

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D-687-DB of 2011

Date of Decision : November 14, 2017

Ravinder Singh @ Ravi and othersAppellants

Versus

State of PunjabRespondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. Paramjit Singh Brar, Advocate
for appellants No.2 and 3, namely, Gurpreet Singh @ Gandhi
and Jaspreet Singh @ Jassi.

Appeal of appellant No.1-Ravinder Singh @ Ravi already
stands abated.

Mr. Amit Mehta, Senior Deputy Advocate General, Punjab.

T.P.S. MANN, J.

The appellants, namely, Ravinder Singh @ Ravi, Gurpreet Singh @ Gandhi and Jaspreet Singh @ Jassi were tried for committing the offences punishable under Section 302 read with Section 34 IPC, Section 307 read with Section 34 IPC and Section 427 read with Section 34 IPC. Vide judgment and order dated 20.7.2011, learned Additional Sessions Judge, Ludhiana convicted them for the aforesaid offences and sentenced them as follows :-

<u>Offence Under Section</u>	<u>Sentence</u>
302/34 IPC	: Rigorous imprisonment for life and to pay a fine of Rs.3,000/- each and in default of payment of fine, to further undergo simple imprisonment for three months;

<u>Offence Under Section</u>	<u>Sentence</u>
307/34 IPC	: Rigorous imprisonment for four years and to pay a fine of Rs.1,000/- each and in default of payment of fine, to further undergo simple imprisonment for one month; and
427/34 IPC	: Rigorous imprisonment for one year and to pay a fine of Rs.500/- each and in default of payment of fine, to further undergo simple imprisonment for fifteen days.

All the sentences were ordered to run concurrently.

Aggrieved of their conviction and sentence, the appellants filed the present appeal which was admitted and notice issued to the State. The trial Court record also stands requisitioned.

According to the prosecution, Jagpal Singh son of Pritam Singh, resident of village Rajewal, Police Station Samrala, District Ludhiana, made statement Ex.PA before SI Jasbinder Singh on 7.2.2009 at 9.30 p.m. in Civil Hospital, Samrala on the basis of which, FIR No.11 (Ex.PW9/A) under Sections 302/307/427/34 IPC was registered at Police Station Samrala on 7.2.2009 at 9.40 p.m. Special report sent through Constable Avtar Singh was received by the Ilaqa Magistrate on 7.2.2009 at 11.00 p.m. The said statement of Jagpal Singh reads as follows :-

“Stated that I am resident of above said address and working as Security Guard in Nahar Sugar Mills, Amloh. Today, marriage of my sister's son Yadwinder Singh son of Bharpur Singh caste Jat, r/o Dhandari Kalan, District Ludhiana was to be held at Gill Palace, Samrala. I, alongwith my family, joined the marriage

party. My daughter Jasbir Kaur aged about 29 years, w/o Harwinder Singh, my son-in-law Harwinder Singh @ Binder aged about 32 years, son of Santokh Singh and their son Pawanjot Singh aged about 11 years, residents of Dugri, Police Station Payal, District Ludhiana also joined the marriage party. Our relatives and friends were also present in the marriage party. At about 4.30 p.m. when we started taking lunch, then Ravinder Singh @ Ravi son of Kulwant Singh, Gurpreet Singh @ Gandhi and Jaspreet Singh @ Jassi, ss/o Paramjit Singh caste Jat, r/o Dugri, Police Station Payal, District Ludhiana started quarrelling with my son-in-law without any rhyme or reason and they broke the glass panes of Gill Marriage Palace. The matter was, however, patched up as Dilraj Singh, r/o Chandra and relative from the girl's side stated that he would pay the cost of broken glass panes to the owner of the Palace. At about 5.30 p.m., the Doli left. The friends and relatives also started for their respective houses. My son-in-law, my daughter Jasbir Kaur, her son Pawanjot Singh, alongwith their neighbours Sherdil Singh son of Bhajan Singh and Lovpreet Singh s/o Bachitar Singh left for their village on a Maruti car bearing No.PB-10-BF-3940. The car was being driven by my son-in-law Harwinder Singh. I, alongwith my son Gurdip Singh, followed them on our Scorpio vehicle. My son-in-law called my son Gurdip Singh on his mobile No.9888443053 by using his mobile No.9465195330, which call was attended to by me at 6.07 p.m. My son-in-law informed me by calling me as Papa that Gurpreet Singh and Jaspreet Singh s/o of Paramjit Singh and Ravinder Singh ss/o Kulwant Singh who had entered into a dispute at the

