

**CRA-D-17-DB-2012;
CRA-D-1033-DB-2011;
CRA-D-908-DB-2011;
CRA-D-981-DB-2011**

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

**1. CRA-D-17-DB-2012
Date of decision:27.02.2017**

Sukhjit Kaur		Appellant
	Versus	
State of Punjab		Respondent

2. CRA-D-1033-DB-2011

Tarlochan Singh alias Rana		Appellant
	Versus	
State of Punjab		Respondent

3. CRA-D-908-DB-2011

Gurpreet Singh alias Titu		Appellant
	Versus	
State of Punjab		Respondent

4. CRA-D-981-DB-2011

Sukhjinder Singh		Appellant
	Versus	
State of Punjab		Respondent

CRA-D-17-DB-2012;
CRA-D-1033-DB-2011;
CRA-D-908-DB-2011;
CRA-D-981-DB-2011

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

Present: Mr. Balbir Singh Sewak, Advocate
for the appellants in **CRA-D-17-DB-2012** and
CRA-D-981-DB-2012.

Mr. S. S. Narula, Advocate with
Mr. Gurinder Singh, Advocate for
the appellant in **CRA-D-908-DB-2011.**

Mr. M.S. Khaira, Senior Advocate with
Mr. D.B. Randhawa, Advocate for
the appellant in **CRA-D-1033-DB-2011.**

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

H.S. MADAAN, J.

Vide this judgment we propose to dispose of four appeals i.e.
CRA-D-17-DB-2012 filed by Sukhjiti Kaur; **CRA-D-1033-DB-2011** filed
by Tarlochan Singh alias Rana; **CRA-D-908-DB-2011** filed by Gurpreet
Singh alias Titu and **CRA-D-981-DB-2011** filed by Sukhjinder Singh, all
four of them being accused, convicted by the Court of Sessions Judge,
Rupnagar vide judgment dated 08.09.2011 and sentenced as follows vide
order dated 10.11.2011:-

Name of Convict	Offence	Sentence Awarded
Sukhjiti Kaur	Under Section 120-B IPC	Rigorous imprisonment for life and to pay a fine of

	Under Section 302 read with Section 34 IPC	₹ 5,000/- and in default of payment of fine, to undergo further rigorous imprisonment for a period of one year. Rigorous imprisonment for life and to pay a fine of ₹ 5,000/- and in default of payment of fine, to undergo further rigorous imprisonment for a period of one year.
Tarlochan Singh alias Rana	Under Section 120-B Under Section 29 of Arms Act Under Section 30 of Arms Act	Rigorous imprisonment for life and to pay a fine of ₹ 5,000/- and in default of payment of fine, to undergo further rigorous imprisonment for a period of one year. Rigorous imprisonment for three years. Rigorous imprisonment for six months.

Gurpreet Singh alias Titu	Under Section 302 IPC	Rigorous imprisonment for life and to pay a fine of ₹ 5,000/- and in default of payment of fine, to undergo further rigorous imprisonment for a period of one year.
	Under Section 120-B	Rigorous imprisonment for life and to pay a fine of ₹ 5,000/- and in default of payment of fine, to undergo further rigorous imprisonment for a period of one year.
	Under Section 27 Arms Act	Rigorous imprisonment for seven years and to pay a fine of ₹ 2,000/- and in default of payment of fine, to undergo further rigorous imprisonment for a period of six months.
Sukhjinder Singh	Under Section 120-B IPC	Rigorous imprisonment for life and to pay a fine of ₹ 5,000/- and in default of payment of fine, to undergo further rigorous imprisonment for a period of one year.
	Under Section 302 read with Section 34 IPC	Rigorous imprisonment for life and to pay a fine of

		₹ 5,000/- and in default of payment of fine, to undergo further rigorous imprisonment for a period of one year.
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All the substantive sentences were ordered to run concurrently.

Briefly stated facts of the case as per prosecution version are, that criminal machinery in this case was set into motion by Smt. Sukhjit Kaur, who was later on arrayed as an accused in this case. Sukhjit Kaur wife of Gurdeep Singh resident of Village Allaur, Police Station Sadar Khanna, District Ludhiana aged about 21 years had got her statement Ex.PW15/A recorded with Inspector Pritam Singh SHO (hereinafter referred to as Investigating Officer/I.O.) Police Station, Sadar Rupnagar on 10.08.2007. Inter alia she stated that she was married with Gurdeep Singh son of Netar Singh resident of Village Allaur, Police Station Sadar Khanna, District Ludhiana on 13.12.2005; that her husband had been working as a truck driver and driving a Truck trailer (*TRALLA*) at Dubai and after three months of the marriage he had gone to Dubai; that after the marriage she used to reside in her matrimonial house with her mother-in-law Smt. Bhupinder Kaur; that though at times she would go to her parents house accompanied by her mother-in-law and would return home along with her; ; that he had returned to India on leave on 01.08.2007; that on 03.08.2007 she along with her husband had gone to her parental home

