

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

(1) **CRA-D-87-DB of 2011**
Date of decision:-16.3.2017
Soma
...Appellant

Versus

State of Punjab
...Respondent

(2) **CRA-D-302-DB of 2011**
Shamshad Khan @ Guffar and ors.
...Appellants

Versus

State of Punjab
...Respondent

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

Present : Mr. Raj Kumar Gupta, Advocate
for the appellant in CRA-D-87-DB of 2011.

Mr.Mohd. Yousaf, Advocate
for the appellants in CRA-D-302-DB of 2011.

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

H.S. MADAAN, J.

Vide this judgment, we propose to dispose of two appeals
i.e. **CRA-D-87-DB of 2011** filed by Soma and **CRA-D-302-DB of 2011**
filed by Shamshad Khan @ Guffar, Sandeep Singh @ Kaka, Hardeep
Singh @ Laddi and Lakhwinder Singh @ Vicky, all accused who were
tried by the Court of learned Additional Sessions Judge, Ludhiana and
vide impugned judgment of conviction and order of sentence dated
13.12.2010, accused Shamshad Khan @ Guffar, Sandeep Singh @
Kaka, Hardeep Singh @ Laddi and Lakhwinder Singh @ Vicky were

convicted and sentenced as follows:

Offence under Section	Sentence Awarded
Section 302 read with Section 34 IPC.	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- each and in default thereof, to further undergo rigorous imprisonment for a period of six months each.
Section 302 read with Section 120-B IPC.	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- each and in default thereof, to further undergo rigorous imprisonment for a period of six months each.
Section 323 read with Section 34 IPC.	Rigorous imprisonment for six months each.
Section 324 read with Section 34 IPC.	Rigorous imprisonment for one year and to pay a fine of Rs.500/- each and in default thereof, to further undergo rigorous imprisonment for a period of fifteen days each.

Whereas, vide the impugned judgment of conviction and order of sentence, accused Soma was also convicted and sentenced as follows:

Offence under Section	Sentence Awarded
Section 120-B IPC.	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
Section 302 read with Section 120-B IPC.	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months
Section 323 read with Section 120-B IPC.	Rigorous imprisonment for six months.
Section 324 read with Section 120-B IPC.	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of fifteen days.

All the substantive sentences were ordered to run concurrently.

Briefly stated, the prosecution story as it came out during the trial is that complainant - Paramjit Kaur wife of Sohan Singh son of Balkar Singh of Rajput community, aged about 27 years, resident of village Mangat, Police Station Basti Jodhewal, Ludhiana got married about five years prior to the incident. She had a younger sister, Gurjit Kaur whom she got engaged with Tejpal Singh @ Gholi, younger brother of her husband about 3 to 3 ½ years before the incident. Her maternal aunt (*maasi*) accused Soma wife of Jora Singh married in village Mangat and having her house adjoining to the matrimonial home of complainant is a woman of bad character. When complainant got her sister Gurjit Kaur engaged with her brother-in-law Tejpal Singh @ Gholi, Soma opposed the said alliance since she wanted Tejpal Singh @ Gholi to be engaged somewhere else. After engagement of Gurjit Kaur with Tejpal Singh @ Gholi, Soma started levelling false allegations against Tejpal Singh @ Gholi before parents of complainant and got the engagement broken. However, complainant made her parental family understand and the relations were resumed. Marriage of Gurjit Kaur was performed with Tejpal Singh @ Gholi on 2.3.2008 despite objections raised by accused Soma. At the time of marriage, Soma had quarreled with the complainant side on the pretext of some jewellery and she used to extend threats to complainant that only she would decide about the matrimonial alliance of Tejpal Singh @ Gholi and whosoever would come in her way, would be eliminated. Soma had been in contact with some bad elements who had been visiting her house. On 2.4.2008 at about 2:00/2:30 p.m., when complainant Paramjit Kaur along with her