Palace were uttering abuses while following him on their Verna car bearing No.PB-10-CK-0674 and they were trying to surround their car. Accordingly, he was feeling endangered that they would dash their vehicle against his car and kill him. I told him not to worry as I, alongwith Gurdip Singh, was following him in Scorpio vehicle. At about 6.10 p.m., when we reached in the area of village Ghulal nearing Christian Public School, the persons sitting in the Verna car dashed their car against the car of my son-in-law bearing No.PB-10-BF-3940 with an intention to kill my son-in-law alongwith his family and at the same time the Zen car fell in the pits by the side of the road and the assailants fled away on their Verna car. I, alongwith my son tried to take care of my son-in-law Harwinder Singh, daughter Jasbir Kaur and her son Pawanjot Singh but they died at the spot. Lovpreet Singh and Sherdil Singh received serious injuries and I shifted all of them to Civil Hospital, Samrala for treatment where doctor declared my son-in-law, my daughter and their son as dead. Due to his serious condition, Sherdil Singh was referred to DMC Hospital whereas after giving first-aid, Lovpreet Singh was sent back home. The occurrence had taken place on account of hitting of Verna car bearing No.PB-10-CK-0674 by Ravinder Singh son of Kulwant Singh and, Gurpreet Singh and Jaspreet Singh ss/o Paramjit Singh caste Jat, r/o Dugri with an intention to kill them and resultantly, my son-in-law Harwinder Singh, daughter Jasbir Kaur and her son Pawanjot Singh have died, whereas Sherdil Singh and Lovpreet Singh were injured.

Motive behind the occurrence was that Ravinder Singh, Gurpreet Singh and Jaspreet Singh were

addicted to smack, whereas my son-in-law had been asking them not to take the same. For that reason, they had quarrelled with my son-in-law and even broken glass panes of the Marriage Palace and, thereafter, hit the car. Legal action be taken against them. Statement has been got recorded, which is heard and correct. Maruti car was also badly damaged.”

It is also the case of the prosecution that SI Jasbinder Singh visited Civil Hospital, Samrala where he prepared inquest reports and got dead bodies photographed. Post-mortem of dead bodies was also got conducted. The police party also went to Gill Palace and on demarcation of the complainant, took the broken glass into possession vide separate memo. Then place of occurrence was inspected and site plan of the place of occurrence prepared. Place of occurrence was got photographed and the Maruti Zen car bearing No.PB-10-BF-3940, alongwith RC and driving licence of Harwinder Singh was taken into possession vide separate recovery memo. Statements of the witnesses under Section 161 Cr.P.C. were recorded. On 8.2.2009, accused were arrested and Verna car bearing No.PB-10-CK-0674 alongwith RC and driving license of Ravinder Singh was also taken into possession vide separate recovery memo. Statements of witnesses were recorded. The case property was deposited in the Malkhana.

