

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

I. Criminal Appeal D-379-DB of 2003
Date of Decision : February 18, 2016

VikasAppellant

Versus

State of HaryanaRespondent

II. Criminal Appeal D-443-DB of 2003

RajanAppellant

Versus

State of HaryanaRespondent

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present : Mr. N.S. Shekhawat, Advocate
for appellant-Vikas
(in CRA-D-379-DB of 2003)

Mr. Jaivir Yadav, Advocate
for appellant-Rajan
(in CRA-D-443-DB of 2003)

Mr. Dhruv Dayal, Deputy Advocate General, Haryana.

T.P.S. MANN, J.

The appellants, namely, Vikas and Rajan, have filed their respective appeals against the judgment and order dated 2/3.4.2003 passed by the learned Additional Sessions Judge, Sirsa.

Vide impugned judgment and order, learned trial Court convicted them under Section 302 read with Section 34 IPC and sentenced them to undergo imprisonment for life and to pay a fine of Rs.10,000/- each and in default of payment of fine, to further undergo

imprisonment for one year. Out of the fine, if recovered, Rs.15,000/- was ordered to be paid to the heirs of deceased Shiv Dutt. At the sametime, Rajdeep, Jasbir Singh @ Mintu and Kirpa Ram, co-accused of the appellants were acquitted of the charge against them.

According to the prosecution, on 22.7.1998, complainant Balbir Singh s/o Chanan Singh, r/o village Dhudhianwali, but on that day, residing at House No.14/949, ADC Colony, Sirsa, got recorded his statement Ex.PH before ASI Kulwant Singh at Civil Hospital, Sirsa at 4.30 p.m. As the statement revealed commission of offences punishable under Sections 302/34 IPC and Sections 25/27 of the Arms Act, ASI Kulwant Singh forwarded the same through Constable Raj Kumar to Police Station City, Sirsa, on the basis of which FIR Ex.PH/1 was registered by ASI Harbans Lal on the same day at 4.45 p.m for the aforementioned offences. The special report sent through Constable Kulwant Singh was received by the Ilaqa Magistrate on the same day at 8.00 p.m.

In his statement Ex.PH, the complainant had stated that he was an agriculturist and living in village Dhudianwali, whereas Shiv Dutt Singh and Bishan Singh, who were sons of his uncle Narain Singh, resided in ADC Colony, Sirsa. On 22.7.1998, in the morning, he also arrived at Sirsa from his village in order to meet Shiv Dutt Singh and Bishan Singh in ADC Colony. He met Bishan Singh in the house. When he enquired about Shiv Dutt Singh, Bishan Singh told him that he had gone to National College, Sirsa for getting Amrinder Singh s/o Amar Singh, r/o Band Gate, Sirsa admitted in B.A. Part I. Bishan Singh asked the complainant to accompany him so as to meet Shiv Dutt Singh. On reaching National College, the complainant and

Bishan Singh came across Shiv Dutt Singh and Raj Kumar. On enquiry, Shiv Dutt Singh stated that Amrinder Singh would be admitted and he offered tea to them in the canteen. The complainant alongwith Bishan Singh, Shiv Dutt Singh and Raj Kumar proceeded for the canteen for taking tea. At about 2.05 p.m., when they reached in the corner of building of Science Block and Shiv Dutt Singh was going ahead them, while they were following him at some distance. Naresh Godara, r/o Kheowali, carrying a .12 bore double barrel gun, Vikas Kukna of D.C. Colony, Sirsa armed with .12 bore double barrel, Rajan s/o Sheo Ram, r/o Bajekan armed with pistol and Rajdeep Singh s/o Harbhagwan Singh, r/o Canal Colony, Sirsa armed with sword, came there from the opposite direction. On seeing Shiv Dutt Singh, Naresh Godara, exhorted his companions to teach a lesson to him for inflicting injuries to his brother Hanuman and for opposing them in the college election. Thereafter, Rajan fired from his pistol at Shiv Dutt Singh but the latter escaped. Naresh Kumar and Vikas fired one shot each from their respective guns simultaneously at Shiv Dutt Singh, which hit on his chest and also in his abdomen. On receiving the fire arm injury, Shiv Dutt Singh fell down on the ground. Complainant Bishan Singh and Raj Kumar raised an alarm. Rajan, Naresh Godara and Vikas fled from the spot with their respective weapons, whereas Rajdeep threw his sword at the spot while running away. Naresh Godara, in furtherance of common intention of Rajan, Vikas and Rajdeep armed with fire arms and sword had fired shots at Shiv Dutt Singh so as to take revenge for causing injuries to his brother Hanuman. Shiv Dutt Singh injured was removed from the spot by the complainant and Raj Kumar to Civil Hospital, Sirsa in the