at village Kishanpura where they stayed for a night; that thereafter, they accompanied by one Amandeep Kaur grand-daughter of her paternal uncle (elder brother of her father) had gone to Gurudwara Solkhian Sahib on motorcycle of her brother bearing registration No.PB-12-F-3805 make Bullet to pay obeisance there; that one Amarjit Singh alias Dimpi resident of village Mianpur had met her husband at the Gurudwara Solkhian Sahib; that after paying obeisance they started on return journey on the motorcycle and when their motorcycle reached near the bushes of village Bahman Majra, she asked her husband to stop the motorcycle which he did and then she went in the fields of *CHARI* crop for the purpose of urinating; that after doing that when she came out of the fields then her husband told her that two persons had come there from the side of village *SINGH* on a motorcycle; that they had parked their motorcycle and came towards them, one of the said person was having rifle of long barrel and that person after raising the rifle in the upward position, went back towards the side of village *SINGH* because two more persons had come there. According to Sukhjot Kaur, thereafter, they went to her parent's house, where her husband disclosed the entire incident to her mother; that on the said date i.e. 10.08.2007 she along with her husband after meeting her maternal grand-mother (*NANI*) at village Hafizabad had been proceeding to village Kishanpura on the motorcycle mentioned above and had reached on the first turn of the road leading from village Bahman Majra to Kishanpura and time was about 11:30 a.m.; that then her

DUPATTA got entangled in wheel of the motorcycle, she took out the *DUPATTA*, however, in the meantime a mosquito entered in her eye and then she heard noise of bang and while looking back noticed that a tall man having muffled face with yellow *PATKA* and tying a black coloured *PACHA* on his head, wearing white clothes and having a healthy body was running; that their motorcycle fell down, she and her husband also fell down; that she observed that blood was oozing from the mouth and jaw of her husband, who had died at the spot; that she raised an alarm and rushed towards railway crossing; that she had called a couple, who was passing by on a motorcycle but they did not stop, thereafter, she approached Avtar Singh-gateman at the railway crossing asking him to come and see as to what had happened. In the concluding lines of her statement Sukhjit Kaur stated that her husband had been murdered by some unidentified person(s) by firing shots. The said statement was signed by Sukhjit Kaur. Her signatures were attested by Inspector Pritam Singh. Inspector Pritam Singh on receipt of telephonic message regarding murder of Gurdeep Singh had gone to the spot along with other police officials where he had come across Sukhjit Kaur and had recorded her statement Ex.PW15/A. The Investigating Officer put his endorsement Ex.PW15/B below said statement and sent *ruqa* to police station through C. Anil Kumar on the basis of which, formal FIR Ex.PW15/C was recorded at Police Station, Sadar, Rupnagar for offences under Section 302 IPC and Section 25 of the Arms Act under signatures of ASI Harji Ram.

Senior Superintendent of Police, Rupnagar along with police officials had also arrived at the spot, so had Bhupinder Kaur (mother of deceased) and Jit Singh Ex-Sarpanch of village Allaur. Smt. Bhupinder Kaur had identified the dead body of her son Gurdeep Singh. She, besides, Jit Singh Ex-Sarpanch told the Investigating Officer that murder of Gurdeep Singh had been committed by Sukhjit Kaur in connivance with her friend Gurpreet Singh alias Titu and Sukhjinder Singh. The Investigating Officer had recorded statement of Jit Singh in that regard. He had carried out the inquest proceedings and prepared a report Ex.PW15/D. During such proceedings, dead body of Gurdeep Singh was identified by Harjinder Singh and Jit Singh. The Investigating Officer lifted blood stained earth from the spot putting it into a container and prepared a parcel thereof sealing it with his seal having impression 'PS' and that parcel was taken into possession vide recovery memo Ex.PW9/A. Bullet motorcycle bearing No.PB-12-F-3805 and mobile phone which was lying near dead body of Gurdeep Singh were seized vide recovery memo Ex.PW9/B and Ex.PW15/E, respectively. All the recovery memos were witnessed by ASI Darshan Singh and Harjinder Singh. The Investigating Officer deputed HC Krishan Lal and C. Bahadur Khan to get post-mortem examination conducted on the dead body of Gurdeep Singh from Civil Hospital, Rupnagar handing over relevant documents to them. He prepared rough site plan of place of incident Ex.PW15/F and got the place of incident photographed. He recorded

statements of witnesses. The police launched a hunt for the accused. The police party headed by Inspector Pritam Singh came across PW Amarjit Singh at bus stand, *SINGH*, who informed that accused Gurpreet Singh and Sukhjinder Singh were spotted by him travelling in an Indica car of black colour going towards Kurali side from side of village Bahman Majra, the Investigating Officer recorded his statement. On return to the police station, he deposited case property with MHC-Sukhdev Singh.

On 11.08.2007, HC Krishan Lal after getting the post-mortem examination conducted on the dead body produced two parcels before the Investigating Officer, one parcel was of the clothes worn by accused and his other belongings, whereas other parcel was of 12 pieces of pellets, both parcels were duly sealed. Those parcels were taken into possession by the Investigating Officer vide recovery memo Ex.PW15/G. The photographs along with negatives produced before the Investigating Officer were seized vide recovery memo Ex.PW15/H.