Upon completion of codal formalities and presentation of challan, followed by commitment of the case to the Court of Sessions,

the appellants were charged for the aforementioned offences, to which they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined PW1 Jagpal Singh, PW2 Sherdil Singh, PW3 Pritam Singh, PW4 Dr. Tarakjot Singh, PW5 Usha Rani, PW6 ASI Jaswinder Singh, PW7 Suresh Kumar, PW8 Darshan Singh, PW9 C. Harnek Singh, PW10 HC Amritpal Singh, PW11 HC Vipan Kumar, PW12 Budh Singh Patwari, PW13 HC Santokh Singh, PW14 Dr. Saroj Sethi, PW15 HC Jagtar Singh, PW16 SI Jasbinder Singh, PW17 Surinder Kumar, PW18 Balbir Singh, PW19 Bimal Kumar and PW20 Nirbhai Singh.

When the appellants were examined under Section 313 Cr.P.C., they denied the incriminating evidence appearing against them and pleaded that they were innocent and witnesses had deposed falsely. They were not present at the relevant time in the area of Police Station, Samrala. No such occurrence had taken place as alleged by the complainant and other witnesses.

In their defence, the appellants examined DW1 Darshan Singh, DW2 Damandeep Singh, DW3 Vinay Kumar and DW4 Malkiat Singh.

After hearing learned Additional Public Prosecutor for the State and learned counsel for the appellants, learned trial Court believed the prosecution case and convicted and sentenced the appellants, as mentioned above.

It may be mentioned here that during the pendency of the

appeal, Ravinder Singh @ Ravi appellant died and vide order dated 19.4.2017 the appeal filed by him was disposed of as having been abated. The appeal now survives in respect of Gurpreet Singh @ Gandhi and Jaspreet Singh @ Jassi appellants.

Learned counsel appearing for the surviving appellants, namely, Gurpreet Singh @ Gandhi and Jaspreet Singh @ Jassi has submitted that the prosecution miserably failed to prove its case against them beyond any shadow of doubt. Though the factum of marriage and presence of the deceased and injured persons as well as that of the accused at the Marriage Palace is not disputed yet no such occurrence, as alleged, had taken place. On the other hand, the deceased was dead drunk and in that condition he was driving the car which went out of control on the way and dashed against the trees on the road side. Resultantly, he lost his life, besides life of his wife and son. None of the accused had any hand in the accident. He has further submitted that PW1 Jagpal Singh had received a call on the mobile of his son Gurdip Singh from Harwinder Singh at 6.10 p.m. that the accused might dash their car against his Zen car. PW1 Jagpal Singh and PW20 Nirbhai Singh were interested witnesses and, therefore, their testimonies cannot be relied upon, more so, when they were not present at the time of the occurrence. DW3 Vinay Kumar testified that last call was made by the deceased to Jagpal Singh at 6.23 p.m. The location of phone of PW1 Jagpal Singh was Samrala, which was at a distance of 5 kms. from village Ghulal. The dead bodies were received by PW15 HC Jagtar Singh. The

Investigating Officer claimed to have reached Civil Hospital, Samrala at about 9.00 p.m. PW20 Nirbhai Singh, brother of Harwinder Singh deceased stated that he appended his signatures on the inquest report on 8.2.2009. The photographer has stated that the photos were clicked during night time. PW3 Pritam Singh, Manager of the Marriage Palace did not support the prosecution case regarding the quarrel between the accused and the deceased. Further, there was an unexplained delay in lodging the FIR. Even PW2 Sherdil Singh, occupant of the Zen car stated that speed of their car was 70-80 kms/hr. Thus, it was a pure and simple case of accident which resulted due to the negligent driving of his car by Harwinder Singh deceased. Finally, it has been submitted that there are discrepancies in the statements of the witnesses. It has, accordingly, been prayed that the impugned judgment of conviction and sentence be set aside and the surviving appellants be acquitted of the charges against them.

On the other hand, learned State counsel has submitted that the prosecution has led cogent and convincing evidence to prove its case against the surviving appellants.

