

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRA-D-687-DB of 2003

Date of decision : 20.4.2017

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Tarlochan Singh

.....Appellant

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice T.P.S. Mann
Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Deepak Arora, Advocate for the appellant

Mr. S.S.Dhaliwal, Additional Advocate General, Punjab

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H. S. Madaan, J.

This appeal has been filed against judgment and order dated 16.1.2003, passed by the Court of Sessions Judge, Amritsar, vide which he had convicted accused Tarlochan Singh for offences under Section 302 and 324 IPC, sentencing him to undergo rigorous imprisonment for life and to pay a fine of Rs.500/- and in default of payment of fine to undergo further rigorous imprisonment for three months for the former offence and rigorous imprisonment for two years for the latter offence. The substantive sentences were ordered to run concurrently.

The accused – convict, who is appellant before this Court, prays that the appeal be accepted, the impugned judgment of

conviction and sentence be set aside and he be acquitted of the charge framed against him.

Shortly put, the prosecution story, as it emanated during the trial is that on 22.9.1999 information was sent from Guru Nanak Dev Hospital, Amritsar, at Police Station 'B' Division, Amritsar, regarding admission of injured Balwinder Singh son of Gurdial Singh and Raju Bhayya, in the said hospital. On receipt of the said information, a Police Party headed by ASI Amarjit Singh went to Guru Nanak Dev Hospital, Amritsar. There he sought opinion of attending doctor regarding fitness of injured Balwinder Singh to make statement by moving application Exhibit PA. However, the doctor vide his endorsement Exhibit PA/1, gave the opinion in negative. On a similar request moved, relating to Raju Bhayya, Exhibit PB, the Medical Officer vide his endorsement Exhibit PB/1, declared him fit to make the statement. As such, the Investigating Officer (hereinafter referred to as 'Investigating Officer/IO') recorded statement of Raju Bhayya. In the said statement, Raju Bhayya, aged about 18-19 years, resident of Plot No. 1516/32, Guru Nanak Pura, Street No. 6, Near Ganda Nala Kite, Police Station 'B' Division, Amritsar, stated that he is adopted son of Gurdial Singh and they are four brothers; that he used to look after the cattle in the dairy farm of Gurdial Singh. On that day i.e. 22.9.1999, he was milking buffalo, whereas Balwinder Singh @ Nikka, son of Gurdial Singh, was sitting near him on a large wooden bench (*Takhatposh*). It was about 5.15 in the evening and then their neighbour Tarlochan Singh @ Sonu @ Laddi, son of Bira, passed from the front side. Said Tarlochan Singh was keeping an evil eye on

daughters of Gurdial Singh, though he was dissuaded from doing so and passing in front of the dairy, Balwinder Singh asked Tarlochan Singh to desist from keeping bad eye on his sisters. Then Tarlochan Singh took out a rapier from his pant and gave 2-3 blows in abdomen of Balwinder Singh. Balwinder Singh had raised his left hand to defend himself, as such he had suffered injuries on fingers of his hand also. According to complainant Raju Bhayya, he intervened to stop Tarlochan Singh from giving blows to Balwinder Singh. Then Tarlochan Singh gave blow with rapier on his forehead, with the result blood started oozing out from the said injury. On hearing the noise, Gurdial Singh came to the spot. Raju Bhayya was shouting '*Mar Ditta, Mar Ditta*', whereas Balwinder Singh had fallen down after receiving injuries. Tarlochan Singh ran away from the spot alongwith his rapier. Gurdial Singh then arranged a conveyance and removed Balwinder Singh and Raju Bhayya to Guru Nanak Dev Hospital, Amritsar, where they were admitted and treated. Information regarding their admission was sent to Police Station 'B' Division, Amritsar. The statement got recorded by Raju Bhayya Exhibit PL was signed by him in Hindi. His signatures were attested by ASI Amarjit Singh. ASI Amarjit Singh noted down police proceedings Exhibit PL/2 below that statement and sent *ruqa* to Police Station through Constable Hardip Singh, on the basis of which formal FIR Exhibit PL/3 was recorded by ASI Harjinder Singh.