On 12.08.2007 Jit Singh, Ex-Sarpanch, Allaur and Ranjit Singh of village Ajnali had produced Sukhjit Kaur-accused before the Investigating Officer. The Investigating Officer arrested accused-Sukhjit Kaur preparing memo of arrest Ex.PW15/J. He got her personal search (*JAMATALASHI*) conducted and prepared a memo Ex.PW13/A in that regard. He recorded statements of witnesses. Other accused were arrested in this case on 16.08.2007. Accused Gurpreet Singh while in police custody had suffered a disclosure statement that he had kept concealed

one empty shell of the cartridge in the farm house of village Sanana under the heap of bricks near the *VERANDAH* of the house regarding which he had exclusive knowledge and he could get the same recovered. The Investigating Officer recorded said disclosure statement Ex.PW15/K. Thereafter Gurpreet Singh alias Titu while in police custody led the police party to the specified place and got an empty shell recovered. The said shell was converted into a parcel by the Investigating Officer and sealed with the seal having impression 'PS'. Sample seal impression was prepared and then the parcel along with sample seal were taken into possession vide Ex.PW15/L. The Investigating Officer prepared rough site plan of the place of recovery Ex.PW15/M and recorded statements of witnesses and on return to the police station deposited the case property with MHC. The witness proved parcel of blood stained earth Ex.P1, parcel containing empty shell Ex.P2, parcel of pellets Ex.P3, mobile phone Nokia Ex.P4, parcel containing blood stained clothes and other belongings of the deceased Ex.P5, Bullet motorcycle bearing No.PB-12-F-3805 Ex.P21. During the course of investigation, the Investigating Officer collected call details of mobile phone No.99151-75341 with co-relation of mobile No.99151-75347 as well as those of mobile No.94636-80137 in the name of Gurpreet Singh Gill son of Narinder Singh resident of H. No.42, Ward No.1, Satluj Colony, Rupnagar, Tehsil and District Rupnagar and mobile phone No.94638-20814 in the name of Narinder Singh son of Sucha Singh r/o H. No.42, Gali No.2, Ward No.1 Satluj Colony, Rupnagar. On

12.08.2007 while Sh. Ranjit Singh, Ex-Sarpanch was present at his house on that day Gurpreet Singh earlier known to him came to him and stated that he had fallen in love with Sukhjot Kaur alias Sukhi daughter of Harjinder Singh who had promised to marry him but she got married with Gurdeep Singh son of Netar Singh. However, Sukhjot Kaur alias Sukhi was not happy with the marriage and she was either to commit suicide or to get her husband Gurdeep Singh killed, so that she might marry Gurpreet Singh alias Titu and for the said reasons he (Gurpreet Singh) had killed Gurdeep Singh and also come to know about the same, as such, Ranjit Singh should produce him before the police. Accordingly, Ranjit Singh took Gurpreet Singh to the police station. He got his statement recorded with the police. Gurpreet Singh alias Titu was accordingly, arrested in this case. While arresting him grounds of arrest were furnished to him and his personal search was conducted. Memos were prepared in that regard which were attested by Ranjit Singh. One Indica car was also seized by the police vide a memo, attested by Ranjit Singh. Sukhjinder Singh had also gone to Ranjit Singh, Ex-Sarpanch and had confessed his guilt before him. As a matter of fact, on 12.08.2007 Ranjit Singh had produced accused Gurpreet Singh alias Titu and Sukhjinder Singh before the police and at that time grounds of arrest were furnished to them vide memos Ex.PW21/A and Ex.PW21/B. Their personal searches were conducted and memos Ex.PW21/C and Ex.PW21/D were prepared. The memos were signed by respective accused and attested by HC Krishan

Lal, Ranjit Singh and Bikram Singh. Indica car bearing No.PB-12J-8838 along with documents and passport of Sukhjit Kaur were taken into possession vide Ex.PW21/E from the accused. Both the accused were interrogated. During the course of his interrogation accused-Gurpreet Singh alias Titu suffered a disclosure statement that he had kept concealed DBBL .12 bore gun at his farm house in village Sanana, about which only he knew and could get the same recovered. His statement Ex.PW21/F was recorded, which was signed by accused Gurpreet Singh alias Titu and attested by HC Krishan Lal and Ranjit Singh. Thereafter, accused-Gurpreet Singh alias Titu led the police party to the disclosed place and got recovered .12 bore DBBL gun from the specified place. The gun was converted into a parcel sealed with seal having inscription 'DS' and that parcel was taken into possession vide Ex.PW21/G. Site plan of the recovery Ex.PW21/H was prepared. Statements of witnesses were recorded and on return to the police station the Investigating Officer deposited the case property with the MHC.

On 15.08.2007 accused Tarlochan Singh, while in police custody had made a disclosure statement that he had kept licence of the gun in the almirah of his house about which only he knew and could get the same recovered. Statement Ex.PW21/J was recorded which was signed by accused-Tarlochan Singh and attested by HC Krishan Lal and C. Kamal Kishore. Thereafter accused-Tarlochan Singh while in police custody led the police party to the disclosed place and got recovered the

licence of the gun which was taken into possession vide memo Ex.PW21/K. After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court of Illaqa Magistrate, Rupnagar.

On presentation of the challan in the Court of Chief Judicial Magistrate, Rupnagar, copies of documents replied therein were supplied to the accused free of accused as provided under Section 207 Cr.P.C.. Thereafter finding that offence under Section 302 IPC is exclusively triable by the Court of Sessions, the Chief Judicial Magistrate, Rupnagar committed the case to the Court of learned Sessions Judge, Rupnagar.

