

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

1. **CRA-D-314-DB-2013**
Date of Decision: May 11, 2016

Simranjit Kaur

.....Appellant

Versus

State of Punjab

.....Respondent

2. **CRA-D-292-DB-2016**

Rana Partap Singh

.....Appellant

Versus

State of Punjab

.....Respondent

**CORAM : HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE GURMIT RAM**

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

Present: Mr. H.S. Batth, Advocate
for appellant-Simranjit Kaur.

Dr. Deepak Jindal, Advocate,
for appellant-Rana Partap Singh.

Ms. Amarjit Kaur Khurana, Addl. A.G., Punjab
for the respondent.

GURMIT RAM, J.

1. The above noted both the appeals have been preferred by
appellants-Simranjit Kaur and Rana Partap Singh respectively against the

**CRA-D-314-DB-2013 &
CRA-D-292-DB-2016**

judgment of conviction and order of sentence dated 08.12.2012 passed by the Court of learned Sessions Judge, Amritsar in criminal case bearing FIR No.61 dated 10.04.2010 under Sections, 302, 364, 201, 120-B, 148 read with Section 149 of the Indian Penal Code (“IPC” – for short), Police Station Jandiala, District Amritsar vide which both the appellants were held guilty for the offences punishable under Sections 120-B, 364, 302 and 201, IPC and were awarded sentences thereunder as detailed below:-

Offence	Sentence
Section 120-B, IPC	Both the convicts shall undergo rigorous imprisonment for three years and fine of Rs.3,000/- each. In default thereof, to undergo further rigorous imprisonment for three months each.
Section 201, IPC	Both the convicts shall undergo rigorous imprisonment for three years and fine of Rs.5,000/- each. In default thereof, to undergo further rigorous imprisonment for three months each.
Section 364, IPC	Both the convicts shall undergo rigorous imprisonment for seven years and fine of Rs.10,000/- each. In default thereof, to undergo further rigorous imprisonment for six months each.
Section 302, IPC	Both the convicts shall undergo rigorous imprisonment for life and fine of Rs.10,000/-

	each. In default thereof, to undergo further rigorous imprisonment for one year each.
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Whereas their co-accused namely Gurmit Singh @ Rambo, Gurinder Singh @ Bunty, Narinderjit Kaur and Inderjit @ Pinka were acquitted of the charges framed against them vide the aforesaid judgement.

2. The case of the prosecution in nut-shell as projected before the learned trial Court was that on 10.04.2010, SI/SHO Sukhinder Singh, Police Station Jandiala along with other police officials was present at T-point Tarn Taran, G.T. road in connection with patrolling and search of bad elements, where came to him complainant-Kulwinder Singh son of Atma Singh caste Jat resident of village Janian and made his statement Ex.PF before him, the brief substance of which was as under:-

“That he works as an agriculturist, his land is situated at Jandiala-Tarn Taran Road. Today i.e. 10.04.2010 at about 2:30 p.m. he along with his servant Harpreet Singh @ Nikku had gone to his field to irrigate coriander crop harvested in his field, where he noticed the dead body of an unknown person aged about 45/50 years lying with face downwards in the bushes on the road side near his abovesaid field of coriander, with multiple injuries on his person. The said unknown person had been wearing one shirt white (dull shaded), undershirt of sky blue colour and checked sheet of black and white colour. It appeared that some unknown persons had killed this unknown

man and threw his dead body in his field. Request was made to take action into this matter.”

Complainant signed his above statement after admitting it to be correct. Then SI/SHO Sukhinder Singh made his endorsement Ex.PF/1 on it and sent ruqa for registration of the case on the basis of which FIR Ex.PF/2 was recorded. Then the abovesaid SI/SHO reached at the spot and got snapped the photographs of the dead body of said unknown person. Inquest report in respect of dead body of deceased was also prepared. Post-mortem of dead body of deceased was also got conducted on 11.04.2010. Thereafter the dead body of said unknown person was identified to be of Jagtar Singh son of Amrik Singh caste Jat resident of village Rokhey, Police Station Ajnala, Amritsar by his father Amrik Singh and brother Satpal Singh. During identification proceedings of the dead body, it was found that deceased was having a mobile phone with sim No.98556-31942. On 13.04.2010, on coming to know about IEMI number, the call details of this mobile number for the period 01.04.2010 to 11.04.2010 were obtained. Record of the incoming and outgoing calls of this number were checked.

