

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

CRA-D-301-DB of 2010

Date of decision : 10.5.2017

Baldev Singh

....Appellant

Versus

State of Punjab

....Respondent

**CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON' BLE MR. JUSTICE H.S. MADAAN**

Present : Ms.Anju Arora, Advocate
for the appellant.

Mr. S.S. Dhaliwal, Additional A.G., Punjab.

H.S. MADAAN, J.

This appeal has been preferred against the judgment dated 9.1.2010 passed by learned Additional Sessions Judge, Muktsar vide which she had convicted accused Baldev Singh for the offences under Section 302 IPC on two counts and Section 27(1) of the Arms Act on two counts and order dated 12.1.2010 sentencing him as under:

Offence under Section	Sentence Awarded
Section 302 IPC for causing the death of Surjit Singh.	Imprisonment for life and to pay a fine of Rs.25,000/- and in default thereof, to further undergo imprisonment for a period of five years.

Section 302 IPC for causing the death of Narinder Kaur.	Imprisonment for life and to pay a fine of Rs.25,000/- and in default thereof, to further undergo imprisonment for a period of five years.
Section 27(1) of Arms Act for using his licensed rifle for causing the death of Surjit Singh.	Imprisonment for a period of five years and to pay a fine of Rs.10,000/- and in default thereof, to further undergo imprisonment for a period of one year.
Section 27(1) of Arms Act for using his licensed rifle for causing the death of Narinder Kaur.	Imprisonment for a period of five years and to pay a fine of Rs.10,000/- and in default thereof, to further undergo imprisonment for a period of one year.

The accused-convict, who is appellant before this Court prays that the appeal be accepted, the impugned judgment of his conviction and order of his sentence be set aside and he be acquitted of the charges framed against him.

Briefly stated, the prosecution story as it came out during the trial is that on 4.10.2005 SI Ranjit Singh, SHO of Police Station Sadar, Malout heading a police party was present at bus stand Kabarwala where complainant Hardip Singh son of Jarnail Singh, resident of village Sarawan Bodla, Police Station Sadar, Malout, District Muktsar, aged about 40 years came and got his statement Ex.PA recorded wherein he stated that he is an agriculturist by avocation; that he had a cousin brother by the name of Surjit Singh married with Narinder Kaur, who had been residing in that very village; that accused Baldev Singh son of Harnam Singh of Jat Sikh community, resident of Sazadi, District Ferozepur along with his family had been residing with Surjit Singh deceased; that on the previous night, Baldev Singh had committed theft of *NARMA* crop from the fields of Major Singh son of

Jangir Singh of their village, who lodged a complaint regarding that with Surjit Singh; that Surjit Singh felt angry and abused Baldev Singh for disgracing them in the village; that face of Baldev Singh was blackened; that Baldev Singh had apologized at that time. In his statement, the complainant stated that on that day at about 3:30 p.m. when he along with Surjit Singh and his brother Kuldip Singh had gone to house of Baldev Singh to counsel him then Narinder Kaur wife of Surjit Singh also followed them; that Baldev Singh was standing in front of his house with his licensed .315 bore rifle; that Surjit Singh told Baldev Singh that if he was to commit such like acts then he should better leave the village since they did not want to face such disgrace; that on hearing that Baldev Singh fired a shot from his .315 bore rifle aiming at Surjit Singh and the shot hit Surjit Singh in chest; resultantly Surjit Singh fell down and died at the spot; that all of them came out of the house; that Baldev Singh also came out of the house following them and he fired a shot on back of Narinder Kaur wife of Surjit Singh hitting her under her right shoulder on back side and she (Narinder Kaur) also fell down there; that on alarm being raised by complainant and other persons present there, Baldev Singh while carrying his rifle ran towards the fields.

According to the complainant, he after leaving Kuldip Singh son of Gurdial Singh and his brother Raj Singh near the dead bodies was going to Police Station Sadar, Malout being accompanied by Sardool Singh for the purpose of reporting the matter there. On the way, he came across the police party headed by SI/SHO Ranjit Singh at bus-stand Kabarwala. SI/SHO Ranjit Singh (hereinafter referred to as

