

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

**Criminal Appeal D-394-DB of 2003
Decided on : February 14, 2017**

Swaranjit Singh @ Pappa

....Appellant

Versus

State of Haryana

....Respondent

Criminal Appeal D-418-DB of 2003

Jasbir Kaur @ Seero

....Appellant

Versus

State of Haryana

....Respondent

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

**Present : Mr. Vishal Rattan Lamba, Advocate
for the appellant in CRA-D-394-DB of 2003.**

**Mr. Rajiv Vij, Advocate as Legal Aid Counsel
for the appellant in CRA-D-418-DB of 2003.**

Mr. Praveen Bhadu, Assistant A.G., Haryana.

H.S. MADAAN, J.

Vide this judgment we intend to dispose of two appeals i.e.

CRA-D-394-DB of 2003 filed by Swaranjit Singh @ Pappa and CRA-

D-418-DB of 2003 filed by Jasbir Kaur @ Seero. Both of them were

convicted by the Court of Addl. Sessions Judge, Sirsa vide judgment dated 01.04.2003 and sentenced as follows vide order dated 02.04.2003:-

Name of Convict	Offence under Sections	Sentence Awarded
Swaranjit Singh @ Pappa	302/34 IPC	Imprisonment for life and to pay a fine of Rs.5,000/-.
	201 IPC	RI for one year and to pay a fine of Rs.500/-.
	364 IPC	RI for five years and to pay a fine of Rs.1,000/-
Jasbir Kaur @ Seero	302/34 IPC	Imprisonment for life and to pay a fine of Rs.5,000/-.
	364 IPC	RI for five years and to pay a fine of Rs.1,000/-.

In default of payment of fine, they were sentenced to undergo further rigorous imprisonment for one year. Whereas their co-accused, Ranjeet Singh @ Jeeta was acquitted of the charge framed against him.

Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero-accused-convicts by way of filing the two appeals pray that their appeals be accepted, the impugned judgment of their conviction as well as order of their sentence be set aside and they be acquitted of the charge framed against them.

Briefly stated facts of the case as per prosecution story are that on 20.12.2000 at about 09.30 A.M. complainant-Gurmail Singh son of Jagan Nath of Rajput Thakur Community, resident of Gobindgarh, aged about 26 years accompanied by one Pawan Kumar went to Police

Station Sadar, Dabwali, where Gurmail Singh informed that his elder brother Daler Singh, who was *Lamberdar* of the village at that time had left house on 18.12.2000 in the morning stating that he was to go to Courts at Sirsa, to attend a date of hearing there but he did not return on that day, they launched a manhunt for him, contacting their relatives, well wishers on telephones, but in vain, and he be got searched. Complainant gave salient features of Daler Singh. On the basis of such information, supplied by Gurmail Singh-complainant, report No.5 dated 20.12.2000 was entered in daily diary (*roznamcha*) of said Police Station, copy of which being Ex.PE. SI/SHO Randhir Singh of that Police Station noted in the police proceedings that no cognizable offence was disclosed from statement made by complainant-Gurmail Singh. However, all the Police Stations were informed and proclamation in the newspaper was ordered to be issued.

Search for Daler Singh was launched by the Police but without any success. On 24.12.2000, Gurmail Singh-complainant presented complaint Ex.PF before SI/SHO Randhir Singh, on the basis of which formal FIR Ex.PF/1 was recorded. *Inter alia* the complaint had contended that a news item was got published in newspaper '*Lahu Ki Lau*' regarding Daler Singh having gone missing and on reading that newspaper Indraj son of Ram Narain of Bishnoi Community, resident of Lakhuana came to his house and informed that on 18.11.2000, while he was standing at bus stand at Lakhuana at about 6.45 A.M. in the morning for going to Bathinda for some personal work, then Daler Singh also arrived there and both of them started conversing with each