sister Gurjit Kaur was present in their house, the outer gate was bolted with chain and they were watching T.V. in a room then three young persons with shorn hair rushed in and started asking as to who was Gurjit Kaur wife of Gholi. Gurjit Kaur accordingly disclosed that she was wife of Gholi. Hearing that all the three persons attacked her. One of them caught hold of Gurjit Kaur whereas the other persons pressed her neck. When complainant tried to rescue Gurjit Kaur, then the third person gave a knife blow in abdomen of Gurjit Kaur and also hit the complainant on right side of abdomen. The assailants inflicted other injuries upon the complainant. The complainant and Gurjit Kaur fell down on the ground. Then all the assailants went out along with their respective weapons. The complainant started shouting and came out of the room, where her mother-in-law Smt.Shinder Kaur also came inside the house from the street, who saw those three persons while running away. Smt.Shinder Kaur gathered neighbours and arranged a vehicle for her injured daughters-in-law and took them to Chawla Hospital, Chowk Jodhewal but on the way Gurjit Kaur died and her dead body was brought back to the matrimonial home. On getting information regarding the incident, a police party from Police Station, Basti Jodhewal headed by Inspector Gurbans Singh (hereinafter referred to as the Investigating Officer/IO) reached the spot, where they came across Paramjit Kaur – injured, who got her statement Ex.PA recorded with the Investigating Officer. The statement was thumb marked by Paramjit Kaur – complainant, which impression was attested by the Investigating officer. The Investigating Officer put his endorsement Ex.PA/1 below that

statement and sent ruqa to police station through HC Ashwani Kumar at 6:20 p.m., on the basis of which formal FIR Ex.PA/2 was recorded by ASI Ravel Singh. The Investigating officer carried out the spot inspection and prepared rough site-plan of the place of incident as Ex.PW9/A. Then he recorded statement of Smt.Shinder Kaur, mother-in-law of deceased Gurjit Kaur. He carried out inquest proceedings with regard to unnatural death of Gurjit Kaur, preparing report Ex.PW9/B in that regard. He drafted an application Ex.PW4/A and deputed HC Rajinder Singh to get post-mortem examination conducted on the dead body of the deceased handing over application Ex.PW4/A to him. The Investigating Officer then recorded statements of witnesses.

On 5.4.2008, the police party went to village Mangat and Smt.Shinder Kaur was joined in the investigation. The police raided village Dhandewal situated on Raikot-Malerkotla road and on identification of Smt.Shinder Kaur, accused Shamshad Khan @ Guffar was arrested. Thereafter, the police party accompanied by Smt.Shinder Kaur went to village Chaprauda falling on Malerkotla-Amargarh road and accused Sandeep Singh @ Kaka and Hardeep Singh @ Laddi were arrested on identification of Smt.Shinder Kaur. Both those accused were going on the same motorcycle, which was used in the commission of crime. The motorcycle Ex.MO/1 was taken into possession vide memo Ex.PW8/J which was attested by HC Ashwani Kumar and SI Gurpreet Singh. Thereafter, the police party raided village Ladhuwal and on identification of Smt.Shinder Kaur, accused Soma was arrested.

On 7.4.2008, the police party accompanied by Balkar Singh

arrested accused Lakhwinder Singh @ Vicky from village Kup Kalan. Accused Lakhwinder Singh @ Vicky was interrogated during the course of which, he suffered a disclosure statement Ex.PW2/D that he had kept concealed a kirch and one gold *karra* in his house at village Roshiana, regarding which only he knew and he could get those recovered. Thereafter, accused Lakhwinder Singh while in police custody led the police party to the disclosed place and got recovered the kirch (MO2) and gold *karra*. Those articles were taken into possession vide memo Ex.PW2/C attested by SI Gurpreet Singh and Balkar Singh. The Investigating Officer prepared rough site-plan of the place of recovery as Ex.PW9/C. He prepared rough sketch of the *kirch* as Ex.PW9/D. The Investigating Officer converted both the articles into two separate parcels sealing those parcels with his seal bearing impression 'GS'. He recorded statements of witnesses and on return to police station, he deposited the case property with MHC Pargan Chand.