3. During investigation, one Jarnail Singh son of Naranjan Singh got recorded his statement before the police regarding the involvement of accused Simranjit Kaur and Rana Partap Singh qua the murder of Jagtar Singh (driver) after kidnapping him along with his truck in connivance with their other co-accused. As per his statement, mobile number of Simranjit Kaur was 98787-30018 whereas mobile number of Rana Partap Singh was 98882-85462. As per the call details' record of Jagtar Singh (deceased), ten

calls were made between him and said Simranjit Kaur from his abovesaid mobile phone number on the said mobile phone of accused Simranjit Kaur on 09.04.2010 i.e. date of incident during the period from 7:00 p.m. to 10:48 p.m.. Thereafter, mobile phone of said deceased was switched off. Application was made for procuring the record of call details of abovesaid both the mobile numbers of accused Simranjit Kaur and Rana Partap Singh.

4. Accused Simranjit Kaur and Rana Partap Singh were arrested in this case on 22.04.2010. During interrogation, both of them admitted that 'they along with their co-accused namely Narinderjit Kaur @ Nihangni, Inderjit Singh @ Pinka, Gurinder Singh @ Bunty, Gurmit Singh @ Rambo @ Rahul and Harjinder Singh @ Neeta met together at the house of accused Narinderjit Kaur @ Nihangni on 08.04.2010 and 09.04.2010 and chalked out a plan to commit the crime. Accused Simranjit Kaur was acquainted with Jagtar Singh (since deceased). As prepensed, she was sent to Jagtar Singh, driver (since deceased) and her co-accused reached at the spot as disclosed by accused-Simranjit Kaur. Driver-Jagtar Singh along with his vehicle bearing registration No.HR-39-5625 L.P. having 10 tyres was kidnapped, he was done to death and his dead body was thrown in the bushes on the road side in the area of village Janian after snatching a sum of Rs.5,750/-. Thereafter, the vehicle was parked in the premises of Gurudwara Kul Sahib'.

5. During interrogation, accused-Simranjit Kaur suffered disclosure statement regarding concealment of a purse snatched from the deceased which she later on got recovered as per her disclosure statement.

This purse was containing the voter-cum-identity card of the deceased and

the same was taken into police possession. Then accused Rana Partap Singh got recovered abovesaid truck as per his disclosure statement which was also taken into police possession.

Accused Harjinder Singh @ Neeta, Gurmit Singh @ Rambo @ Rahul and Gurinder Singh @ Bunty were apprehended in this case on 15.06.2010. They got recovered mobile phone, motorcycle and knife allegedly used in the commission of crime. Accused Narinderjit Kaur @ Nihangni and Inderjit Singh @ Pinka @ Ravi Kumar were apprehended in this case on 09.07.2010. During interrogation, they admitted their involvement in commission of the alleged crime. Motorcycle which was used at the time of commission of the alleged crime was already taken into police possession in another case bearing FIR No.140 of 2010 under Section 21 of the NDPS Act. Statements of witnesses were recorded. Site plan of the place of occurrence was also prepared. The clothes of the deceased along with some documents were sent to the office of Forensic Science Laboratory, Chandigarh. On the completion of investigation, challan against the accused was presented in the Court of learned Illaqa Magistrate.

6. After making compliance of the provisions of Section 207 of the Cr.P.C., the learned Area Magistrate committed this case to the learned Court of Sessions Judge, Amritsar for trial.

7. On finding a prima facie case punishable under Sections 120-B, 148, 364, 302 and 201, IPC, the accused were charge-sheeted accordingly vide order dated 10.12.2010 to which they pleaded not guilty and claimed trial.