On receipt of case, finding a prima facie, learned Sessions Judge charged the accused as under:-

NAME OF ACCUSED	CHARGED UNDER SECTION
Gupreet Singh alias Titu	Section 120-B IPC Section 302 IPC Section 27 of the Arms Act
Sukhjinder Singh	Section 120-B IPC Section 302 read with Section 34 IPC
Sukhjit Kaur	Section 120-B IPC

	Section 302 read with Section 34 IPC
Tarlochan Singh alias Rana	Section 120-B IPC Sections 29 & 30 of the Arms Act

The accused pleaded not guilty and claimed trial.
Thereafter, the case was fixed for evidence of prosecution.

During the course of evidence of prosecution it examined
as many as twenty eight (28) witnesses.

PW-1, Dr. Navtejpal Singh, Medical Officer, Civil
Hospital, Rupnagar, who on 11.08.2007 while posted as such had
performed post-mortem examination on dead body of Gurdip Singh,
son of Netar Singh resident of village Alour, Post Office Khanna,
District Ludhiana deposed that he had observed following injuries:-

- 1. Lacerated wound left cheek 5 x 2 cm starting 4 cm left to the left angle of mouth extending into the main wound described in post mortem report.*
- 2. Lacerated wound 1.5 x ½ cm length and breadth starting one cm from left angle of mouth going upwards and merging in the main wound.*
- 3. Lacerated wound with blackened margins 3 x ½ cm*

length into breadth over bridge of nose upto the main wound. Clotted blood present in both ears.

- 4. There were multiple fractures of the maxilla and upper jaw with multiple fractures cribriform plate with the plastic barrel shape piece present in the cranial cavity left side with cranial cavity full of dark blood with left hemisphere of brain punctured with two sharrey (Pellets) which were retrieved. The brain matter was edematous (swollen).*

He gave the cause of death in his opinion as cerebral injury as a result of fire shot injury which was sufficient to cause death in the ordinary course of nature and that injury was ante mortem in nature. He gave the time that elapsed between injuries and death as within minutes say 2 to 5 minutes and death to post-mortem within 24 hours. He proved copy of post-mortem report as Ex.PW1/A, pictorial diagram showing seats of injuries Ex.PW1/B. He proved the photographs of the dead body in mortuary as Ex.PW1/C to Ex.PW1/E.

PW-2 Sunil Rana Nodal Officer, Bhartia Airtel Limited C.25, Industrial Area, Phase II, Mohali deposed regarding call details of mobile No.99151-75341 with co-relation of mobile No.99151-75347 as Ex.PW2/A.

PW-3 Gurinder Pal Singh, SDE, Telephone Exchange,

Sector 49, Chandigarh stated that he had given call details of mobile Nos.94636-80137 and 94638-20814 Ex.PW3/A and Ex.PW3/B to the police. He stated that former mobile number stands in the name of Gupreet Singh Gill, son of Narinder Singh, resident of H. No.42, Ward No.1, Satluj Colony, Rupnagar, Tehsil and District Rupnagar whereas latter number is in the name of Narinder Singh, son of Sucha Singh, resident of H. No.42 Gali No.2, Ward No.1, Satluj Colony, Rupnagar. He proved copies of application forms Ex.PW3/C and Ex.PW3/D.

PW-4, Naresh Kumar Garg, Junior Telecom Officer, Chamkaur Sahib stated that he had given print out of the call details made from telephone No.290429 Ex.PW4/A to the police adding that said telephone number is in the name of Surinder Singh, son of Rakha Singh, VPO Hafizabad, District Rupnagar. He proved copy of the advice note in that regard as Ex.PW4/B.

PW-5 Aman Kumar, Reader to Deputy Commissioner, Rupnagar proved the orders Ex.PW5/A and Ex.PW5/B passed by the District Magistrate, Rupnagar for prosecution of the accused under the Arms Act.

PW-6 Balwinder Kaur, Local Fund Assistant, office of District Magistrate, Rupnagar, who remained posted in Arms Licence Branch of District Magistrate, Rupnagar in the year 2006 and had brought summoned record issuing arm licence to Tarlochan Singh, son

of Amrik Singh, resident of village Sanana stated that licence was issued to Tarlochan Singh under orders of District Magistrate Mrs. Khaira on 22.02.2006 stating that entry of the weapon is there in the arms licence as a result of which holder is entitled to have double barrel gun. However, this arms licence was cancelled on the basis of the report of the SSP by the District Magistrate vide order dated 17.03.2008. She proved arms licence available on court file as Ex.PW6/A.

PW-7 Gurbir Singh, Clerk, DTO Office, Mohali had brought the summoned record stating that in terms of record Gurpreet Singh Gill, son of Narinder Singh Gill, resident of Satluj Colony, Haveli Kalan is the registered owner of Bajaj Pulsar bearing registration No.PB-12-H-6523. He proved registration certificate of motorcycle Ex.PW7/A.