car of Navin Kedia for treatment where Shiv Dutt Singh succumbed to his injuries after about half an hour.

During the investigation, postmortem on the dead body of Shiv Dutt Singh was conducted by Dr. Yogesh Sangwan, Medical Officer, General Hospital, Sirsa alongwith Dr. J.K. Bishnoi, on 22.7.1998 at 6.25 p.m and found the following injuries :-

- “1. 20 punctured wounds circle to oval in shape of size .75 cm. x .5 cm. to .5 cm x .5 cm on the anterior and right antero lateral aspect of chest wall and abdominal wall. Edges of the wounds were inverted and colour of abrasions was present. Wounds were scattered in an area of 46 x 24 cms. Left lateral most wound was 7 cm. medial to left nipple. Right lateral most wound was 9 cm. antero lateral to right nipple.
2. Two oval punctured wounds over left forearm postero lateraly in its middle 1/3. Edges of wounds were inverted and colour of abrasion was present on both the wounds which were muscle deep.
3. Three oval lacerated wounds with inverted margins and colour of abrasion measuring from 1 cm. x .5 cm. to .75 cm. x .5 cm. on right upper medial aspect of thigh which were muscle deep.
4. An oval lacerated wound measuring .75 cm. x .5 cm. on anterior aspect of right knee. Edges were inverted and colour of abrasion was present, bone deep.

On dissection, right lung and right pleura bore multiple punctured wounds and right pleura cavity was full of blood. A

punctured wound 1 cm. x 1 cm. over left ventricle anterior surface and a pellet was removed from the left ventricular cavity. Heart was empty. Pericardium bore corresponding wound with cavity full of blood.

Peritoneal cavity was full of blood with multiple punctured wounds over transverse colon and stomach and greater omentum had a large haematoma. There was a lacerated wound 2 cm. x 1.5 cm. over superior surface of right lobe of liver communicating through and through the parenchyma with lacerated wound measuring 3 cms. x 2.5 cm. over inferior surface of liver. Right kidney had a lacerated wound of 1.5 cm. x 1 cm. over lateral aspect. Multiple pellets were removed from it. Multiple pellets bore a punctured wound of 1 cm. x .75 cm. with 150 ml. of blood inside it.”

In the opinion of the doctors, cause of death was shock and haemorrhage due to injuries to vital organs as a result of fire arm. The injuries were ante-mortem and sufficient to cause death in ordinary course of nature. The probable time that elapsed between injury and death was variable whereas between death and postmortem, it was within twelve hours.

The accused, namely, Naresh, Vikas and Rajan were arrested on 26.7.1998. It was revealed during investigation that Jasbir and Kirpa Ram had also participated in the crime alongwith the aforementioned three accused. Accordingly, Sections 148 and 149 IPC were added. On interrogation, Naresh suffered disclosure statement in furtherance of which he got a double barrel pistol of .315 bore was recovered from the possession of Vikas accused. Jasbir and Kirpa Ram accused were arrested. The police, however,

came to the conclusion that Rajdeep accused was not present at the time of occurrence and as such, he was not challaned. Copies of final report under Section 173 Cr.P.C. and statements of the witnesses were supplied to the accused and the case committed to the Court of Sessions. Charge under Section 302 IPC was framed against Naresh and Vikas accused for causing the murder of Shiv Dutt Singh, whereas charge against Rajan, Jasbir and Kirpa Ram was framed under Section 302 read with Section 34 IPC. All the five accused pleaded not guilty to the charge and claimed trial.