8. Then during the examination of accused under the provisions of Section 313 of the Cr.P.C., the entire incriminating evidence as came on the record during trial of the case was put to them, which they denied in toto. Further they pleaded their innocence and false implication in this case. They also took the plea that they did not know Jagtar Singh nor they had any concern with his murder. But they did not lead any evidence in their defence.

9. The learned trial Court on the conclusion of the trial and after hearing learned counsel for both the parties held the appellants-herein (accused Simranjit Kaur and Rana Partap Singh) guilty for the offences punishable under Sections 120-B, 364, 302 and 201, IPC and awarded them sentences as detailed in para No.1 of this judgment.

10. The appellants-herein (accused) being not satisfied with the impugned judgment of conviction and order of sentence have come up before this Court vide the instant appeals, notices of which were given to the respondent-State. Record of learned trial Court was also requisitioned.

We have heard the learned counsel for both the parties and also analysed the record minutely with their able assistance.

11. It is an admitted fact that the State has not filed any appeal against the co-accused of the appellants-herein namely Gurmit Singh @ Rambo @ Rahul, Gurinder Singh @ Bunty, Narinderjit Kaur and Inderjit Singh @ Pinka @ Ravi Kumar who were acquitted in this case vide the impugned judgment. So the ambit of these appeals is encompassed to the extent as to whether evidence available on the file is suffice, reliable as well

as confidence inspiring to uphold the conviction of both the appellants-herein (accused). As per the case set up by the prosecution against these appellants, both of them during their interrogation had confessed their participation in the commission of alleged crime. Further they also suffered disclosure statements regarding the concealment of some of the alleged incriminating articles i.e. wallet of the deceased containing his voter-cum-ID-card and his vehicle bearing No.HR-39-5625 L.P. which they snatched from the deceased after kidnapping and slaughtering him and subsequently they also got the same recovered as per their respective disclosure statements. It was a case of blind murder and the entire case of prosecution rests upon the circumstantial evidence. The recovery of the alleged incriminating articles which the appellants got made as per their disclosure statements was the only main evidence upon which the prosecution had built up its case against the appellants-herein (the accused).

12. Now let us see the nature of these recoveries and how far these stand in the eyes of law for the purpose of their legal and judicial appreciation and analysis.

PW-14 SI Sukhinder Singh was the Investigating Officer of this case and hence his testimony is found to be quite material for the proper adjudication of the point in issue as aforementioned. His deposition was to the effect that he recorded the statement Ex.PF of complainant-Kulwinder Singh (PW-3) upon which he made his endorsement Ex.PF/1, on the basis of which First Information Report ("FIR" – for short) Ex.PF/2 was recorded. He conducted the inquest proceedings at the spot in respect of dead body of deceased, also prepared the inquest report Ex.PM in this connection. Further

he got conducted post-mortem on the dead body of deceased, also inspected the spot of the occurrence and prepared its site plan Ex.PV correctly. It was further in his statement that on the basis of call details Ex.PX of mobile phone bearing sim No.98556-31942 of deceased, he arrested the appellants-herein (accused) on 22.04.2010.

Regarding the interrogation and the recovery got made by these appellants, this witness stated that during interrogation appellant-herein (accused) Simranjit Kaur suffered disclosure statement Ex.PY/2 that she had kept concealed one wallet of deceased on the side of agricultural land near Shaheed Bhagat Singh School, Verpal, whereas appellant-herein (accused) Rana Partap Singh made disclosure statement Ex.PZ/2 during interrogation that he had kept concealed one truck bearing No.HR-39-5625 parked in a *Dera* near Gurdwara Kul Sahib within the limits of revenue estate of village Verpal. Thereafter accused-Simranjit Kaur got recovered said purse from the disclosed place as per her disclosure statement which was found containing voter-cum-identity card of Jagtar Singh (since deceased) and the same was taken into police possession vide recovery memo Ex.PY/3. Ex.PY/4 was rough site plan prepared in respect of place of this recovery. The abovesaid purse and voter-cum-ID-card were produced in the Court during trial of the case as MO3 and MO2 respectively. Then accused-Rana Partap Singh got recovered the abovesaid truck as per his disclosure statement Ex.PZ/2, which was also taken into police possession vide recovery memo Ex.PN. The certificate of registration of this vehicle was produced on the record as Ex.PZ/3.