After hearing learned counsel for the surviving appellants and learned State counsel, besides going through the evidence brought on the record, this Court finds that PW2 Sherdil Singh, who is common friend of the accused and the deceased and was one of the occupants of the car in which the deceased were sitting, had also sustained injuries. He has testified that Harwinder Singh deceased

was his friend and on 7.2.2009, there was marriage function in Gill Marriage Palace, Samrala. All the three accused, who were residents of village Dugri were also invited and, accordingly, they had reached the Marriage Palace in Verna car of Gurpreet Singh where they met Harwinder Singh deceased and Gurdip Singh. The three accused were under the influence of liquor and they started quarrelling with Harwinder Singh deceased. The matter was, however, patched up. When the Doli left, all the three accused started from the Marriage Palace in Verna car driven by Ravinder Singh accused. As Ravinder Singh was dead drunk, he was driving the car in a zig-zag manner. Sometime he brought his car in front of Zen car and sometime taken his Verna car behind the Zen car. Jaspreet Singh @ Jassi and Gurpreet Singh @ Gandhi accused, at that time, were raising lalkaras not to spare the deceased and revenge be taken for quarrelling in the Marriage Palace. PW2 Sherdil Singh has also deposed that at about 6.00 p.m., Harwinder Singh deceased was driving the Zen car, who informed PW1 Jagpal Singh on his mobile regarding the accused chasing his car and raising lalkara not to spare them. He also told about the incident and requested PW1 Jagpal Singh to come soon as he was apprehending that accused might kill them. When the Zen car driven by Harwinder Singh deceased reached near Christan School of village Ghulal, the accused dashed their Verna car against the side of the Zen car with an intention to kill. As a result, the Zen car went out of control of Harwinder Singh deceased, who was driving the car and fell into ditches after striking against trees. The car was badly

damaged. Harwinder Singh, his wife Jasbir Kaur and their son Pawanjot Singh died at the spot, whereas PW2 Sherdil Singh and Lovpreet Singh had suffered injuries. PW2 Sherdil Singh identified all the three accused in the Court.

PW1 Jagpal Singh, who had received call from the mobile of Harwinder Singh deceased regarding threat to his life at the hands of the accused and regarding the incident, has also corroborated the version of PW2 Sherdil Singh. Despite cross-examining PW1 Jagpal Singh and PW2 Sherdil Singh, at length, the defence could not shatter their testimonies. Merely because PW2 Sherdil Singh and PW20 Nirbhai Singh were interested witnesses is not sufficient to reject the prosecution case, especially when PW2 Sherdil Singh was common friend of the accused and Harwinder Singh deceased. He would not have falsely implicated the accused. From careful scrutiny of the testimonies of PW1 Jagpal Singh, PW2 Sherdil Singh and PW20 Nirbhai Singh, this Court finds that their statements are reliable and trustworthy and can be used to fix the part and participation of the accused in the commission of the crime.

Though, according to the reports of the Chemical Examiner, the accused had not taken liquor yet the reports revealed the presence of diacetyl morphine. The version of the prosecution that the accused were addicted to smack, thus, gets corroborated from the scientific evidence.

The presence of PW1 Jagpal Singh at the spot could not

be doubted due to tower location of the mobile phone used by him was Samrala and distance between Samrala and village Ghulal was about 5 kms. It has come in the testimonies of DW2 Damandeep Singh and DW3 Vinay Kumar that it was not necessary that each and every village would have mobile tower of BSNL and Vodafone company. The last call made from the mobile of Harwinder Singh deceased which was attended to by PW1 Jagpal Singh was at 6.23 p.m. Thereafter, the mobile was not used. Thus, the presence of PW1 Jagpal Singh and Gurdip Singh near Samrala stands proved from the statements of DW3 Vinay Kumar and DW4 Malkiat Singh. The presence of Sherdil Singh at the spot is also established from the injuries received by him for which he was got admitted in Civil Hospital, Samrala and, thereafter, in CMC, Ludhiana. PW19 Bimal Kumar has proved medico-legal report Ex.PW19/B prepared by Dr. Justina vide which Sherdil Singh was medio-legally examined on 7.2.2009 at 8.35 p.m. at Christan Medical College, Ludhiana and following injuries were noticed on his person:-

- (i) Forehead abrasion on right frontal region;
- (ii) Head abrasion on temporal right region;
- (iii) Abrasion on right parieto-occipital region; and
- (iv) Small abrasion on abdomen near umbilicus.