Investigating Officer/IO) recorded statement of complainant as Ex.PA. That statement was signed by complainant Hardip Singh in Punjabi. His signatures were attested by SI/SHO Ranjit Singh who put his endorsement Ex.PW8/A below that statement and sent ruqa to police station from bus stand Kabarwala at 6:45 p.m. through Constable Harkrishan Lal on the basis of which formal FIR Ex.PW8/B was recorded at the said police station by ASI Vishan Lal. ASI Vishan Lal had put his endorsement Ex.PW8/C on the original ruqa and sent it back along with copy of FIR to the Investigating Officer. Then the police party accompanied by complainant went to the place of incident. The Investigating Officer found dead body of Surjit Singh lying in the house of accused Baldev Singh whereas dead body of Narinder Kaur wife of Surjit Singh was lying outside the house of accused (Baldev Singh). The dead bodies were identified to him by Jasvir Singh and Amrik Singh. The Investigating Officer carried out inquest proceeding with regard to unnatural deaths of Surjit Singh and Narinder Kaur, preparing reports Ex.PW8/D and PW8/E, respectively. He summoned a photographer to the spot and got photographs of the dead bodies clicked. He prepared applications Ex.PW8/F and Ex.PW8/G and handed over such applications to ASI Gurmail Singh and HC Kashmiri Lal along with dead bodies for the purpose of getting the post-mortem examination conducted thereon.

On the next day i.e. on 5.10.2005, the police party headed by SI Ranjit Singh again visited the place of occurrence. The Investigating Officer prepared rough site-plan of the place of incident as

Ex.PW8/H. He lifted blood stained earth from a place near dead body of Narinder Kaur besides taking sample of normal earth therefrom. Those were put in separate containers, converted into parcels sealed with the seal of Investigating Officer having impressions 'RS'. The parcels along with sample seal impressions were taken into possession vide recovery memo Ex.PB. He repeated the same exercise with regard to blood stained earth and sample of normal earth from near the dead body of Surjit Singh, preparing sealed parcels thereof, which were then taken into possession vide recovery memo Ex.PC. One empty shell of .315 bore was recovered lying near the dead body of Surjit Singh. It was converted into a parcel sealed with the seal of Investigating Officer having impressions 'RS' and was seized vide memo Ex.PD. One empty shell of .315 bore recovered from the place near gate of house of accused was also converted into a parcel sealed with the seal of Investigating Officer having impressions 'RS', which parcel was then seized vide memo Ex.PE. On that very day, ASI Gurmail Singh produced before the Investigating Officer two separate parcels(MO2 and MO3) containing belongings of the two deceased, which were taken into possession by him vide memo Ex.PW5/A. The Investigating Officer recorded statements of witnesses. On return to the police station, he deposited the case property with MHC.

On 26.10.2005, accused Baldev Singh was arrested from Gurdwara of village Arniwala and memo of arrest Ex.PW8/I was prepared, which was thumb marked by accused and attested by witnesses. Thereafter, the accused in police custody, while being

interrogated, had suffered a disclosure statement that he had kept concealed one rifle .315 bore loaded with cartridges in the area of village Kattianwali near the canal among the *sarkandas* (wild grass) and about which only he knew and could get the same recovered. That statement under Section 27 of the Evidence Act was reduced into writing, which was thumb marked by the accused and attested by a witness, the same being Ex.PW8/J. Then the accused, while in police custody, got .315 bore rifle recovered from the place mentioned by him in his statement. On being checked, the rifle was found to be loaded. It was unloaded and four live cartridges of .315 bore were recovered. The rifle was found to be bearing No.AB-800036. It was wrapped in a white cloth and was converted into a parcel (MO1) sealed with the seal of Investigating Officer having impressions 'RS'. A separate sealed parcel of four live cartridges was also prepared, which being MO4. The accused had handed over licence of his rifle (Ex.P1) to the Investigating Officer. The licence and the parcels along with sample seal were taken into possession vide memo Ex.PW8/K. A site-plan showing the place of recovery was prepared as Ex.PW8/L. *Jamatalashi* (personal search) of the accused was conducted. Intimation regarding his arrest was given. Necessary documents in that regard was prepared.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court of Sub-Divisional Judicial Magistrate, Malout.

On presentation of challan in the Court of Sub-Divisional Judicial Magistrate, Malout, she supplied copies of documents relied

upon in the challan to the accused free of costs as provided under Section 207 Cr.P.C. Then finding that offence under Section 302 IPC is exclusively triable by Court of Sessions, learned Sub-Divisional Judicial Magistrate, Malout vide her order dated 23.1.2006 committed the case to the Court of learned Additional Sessions Judge, Muktsar.

When the case was received in the Court of learned Additional Sessions Judge, Muktsar, he observing that charge for the offences under Sections 302 IPC and 27 of the Arms Act was disclosed against accused Baldev Singh, charge-sheeted him accordingly, to which, he pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

It is pertinent to mention here that charge against the accused was amended vide order dated 19.12.2009 and accused suffered statement that he did not want to further cross-examine prosecution witnesses after amendment of charge.

During the course of its evidence, the prosecution examined as many as nine witnesses as per details below:

PW1 Hardip Singh – complainant provided the ocular version of the incident supporting the prosecution story.