On 9.4.2008, accused Shamshad Khan @ Guffar while in police custody had suffered a confessional statement under Section 27 of the Evidence Act to the effect that he had kept concealed one gold necklace after wrapping it in a polythene underneath the ground in village Kadiana, near transformer situated near *Master Di Chakki*. Such disclosure statement Ex.PW2/B was signed by such accused. Thereafter, accused Shamshad Khan @ Guffar while in police custody led the police party to the disclosed place and got the gold necklace recovered, which was bearing mark BS/KDM. Balkar Singh identified the said necklace. Thereafter, the Investigating Officer converted the gold

necklace into a parcel and took the same into possession vide memo Ex.PW2/F attested by HC Ashwani Kumar and Balkar Singh. On return to the police station, he deposited the case property with MHC Pargan Chand. During the course of investigation, he recorded statements of witnesses and after completion of investigation and other formalities, challan against the accused was prepared and filed in the Court of Judicial Magistrate Ist Class, Ludhiana.

On presentation of challan in the Court of Judicial Magistrate Ist Class, Ludhiana, he supplied copies of documents relied upon in the challan to all 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 the Court of Sessions, learned Judicial Magistrate Ist Class, Ludhiana vide his order dated 3.11.2008 committed the case to the Court of learned Sessions Judge, Ludhiana from where it was entrusted to the Court of learned Additional Sessions Judge, Ludhiana.

When the case was received in the Court of learned Additional Sessions Judge, Ludhiana, observing that charge for the offences under Sections 120-B/302/148/149/323/324/380 IPC was disclosed against the accused, they were charge-sheeted accordingly, to which, they pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

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

PW1 Paramjit Kaur, complainant – injured provided the eye-witness account of the incident deposing as per prosecution story.

PW2 Balkar Singh, father-in-law of the complainant and the deceased, who had participated in the inquest proceedings with regard to unnatural death of Gurjit Kaur and had identified her dead body, deposed in that regard. He further deposed as regards *kirch* and gold *karra* having been recovered from the possession of Lakhwinder Singh @ Vicky and gold necklace having been recovered from the possession of Shamshad Khan @ Guffar. He had proved the receipts for purchase of such gold jewellery articles as Ex.P3 to Ex.P5.

PW3 Smt.Shinder Kaur stated that on 2.4.2008 her sons Sohan Singh and Tejpal Singh alias Gholi and her husband Balkar Singh had gone to attend their work; that her daughters-in-law Gurjit Kaur (deceased) and Paramjit Kaur were present in the house; that she left her house at 1:30 p.m. for some domestic work and returned at about 2:30 p.m.; that when she just entered in the main gate of their house, she saw that accused Shamshad Khan @ Guffar, Sandeep Singh @ Kaka, Hardeep Singh @ Laddi and Lakhwinder Singh @ Vicky were running away from her house through the main gate; that she had observed that Lakhwinder Singh was having *kirch* in his hand and such persons fled away from the main gate of their house by sitting on the motorcycle of red colour; that when she entered the house, accused Soma was standing there and she started pleading guilty to excuse as she did a wrong by committing the murder of her daughter-in-law Gurjit Kaur through accused persons who had run away from the spot after committing the murder. The witness stated that she heard shrieks of her daughter-in-law Paramjit Kaur, who had also suffered injuries and was saying that