PW-8 HC Partap Chand stated that on 10.08.2007, he was posted as photographer in police lines, Rupnagar, and on receipt of message from Inspector Pritam Singh to reach the place of occurrence, which was near railway crossing in the area of village Charrian, he accordingly, reached there. Dead body of Gurdeep Singh was lying on the side of link road and he (this witness) took photographs of dead body from different angles and thereafter, photographs along with negatives were handed over to the SHO. He proved photographs Ex.P1

to Ex.P11 and negatives Ex.P12 to Ex.P20 stating that some of the negatives were of the place of occurrence and some were of the civil hospital, Rupnagar depicting the dead body.

PW-9 Harjinder Singh, father of Sukhjit Kaur accused deposed regarding marriage of Sukhjit Kaur with Gurdeep Singh (deceased) stating that Gurdeep Singh had died due to gunshot injury and he had identified dead body of Gurdeep Singh at Civil Hospital, Rupnagar and that his statement was recorded. He further stated that on 10.08.2007, the police had taken into possession blood stained earth from the spot, which was put in a container and was converted into sealed parcel vide memo Ex.PW9/A. As regards motorcycle bearing registration No.PB-12-F-3805 the witness stated that it was taken into possession vide memo Ex.PW9/B and these memos were thumb marked by him in token of attestation.

PW-10 Amarjit Singh stated that on 10.08.2007, he was present at link road leading from village *SINGH* to village Brahman Majra. On that day Sub-Divisional Magistrate, Rupnagar was scheduled to visit that place regarding the removal of the liquor vend at the request of general public; that one Indica car of black colour bearing No.PB-12-J-8838 came from the side of village Charrian at a high speed. Thereafter the said car came on the GT road, where the driver of the said car slowed down its speed. According to this witness, car was driven by Sukha (Sukhjinder Singh) and was accompanied by Gurpreet Singh-accused; that

the witness stated that he waived with his hands and Sukha (Sukhjinder Singh) and Gurpreet Singh also waived their hands, however, they were perplexed, at that time. Sukha had turned the car towards Kurali side; that there was hue and cry that the persons in Indica car had killed one person at railway crossing of village Charrian and fled away in the said car.

PW-11 Ranjit Singh, Ex-Sarpanch of village Rasulpur before whom accused Gurpreet Singh alias Titu and Sukhjinder Singh had appeared on 12.08.2007 and made extra judicial confession, did not support the prosecution case fully though he did so half heartedly. Resultantly, he was declared a hostile witness at the instance of Additional Public Prosecutor, who was allowed to cross-examine the witness. In the cross-examination he admitted having made statement to the police regarding the incident. Later on, he came up with *blank paper theory* stating that police had obtained his signatures on blank papers.

PW-12 HC Sukhdev Singh a formal witness tendered in evidence his affidavit Ex.PW12/A.

PW-13 Jit Singh deposed in consonance with the prosecution story stating that while Sukhjit Kaur was residing in her in-laws house, Gurpreet Singh alias Titu and Sukhjinder Singh used to visit her. They used to say that they are related to her and Sukhjit Kaur used to say that Sukhjinder Singh is son of her paternal aunt (Bhua).

PW-14 Ranjit Singh, son of Mewa Singh resident of village Ajnali, Police Station, Mandi Gobindgarh deposed that on 10.08.2007, he

received information regarding the death of Gurdeep Singh, however, on 11.08.2007 he came to know that Gurdeep Singh had been murdered, he was informed telephonically in that regard by Jit Singh; that after the cremation they came to the house of Gurdeep Singh then they separately called Sukhjit Kaur and Bhupinder Kaur and enquired from them as to how the incident had happened. Then Sukhjit Kaur had disclosed while crying that she had committed a blunder and she should be saved. She had disclosed that Gurpreet Singh is her relative who loves her and on account of that love affair, he in connivance with Sukhjinder Singh had hatched a conspiracy to kill Gurdeep Singh. Sukhjit Kaur had disclosed that earlier there was a plan to kill Gurdeep Singh on 09.08.2007 and on that day, she had taken her husband to her maternal uncle's house. During night of 09.08.2007 she had given a telephonic call to Gurpreet Singh @ Titu that she along with her husband was staying in her maternal uncle's house and on 10.08.2007 they would be going to Chamkaur Sahib, Rupnagar and Gurdeep Singh should be killed by a gunshot on the way. She had further disclosed that on 10.08.2007 she along with Gurdeep Singh was going on a motorcycle, when a black car overtook them. Assailants namely Sukhjinder Singh and Gurpreet Singh @ Titu were travelling in that car; that when they came near village Kishanpura, the black car turned back from railway crossing and stopped them at gunpoint. Sukhjit Kaur turned her face back and she heard a gunshot. She went to the gateman and told him to see what had happened; that from

the landline phone of gateman, she called her mother-in-law that Gurdeep Singh had met with an accident; that thereafter gateman came at the spot and saw that Gurdeep Singh had died. This witness stated that on 12.08.2007 he along with Jit Singh brought Sukhjit Kaur to Police Station Sadar, Rupnagar; that a lady ASI was present there who interrogated Sukhjit Kaur in their presence and she unfolded the story before police.

PW-15 Inspector Pritam Singh since promoted as Deputy Superintendent of Police and retired from service deposed regarding the investigation conducted by him proving various documents.