In support of its case, the prosecution examined complainant-Balbir Singh as PW1, who supported the version of the occurrence as given by him in his statement Ex.PA made to the police. After his cross-examination was over, the learned Public Prosecutor moved an application under Section 319 Cr.P.C. for summoning Rajdeep as an additional accused, which application was allowed on 23.2.2000. On his appearance, he was charged for committing the offence punishable under Section 302 read with Section 34 IPC, to which he pleaded not guilty and claimed trial.

In order to substantiate its case, the prosecution examined as many as fourteen witnesses.

PW1 Head Constable Subhash Chander proved the scaled site plan Ex.PA.

PW2 Head Constable Ram Kumar, PW4 Constable Satbir Singh and PW6 Constable Reghubir Singh tendered in evidence their affidavits Ex.PB, Ex.PG and Ex.PI, respectively.

PW3 Inspector Sube Singh deposed that on 1.10.1998, he

arrested Kirpa Ram accused, who in pursuance of his disclosure statement Ex.PC led the police party to the place of concealment of car bearing No.DL-6C-3998 but no recovery was effected. Again on 2.10.1998, he suffered disclosure statement Ex.PD that he had kept concealed the car in the house of Rajinder Singh, Chairman of village Darba and he could get the same recovered. The accused got effected the recovery of the car which was taken into possession vide recovery memo Ex.PE. He also proved on record rough site plan of the place of recovery of car Ex.PF and RC Ex.P1.

PW5 SI Harbans Lal deposed that on 22.7.1998, on receipt of ruqa Ex.PH, he recorded formal FIR Ex.PH/1.

PW7 ASI Kulwant Singh deposed that on receiving ruqa Ex.PK from the doctor at General Hospital, Sirsa, he took Shri H.S. Dahiya, JMIC, Sirsa from his residence to the hospital. On reaching there, he received the ruqa Ex.PL about the death of Shiv Dutt Singh. He then recorded the statement Ex.PH of Balbir Singh and sent it with the endorsement Ex.PH/2 to the Police Station for registration of the case. He prepared inquest report Ex.PM and submitted an application Ex.PN to the doctor for post-mortem of the dead body.

PW8 Balbir Singh testified that Shiv Dutt Singh deceased and Bishan Singh were his cousins and both of them had been living in a rented room near Canal Colony, Sirsa. He further testified that on 22.7.1998 he left village Dhudhianwali at 11.00 am. and reached at his residence at Sirsa at 12.30 p.m. and then went to the room of Shiv Dutt Singh to see him. However, Bishan Singh told him that Shiv Dutt Singh had gone to National College, Sirsa for admission of one Amrinder Singh. Then he as well as Bishan Singh went to the college and found

Shiv Dutt Singh present in the college premises in the company of one Raj Kumar of village Talwara. Shiv Dutt stated that Amrinder Singh would get the admission and he offered to serve tea to them in the canteen. Thereafter, the complainant Shiv Dutt, Bishan Singh and Raj Kumar started towards the canteen. At about 2.00 p.m., when they reached near the corner of Science Block and Shiv Dutt Singh was going ahead of the remaining three, accused Naresh Godara and Vikas, armed with double barrel guns and accused Rajan carrying a pistol accompanied by accused Rajdeep armed with a sword, came from the front side. Naresh Godara raised a lalkara to teach the complainant a lesson for causing injuries to his brother Hanuman and for opposing him in the elections. Rajan then fired a shot from his gun at Shiv Dutt Singh but the shot missed the target. Naresh Godara and Vikas fired from their guns and the pellets hit Shiv Dutt Singh in the chest, abdomen and private parts. Shiv Dutt Singh resultantly fell down. The complainant, Raj Kumar and Bishan Singh raised alarm whereupon accused Naresh and Vikas armed with their guns and Rajan with his pistol and Rajdeep leaving his sword at the spot ran away from the spot. In the meantime, one Navin Kedia arrived there in his car and the injured was shifted to General Hospital, Sirsa. However, due to fire arm injuries, Shiv Dutt Singh died after 30 to 45 minutes. Balbir Singh further testified that police had recorded his statement Ex.PH which was signed by him after it had been read over to him. On 31.7.1998 he also got prepared a site plan of the place of occurrence.