The medical examination having been conducted within two hours of the incident and going by the nature of injuries, it cannot be said that these injuries were self-inflicted. Rather, these injuries

indicate that on account of Zen car hitting against the trees and going into the ditches, PW2 Sherdil Singh had received injuries as he was also sitting in the same very car.

Though, according to the prosecution, PW7 Suresh Kumar had taken the photographs of the three dead bodies on 7.2.2009 at about 11.00 p.m. and of the place of occurrence on 7.2.2009 at about 11.30 p.m. yet PW7 Suresh Kumar deposed that he had taken the photographs during day time on next day. The evidence of the witnesses is to be seen in totality and not in isolation. Even otherwise, nothing turns on the fact whether the photographs were taken on the next day or on the date of the incident.

The damage to the Zen car also stands proved in view of the statement made by PW13 Hc Santokh Singh who proved the mechanic report Ex.PW13/A.

From the above discussion, it is made out that the prosecution has been able to establish that it were the accused who had dashed their car against the car being driven by Harwinder Singh deceased at the time of the occurrence. However, question still remains whether the accused wanted to commit the murder of Harwinder Singh, Jasbir Kaur and Pawanjot Singh by dashing their car against the car being driven by Harwinder Singh deceased or they only intended to cause injuries which were likely to cause death and similarly, whether they attempted to commit the murder by causing hurt to Sherdil Singh and Lovpreet Singh with such intention and

knowledge and under such circumstances that if by that act they had caused the death they would have been guilty of murder or whether by their act, they attempted to commit culpable homicide not amounting to murder. At the relevant time, the three deceased and two injured were going in a Zen car, whereas the three accused were chasing them in their Verna car. While doing so, the accused were sometimes taking their car ahead of the car of the deceased and sometimes would bring their car behind the car of the deceased. The accused would not have intended to commit the murder of three persons or attempted to commit murder of two persons. The three deceased and the two injured were not stationary at the time of the accident. They were going on the road while sitting in the car driven by Harwinder Singh deceased. There was possibility that the accused would have also exposed themselves also to danger by their aforementioned act as they could have also injured or died on account of their own act. Under these circumstances, it can be concluded that the accused did not commit the murder of the three deceased or attempt to commit the murder of two injured. Rather, they were liable for committing the offence of culpable homicide not amounting to murder and also of attempting to commit culpable homicide not amounting to murder.

Resultantly, the conviction of Gurpreet Singh @ Gandhi and Jaspreet Singh @ Jassi, the two surviving appellants, under Sections 302/34 IPC is converted to one under Sections 304 Part I/34 IPC for which they shall undergo rigorous imprisonment for ten years

and to pay a fine of Rs.3,000/- each and in default of payment of fine, they shall further undergo simple imprisonment for three months. Their conviction under Sections 307/34 IPC is also converted to one under Sections 308/34 IPC for which they shall undergo rigorous imprisonment for four years and to pay a fine of Rs.1,000/- each and in default of payment of fine, to further undergo simple imprisonment for one month. Their conviction and sentence of imprisonment and fine for the offence under Sections 427/34 IPC, alongwith its default clause is maintained. The substantive sentences of imprisonment shall run concurrently.

The appeal filed by Gurpreet Singh @ Gandhi and Jaspreet Singh @ Jassi appellants is disposed of accordingly, whereas, that of Ravinder Singh @ Ravi appellant already stands abated.

November 14, 2017
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(T.P.S. MANN) (MAHABIR SINGH SINDHU)
JUDGE JUDGE

Whether reasoned/speaking : YES / NO

Whether reportable : YES / NO