PW-16 ASI Harji Ram stated that in this case on instructions of SHO/Pritam Singh, he had arrested Tarlochan Singh alias Rana and prepared personal search memo Ex.PW16/A, arrest memo Ex.PW16/B and information memo regarding his arrest Ex.PW16/C.

PW-17 Bhupinder Kaur, mother of deceased Gurdeep Singh supported the prosecution story on material aspects including Sukhjit Kaur making extra judicial confession in her presence and that of Ex-Sarpanch Jit Singh as well as Ranjit Singh.

PW-18 HC Sukhdev Singh who on 10.08.2007 was MHC Rupnagar tendered in evidence his duly sworn affidavit Ex.PW18/A.

PW-19 HC Surinder Singh who on 12.08.2007 was posted at Police Station, Rupnagar had stated that on that day he had joined investigation of this case being carried out with ASI Harji Ram and that accused-Tarlochan Singh was arrested on such day. Documents i.e. memo

of arrest Ex.PW16/A, personal search memo Ex.PW16/B and memo of information regarding his arrest Ex.PW16/C were attested by him.

PW-20 HC Rajinder Pal a formal witness tendered in evidence his duly sworn affidavit as Ex.PW20/A.

PW-21 ASI Darshan Singh who on 10.08.2007 and on 11.08.2007 while posted at Police Station, Sadar, Rupnagar was member of the police party headed by SHO/IO Pritam Singh deposed regarding, what had taken place in his presence. In addition to that he deposed that on 12.08.2007 Ranjit Singh produced accused-Gurpreet Singh alias Titu and Sukhwinder Singh, who were formally arrested and various documents were prepared. He deposed regarding Gurdeep Singh suffering a disclosure statement and getting recovered .12 bore DBBL gun from his possession. He further deposed regarding accused Tarlochan Singh on 15.08.2007, while in police custody suffering a disclosure statement and getting recovered license of DBBL gun recovered from his possession. In addition to that he deposed that the accused Gurpreet Singh had suffered a disclosure statement and got recovered an empty shell of DBBL gun etc. from his possession on 16.08.2007.

PW-22 HC Kamal Kishore a formal witness who had taken special report to the Magistrate and other Police Officers, tendered in evidence his duly sworn affidavit as Ex.PW22/A.

PW-23 HC Raj Kumar stated that on 12.08.2007 he was posted at CIA Staff, Rupnagar and as per directions of the Officers, call

details of landline telephone No.290429 were obtained by him from BSNL Office, Chamkaur Sahib, which he had submitted to SI Gurcharan Singh.

PW-24 Tarlochan Singh had brought the record of registration of Indica Car No.PW-12-J-8838 in the name of Gurpreet Singh Gill son of Narinder Singh Gill resident of H. No.42, Street No.2 Ward No.1 Satluj Colony, Rupnagar proving copy of record Ex.PW24/A.

PW-25 HC Rajinder Pal again a formal witness tendered in evidence his duly sworn affidavit Ex.PW25/A.

PW-26 HC Krishan Lal who was associated with investigation of the case testified in that regard.

PW-27 HC Darshan Singh who had collected the call details of various mobile phone numbers deposed about that.

Similarly, PW-28 Gurcharan Singh deposed that call details of mobile numbers of deceased Gurdeep Singh having No.99151-75341 and that of Sukhjot Kaur having No.99151-75347 of Gurpreet Singh having No. 94636-80137 and of Sukhjinder Singh having No.94638-20814 all were obtained from Nodal Officer through HC Darshan Singh.

The Additional Public Prosecutor tendered in evidence reports of FSL Ex.PX, Ex.PX/1, Ex.PX/2, Ex.PX/3 and closed the prosecution evidence.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against

the accused were put to them, but they denied the allegations contending that they are innocent and have been falsely involved in this case.

Accused Gurpreet Singh alias Titu stated that he had not suffered any disclosure statement and no recovery was effected from him.

Accused Tarlochan Singh also denied having made any disclosure statement or any recovery having been effected from him.

Accused Sukhjit Kaur and Sukhjinder Singh have not taken any specific plea.

The accused had not led any evidence in defence.

After hearing the arguments, learned trial Court convicted and sentenced accused as mentioned above, which left them aggrieved and they have filed the present appeals.

We have heard learned counsel for the appellants-accused (convicts) and learned Additional Advocate General for the State besides going through the record.

Taking up the case of appellant-Tarlochan Singh alias Rana first, the trial Court has convicted him for offences under Section 120-B and Sections 29 and 30 of the Arms Act. After perusing the record carefully, we find that though there is nothing wrong in conviction of appellant-Tarlochan Singh for the offence under Sections 29 and 30 of