PW9 Vijay Kumar, Clerk, Office of SDM, Sirsa proved the arms licence issued in favour of Hanuman Godara son of Ranjit Singh

on which there was entry qua gun DBBL No.612184 of .12 bore. The licence was renewed on 4.1.2000 upto 12.1.2003.

PW10 Bishan Singh, brother of Shiv Dutt Singh deceased made a statement similar to the one made by complainant Balbir Singh. He disclosed that the police had recovered pellets, sword, blood stained earth, pieces of glass and some pellet pieces in his presence from the place of occurrence.

PW11 Dr. Yogesh Sangwan, Medical Officer, Government Hospital, Sirsa, deposed about the post-mortem which he alongwith Dr. J.K. Bishnoi had conducted on 22.7.1998 at 6.25 p.m., as mentioned above.

PW12 Chanan Singh deposed that accused Naresh had made a disclosure statement Ex.PR in his presence on 29.7.1998 and in pursuance thereof the said accused got recovered a gun from the disclosed place which was taken in possession vide recovery memo. Ex.PR/1. Similarly, on 30.7.1998 accused Vikas made a disclosure statement Ex.PS and got recovered a pistol Ex.P2, which was taken into possession vide recovery memo Ex.PS/10.

PW13 Dr. G.S. Somani, Medical Officer, Civil Hospital, Sirsa deposed that on 22.7.1998 at 2.00 p.m. he sent ruqa Ex.PJ regarding admission of Shiv Dutt Singh in the hospital. On the same day at 2.40 p.m., he sent second ruqa Ex.PK regarding making arrangements for recording statement of Shiv Dutt Singh. On the same day at 3.25 p.m., he sent ruqa Ex.PL regarding the death of Shiv Dutt Singh. He, however, could not prepare the MLR during this period because of resuscitation as his condition was serious.

PW14 Inspector Raghbir Singh testified that he was working as District Inspector at Sirsa. On 22.7.1998, he took over investigation of this case by the order of the Superintendent of Police. He alongwith other police officials reached the place of occurrence, i.e. National College, Sirsa. Dharam Pal, Photographer was called who took the photographs. Seven pellets were recovered from the spot besides a sword and broken glass panes. Blood stained earth was also lifted and in this regard recovery memo. Ex.PO was prepared. He further deposed that he prepared rough site plan of the place of occurrence as Ex.PT with its correct marginal notes and recorded the statements of the witnesses. He prepared recovery memo. Ex.PU with regard to a sealed parcel of clothes and a sealed vial of pellets handed over to him by Constable Bhagu Ram with the inquest report. Thereafter search of accused was made. He deposited the case property with the MHC on return to the Police Station. On 26.7.1998, one Kundan produced Naresh, Vikas and Raju before him in the Police Station. He arrested all the three accused. On the same day, he took into possession a Maruti car bearing No.HR-24-6644, which was produced by those accused at the time of their arrest. Recovery memo. Ex.PV was prepared. On 29.7.1998, during interrogation, accused Naresh made a disclosure statement Ex.PR that he had kept concealed a double barrel gun in his field under the Toori and could get the same recovered. This disclosure statement was made in the presence of two witnesses, namely, Chanan Singh and Mohan Singh. Pursuant to that statement, Naresh got recovered a gun from the said place. The gun was put into a sealed parcel and was taken in possession vide memo. Ex.PR/1. He further stated that

