarpanch vide his statement Ex.P12 on the basis of which *rapat* No.7 was recorded in the police station on the same day which later on was converted into the FIR Ex.P12/B on 13.5.1997. The plea of the prosecution that this witness firstly made search of his brother (since deceased) and the appellants on the night of 6.5.1997 and thereafter in the company of his mother and Suba Singh – Sarpanch in the nearby different Gurudwaras for 2-3 days cannot be subdued for the reason that whenever a member of any family disappears either alone or in the company of somebody-else, then the

natural and human conduct of his remaining family members is to make his/their search at their own level from all the suspected places and when fail to get any information about them by exhausting all the means, only then to report the matter to the police. Further, in the case in hand, Manjit Singh, deceased brother of this witness and the appellants were discharging the duty of *Granthies* on the relevant date, who were supposed to go to different Gurudwaras as well as the houses wherever their services to recite the *Path (Gurbani)* were needed. Moreover, the aggrieved party in this case was not a well-to-do one, which could have got entrapped the appellants in this case falsely by exercising any kind of its influence on the police. Hence, the above contention of learned counsel for the appellants is held to be devoid of any merit and declined.

14. Then the learned counsel for the appellants assailed the prosecution story from the angle of motive also. Herein, he has contended that as per the prosecution version, Manjit Singh (since deceased) the brother of PW11 – Avtar Singh had gone to the tent in which both the appellants – herein (accused) were living on 5.5.1997 at 11:30 p.m. to wake up appellant – Mangal Singh since he (Mangal Singh) had to do his duty to recite *path* on the next turn, wherein he saw appellant Malkiat Singh committing sodomy on Mangal Singh - appellant. There ensued a quarrel between the appellants – herein (accused) and said Manjit Singh and this witness on hearing their noise also reached there, where he found that his brother Manjit Singh was objecting that he would report against their unnatural conduct to Incharge Babaji and, in turn, the appellants - herein were threatening to eliminate him, if the matter with regard to

their misconduct was reported to Babaji. Since the appellants were thinking that they would have to pocket an insult, in case their above misdeed/immoral conduct had come to the notice of other people of *Dera*, so with this evil motive in their mind, they both murdered the deceased. Herein, he has contended that this motive as alleged by the prosecution loses its significance when it came in the statement of PW11 – Avtar Singh that when the accused were quarrelling with his brother Manjit Singh, then matter of unnatural act of appellant Malkiat Singh with appellant Mangal Singh had come to the notice of other tent persons in the same camp. But the fact that immoral act of the appellants had come to the knowledge of other persons of the camp at the time when Manjit Singh had been quarrelling with the appellants does not mean that evil design which the appellants had in their mind towards him had been washed away completely. One thing might have engraved in their minds that they had been insulted amongst the persons of the camp due to the act of the deceased since he had seen them while committing an unnatural act, which further came to the notice of other persons of the *dera* when deceased was quarrelling with them on account of their said immoral act.

The Hon'ble Apex Court has held in ***Praful Sudhakar Parab Versus State of Maharashtra, 2016(3) R.C.R.(Criminal) 706*** by relying upon its earlier case law ***Paramjeet Singh Versus State of Uttarakhand, 2010(4) R.C.R.(Criminal) 548*** that if the motive is proved that would supply a link in the chain of circumstantial evidence but the absence thereof cannot be a ground to reject the prosecution case. It was also a case purely resting on circumstantial evidence.

So far the inaction on the part of *Dera* Incharge qua the immoral act done by the appellants was concerned, they might have thought to keep quiet to bury the hatchet and not to flare up this matter with a view that in case this matter had come to the notice of the people of nearby villages, then it would certainly cast a slur on their *dera*, thereby decimating their dignity and esteem in the eyes of general public. So the above contention of learned counsel for the appellants is also declined.

15. Learned counsel for the appellants has further submitted that Kirpan Ex.MO-2 allegedly got recovered by appellant – herein (accused) Mangal Singh in pursuance of his disclosure statement Ex.P20 cannot be used against him since it was never sent to the office of Forensic Science Laboratory concerned for its chemical analysis. In support of his contention, he has referred to report Ex.P30, of said laboratory which is the translated copy of the original report submitted after the chemical analysis of the articles sent to said laboratory. Articles were sent to this laboratory vide two parcels 'A' and 'B'. In column '*Articles Received*' of this report, the endorsement made was as under:

“Two sealed parcels marked 'A' & 'B' in the laboratory. The seals were found intact and tallied with the specimen.”