the Arms Act, but it is not so as regard offence under Section 120-B IPC. Though it is not disputed but also proved on record that Tarlochan Singh happened to be licence holder of DBBL gun which had been used by Gurpreet Singh alias Titu in committing the murder of Gurdeep Singh. Appellant-Tarlochan Singh could not have possibly handed over his licensed DBBL gun to Gurpreet Singh alias Titu in such a manner and he obviously contravened terms and conditions of licence granted to him in doing so. The DBBL gun had been got recovered from the possession of Gurpreet Singh alias Titu by the police whereas licence of that gun was got recovered by the appellant-Tarlochan Singh from his possession. Sanction for prosecution of appellant-Tarlochan Singh alias Rana was duly granted by District Magistrate, Rupnagar vide order dated 31.10.2007 Ex.PW5/B. From statement of PW-5 Aman Kumar, Reader to Deputy Commissioner, Rupnagar it comes out that sanction was granted by District Magistrate after due consideration of the facts and circumstances and application of mind. From the statement of PW-Balwinder Kaur it comes out that the arm licence Ex.PW6/A had been issued in the name of Tarlochan Singh-accused by District Magistrate, Rupnagar on 22.02.2006 and as per entry a double barrel gun No.17040 was entered in his licence. The licence is stated to have been cancelled on the basis of report of SSP by District Magistrate vide order dated 17.03.2008. Therefore, charge for offences under

Sections 29 and 30 of the Arms Act stands fully established against appellant-Tarlochan Singh and he was rightly convicted and sentenced for the said offences by the trial Court. However, it is not so as regards offence under Section 120-B of the Indian Penal Code i.e. he having conspired with other accused namely Gurpreet Singh alias Titu, Sukhjinder Singh and Sukhjit Kaur to commit murder of Gurdeep Singh. If we see the statements of both the Investigating Officers i.e. Inspector/IO Pritam Singh since promoted as DSP, retired from service (PW-15) and PW-16 ASI Harji Ram it comes out that during the investigation no evidence regarding he being part of the conspiracy could be collected. PW-15/Pritam Singh-DSP stated in his cross-examination that regarding Tarlochan Singh-accused, no evidence with respect to offence under Section 120-B was collected by him so long as he remained posted as SHO Police Station, Sadar, Rupnagar. He further admitted that Tarlochan Singh was not accused for offence under Section 120-B IPC but was accused under Arms Act only.

PW-16 ASI Harji Ram, when cross-examined admitted it as correct that he did not arrest Tarlochan Singh @ Rana accused under Sections 302/34 and 120-B IPC, but had arrested him for offences under Sections 25, 27, 29 and 30 of the Arms Act only. He further admitted it as correct that grounds of arrest were told to him under the said provisions of Arms Act and no arrest was made under Sections

302/34, 120-B as he was not accused for murder. If we see the other evidence adduced by the prosecution then it comes out that there is nothing to establish that Tarlochan Singh-accused had conspired with the other accused to commit murder of Gurdeep Singh. He admittedly was not there at the spot at the time of murder of Gurdeep Singh. Neither PW-13 Jit Singh nor PW-14 Ranjit Singh nor also PW-17 Bhupinder Kaur mother of deceased had said anything in that regard against Tarlochan Singh-accused. Even in the extra judicial confession made by Sukhjit Kaur, she had not taken name of Tarlochan Singh-accused to be part of conspiracy. Therefore, the prosecution had been unable to prove its charge against Tarlochan Singh-accused for offence under Section 120-B IPC and as he was wrongly convicted and sentenced by the trial Court for the said offence, his appeal deserves to be allowed to that extent.

However, as far as appeals filed by other accused namely Gurpreet Singh alias Titu, Sukhjinder Singh and Sukhjit Kaur are concerned, those are totally devoid of merit, since the prosecution has led overwhelming evidence to prove its charge against the said accused. The motive for the incident is also established on the record i.e. illicit relations of Gurpreet Singh alias Titu and Sukhjinder Singh with Sukhjit Kaur.

PW-17 Bhupinder Kaur mother of deceased Gurdeep Singh

and mother-in-law of accused Sukhjit Kaur had categorically stated that after solemnization of marriage between her son Gurdeep Singh and Sukhjit Kaur, Gurdeep Singh had returned to Dubai after three months and Sukhjit Kaur was residing with her in her house. Then there was one Gurpreet Singh alias Titu son of Narinder Singh resident of Satluj Colony, Rupnagar who was stated by Sukhjit Kaur-accused to be son of her maternal uncle. Sukhjit Kaur-accused used to visit his house and that Sukhjinder Singh alias Sukha-accused also visited their house along with Gurpreet Singh alias Titu. She was told by Jit Singh Ex-Sarpanch that they (Sukhjinder Singh alias Sukha and Gurpreet Singh alias Titu) had an evil eye on her daughter-in-law Sukhjit Kaur. PW-13 Jit Singh had lent support to testimony of PW-17/Bhupinder Kaur on that point. Then in the extra judicial confession having been made by Sukhjit Kaur on 11.08.2007 before Ranjit Singh, Jit Singh and Bhupinder Kaur, she mentioned regarding her illicit relations with Gurpreet Singh and she along with Gurpreet Singh and Sukhjinder Singh-accused hatching a conspiracy to murder Gurdeep Singh.