thereafter he went to village Bajekan and arrested accused Jasbir Singh. Statement of PW Abhimanyu was recorded under Section 161 Cr.P.C. on 27.7.1998 and in view of his statement, Sections 148 and 149 IPC were added in this case. On 30.7.1998, accused Vikas made a disclosure statement Ex.PS in the presence of PWs Chanan Singh and Mohan Singh that he had kept concealed a pistol of .315 bore in his residential house and could get the same recovered. Pursuant to that statement, Vikas got recovered the pistol, which was put in a sealed parcel and taken in possession vide recovery memo. Ex.PS/1 and prepared rough site plan regarding the place of recovery as Ex.PX. He further testified that he served the grounds of arrest to all the accused arrested by him and recorded the statements of the witnesses. He added that on 22.7.1998 he had prepared a rough sketch Ex.PP of the sword.

When examined under Section 313 Cr.P.C., the accused denied the allegations of the prosecution and pleaded that they were innocent. Vikas accused stated that he had no link or connection with the alleged occurrence and was falsely implicated. His plea is that he was not present at the time of occurrence nor he fired at Shiv Dutt Singh. Similar stand was taken by accused Rajan and Jasbir Singh. Accused Kirpa Ram asserted that he was added as accused lateron during investigation on account of enmity and party faction. He further asserted that he never went to the place of occurrence nor used his car in taking the accused from that place. Similarly, accused Rajdeep claimed that he was not present at the place of occurrence nor he took any part in the incident. On the other hand, he was present at his shop situated in Grain Market, Sirsa. He further stated

that he had been declared innocent by the police after thorough investigation.

In their defence, the accused examined four witnesses.

DW1 Boota Singh testified that he was running a commission agency shop situated in Additional Mandi, Sirsa in partnership with accused Rajdeep. On 22.7.1998 he alongwith Rajdeep and his Muneem Mangat Ram remained present at the shop from 10.00 a.m. to 5.30 p.m. During that period Rajdeep did not leave the shop and has been falsely implicated in this case.

DW2 Vijay Kumar, who also claimed himself to be running a commission agency shop in New Mandi, Sirsa adjoining the shop of accused Rajdeep, testified that on 22.7.1998 said Rajdeep remained present at the shop throughout the day alongwith Boota Singh and Mangat Ram.

DW3 Des Raj, Head Constable brought the relevant record relating to Police Station City, Sirsa and proved Ex.DA to Ex.DE the copies of FIR No.528 dated 1.11.1992 under Sections 307/34 IPC, FIR No.224 dated 4.7.1994 under Sections 285/506 IPC and 25/27 Arms Act, FIR No.169 dated 5.4.1996 under Sections 452/506 IPC and 25 Arms Act, FIR No.374 dated 2.8.1996 under Sections 452/324/506 IPC etc. and FIR No.586 dated 11.11.1996 under Sections 307/323/324/149/148 IPC, all relating to Police Station City, Sirsa.

Similarly, DW4 Raj Kumar, Head Constable brought the relevant record and proved Ex.DF copy of FIR No.294 dated 16.9.1996 under Sections 323/324/326/506/34 IPC of Police Station Rania.

After hearing learned counsel for the parties and on going

through the record, learned trial Court acquitted Jasbir Singh, Kirpa Ram and Rajdeep of the charges against them. The two appellants were, however, convicted and sentenced, as mentioned above.

It may be mentioned here that during the trial of the case, Naresh Godara accused was granted interim bail by the High Court with a direction to appear before the jail authorities on 13.6.2002 but he did not surrender and absconded. Despite the fact that warrants of arrest were issued against him, he could not be arrested. Ultimately, vide order dated 31.10.2002, learned trial Court declared him a proclaimed offender.

This Court has heard learned counsel for the appellants and the learned State counsel, besides scanning the evidence with their able assistance.