On 23.9.1999, a Police Party headed by ASI Amarjit Singh went to the spot, where the Investigating Officer/IO carried out spot inspection in the presence of Gurdial Singh. The Investigating

Officer/IO prepared rough site plan of the place of occurrence as Exhibit PS. However, he did not find any blood at the spot. He conducted raid at the house of accused, but the house was found to be locked. However, on the same day, in the evening accused Tarlochan Singh was arrested in this case. On 23.9.1999 itself the Investigating Officer moved application Exhibit PE seeking opinion of the attending doctor regarding fitness of Balwinder Singh injured to make statement. The doctor vide his endorsement Exhibit PE/1 declared such patient unfit to make a statement. A similar application moved by the Investigating Officer/IO on 25.9.1999 Exhibit PE/2, resulted in same opinion given by doctor vide endorsement Exhibit PE/3. On 26.9.1999 on receipt of MLRs of Raju Bhayya and Balwinder Singh – injured, offence under Section 307 IPC was added vide DDR No. 25 dated 26.9.1999. Special reports were also issued vide Exhibit PS/1.

On 28.9.1999, production warrants of accused-Tarlochan Singh were got issued from the Court and he was arrested under Section 307 IPC. He was interrogated in the police custody, during the course of which he made a statement under Section 27 of the Indian Evidence Act that he had kept concealed a rapier (*kirch*), underneath the earth near his residential house, about which only he knew and could get the same recovered. His such statement Exhibit PT was recorded, which was attested by Sukhdial Singh and HC Gurwinder Singh and signed by the accused. Thereafter, the accused, while in police custody got the rapier (*kirch*) Exhibit P-3, recovered in pursuance of the disclosure statement made by him. The

Investigating Officer/IO prepared a rough sketch of rapier (*kirch*) Exhibit PT/1. The sketch was attested by witnesses. Rapier (*kirch*) was taken into possession vide recovery memo Exhibit PT/2. Rough site plan of the place of recovery Exhibit PT/3 was prepared. The Investigating Officer/IO recorded statement of the witnesses. On that very day, he again sought opinion of the doctor on police request Exhibit PA/2, regarding fitness of Balwinder Singh to make statement. However, the Medical Officer vide endorsement Exhibit PA/3, declared such injured unfit to make statement. On return to the police station, the Investigating Officer/IO deposited the case property with MHC. On 7.10.1999, the Investigating Officer/IO moved application Exhibit PG to get opinion of the doctor as to whether Balwinder Singh was fit to make the statement. The doctor appended his endorsement Exhibit PG/1 to that application to the effect that the patient was unfit to make statement. Kirpal Singh, son of Gurdial Singh, produced clothes of injured - Balwinder Singh, i.e. shirt Exhibit P-1 and pant Exhibit P-2, which were converted into a sealed parcel and taken into possession vide recovery memo Exhibit PT/4.

Further investigation in this case was carried out by ASI Kidar Nath and Inspector Harbhajan Singh. On 11.10.1999, ASI Kidar Nath moved application Exhibit PF to get opinion of the doctor as to whether Balwinder Singh – injured was fit to make statement. The doctor vide his endorsement Exhibit PF/1 declared him fit to make statement. The Investigating Officer/IO then satisfied himself that Balwinder Singh was actually in a fit state of mind and

then recorded his statement under Section 161 Cr.P.C. However, unfortunately, Balwinder Singh expired on 14.10.1999 at 8.05 P.M. Offence under Section 302 IPC was added in the FIR. The Investigating officer/IO moved application Exhibit PM for getting the post mortem examination conducted on the dead body of Balwinder Singh and got the needful done. However, before that inquest proceedings had been carried out and inquest report Exhibit PT/6 was prepared.

After completion of investigation and other formalities, challan against accused was prepared and filed in the Court of Judicial Magistrate Ist Class, Amritsar.

On presentation of challan in the Court of Judicial Magistrate Ist Class, Amritsar, copies of documents relied upon therein were supplied to the accused free of cost, as provided under Section 207 Cr.P.C. and then finding that offence under section 302 IPC was exclusively triable by the Court of Sessions, the Judicial Magistrate Ist Class, Amritsar, vide his detailed commitment order dated 19.4.2000, committed the case to the Court of Sessions.