PW2 Kuldip Singh also gave the eye-witness account of the incident lending support to the prosecution version.

PW3 Surjit Singh Gill, Draughtsman deposed that on 16.11.2005, he had gone to the spot and prepared scaled site-plan at the instance of Kuldip Singh which he had handed over to ASI Jugraj Singh.

PW4 Dr.Jagdeep Chawla, Medical Officer, Malout deposed

that on 5.10.2005, he was posted as such and on that day he along with Dr.G.S. Bhullar conducted post-mortem examination on the dead body of Surjit Singh son of Gurdial Singh, aged about 45 years, resident of village Sarawan Bodla, which was brought by police and identified by Jasbir Singh and Amrik Singh. They observed as under:

It was a dead body of an adult male with long grey scalp hair and long grey moustache and flowing beard, wearing blue safa, bluish grey fatuhi, red checkered safa around the loin, steel *kara* and khakhi kachhehra. Eyes and mouth partially open. Clothes were blood stained. Post mortem staining and rigor mortis were present. The following injuries were noted:

1. Lacerated punctured wound 1.25 cm in diameter with inverted and abraded margins present in the midline on front of the chest 13 cm below the base of the neck. On dissection underlying bone (sternum) badly shattered. Heart and great vessels severely lacerated. Left pleural cavity was full of food and blood clots.
2. Lacerated punctured wound 2.5 cm in diameter with everted and abraded margins present over the back of left chest 10 cm behind the posterior axillary line and 20 cm below the top of left shoulder. On dissection underlying rib fractured, muscles and soft tissues and left wing severely lacerated left pleural cavity full of food and blood clots. The injured tissues lie in the

path connecting the two wounds. Corresponding holes present in the Fatuhi, over the front and back.

About 130 ml of fluid was found in the stomach. No abnormality was detected in any organ. Cause of death in their opinion was due to shock and haemorrhage due to above mentioned injuries which were ante-mortem and sufficient to cause death in ordinary course of nature. Injuries could be due to firearm. The probable duration between injuries and death was within few minutes and between death and post-mortem was within 24 hours. He proved the carbon copy of the post mortem report as Ex.PW4/A and pictorial diagrams showing the seats of injuries as Ex.PW4/A/1.

On the same day, they had also conducted post-mortem examination on the dead body of Narinder Kaur wife of Surjit Singh, resident of Sarawan Bodla, a female of 35 years, which was brought by the police and identified by Jasvir Singh and Amrik Singh. They had observed as under:

The length of the body was 5 feet 5 inch. It was dead body of an adult female with long black scalp hair wearing pink printed shirt, pink *salwar*, brownish kachhehara and yellow *chunni*. Clothes were blood stained, eyes and mouth were partially open, post-mortem staining and rigor mortis was present. They observed the following injuries.

1. Lacerated punctured wound 1.25 cm in diameter with inverted and abraded margins present over the back of right chest 13 cm from the midline and 19 cm

below top of the right shoulder. There was a corresponding hole in the shirt. On dissection underlying rib was found fractured. Muscles, soft tissues, pleura and right lung severely lacerated. Right pleural cavity full of blood and blood clots.

2. Lacerated punctured wound with everted and abraded margins 3 cm in diameter situated in front of chest in midline 4 cm below base of the neck, over the sternum. Corresponding holes present in the shirt. On dissection the upper part of the sternum badly shattered into pieces. The trachea and the great vessels severely lacerated. Blood and blood clots were present in the right pleural cavity. The injured tissues lay in the path connecting two wounds.

Stomach contained about 100 ml of fluid. No abnormality detected in remaining parts of the body. The cause of death in this case in their opinion was due to shock and haemorrhage due to above mentioned injuries, which were ante-mortem and were sufficient to cause death in ordinary course of nature. Injuries could have been due to firearm. The probable time between injuries and death was within few minutes and between death and post-mortem was within 24 hours. The post-mortem was conducted at 9:15 a.m. on 5.10.2005.

He proved the carbon copy of post-mortem report as Ex.PW4/B and pictorial diagrams showing the seats of injuries as Ex.PW4/B/1.

PW5 ASI Gurmail Singh, who on 5.10.2005 was member of the police party headed by SI/SHO Ranjit Singh deposed that SI/SHO Ranjit Singh had deputed him and HC Kashmiri Lal to get the post-mortem examinations conducted on the dead bodies of Narinder Kaur and Surjit Singh handing over police requests and other police papers to him in that regard; that they got the needful done from Civil Hospital, Malout and thereafter produced two sealed parcels containing belongings of the deceased before the Investigating Officer, who had taken the same into possession vide memo Ex.PW5/A attested by him, whereas the dead bodies were handed over to family members of the deceased.