In column '*Parcel 'A' contained*', the endorsement made was *“a Kirpan alleged to be stained with blood, recovered at the instance of accused Malkiat Singh”*. Then in column '*Result of Examination*', it was recorded *“The exhibits contained in Parcels 'A' & 'B' are stained with human blood.”*

In this translated copy, column '*Parcel 'B' contained*' was

missing due to the slip of the person who prepared the translated copy from the original record and as a result thereof, a confusion is created on the basis of which the learned counsel for the appellants has made the above contention.

In report Ex.P30 submitted by FSL as available on the original record at page No.159, reference is made to the contents of both the parcels 'A' and 'B'. As per this original report, Parcel – 'A' was containing a *kirpan* alleged to be stained with blood, recovered at the instance of accused Mangal Singh, whereas Parcel – 'B' was containing a *kirpan* alleged to be stained with blood, recovered at the instance of accused Malkiat Singh. Then in the column '*Result of Examination*', it was reported that exhibits contained in parcels 'A' & 'B' are stained with human blood.

So in the light of this original report, the above contention of learned counsel for the appellants does not survive any more and the same stands disposed of accordingly.

16. Then in this case, the alleged incident with regard to murder of deceased might be befallen during the night time of 6.5.1997. Then as above discussed, it came on the record in the statement of PW11 – Avtar Singh that both the appellants – herein (accused) in company of his brother Manjit Singh (since deceased) went towards the field after 8:30 p.m. on 6.5.1997 and thereafter they did not return to *Dera*. Then it also came in the statement of PW12 – ASI Tarlok Singh that both the appellants – herein (accused) were produced before SI Surinder Paul by Sarpanch - Gurcharan Singh of village Mallanwala on 1.6.1997. Both the

appellants went on french leave from the evening of 6.5.1997 without telling anything to their superiors and they remained as such till 1.6.1997 when they were produced before the police as aforementioned. This act and conduct on the part of both the appellants – herein (accused) also goes against them, which is also suggestive of the fact of their involvement in the commission of alleged crime and that is why they remained absconded for a period of more than three weeks after the alleged occurrence.

17. Then the learned counsel for the appellants has further contended that prosecution had given up its witnesses namely Sukhwinder Singh, Fateh Singh, Balbir Kaur being unnecessary and Sarpanch – Gurcharan Singh being won over by the accused. Herein, he has contended that all these PWs were the material witnesses of the prosecution and due to non-examination of these witnesses, it is difficult to say that prosecution has succeeded to establish its case against the appellants – herein (accused).

So far as Sukhwinder Singh was concerned, he was one of the attesting witnesses of disclosure statements Ex.P20 and Ex.P23 suffered by both the appellants – herein (accused) Mangal Singh and Malkiat Singh, respectively and of the memos Ex.P21 and Ex.P24 vide which a *Kirpan* each was allegedly got recovered by appellants Mangal Singh and Malkiat Singh in pursuance of their above-said disclosure statements were taken into police possession. But these disclosure statements as well as the recovery memos were duly proved in the statement of PW12 - ASI Tarlok Singh. Then it also came in the statement

PW12 – ASI Tarlok Singh that SI/SHO Surinder Paul who was the Investigating Officer in this case had died during the trial of the case. So far as above-said Balbir Kaur was concerned, her testimony was nothing but repetition of the facts pertaining to the alleged search of the deceased and the appellants – herein (accused) as stated by PW11 – Avtar Singh. So far as Fateh Singh was concerned, he as per the prosecution version had accompanied Pipal Singh – Sarpanch (PW10). He was not to state in addition to what had been stated by Pipal Singh (PW10) in his statement. So far as Gurcharan Singh, Sarpanch was concerned, he was given up as above-mentioned being won over by the accused. So above-said witnesses namely Sukhwinder Singh, Balbir Kaur and Fateh Singh might have been given up by prosecution in order to avoid repetition as well as duplicacy. Moreover, it is for the prosecution to see which witnesses it has to examine or not in order to prove the allegations against the accused persons. Moreover, it is the quality of the statements of witnesses and not the quantity of the witnesses examined in any case which matters in order to decide the matter in issue. There is no provision in the Indian Evidence Act, 1872 which casts any obligation on the prosecution to examine any particular number of witnesses for proving the guilt of the accused. So the above contention of learned counsel for the appellants does not carry any weightage in the eyes of law.