accused persons who fled away from there had committed the murder of Gurjit Kaur by causing injuries to her with *kirch* and they had also caused injuries to her (Paramjit Kaur); that accused persons had also taken away the gold ornaments from the 'petti' (big iron box) lying in their house. She stated that she knew the accused persons earlier to the occurrence as they used to come in their village to dig the 'khooies' (wells); that she also knew the accused persons as they had come to attend the marriage of her son and that she saw that Gurjit Kaur was lying inside the house in an injured condition and there were many injuries on her body; that many people had reached at the spot. She further deposed regarding taking the injured to Chawla Hospital, Basti Jodhewal but Gurjit Kaur succumbing to the injuries on the way and then her dead body having been brought back to their house. She stated that the accused had also caused injuries to Paramjit Kaur with the intention to kill her and motive behind the occurrence was that Soma accused, a maternal aunt of her daughters-in-law was not happy with the marriage of Gurjit Kaur with Tejpal Singh which was performed on 2.3.2008 and Soma wanted to perform the marriage of Tejpal Singh somewhere-else and she felt Gurjit Kaur hurdle in her way; that Soma was a lady of bad character and persons of such type of character used to come to her house etc. She otherwise supported the prosecution story on remaining aspects.

PW4 Dr.Balwinder Singh, Medical Officer deposed that on 3.4.2008, while he was posted at Slum Area Dispensary, Guru Nanak Pura, Ludhiana, he along with Dr.Sudesh Kumar and Dr.Geeta were

directed to conduct the post-mortem examination on the dead body of Gurjit Kaur wife of Tejpal Singh, resident of village Mangat, Police Station Jodhewal Basti, Ludhiana. The board had found the following injuries on the dead body of deceased:

1. Abrasions two in number lateral to right eyeball $1\frac{1}{4}$ " x $1\frac{1}{4}$ " each.
2. Abrasions 3" x $1\frac{1}{2}$ " on left clavicular region.
3. Lacerated wound $1\frac{1}{2}$ " x $1\frac{1}{2}$ " skin deep on left arm outer and middle part over lying clothes also showed hole.
4. 1 cm x 1 cm oval shaped punctured wound with blackish margins on right side just below the right costal margins on the abdomen.
5. Oval shaped punctured wound $\frac{1}{2}$ cm x $\frac{1}{2}$ cm present on left side of abdomen muscle deep.
6. Oval shaped wound 1 cm x 1 cm on left side of thigh present muscle deep two in number.

Rigor mortis was present and post-mortem staining was also present. On exploration of abdomen, fresh blood appx $\frac{1}{2}$ to 2 litres present on right paracolic left and right paracolic, gutter and pelvis with big retroperitoneal hematoma surrounding the major vessels apprx. two litres and present on right side of liver, corresponding to injury No.4 as mentioned which had punctured the liver and major vessels at portahepatis. The cause of death in this case in their opinion was due to haemorrhage and shock as a result of injuries to liver and major vessels

around portahepatis, which were ante-mortem in nature and sufficient to cause death in ordinary course of nature. The time that elapsed between the injuries and death was immediate and between death and post-mortem within 12 to 24 hours. The sutured dead body along with belongings of the deceased was handed over to HC Rajinder Singh No.1629 with inquest papers 1 to 22 duly signed by him and other members of the board namely Dr.Sudesh Kumar and Dr.Geeta. He proved copy of the post-mortem report as Ex.PW4/C and pictorial diagram showing seats of injuries as Ex.PW4/D.

PW5 HC Ram Saran stated that on 10.5.2008, he visited the spot at village Mangat and at the instance of SHO Balwinder Singh and on the demarcation of Paramjit Kaur – complainant prepared a scaled site-plan Ex.PW5/A using the scale of 1 inch = 8 feet.

PW6 Dr.G.P. Mangla, District Epidemiologist, Office of Civil Surgeon, Ludhiana deposed that on 2.4.2008, he had conducted medico-legal examination on the person of Paramjit Kaur wife of Sohan Singh, aged 24 years, female, resident of VPO Mangat, District Ludhiana, who was brought to hospital by Sohan Singh son of Balkar Singh. He found the following injuries on her person:

1. Incised wound $1\frac{1}{3}$ inch x $\frac{1}{4}$ inch x 2 on the right side of the back placed obliquely at the level of T-9 vertebra, 3 inch away from the midline. Fresh bleeding was present. Corresponding cut was present in the shirt, injury was referred to surgical specialist for opinion regarding nature of injury.