When the case was received in the Court of Sessions Judge, Amritsar, then finding prima facie charge for offence under Sections 302/324 IPC, charge for said offences was framed against the accused, to which he pleaded not guilty and claimed trial and the case was fixed for evidence of the prosecution.

During the course of its evidence, the prosecution examined, as many as 14 PWs, as per details below.

PW-1 Dr. Jatinder Mangat, Junior Resident, Surgical Ward

No.1, Guru Nanak Dev Hospital, Amritsar, stated that on police application dated 22.9.1999, Exhibit PA, he vide his endorsement Exhibit PA/1, had declared Balwinder Singh patient unfit to make statement at 11.15 P.M. on that day. That on police application Exhibit PB dated 22.9.1999, he had also declared Raju Bhayya fit to make statement, vide endorsement Exhibit PB/1 at 11.15 P.M. He further stated that on application dated 28.9.1999, Exhibit PA/2 he had declared patient Balwinder Singh unfit to make statement vide endorsement Exhibit PA/3. After seeing bed head ticket Exhibit PC of patient Balwinder Singh, this witness stated that he was admitted in the hospital on 22.2.1999 at 8.35 P.M. and was discharged on 8.10.1999, at his request; that he was again admitted, as recorded in the bed head ticket, Exhibit PC/1 on 11.10.1999 and he died while admitted in the hospital on 14.10.1999 at 8.05 P.M. The witness proved bed head ticket of Raju patient as Exhibit PD and stated that he was admitted on 22.9.1999 and was discharged from hospital on 25.9.1999.

PW-2 Dr. Ajay Gupta, Junior Resident, Surgical Unit No.1, Guru Nanak Dev Hospital, Amritsar, deposed that on police application Exhibit PE dated 23.9.1999, he vide his endorsement Exhibit PE/1 had declared Balwinder Singh, patient, unfit to make statement; again on police application, Exhibit PE/2 dated 25.9.1999 vide his endorsement Exhibit PE/3, he declared Balwinder Singh unfit to make statement; that on police application Exhibit PF dated 11.10.1999, he declared Balwinder Singh fit to make statement vide his endorsement Exhibit PF/1 at 8.19 P.M. on the same day. Going

further, the witness further stated that after he declared Balwinder Singh fit to make statement, ASI recorded his statement, while he was conscious when he declared him fit to make statement. The witness further stated that after going through bed head ticket of Balwinder Singh, he can say that general condition of Balwinder Singh was poor on 11.10.1999, but otherwise he was conscious and stable.

PW-3 Dr. Deepak Kohli, Junior Resident, Surgical Ward No.1, Guru Nanak Dev Hospital, Amritsar, deposed that on police application Exhibit PG, dated 7.10.1999, he had declared Balwinder Singh patient unfit to make statement vide his endorsement Exhibit PG/1 at 10.45 P.M. on that day.

PW-4 Dr. Rajiv Sharma, Junior Resident, Surgical Ward No.1, Guru Nanak Dev Hospital, Amritsar, testified that as per bed head ticket Exhibit PC of Balwinder Singh patient, he was operated on 4.10.1999 by Dr. I.J.S. Shergill. At that time, he and doctor Jatinder Singh assisted him. The witness further stated that operation notes Exhibit PC/2 dated 4.10.1999 are in his hand and in case of Balwinder Singh, septicemia had developed because of the injuries suffered by him.

PW-5 Constable Paramjit Singh, a formal witness, tendered in evidence his affidavit Exhibit PH.

PW-6 Dr. Gurmanjit Rai, Lecturer, Forensic Medicines, Medical College, Amritsar, deposed that on 23.9.1999, at 5.30 P.M. he had medically examined Balwinder Singh son of Gurdial Singh, aged 19 years, resident of Gali No. 6, Guru Nanak Pura, Amritsar;

that Balwinder Singh was brought by police and on his examination, he observed as follows:-

“Patient was having two incised stab wounds on abdomen, bleeding profusely and was in shock. Omentum was coming out in the wound.

Two blood-transfusions were given and laprotomy was given as an emergency measures.