PW6 HC Gurmej Singh, who on 5.10.2005 was posted at Police Station Sadar, Malout as MHC and happened to be a formal witness tendered in evidence his affidavit Ex.PW6/A.

Learned Additional Public Prosecutor for the State tendered in evidence Arms Licence of accused as Ex.P1 since defence counsel did not raise any objection in that regard.

PW7 HC Sukhwinder Singh, a formal witness submitted his affidavits Ex.PW7/A and Ex.PW7/B.

PW8 SI/SHO Ranjit Singh, who had carried out investigation in this case deposed in that regard proving various documents.

PW9 ASI (Retd.) Jugraj Singh, who was associated with investigation of the case being conducted by SI/SHO Ranjit Singh testified in that regard.

Learned Additional Public Prosecutor tendered in evidence reports from FSL as Ex.PX and Ex.PY and thereafter closed the evidence of the prosecution.

Statement of accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against him were put to him but he denied the allegations contending that he is innocent; that he had been asked by the complainant party to look after their family and property, while they were facing murder trial as he was a licence holder; that over period of time, he developed illicit relation with Narinder Kaur deceased; that Surjit Singh armed with illicit country-made pistol came to his house and shot dead Narinder Kaur, who had tried to run away, while Surjit Singh was reloading his pistol, he out of self-defence fired from his rifle intending to scare him and that the shot accidentally hit him.

Accused did not lead any evidence in defence despite availing ample opportunities.

After hearing arguments, learned trial Court convicted and sentenced the accused as mentioned supra, which left him aggrieved and he has filed the present appeal.

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

Both the star witnesses for the prosecution, namely, PW1 Hardip Singh and PW2 Kuldeep Singh have fully supported the

prosecution story on vital points especially accused Baldev Singh firing shots at Surjit Singh and his wife Narinder Kaur from his licensed .315 bore rifle and thereby committing their murder. The presence at the spot of both the witnesses at the relevant time comes out to be natural and probable and account given by them to be worthy of reliance. Though they were cross examined at length on behalf of the accused but they could not be shattered on any material point. No reason has been alleged or proved prompted by which they might have involved the accused in this case wrongly and depose against him falsely to secure his conviction. Even otherwise, the accused while being examined under Section 313 Cr.P.C. has admitted the incident to the extent of firing from his licensed rifle and the shot hitting Surjit Singh though stating that he had done so in self-defence as earlier Surjit Singh armed with illicit country-made pistol had come to his house and shot at Narinder Kaur and was reloading his pistol. According to accused, he had apprehension of being attacked and as such he had fired from his licensed rifle to scare Surjit Singh but the shot accidentally hit him. This plea comes out to be devoid of any merit. During the course of investigation, the police had not recovered any country-made pistol from the spot. No empty of the cartridge, said to have been fired from the country-made was recovered, rather the empties recovered from the spot clearly connect the accused with the incident having been fired from his licensed rifle as per report of Chemical Examiner Ex.PW8/P. Even as per own version of the accused, no injury had been caused to him by Surjit Singh deceased not even a small scratch, then how he felt

threatened and went to the extent of committing murder of Surjit Singh has been left unexplained. Rather it comes out that Baldev Singh was aggrieved with the deceased Surjit Singh for rebuking him for stealing *NARMA* crop of a farmer of the village and bringing disgrace to his family. So much so, face of Baldev Singh was blackened causing him humiliation. In that way, strong motive was available with him to commit murder of Surjit Singh and his wife Narinder Kaur. As regards his developing illicit relations with Narinder Kaur and Surjit Singh committing murder of Narinder Kaur for that reason and threatening to eliminate Baldev Singh, the said story does not seem to be plausible and convincing and no effort has been made by the accused to prove the same by leading evidence in support thereof. The medical evidence in this case duly corroborates the ocular evidence. The investigation in this case has been carried out in a fair and impartial manner. The Investigating Officer had no reason to involve the accused in this case falsely and then to challan him wrongly. The prosecution had led enough evidence to prove its charge against the accused beyond the shadow of reasonable doubt that on 4.10.2005 at 7:45 p.m. in the area of village Sarawan Bodla, the accused committed murder of Surjit Singh and his wife Narinder Kaur by intentionally causing their deaths and he had misused his licensed rifle for illegal purpose.

The judgment of conviction and sentence passed by the trial Court is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein. The said judgment of conviction and sentence is

upheld whereas appeal is found to be without any merit and the same is dismissed accordingly.

Necessary intimation be sent to the quarter concerned.

10.5.2017	(T.P.S. MANN)	(H.S.MADAAN)
Brij	JUDGE	JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No