2. Incised wound $\frac{1}{3}$ inch x $\frac{1}{4}$ inch x 2 on the front of the right side of the chest in its lower region. Fresh bleeding was present. Corresponding cut was present in the shirt, injury was referred to surgical specialist for opinion regarding nature of injury.
3. Reddish contusion $\frac{3}{4}$ inch x $\frac{3}{4}$ inch in front of the neck in its middle.
4. Reddish contusion $\frac{1}{2}$ inch x $\frac{1}{4}$ inch on the left side of the nose.
5. Reddish contusion $\frac{1}{2}$ inch x $\frac{1}{4}$ inch on the left side of the face, just above the left side of the upper lip.

Injuries No.1 and 2 were subjected to surgical specialist opinion while rest of the injuries were simple in nature. Probable duration of all the injuries was fresh. Injuries No.1 and 2 were caused by a sharp edged weapon and the rest of the injuries were caused by blunt weapon. He had brought the original MLR Register and proved carbon copy of the same as Ex.PW6/A and pictorial diagram showing seats of injuries was Ex.PW6/B besides police request for post-mortem was Ex.PW4/C.

PW7 Usha Rani, Clerk, DTO Office, Ludhiana had brought record relating to the ownership of motorcycle bearing registration No.PB-10-AQ-6491 in the name of Swaranjit Singh son of Sadhu Singh, resident of VPO Lehra, District Ludhiana, proving photocopy of the relevant entry as Ex.PW7/A.

PW8 ASI Ashwani Kumar, who on 2.4.2008 and 5.4.2008

was associated with the investigation of this case deposed regarding what had transpired in his presence.

PW9 Inspector Gurbans Singh, the Investigating Officer of this case testified regarding the investigation conducted by him.

With that the prosecution evidence stood closed.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against such accused were put to them but they denied the allegations contending that they were innocent and had been falsely involved in this case.

Further, accused Shamshad Khan @ Guffar took up a plea that witnesses are closely related to each other and rest of the witnesses are police officials and they are interested in success of the case; that he does not know Soma nor had any relations with her; that he never visited village Mangat; that he was falsely detained by the police prior to the alleged date of occurrence and has been falsely implicated in this case at the instance of one Shiraj Khan, a money lender to whom he could not return, which he lent to him on interest and he pressurized him through the police resources to recover the said amount illegally and forcibly.

Accused Sandeep Singh alias Kaka took up a plea that the witnesses are closely related to each other and rest of the witnesses are police officials and they are interested in success of the case; that he does not know Soma nor had any relations with her; that he never visited village Mangat; that he was arrested from the house of Harpal

Singh of Village Khawajke in presence of Ravi Sarpanch on 2.4.2008 at late evening time; that he was shown to Paramjit Kaur witness on 2.4.2008 in police station Basti Jodhewal and his name was disclosed to Paramjit Kaur and Balkar Singh witnesses, who were present in the police station by the SHO; that he was disclosed to them as the culprit of this alleged occurrence and his signatures were later on obtained in the police station by the SHO in presence of other police officials of P.S. Basti Jodhewal; that nothing was recovered from him nor he was taken to any place; that he was innocent and had been falsely implicated in this case; that he does not know even Gurjit Kaur nor he entered the house of Gurjit Kaur nor he inflicted any injury to her; that no *kirch* was recovered from him or the gold ornaments; that all the case property was arranged by Balkar Singh to connect him and his accomplices in this case who belong to his village and they were engaged to construct a well on contract basis at the house of Harpal Singh and Sarpanch Ravi; that he never suffered any disclosure statement nor got recovered any gold necklace and gold *karra*; that it was all stage managed recovery shown by the SHO against him to get appreciation and that he is poor and had been falsely implicated in this case.