The details of injuries were as under:-

- 1) Incised stab wound 0.5 x 0.3 cm on left side of abdomen in epigastric region. Margins were found red and swollen. It was skin deep.
- 2) Incised stab wound 0.75 x 0.5 cm on right side of abdomen 8 cm below umbilicus at 8' o clock position. Drain tube was present inside the wound. Margins were found red and swollen.
- 3) 17 cm long stitched wound present on mid-line of abdomen. Stitches found intact.
- 4) Incised wound 4 x 1 cm on palmer aspect of left middle finger vertically placed. Margins found red and swollen. Clotted blood present.
- 5) Reddish brown abrasion 2 x 1 cm on back of left middle finger.”

This witness further stated that injuries No. 1 and 2 were subjected to surgeon's operation notes and injury Nos. 4 and 5 were subjected to x-ray examination and injury No. 3 was hospital wound.

This witness further stated that probable duration of injuries was

about 12 to 24 hours; that injuries No. 1 and 2 were caused by sharp pointed weapon and injury No. 4 was caused by sharp weapon and injury No. 5 was caused by blunt weapon. He proved carbon copy of medico legal examination report Exhibit PJ and carbon copy of pictorial diagram showing the seats of injuries on the person of Balwinder Singh as Exhibit PJ/1 and he admitted to have brought originals of these documents, which were in his hand and bear his signatures. This witness further stated that on 24.9.1999, after receipt of Surgeon's note, he declared injury No.2 as dangerous to life, while the opinion in this respect, as far as, injuries No. 4 and 5 were concerned, that was to be given after x-ray report. He proved his opinion Exhibit PJ/2 . He further stated that vide his opinion Exhibit PJ/3 dated 1.11.1999, he declared injuries No. 4 and 5 as simple in nature.

The witness stated that on the same date at 6.30 P.M. he conducted medico-legal examination of Raju Singh son of Gurdial Singh, aged 21 years, resident of Gali No.6, Guru Nanak Pura, Amritsar. He stated that the patient was brought by police and he found the following injuries on his person:-

“1. Incised Wound 4 x 1 cm on right side of forehead on medial end of eye-brow. It was obliquely placed. Clotted blood was present. Now stitched wound.”

He further stated that injury No.1 was subjected to x-ray examination and it was caused by sharp weapon and probable duration of injury was about 12 to 24 hours. This witness further

proved carbon copy of medico legal report Exhibit PJ/4.

PW-7 LC Assa Singh, Police Post, Vijay Nagar, Police Station, Sadar, a formal witness, tendered in evidence his affidavit Exhibit PK.

PW-8 Raju Singh – injured and PW-9 Gurdial Singh, provided the eye witness account of the incident deposing as per prosecution story.

PW-10 Dr. Ashok Chanana, Assistant Professor, Forensic Medicine and Toxicology Department, Government Medical College, Amritsar, stated that on police application Exhibit PM, dated 14.10.1999, he was deputed to conduct post mortem examination on the dead body of Balwinder Singh son of Gurdial Singh, aged 17 years, resident of Guru Nanak Pura, Amritsar; that the dead body alongwith police papers was brought to mortuary by Constables Assa Singh and Kulwant Singh on 15.10.1999 at 11.50 A.M.; that the dead body was identified by Kirpal Singh and Jaswinder Singh; that the information of death as per police papers was 14.10.1999 at 8.10 P.M.; that he conducted the post mortem examination on 15.10.1999 at 12.10 P.M. and found as under :-

“The length of the body was 5' – 7". It was dead body of a male, was moderately built and poorly nourished with hospital bandages applied over the lower half of the wound. The body was pale looking conjunctiva was also pale. Rigor mortis was present in the whole body. Pale coloured post mortem staining was present on the back except in

the area of contact flattening. The following wounds were found over the body:-

- 1) A 5 cm long obliquely placed wound with three stitches intact containing pus and foul smell was present on the left lateral aspect of the chest, 10.5 cm below the tip of the arm-pit.
- 2) A foul smelling pus containing obliquely placed wound 2 x 1.5 cm was present on the front and right side of the abdomen, 5 cm above the anterior superior iliac spine.
- 3) A foul smelling pus containing obliquely placed wound 1.4 x 1.2 cm was present over the front and right side of the abdomen in the right hypochondrium.
- 4) A foul smelling pus containing obliquely placed wound 1.5 x 1.3 cm was present 3 mm below injury No.3.
- 5) A 15 cm long stitched wound with 12 stitches intact was present in the front and mid-line of abdomen. Margins were gaping. The wound was foul smelling containing pus.
- 6) A foul smelling pus containing wound 4.5 cm long with three stitches intact, was present on the front of left middle finger in its center. On dissection of injury No. 1, 2, 3, 4 and 5, these were communicating with the left pleural cavity

and peritonium cavity.