Learned counsel for the appellants have submitted that the prosecution has not produced any evidence to prove the motive. The incident of causing injuries to Hanuman, brother of Naresh Godara accused by Shiv Dutt Singh deceased had taken place during the college election in the year 1993. However, this Court finds that PW8 complainant Balbir Singh deposed that Shiv Dutt Singh had been challaned in the case arising out of the incident which took place somewhere in August/September, 1993 under Section 307 IPC but he was not aware about the details of the said case. Fact remains that the earlier case was registered against Shiv Dutt Singh under Section 307 IPC. Therefore, it cannot be said that there was no motive on the part of the accused to commit the murder of Shiv Dutt Singh. There cannot be any direct evidence for the motive as the motive lies in the mind of the accused. It may also be mentioned here that the prosecution case

is based upon the ocular account, which has been proved on record by examining PW8 Balbir Singh and PW10 Bishan Singh.

Coming to the question of delay in lodging of the FIR, suffice it to state that the occurrence had taken place at National College, Sirsa on 22.7.1998 at 2.00 p.m. Immediately after the occurrence, Shiv Dutt Singh, who had received fire arm injury was shifted to Civil Hospital, Sirsa where he was admitted at 2.20 p.m. and ruqa Ex.PJ in this regard was sent by PW13 Dr. G.S. Somani to the SHO, City, Sirsa. Pursuant to the same, the police made an attempt to avail the services of a Magistrate for recording the statement of the injured. Accordingly, PW7 ASI Kulwant Singh, after receiving ruqa Ex.PJ, went to General Hospital, Sirsa where he was handed over ruqa Ex.PK by the doctor for making arrangements for recording the dying declaration of the victim. ASI Kulwant Singh then accompanied Shri H.S. Dahiya, JMIC, Sirsa to General Hospital, Sirsa and on reaching there received ruqa Ex.PL on the same day at about 3.25 p.m. about the death of Shiv Dutt Singh. ASI Kulwant Singh, thereafter, recorded the statement Ex.PH of complainant Balbir Singh at the hospital itself which was concluded at 4.30 p.m. The statement was thereafter sent through Constable Raj Kumar to the Police Station for registration of a case. Accordingly, on the same day, ASI Harbans Lal registered the FIR Ex.PH/1 at 4.45 p.m. It would have taken about an hour for the registration of the FIR. The special report of the case was, thereafter handed over to Constable Kulwant Singh for the purpose of delivering the same to the Ilaqa Magistrate. It was received by the Ilaqa Magistrate at his residence on the same day at 8.00 p.m. PW5 SI Harbans Lal, when cross-examined by the defence,

deposed that the recording of the FIR completed by 6.05 p.m. Immediately, thereafter, he had sent the special report to the concerned police officers as well as the Ilaqa Magistrate. The distance between the Police Station and residence of CJM, Sirsa was about 4/5 kilometers. He denied the suggestion that the distance was not more than three kilometers. He also stated that distance of Police Station, Sirsa from Civil Hospital, Sirsa was about three kilometers and not 1½ kilometers. From the above, it cannot be said that there was any delay in the lodging of the FIR. Whatever insignificant delay was there, has been properly explained. As such, it cannot be said that the FIR was lodged after due deliberations and consultations.

It is submitted on behalf of the appellants that the presence of PW8 Balbir Singh, PW10 Bishan Singh and Raj Kumar, besides Shiv Dutt Singh in the college was highly doubtful. None of them was student of that college at the relevant time nor had occasion to go there on the day of the incident. Their chance presence need not be believed, especially when they are closely related to the deceased.

The presence of PW8 Balbir Singh and PW10 Bishan Singh at the place of the occurrence cannot be disbelieved on account of their being closely related to the deceased. PW8 Balbir Singh was resident of village Dhudhianwali. Shiv Dutt Singh and Bishan Singh were his cousins being sons of his uncle Narain Singh who resided at Sirsa and in the morning of 22.7.1998, PW8 Balbir Singh came to Sirsa to meet them. He met Bishan Singh, who was present in the house. However, it was learnt that Shiv Dutt Singh had gone to National College, Sirsa for getting Amrinder Singh admitted in B.A. Part I.