Similar plea as taken by accused Sandeep alias Kaka has been took by accused Hardeep Singh @ Laddi and Lakhwinder Singh @ Vicky.

Further, accused Soma took up a plea that she is a household lady and has been blessed with four children, who are minors and maintaining her family properly; that her relations are good with the

complainant and her family; that there is no question of any type of ill-will between them and as such, she happily attended the marriage of Gurjit Kaur, alleged deceased and there was no question of any proposal on her part regarding further alliance of the alleged deceased; that she was shocked to know about the death of Gurjit Kaur; that on her death, she shared grief with the said family; that she has been named in the said case only due to suspicion; that she is the respectable lady in the village as well as amongst the relatives; that she has never been complained of by any body else in the society; that she does not know any of the accused nor she has any type of connection with them and that she remained in her house before and after 2.4.2008 till she was falsely arrested in this case.

During their defence, accused examined three witnesses.

DW1 Sawan Singh, aged about 66 years, a Rickshaw Puller, resident of village Mangat stated that he is living in the village for the last 30/32 years; that Sh.Shadi, current Sarpanch of the village had been the Sarpanch for the last about three years; that Balkar Singh is also living in their village along with his family comprising of his daughters-in-law namely Paramjit Kaur and Gurjit Kaur deceased, both of them being real sisters; that accused Soma is living in their village who is also daughter-in-law of their village; that about 2 ½ to 3 years back, a murder took place in the house of Balkar Singh inasmuch as some unknown persons had killed Gurjit Kaur that gave rise to hue and cry in the village; that on coming to know about it he had reached the house of Balkar Singh and other villagers had also gathered there; that

police also reached there in the evening; that accused Soma was also present besides other villagers at the spot and in their presence neither Paramjit Kaur nor Balkar Singh named any of the assailants, however, later on after three days of the occurrence, Soma was taken by the police on suspicion and then he came to know that case had been planted on her. The witness stated that he had not seen Soma with any of the other accused persons present in the Court.

DW2 Dilawar Khan, aged about 45 years, a resident of village Dhadewal, Tehsil Malerkotla stated that he knows accused Shamshad Khan @ Guffar since birth and that Shamshad Khan @ Guffar is son of Zulafkar; that Zulafkar is the father of four sons and two daughters; that Shamshad is eldest son of Zulafkar; that both Shamshad and Zulafkar do labour work for their livelihood; that village Mangat is about 50 kms. away from their village and he does not know or identify any of the persons/accused standing around Shamshad; that he knows only Shamshad personally who had never committed any offence in his life; that Shamshad is not even concerned with the murder case nor he has committed or participated in the same as he had never seen him in the company of other co-accused. This witness further stated that he does not know the lady accused present in the Court; that Shamshad accused has no concern with any of the co-accused; that Shamshad was brought from his house with an excuse that he had to pay some money to one Shiraj and for making inquiry he was taken along by the police and assured by the police that he will be freed after the inquiry in money matter, however, it was not so done. The witness gave a clean chit to

accused Shamshad stating that he is innocent and has been falsely involved in this case. When he was shown photograph of Shamshad in the Newspaper Daily Ludhiana Bani, Ludhiana dated 6.4.2008 Ex.DW2/A, he stated that he identifies photo of Shamshad Khan @ Guffar.

DW3 Harpal Singh, aged 58 years, resident of village Khawajke, Tehsil and District Ludhiana stated that he was Sarpanch of village Khawajke and presently he is holding position of Lambardar in the village; that he owns 45 killas of land in the village; that about 15 days prior to 2.4.2008, Sandeep Singh @ Kaka, Hardeep Singh @ Laddi and Lakhwinder Singh @ Vicky were working on contract basis to deepen the tubewell bore; that on 2.4.2008 in the evening police came to his tubewell and picked up abovesaid three accused in his presence and in presence of Ravi Sarpanch who is his son; that he came to know on 6.4.2008 that a news item was published on 5th of April and two of the accused were shown in the front page of Jagbani Ex.DW2/A; that then he came to know that a false case has been foisted upon them by Mr.Gurbans Singh, SHO, Police Station Jodhewal. He stated that he recognizes Sh.Gurbans Singh and accused remained at his tubewell during day and night and they were staying with him till they were arrested; that even on 2.4.2008, they remained present at his tubewell since morning till they were taken into custody by the police. The witness stated that the present case is false.