The left pleural cavity contained 150 cc of foul smelling blood-stained discharge and the peritoneum cavity contained one litre of foul smelling blood-stained discharge.

Operation notes were confirmed. Gaping of the intra-peritoneal wound was present.

The scalp, membranes, brain, right pleura, larynx, trachea, right lung, mouth, pharynx, stomach, liver, spleen and kidneys were pale.

Large intestine contained faeces.

Injuries were ante-mortem in nature.

This witness further stated that in his opinion, the cause of death in this case was septicaemia and peritonitis as a result of injuries No. 2 to 5 (individually/collectively), which were sufficient to cause death in the ordinary course of nature; that he handed over to the police a re-constituted dead body after post mortem examination, a carbon copy of post mortem report, police papers 1 to 32 and bed head ticket containing pages 1 to 22 and 1 to 38, respectively, alongwith 7 x-ray films; that the probable time that elapsed between injuries and death was as per bed head ticket and between death and post mortem examination was about 12 to 24 hours. He proved carbon copy of post mortem report Exhibit PN.

PW-11 ASI Kidar Nath, who had carried out investigation in this case partly, deposed in that regard.

PW-12 HC Mahesh Kumar, a formal witness submitted his

affidavit Exhibit PQ.

PW-13 Subhash Chander, Accounts Clerk, Kakkar Hospital (Ram Saran Dass Kishori Lal Charitable Trust Hospital), Amritsar, had brought bed head ticket of patient Balwinder Singh, son of Gurdial Singh, resident of Kot Baba Deep Singh, Amritsar, stating that he was admitted in the hospital on 8.10.1999 at 4.15 P.M. and he left against medical advise on 11.10.1999. This witness further stated that he remained under the treatment of Dr. P.K. Jain during his stay in the hospital. He proved bed head ticket of patient Balwinder Singh as Exhibit PR.

PW-14 ASI Amarjit Singh, who had conducted the investigation in this case initially and to the large extent, deposed in that regard.

With that the evidence of the prosecution was closed.

The statement of accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against the accused was put to him but he denied the same stating that he was innocent and has been falsely involved in this case. He has taken up the plea that on 22.9.1999, in his absence, Gurdial Singh, Mohan Singh and Kirpal singh and one Balwinder Singh, accused in the complaint case, armed with *kirchs* and *dangs* alongwith 2-3 unidentified persons came in front of his house; that they abused his mother and after having broken the outer door, caused injuries to his mother; that on noise being raised by his mother, public from the locality collected; that Balwinder Singh's *kirch* was snatched by some person amongst the public and injuries were caused by him to

Balwinder Singh; that Gurdial Singh and Mohan Singh had also quarreled with the public and exchanged blows, whereas, Kirpal Singh had run away; that amongst the public, one Sawarn Singh and another Tarlochan Singh had played major role; that he was beaten up a day prior to 22.9.1999 by Raju PW, as Gurdial Singh and Balwinder Singh had suspected him for having evil eye on the daughters of Gurdial Singh; that Raju Singh claimed himself to be adopted son of Gurdial Singh and he had burnt his house; that police did not attend him and his mother because of their poverty and he further stated that the version given by the prosecution is false.

During his defence evidence, the accused examined five witnesses as detailed below.

DW-1 Dr. S.K. Pandey, Medical Officer, Civil Hospital, Amritsar, stated that on 23.9.1999, when he was posted as such, he had examined Tarlochan Singh, son of Raghbir Singh, aged 22 years and had found following injuries on his person :-

“ 1) An incised wound 4 cm x 2 cm skin deep on the right thigh on the frontal surface 18 cms above the right knee. The wound was infected and healing from sides had started. Central part of wound was having pus. No other fresh injury on his body was present.”