Regarding the parking of abovesaid truck in the premises of a *Dera* near Gurudwara Kul Sahib, the investigating agency during investigation of the case recorded the statement of one Baba Harbhajan Singh under Section 161, Cr.P.C., who was doing voluntary service in the said Gurudwara. His statement was to the effect that on 09.04.2010 at about mid night appellant-herein (accused) Simranjit Kaur along with appellant-herein (accused) Rana Partap Singh and three other unidentified persons came to him along with truck bearing No.HR-39-5625 L.P. of green and copper colour and parked this vehicle in the premises of this Gurudwara by making request that there was no space available with them to park the same. This Baba Harbhajan Singh appeared in the Court during trial of the case as PW-11. He admitted the fact that he was doing voluntary service in Gurudwara Kul Sahib, Verpal Khurd since the year 1984, but he denied the remaining part of his alleged statement mark-B stated to have been made by him before the Police. He stated before the Court that he does not know appellant-herein (accused-Simranjit Kaur). She never came to him along with appellant-herein (accused-Rana Partap Singh) and three other unidentified persons along with truck bearing registration No.HR-39-5625 L.P. nor did they park any truck in the premises of Gurudwara Kul Sahib in his presence. He was declared hostile. He was cross-examined by learned Public Prosecutor, but nothing material mentionworthy had come on the record in his said cross-examination to support the prosecution version qua the above fact. In his cross-examination made by defence, he disclosed that his thumb impression was obtained by the police on blank papers. Appellants-herein (accused) were never brought to Gurudwara Kul Sahib in his presence nor the recovery of any truck was made in his presence.

13. So in the light of above discussed statement of PW-11, a severe jolt was caused to the prosecution version. Resultantly, the plea of prosecution that appellant-herein (accused) Rana Partap Singh had suffered disclosure statement Ex.PZ/2 during interrogation regarding concealment of truck aforementioned in a *Dera* near the premises of Gurudwara Kul Sahib and later on its recovery in pursuance thereof from the said premises does not seem to be solid and reliable one being surrounded by suspicious circumstances.

14. As abovesaid only one purse containing voter-cum-ID card of deceased was got recovered by appellant-herein (accused) Simranjit Kaur on the basis of her alleged disclosure statement Ex.PY/2. The alleged occurrence in this case took place on 10.04.2010. Appellant-herein (accused) Simranjit Kaur was arrested in this case on 22.04.2010 i.e. after about 12 days of this occurrence. The alleged recovered purse MO3 containing voter-cum-ID card of deceased MO2 was of no use for this appellant. Moreover a man of ordinary prudence will not keep in his/her possession as the case may be such like useless, incriminating article after the commission of alleged crime for the reason that same can be used against him or her in order to prove his/her complicity in the commission of the crime. Moreover, this purse and voter-cum-identity card were not such a valuable thing which could have prompted this appellant to keep the same in her possession for any of her personal benefits. So recovery of this purse and voter-cum-ID card does not appeal to any reasoning being found devoid of any logic.

15. Then it was the case of prosecution that co-accused of the appellants-herein namely Jaswinder Singh, Harjinder Singh @ Neeta

(Proclaimed Offender), Inderjit Singh @ Pinka @ Ravi Kumar, Gurmit Singh @ Rambo @ Rahul and Gurinder Singh @ Bunty had made an extra judicial confession before Navtej Singh @ Mahli regarding their involvement in the commission of the alleged crime in collusion with that of appellants-herein. This Navtej Singh @ Mahli appeared in the Court as PW-10 during trial of the case. He also turned hostile and did not support the prosecution version with regard to any extra judicial confession allegedly having been made before him by the aforesaid co-accused (since acquitted) of the appellants-herein.