18. Then the learned counsel for the appellants has further argued that it was the plea of prosecution that appellant – herein (accused) Mangal Singh was the habitual passive agent of sodomy which fact is also not established on the record being contrary to the medical

opinion as given by PW1 Dr. Nirmal Dass who medico-legally examined this appellant. Herein, he has referred to the cross-examination of this PW1 Dr. Nirmal Dass wherein he stated that opinion given by him in respect of accused Mangal Singh is not perfect opinion as regards that he is habitual passive agent of sodomy. But the medical opinion is always by its nature based on the observations and other circumstances which are found during medico-legal examination of person concerned or during post-mortem of the deceased and the other surrounding circumstances of each case. PW1 has given his above-said opinion on the basis of observations as made by him on the medico-legal examination of appellant – herein (accused) - Mangal Singh, as narrated in his cross-examination.

PW1 Dr. Nirmal Dass conducted medico-legal examination of appellant – herein (accused) - Malkiat Singh also on 2.6.1997 and proved the copy of his medico-legal report as Ex.P2. He also gave opinion that there are nothing to suggest that accused - Malkiat Singh was incapable of performing sodomy as an active agent. Then he also proved the medico-legal report of accused Mangal Singh as Ex.P1.

19. The other evidence available on the file in nutshell was as under:

PW2 - Dr. Pritam Singh Sona proved the endorsement Ex.P3/A made on police request Ex.P3 vide which dead body of an unknown person was referred by him to Guru Gobind Singh Medical College & Hospital, Faridkot for post-mortem.

PW3 Dr. Sarabjit Singh Sandhu conducted post-mortem

examination on the dead body of unknown person on 11.5.1997. As per his statement, this body was cut into six pieces i.e. head, trunk, both arms and both legs with sharp edged weapon. During post-mortem examination, he found the following injuries:

- 1. Incised wound 6 cm x 1 cm on top of the head, transversely placed, 8 cm above the right ear pinna and 10 cms. above the middle of right eye brow. Clotted blood was present. On dissection of the skull, there was cut fracture of both parietal bones underlying the wound and extradural haematoma (7 x 4 cm area) was present under the injury. Brain was in early stage of putrefaction.*
- 2. Incised wound, resulting in decapitating the head completely from rest of the body at the level of between 3rd and 4th cervical vertebrae, cutting the nerves, vessels, muscles, trachea, spinal cord under the wound, clotted blood was present. Wound was transversely placed.*
- 3. The left upper arm was separated from the rest of the body by sharp edged weapon, 5 cm below the shoulder joint underlying structures were completely cut, clotted blood was present.*
- 4. Right upper arm was separated from the rest of the body by sharp edged weapon, 4 cms. below the tip of right shoulder joint underlying structure were completely cut. Clotted blood was present. Wound was obliquely placed.*
- 5. Left leg was separated from the rest of the body by sharp edged weapon, 5 cm above the left knee joint. On dissection, no blood was present under the subcutaneous tissues. The injury was post-mortem in nature. Underlying structures were cut completely. Wound was obliquely placed.*
- 6. The right leg was separated from the rest of body by sharp edged weapon, 5 cm below the right knee joint.*

Underlying structures were completely cut. On dissection there was extravasation of blood present in the subcutaneous tissues. Injury was post-mortem in nature and was obliquely placed.

Injuries No.1 to 4 were stated to be ante-mortem, whereas injuries No.5 and 6 were post-mortem in nature. The cause of death in this case was due to decapitation of head from rest of the body due to ante-mortem injuries No.1 to 4 which were sufficient to cause death in the ordinary course of nature. Then he also gave opinion that probable time that elapsed between the injuries and death was immediate and between death and post-mortem about 3 to 5 days. So as such, the death of the deceased might have occurred in this case on 6.5.1997. Ex.P4 was the carbon copy of the post-mortem report of the deceased whereas Ex.P4/A was the pictorial diagram depicting the seats of injuries.