This witness further stated that injury No. 1 was simple in nature and weapon used was sharp and probable duration of the injuries was more than 72 hours. He further stated that patient was conscious, cooperative, oriented to time, place and person; that his

pulse rate was 84 per minute, BP was 120/80 mm of Hg. He proved original MLR register and admitted the same bearing his signatures, photocopy of which was Exhibit DX.

DW-2 Baljinder Singh, Ahlmad attached to the Court of Smt. Jaswinder, Judicial Magistrate Ist Class, Amritsar, had brought the summoned file titled as Harjinder Kaur vs. Mohan Singh and others, complaint No. 8 dated 14.1.2000, proving certified copy of that complaint as Exhibit DY, stating that complaint was still pending at that time.

DW-3 Dr. Guneet, Medical Officer, Civil Hospital, Patti, stated that she conducted the medical examination of Harjinder Kaur wife of Raghbir Singh, as ordered by the Court, at Civil Hospital, Amritsar on 23.9.1999; that she was conscious, cooperative and well oriented in time, space and person. She found the following injuries on her person :-

- 1) A diffused swelling 5 x 5 cm on left side of head 5 cm from the ear.
- 2) Complaint of pain all over the head region.
- 3) She gave history of loss of central incisor of left upper jaw (fresh loss). Central incisor of right upper jaw, left incisor of right upper jaw and left incisor of left upper jaw were mobile. Two teeth (front) from lower jaw were also movable. Corresponding to the freshly lost tooth central incisor of left upper jaw, there was reddish contusion 1 x 1 cm on the inner

side of upper lip and there was reddish area at the site of lost tooth (freshly lost). Advised dental surgeon's opinion.

4) Complaint of plain left shoulder.

5) A skin deep laceration 1 X 1 cm on lateral malleolus of left ankle, clotted blood was present on the margins.

6) A diffused swelling 7 x 5 cm involving lateral malleolus of left foot. No restriction of mobility. Pain and tenderness slight.

7) A diffused swelling 4 x 5 cm involving lateral malleolus of right foot also involving dorsal aspect of foot.

This witness further stated that injuries No. 1, 2, 4 to 7 were simple and injury No. 3 was subjected to Dental Surgeon's opinion; that duration of injuries was within 24 hours and after receiving the Dental Surgeon's opinion, she declared injury No. 3 as grievous; that weapon used was blunt for all. She proved photocopy of order of the Court as Exhibit DZ and photocopy of MLR as Exhibit DZ/1.

DW-4 Harjinder Kaur, wife of Raghbir Singh son of Harbans Singh, aged about 50 years, household, resident of Kot Baba Deep Singh, Amritsar, deposed that about 3 years back, at about 6-7 P.M., she was present in her house, when Mohan Singh, Gurdial Singh, Kirpal Singh and Balwinder Singh (deceased) had come in front of her house; that they had raised lalkaras and thrown brick bats

on the outer door of her residence; that they were raising the lalkara that they will not spare Tarlochan Singh her son; that she was alone present in the house at that time; that after breaking open the main door of her house all the said person trespassed her house and starting beating her; that all those persons except Balwinder Singh were armed with *dangs* and they had given injuries on her person with *dangs*; that many persons had also collected there and they had caught hold of two amongst those persons, who were Kirpal Singh and Balwinder Singh and those persons might have given some injuries upon those persons, who were caught and those two persons had also ultimately succeeded in fleeing away and that Sawarn Singh and Tarlochan Singh PWs were amongst those persons who had collected at the scene of said occurrence; that she had gone to the police station with injuries on her person, but the police did not hear her and did not register any case; that she had then moved an application in the Court and had got herself medically examined; that she had then again approached the police authorities with copy of the MLR but even then the case was not registered; that Sawarn Singh and Tarlochan Singh PWs alongwith 1-2 other persons had also approached the police authorities, but they were also not heard; that she had then lodged complaint in the Court, certified copy of which was Exhibit DY. She concluded her examination in chief stating that her house was burnt by Raju son of Gurdial Singh.