16. Then during investigation of the case, the investigating agency also recorded statement of one Jarnail Singh under Section 161, Cr.P.C., in order to establish the link that appellant-herein (accused) Simranjit Kaur used to come to Fauji workshop, Jahajgarh to see Jagtar Singh-driver (since deceased). This Jarnail Singh during trial of the case was examined as PW-20 by the prosecution. He also turned hostile and did not, support the above version of prosecution that appellant-herein (accused) Simranjit Kaur used to visit aforesaid Fauji workshop in order to meet Jagtar Singh-driver (since deceased).

17. So due to missing of abovesaid links in the chain of circumstantial evidence of prosecution, the entire prosecution version has virtually been rendered as completely toothless for causing any bite to the appellants-herein (the accused) in order to establish their complicity in the alleged murder of Jagtar Singh-driver (since deceased) and further to bring them to book. The legal status of the prosecution tale as alleged is like that of a boat in the mid of the sea without any boatman / seaman in order to

steer its way to reach at its deemed destination i.e. to prove the guilt of the accused.

18. PW-15 ASI Dhanwinder Singh and PW-19 SI Avtar Singh joined police party of SI/SHO PW-14 Sukhinder Singh during investigation of the case. Their statements were only the repetition of what had been stated by PW-14 in his above discussed statement.

19. PW-2 HC Sukhjit Singh, PW-7 HC Nanak Singh, PW-16 HC Prithi Pal Singh and PW-17 HC Sarabjit Singh were the formal witnesses in this case and they tendered their duly sworn affidavits Ex.PE, Ex.PK, Ex.PZ/6 and Ex.PZ/7, respectively, as a part of their respective statements.

20. PW-5 Rishi Ram, Draftsman proved the scaled site plan of the place of incident as Ex.PH.

PW-6 Jagjit Singh Clerk proved the voter and election I-card of Jagtar Singh (since deceased) as Ex.PJ.

PW-9 Amrik Singh, father of deceased, identified dead body of deceased at the time of preparing the inquest proceedings and proved the inquest report Ex.PM.

PW-12 HC Tarwinder Singh took photographs Ex.P1 to Ex.P5 of the place of the occurrence.

So all the above PWs were also formal in nature and their testimonies were having no direct bearing on the case of prosecution in order to establish the involvement of the appellants-herein (the accused) in the alleged occurrence.

21. PW-3 Kulwinder Singh-complainant proved his statement Ex.PF which he made before the police when he found the dead body of an unknown person lying in the bushes on the margin of the road.

22. PW-22 Suraj Kumar, Deputy Superintendent of Police, also conducted the investigation of this case partly. His statement was relating to the arrest of accused namely Gurmit Singh @ Rambo, Gurinder Singh @ Buntty and Harjinder Singh @ Nitta. PW-13 HC Major Singh and PW-19 SI Avtar Singh were the members of his police party when the arrest of abovesaid three co-accused of the appellants-herein was made. Since these three co-accused of the appellants-herein had been acquitted by the learned trial Court and no appeal has been preferred by the State against their acquittal, so there is no need to discuss the statements of abovesaid PW-13, PW-19 and PW-22.

23. PW-18 HC Parveen Kumar proved the call details Ex.PX and Ex.PAA. But from these call details it was not proved that the present appellants were having any kind of nexus either with the deceased or in the commission of alleged crime.

24. PW-1 Dr. Gurmanjit Rai conducted post-mortem on the dead body of the deceased. He tendered his duly sworn affidavit Ex.PA as a part of his statement. Further he proved carbon copy of post-mortem of the deceased as Ex.PB.

25. In the light of above discussion, it is held that there are merits in these appeals which make these appeals liable to be accepted. Accordingly, these appeals stand accepted. The impugned judgment of conviction and

order of sentences of the present appellants are set aside. The appellants-
herein (accused Simranjit Kaur and Rana Partap Singh) as a result thereof
are acquitted of the charges framed against them by granting them benefit of
doubt. Consequently, they are ordered to be released immediately from the
jail, if not required in any other case.

A copy of this judgment be sent to the quarter concerned for its
strict compliance.

May 11, 2016
Gaurav Sorot

(S.S. SARON)
JUDGE

(GURMIT RAM)
JUDGE