Accordingly, Balbir Singh and Bishan Singh reached the college and met Shiv Dutt Singh and Raj Kumar. In order to serve tea to complainant Balbir Singh, Shiv Dutt Singh and others started for the canteen. It was about 2.00 p.m. at that time. When they reached the corner of the building of Science Block, the accused came present there from the opposite side. Naresh Godara accused raised a lalkara exhorting his companions to teach a lesson to Shiv Dutt Singh for inflicting injuries to his brother Hanuman and for opposing them in the college election. In the occurrence which followed, fire arm injuries were caused to Shiv Dutt Singh. Immediately, after the occurrence, Shiv Dutt Singh was rushed to Civil Hospital, Sirsa and an attempt was made by the doctor to resuscitate him. Two ruqas in quick succession were despatched to the Police Station, one about the admission of Shiv Dutt Singh in the hospital and the other for making arrangements for recording the dying declaration of Shiv Dutt Singh. However, when ASI Kulwant Singh alongwith the Judicial Magistrate reached the hospital, Shiv Dutt Singh had already expired and ruqa in that regard was handed over to him. As the doctor had intimated the police to make an attempt to record the declaration of Shiv Dutt Singh, it stands established that Shiv Dutt Singh had not died at the spot. Rather, after the occurrence he was shifted to Civil Hospital, Sirsa where the doctor had made an attempt to resuscitate him but failed. Merely because the eye-witnesses did not suffer any firm arm injury, their presence at the spot could not be doubted. The motive was against Shiv Dutt Singh deceased who had earlier caused injuries to brother of Narsh Godara accused.

The medical evidence by way of the testimony of PW11

Dr. Yogesh Sangwan fully corroborates the ocular account. As many as four fire arms injuries were noticed on the dead body when it was subjected to post-mortem. On dissection, right lung and right pleura bore multiple punctured wounds and right pleural cavity was full of blood. One punctured wound over left ventricle anterior surface was found and a pellet removed from the left ventricular cavity. Heart was empty. Pericardium bore corresponding wound with cavity full of blood. There was a lacerated wound over superior surface of right lobe of liver communicating through the parenchyma with lacerated injury over inferior surface of liver. Right kidney had lacerated wound over lateral aspect. In the opinion of the Board of Doctors headed by PW11 Dr. Yogesh Sangwan, cause of death was shock and haemorrhage due to injuries to vital organs as a result of fire arm injuries which were ante-mortem in nature and sufficient to cause of death in the ordinary course of nature. Probable time that elapsed between injury and death was variable. The defence did not suggest to PW11 Dr. Yogesh Sangwan about the death being instantaneous i.e. on receipt of firearm injuries itself. Therefore, the plea of the defence that the victim was already dead before he was shifted from the college deserves to be rejected.

From the report Ex.PY/1 of the Forensic Science Laboratory, Haryana, it stands established that .12 bore DBBL gun and countrymade pistol were firearms and their firing mechanism found in working order. .12 bore DBBL gun and countrymade pistol had been fired through. Pellets collected from the place of occurrence and taken from the dead body were found to be fired lead pellets, which were usually loaded in a shotgun cartridges, including .12

bore. The testimonies of PW8 Balbir Singh and PW10 Bishan Singh are, thus, sufficient to prove the involvement of the appellants.

In view of the above, this Court finds that the prosecution has led cogent, convincing and satisfactory evidence to connect the appellants with the commission of the crime. Under these circumstances, both the appeals, i.e. Criminal Appeal D-379-DB of 2003 filed on behalf of Vikas appellant and Criminal Appeal D-443-DB of 2003 filed on behalf of Rajan appellant, are devoid of any merit and, therefore, dismissed.

February 18, 2016

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

satish

Whether reasoned/speaking : YES / NO

Whether reportable : YES / NO