With that the defence evidence got concluded.

After hearing arguments, learned trial Court convicted and

sentenced the accused as mentioned supra, which left them aggrieved and they have filed the present appeals praying that the same be accepted, the impugned judgment of their conviction and sentence be set aside and they be acquitted of the charge framed against them.

We have heard learned counsel for the appellants-accused-convicts and learned Additional Advocate General for the State of Punjab besides going through the record and we are of the considered view that there is no merit in both the appeals.

Here the most important piece of evidence in the form of eye-witness account was provided by PW1 Paramjit Kaur. She having suffered injuries in the incident is a stamped witness and her presence at the spot cannot be doubted. Furthermore, she being a household lady her presence at the spot i.e. her matrimonial home becomes all the more plausible and convincing. It was this witness, who had set the machinery of law in motion by reporting the matter to the police, when police party had arrived at the spot on learning about the incident. The version so given is detailed one wherein it is also mentioned that Smt.Shinder Kaur, mother-in-law of the witness, who had gone out of house some time earlier had come back and had also seen the incident. In that way presence of Smt.Shinder Kaur at the place of occurrence at the relevant time is also established. It has to be kept in mind that Smt.Shinder Kaur after going out of the house for some purpose was bound to return to her house and she was supposed to be present at her home. Paramjit Kaur, when she stepped into the witness-box as PW1 identified Shamshad Khan, Hardeep Singh and Lakhwinder Singh

(typed as Balwinder Singh in her statement in the Court) besides her maternal aunt Soma. She had given the motive also that since Soma was not happy with marriage of Tejpal Singh having taken place with Gurjit Kaur as she wanted Tejpal Singh to marry somewhere else, she got Gurjit Kaur eliminated seeking help of her criminal friends. PW3 Smt.Shinder Kaur has also deposed in that regard. It has to be kept in mind that Soma is none else but maternal aunt of complainant Paramjit Kaur. She had no reason to involve her in this case wrongly. Similarly, no previous enmity between the complainant and other accused has been alleged or proved prompted by which she might have embarked upon treading the danger path of false implication to wreak vengeance. Even otherwise, Paramjit Kaur herself having suffered injuries in the incident and lost her younger sister who was newly married would have been the last person so as to try to screen the actual culprit and involve the accused in this case falsely since it is always the earnest endeavour of a close relative to ensure that the person responsible for death of his/her near and dear is brought to book and is punished suitably rather than attempting to shield the actual culprit and involve some innocent person in his place without any rhyme or reason. Similar is position of Smt.Shinder Kaur, mother-in-law of complainant. Though she did not claim that she had seen the incident herself but then she had seen the assailants running away after the incident and as narrated by her she was acquainted with them as they had been doing the work of digging wells in their village and had even attended the marriage of her son. She had deposed that she had seen accused Guffar @ Shamshad, Sandeep,

Hardeep Singh and Lakhwinder Singh running away from their house through the main gate and Lakhwinder Singh was having a *kirch* in his hand at that time and they had fled on a motorcycle of red colour. She stated that when she entered the room she had heard shrieks of her daughter-in-law Paramjit Kaur who was saying that the accused persons who had fled away from there had committed the murder of Gurjit Kaur by causing injuries with *kirch* and had also caused injuries to her and she had also found Gurjit Kaur and Paramjit Kaur to be in injured condition lying inside the room. In that way though strictly speaking, she is not an eye-witness of the incident but her testimony is quite relevant and important in terms of Section 6 of the Indian Evidence Act which provides that facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places. Thus applying the maxim of *res gestae*, testimony of Smt.Shinder Kaur assumes much importance and significance and had corroborated the prosecution story on material aspects supporting the testimony of PW1 Paramjit Kaur on vital points. We find the depositions of these witnesses to be creditworthy since we do not see any reason to disbelieve their statements for any reason. The medical evidence in this case duly corroborates the ocular evidence. The investigation in this case has been conducted in a fair and impartial manner. The Investigating Officer had no reason to involve the accused in this case wrongly, challaned them falsely or to depose against them to secure their conviction.