DW-5 Sawarn Singh son of Ishar Dass, aged about 47 years, Shopkeeper, resident of Abadi Himatpura, Amritsar, deposed on those very lines as that of PW-4 Harjinder Kaur.

With that the defence evidence of the accused was closed.

After hearing arguments, the trial Court convicted and sentenced the accused as mentioned above, which left him aggrieved and he has filed the present appeal praying that the impugned judgment of his conviction and sentence be set aside by way of acceptance of appeal and he be acquitted of the charge framed against him.

We have heard learned counsel for the appellant-accused, learned Additional Advocate General, Punjab for the State, besides going through the record and we find that there is no merit in the appeal.

Here in the present case, the star witnesses for the prosecution happened to be PW-8 Raju Bhayya and PW-9 Gurdial Singh, who provided the eye witness account of the incident, supporting the prosecution story on material aspects. Although they were cross examined at length on behalf of the accused, but they stuck to their guns and their credibility could not be shaken on any major points. Both the witnesses deposed in a natural and convincing manner and account given by them inspires confidence. PW-8 Raju Bhayya having suffered injuries in the incident is a stamped witness and his presence at the spot cannot be doubted. Similarly, PW-9 Gurdial Singh is owner of the dairy near which the incident had taken place. Therefore, his presence there, at relevant point of time, also comes out to be convincing. Raju Bhayya and Gurdial Singh having lost their near relative, they would have been the last persons to substitute the accused in place of the actual assailant, without any

rhyme or reason. Normally, it is always earnest endeavor of such close relatives of the deceased, that the person responsible for the death of their close relative is punished suitably rather than trying to save the actual culprit and involve some innocent person in his place, without any rhyme or reason.

During the course of investigation, the accused when interrogated in the police custody, had suffered a disclosure statement and got recovered *kirch* Exhibit P-3, from his possession in pursuance of such disclosure statement. That *kirch* was taken into possession and that also corroborates the prosecution story that it was the accused who had assaulted Balwinder Singh and Raju Bhayya, causing injuries to them and Balwinder Singh succumbed to those injuries. The deposition of both the witnesses are worthy of reliance. Those statements are duly corroborated by the medical evidence. The investigation in this case has been conducted in a fair and impartial manner, though in not very specific and professional manner, however, the Investigating Officer/IO had no reason to challan the accused falsely and to involve him in this case wrongly. A strong motive for the incident was there, in as much as, the complainant party suspected the accused to have been keeping an evil eye on the daughters of Gurdial Singh, to which the complainant side objected and asked the accused to refrain from doing so, but the accused did not do so, rather caused the injuries to Balwinder Singh, some of them on very vital parts, causing his death. Such criminal acts on the part of accused clearly fall within definition of murder in terms of Section 300 IPC. The prosecution had successfully proved that on

22.9.1999 at about 5.15 P.M. in the area of Guru Nanak Pura, Amritsar, accused Tarlochan Singh intentionally and knowingly caused injuries to Balwinder Singh with a rapier (*kirch*), to which he succumbed in the hospital on 14.10.1999 and on the same date, time and place he had voluntarily caused simple injuries to Raju Bhayya with *kirch*. The intention to cause death of Balwinder Singh or such bodily injuries likely to cause his death is clear from the fact that accused had stabbed Balwinder Singh in the abdomen, causing injuries, which were on his vital parts. The defence plea and the evidence adduced in support of that does not come out to be satisfactory and the same fail to dislodge the prosecution case. Thus the trial Court was justified in convicting the accused for offence under Sections 302/324 IPC. The judgment of the trial court is based upon proper appraisal and correct interpretation of law. There is no illegality or infirmity therein. Rather the same is affirmed. The appeal is found to be without any merit and is dismissed accordingly.

It is stated that accused Tarlochan Singh is on bail in terms of order dated 23.1.2006 passed by this Court. His bail order is cancelled. He is ordered to be taken into custody and made to undergo remaining sentence. Necessary direction in that regard be issued to the Chief Judicial Magistrate, Amritsar.

(T.P.S. Mann)
Judge

(H.S. Madaan)
Judge

20.4.2017

chugh

Whether speaking / reasoned

Yes/ No

Whether reportable

Yes/ No