Another piece of very strong incriminating evidence is in the form of extra judicial confession made by Sukhjit Kaur-accused before Jit Singh, Ranjit Singh and Bhupinder Kaur on 11.08.2007. We find this extra judicial confession to be natural and plausible. Sukhjit Kaur-accused does not come out to be a hardened criminal. She having

plotted murder of her husband in conspiracy with her lovers and her husband having been shot dead in her presence that would have definitely left a big impact on her and there is nothing unusual in such type of a woman breaking down and making a clean breast of the entire planning and execution of the crime involving her and her co-accused just to unload the burden of guilt. Trial Court has dealt with this aspect in a very detailed manner. Therefore, we find the evidence regarding Sukhjit Kaur-accused having suffered extra judicial confession to be believable and worthy of reliance. This extra judicial confession can certainly be read against her co-accused Gurpreet Singh alias Titu and Sukhjinder Singh-accused, who had faced trial along with her. Section 30 of the Evidence Act provides that *“When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession”*. This confession made by Sukhjit Kaur-accused is inculpatory qua her and her co-accused which can certainly be taken into consideration. At this point it is necessary to take note of conduct of Sukhjit Kaur-accused and her presence at the time of the incident. It was she who got motorcycle being driven by her husband to stop for the reason that her *DUPATTA* had entangled in the wheel of motorcycle; then going to the fields for the purpose of urinating; then stating that she had heard a bang but she could

not see the assailants as a mosquito had fallen in her eye. These pleas seem to be fabricated and devoid of element of truth. One more important thing to be taken into view is that after the incident she had informed her mother-in-law telephonically that Gurdeep Singh had met with an accident rather than telling the factual position that Gurpreet Singh alias Titu had been shot dead. She is shown to have remained in touch with her co-accused and played a big role in getting her husband murdered whom she thought to be an obstacle in her illicit relations with Gurpreet Singh-accused. The prosecution case is further fortified from testimony of PW-10 Amarjit Singh, who on the fateful day soon after the incident had seen accused Gurpreet Singh alias Titu and Sukhjinder Singh alias Sukha-accused travelling in an Indica car of black colour both of them being nervous, the car being driven by Gurpreet Singh alias Titu and Sukhjinder Singh-accused sitting in it. The said car is proved to be owned by Gurpreet Singh-accused since it was recovered from his possession by the police. Testimony of this witness is admissible in terms of Section 6 of the Evidence Act in the form of their behavior in running away from the spot in the car after committing murder of Gurdeep Singh. Thus testimony of this witness (Amarjit Singh) lends credence to the prosecution story. It was Gurpreet Singh-accused who had suffered disclosure statement and got the licensed DBBL gun of Tarlochan Singh-accused recovered from his possession. He had also got recovered an empty shell of .12 bore recovered from his possession. Such gun and

empty shell had been sent to FSL, Punjab and as per reports received therefrom Ex.PX the firing mechanism of the gun was found to be in working conditions, ten small lead pellets recovered from dead body of Gurdeep Singh during post-mortem examination, besides, one green colour plastic cushion was handed over by doctor to the police after post-mortem examination of the deceased were found to be component of .12 bore cartridge. As per report Ex.PX/2 the empty shell recovered from the possession of accused was reported to have been fired from left barrel of .12 bore DBBL gun No.17040-05. Thus no doubt is left in our mind that it was Gurpreet Singh alias Titu –accused who had fired a shot from licensed gun of Tarlochan Singh alias Rana-accused hitting Gurdeep Singh on his face, resulting in his instant death. At that time, he was being accompanied by Sukhjinder Singh travelling with him in the car and both of them had escaped from scene of crime in that very car and they were seen by Amarjit Singh-PW to be in nervous condition while they were going away from the spot in the said car belonging to Gurpreet Singh-accused. The conduct of Sukhjit Kaur-accused in getting her co-accused informed about their movements and her act and conduct at the spot clearly goes to show that she was part of the conspiracy to commit murder of Gurdeep Singh. Thus the prosecution has been successful in its endeavour to prove its charge against Gurpreet Singh alias Titu, Sukhjinder Singh alias Sukha and Sukhjit Kaur (accused) that all the three of them conspired with each other to commit murder of Gurdeep

Singh and in pursuance of that conspiracy the accused sharing a common intention Gurpreet Singh alias Titu fired a shot at Gurdeep Singh hitting him on vital part resulting in his immediate death in that way he committed offence under Section 302 IPC whereas Sukhjot Kaur and Sukhjinder Singh (accused) committed offence under Section 302 read with Section 34 IPC. In addition to that, Gurpreet Singh was found in possession of licensed DBBL gun of Tarlochan Singh which he had used for committing this murder, is guilty of offence under Section 27 of the Arms Act. Thus there is no illegality or impropriety in the judgment passed by trial court as regards accused Sukhjot Kaur, Gurpreet Singh alias Titu and Sukhjinder Singh, the judgment of conviction and order of sentence against these three accused-convicts is upheld, whereas appeals filed by them are found to be without any merit and are dismissed. However, appeal filed by Tarlochan Singh @ Rana is allowed partly inasmuch as his conviction and sentence as regards offences under Section 120-B IPC is set aside though his conviction and sentence as regards offence under Sections 29 and 30 of the Arms Act is upheld. Tarlochan Singh-accused is said to be on bail. Chief Judicial Magistrate, Rupnagar is directed to take him into custody so as to make him undergo the remaining part of his sentence.

27.02.2017
Gaurav Sorot

(T.P.S.MANN)
JUDGE

(H.S. MADAAN)
JUDGE

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| 1. | Whether reportable? | No |
| 2. | Whether reasoned / speaking? | Yes |