PW5 Kulwant Singh, Head Constable, was posted as MHC of the concerned police station on the date of alleged occurrence and he tendered in his statement his duly sworn affidavit Ex.P7 regarding depositing of the case property with him and sending the same to the office of Forensic Science Laboratory in an intact condition.

PW6 Constable Sukhjit Singh delivered the Special report to Sub Divisional Judicial Magistrate, Zira on 13.5.1997 at 1:45 p.m. and the other senior police officials. His affidavit to that effect was Ex.P8.

PW7 HC Pargat Singh tendered in his statement his duly sworn affidavit Ex.P9 to the effect that on 10.5.1997, he was posted at Police Station Makhu. He got conducted the post-mortem on the dead body of deceased on 11.5.1997. Further, he deposited a parcel duly sealed

containing 10 phials of finger tips in the office of Finger Print Bureau, Phillaur and one parcel containing hair in intact condition in the office of Forensic Science Laboratory (Punjab), Chandigarh on 15.5.1997 and 22.5.1997, respectively.

PW8 Jagjit Singh – Constable deposited the parcels containing *Kirpans* allegedly recovered in this case in the office of abovesaid Forensic Science Laboratory on 5.6.1997 in intact condition and his affidavit to that effect was Ex.P10.

PW9 Devi Lal was also a formal witness. He prepared the scaled site-plan Ex.P11 after visiting the spot of occurrence on 30.6.1997.

PW10 Pipal Singh narrated the facts as disclosed by him to the police on 10.5.1997 vide his statement Ex.P12 regarding recovery of one human trunk in the *panchayati* land of his village. The learned defence counsel put certain questions to him in his cross-examination pertaining to certain facts which were neither within his knowledge nor he had so stated while lodging the report with the police vide his statement Ex.P12.

Statement of PW11 – Avtar Singh has already been discussed above in detail in para Nos.12 and 13 of this judgment.

PW12 ASI Tarlok Singh was one of the members of the police party headed by SI/SHO Surinder Paul, the then SHO of Police Station Makhu. He narrated in detail with regard to all the formalities which SI/SHO Surinder Paul as Investigating Officer of this case did in discharge of his official duty since it had come in his statement that this Investigating Officer SI/SHO Surinder Paul had died. Further, he also

proved the FIR Ex.PW12/B, inquest report Ex.P5 prepared in respect of an unidentified body and post-mortem report Ex.P4. Then he also deposed about the arrest of the accused, disclosure statements suffered by them during their interrogation and also about the recoveries which they got made subsequently in pursuance of their disclosure statements. Further, he also proved one *Chola* (tunicle) Ex.MO-1 and two *kirpans* Exs.MO-2 and MO-3 stated to be got recovered by the appellants – herein (accused) in pursuance of their disclosure statements.

20. Then there were two other reports of the Forensic Science Laboratory Ex.P28 and Ex.P29. Report Ex.P29 was pertaining to the *Chola* which was recovered during investigation of the case and alleged to be belonging to the deceased. As per this report, on examination, this *chola* (tunicle) was found to be stained with human blood of 'A' blood group.

So far as report Ex.P28 was concerned, it was pertaining to hair stated to be of an unidentified deceased who was later on identified as Manjit Singh, deceased of this case. After the examination, report was given that hair contained in Parcel 'A' are human in origin.

21. In the light of above discussion, it is held that prosecution has succeeded to bring on record sufficient reliable evidence in order to complete the chain of link evidence by leaving no stone unturned to prove its case against the appellants – herein (accused). The above discussed entire circumstantial evidence leads to only one conclusion that the alleged crime was not committed by anybody-else except the appellants – herein (accused). Nothing had come on the record during the trial of the

case which could be in consonance with the innocence of the accused. Hence, this appeal stands dismissed. The judgment of conviction and order of sentence under appeal are upheld accordingly.

Copy of this order be sent to the quarter concerned for strict compliance.

1.8.2016	(T.P.S.MANN)	(GURMIT RAM)
Brij	JUDGE	JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No