Another material evidence in this case is the extra judicial confession made by Soma before PW3 Smt.Shinder Kaur. PW3 Smt.Shinder Kaur stated that when she had returned home and had observed accused Guffar @ Shamshad Khan, Sandeep, Hardeep Singh and Lakhwinder Singh running away from their house through the main gate and then escaping on a motorcycle of red colour, she found Soma standing there, who started pleading guilty to excuse as she did a wrong by committing the murder of her daughter-in-law Gurjit Kaur through the accused persons, who had run away from the spot after committing the murder. This confession is admissible in terms of Section 29 of the Indian Evidence Act and in terms of Section 30 of the Indian Evidence Act this can be used not only against accused Soma who had made the confession but against her co-accused also since all the accused are jointly facing trial for the same offences. Section 30 of the Indian Evidence Act provides that when more person than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and 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. Thus confession made by accused Soma before PW3 Smt.Shinder Kaur regarding her involvement in the incident and that of her co-accused Guffar @ Shamshad Khan, Sandeep, Hardeep Singh and Lakhwinder Singh though not mentioning their names but by stating that those were the persons who had been spotted by Smt.Shinder Kaur to be running away from the spot after the incident, that proved to be a very strong

incriminating circumstance against the accused sealing their fate. Though in the FIR, the names of the accused are not mentioned but it is clearly given therein that Smt.Shinder Kaur had seen such accused and Smt.Shinder Kaur in her statement had named them, therefore, identity of the accused stands fixed. There was no necessity of arranging any identification parade since as deposed by Smt.Shinder Kaur – PW3, the accused were known to her as they had been working in their village for the purpose of digging of wells and had even attended the marriage of her son. There cannot be any dispute regarding identification of Soma, who is real maternal aunt of complainant having her house in the neighbourhood of matrimonial home of complainant and deceased. Thus, there was no necessity to conduct any identification parade in the instant case. Furthermore, as deposed by PW9 Inspector Gurbans Singh, Smt.Shinder Kaur was associated with the police party and on 5.4.2008 on her identification accused Shamshad was arrested from village Dhandewal situated on Raikot – Malerkotla road. Thereafter, from village Chaprauda, Sandeep and Hardeep Singh were arrested, riding the same motorcycle which had been used in commission of the crime. Then accused Soma had been arrested. Accused Lakhwinder Singh was arrested, who had suffered disclosure statement and got recovered a *kirch* and gold *karra* from his residential house. The *kirch* which had been recovered from the possession of accused Lakhwinder Singh was shown to Dr.Balwinder Singh who was member of Board of doctors, which had conducted post-mortem on the dead body of Gurjit Kaur and the witness stated that a fatal injury on the person of deceased could be

possible with such *kirch*. The accused belonged to different areas and it is highly unlikely that the complainant would have entangled them in this case without any rhyme or reason.

The prosecution had successfully proved the charge against the accused beyond shadow of reasonable doubt. 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 appeals are found to be without any merit and the same are dismissed accordingly.

It is stated that accused Soma and Shamshad Khan @ Guffar are on bail in terms of the orders passed by this Court. The bail orders are cancelled. They are ordered to be taken into custody and made to undergo the remaining sentence. Necessary direction in that regard be issued to Chief Judicial Magistrate, Ludhiana.

16.3.2017
Brij

(T.P.S. MANN)
JUDGE

(H.S.MADAAN)
JUDGE

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