other. During the course of the conversation Daler Singh disclosed that he was going to Sirsa to know about the date of hearing in the case, in the meanwhile Swaranjit Singh @ Pappa son of Beant Singh, Jat Sikh, resident of village Himmatpura, District Moga and Jasbir Kaur @ Seero wife of Roop Singh of Majhbi Sikh community, resident of village Himmatpura, District Moga also arrived there in a jeep from the side of Abubshahar. The jeep was stopped near them. Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero said to Daler Singh, Lamberdar that they owed Rs.20,000/- to him, which amount he had demanded from them several times and he had also visited their house for that purpose, that they had gone to Rajasthan and were returning home, for that reason they had not brought the amount with them. They asked Daler Singh to accompany them to village Himmatpura to take the amount, otherwise, the same would be spent. Daler Singh told them that he was going to Sirsa on that day to enquire about the date of hearing of his case and they should return amount to him on their visit to his village. However, Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero insisted that Daler Singh should accompany them to their village on that very day, since they were going to his house to fetch him. Thereafter, Daler Singh, Lamberdar accompanied them in the jeep, asking them that he was to go to Bathinda and, therefore, to travel with them in the jeep. Indraj had further informed the complainant that he had occupied seat in the jeep along with Swaranjit Singh @ Pappa, Jasbir Kaur @ Seero and Daler Singh, Lamberdar and after dropping him at bus stand of Bathinda Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero took Daler Singh

towards village Himmatpura. Indraj already knew both the accused, since in crop season of kharif 2000 Daler Singh had brought Jasbir Kaur @ Seero along with other men and women from Himmatpura at Smalsar, Jasbir Kaur @ Seero and other women had stayed with Daler Singh at village Gobindgarh for one month for plucking cotton crop and some time Indraj also used to engage Jasbir Kaur @ Seero and other women as labourers for the purpose of plucking his cotton crop. In that way, Swaranjit Singh @ Pappa had intimate relations with Jasbir Kaur @ Seero and he used to meet Jasbir Kaur @ Seero many times in the house of Indraj, Daler Singh, Lamberdar at village Gobindgarh and Lakhuana. Whereas Swaranjit Singh @ Pappa used to visit Daler Singh and he had developed cordial relations with him. In crop season of cotton, Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero had borrowed Rs.20,000/- from Daler Singh, promising to return the amount within one month. The said amount had been paid by Daler Singh to the accused in presence of complainant. Daler Singh had visited accused several times to get back his Rs.20,000/- but to no effect. In the complaint, the complainant suspected that both the accused Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero had committed murder of his brother Daler Singh to grab Rs.20,000/- out of greed or they had concealed him at some place, in that way, Daler Singh be got recovered.

Then, the police party led by SI/SHO Randhir Singh accompanied by complainant went to village Lakhuana where they came across Indraj. The Investigating Officer prepared rough site plan Ex.PN on identification provided by Indraj and his statement was recorded.

Thereafter, police party along with complainant- Indraj went to village Himmatpura, District Moga and thereafter to Police Station, Nihalsinghwala, while searching for accused, but in vain. However, Gurmail Singh, resident of village Himmatpura met the Investigating Officer and undertook to produce the accused before him.

On 25.12.2000, the Investigating Officer again went to village Himmatpura but accused were not traceable. However, on the same day at about 10.00 P.M., Gurmail Singh-complainant met the Investigating Officer and got his supplementary statement recorded. On 26.12.2000 in the morning, Kamal and Swaran Singh PWs approached SI/SHO Randhir Singh at Police Station. They were joined in the investigation. The Investigating Officer was on way to village Himmatpura when in the Grain Market, Nihalsinghwala where Shri Baldarshan Singh, Sarpanch resident of village Killianwali came across him and he produced accused Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero before him. Statement of Baldarshan Singh, PW was recorded. Both the accused were interrogated. Jasbir Kaur @ Seero suffered a disclosure statement Ex.PH whereas Swaranjit Singh @ Pappa also suffered disclosure statement to the effect that he had hidden dead body of deceased-Daler Singh under heap of garbage in front of his house. The disclosure statement Ex.PJ was attested by witnesses which was thumb marked by accused and attested by the witnesses.

Thereafter, Investigating Officer took accused and the witnesses to village Himmatpura. There accused Swaranjit Singh @ Pappa, while in police custody, led police party to the place and got

recovered dead body. In the meanwhile, Ramesh Kumar, Photographer had also arrived at the spot and on instructions of Investigating Officer, he took photographs of the dead body. The Investigating Officer had carried out inquest proceedings with respect to unnatural death of the deceased and prepared report in that regard as Ex.PK/1. Dead body was sent to Medical College and Hospital, Faridkot for postmortem examination. The Investigating Officer had prepared rough site plan of place of recovery Ex.PO. He recorded statements of witnesses, then on return to the Police Station, he put the accused in the lock-up.

On 27.12.2000, both the accused were in police custody. On 28.12.2000 Kamaljit Singh and Swaran Singh, PWs had come to the Police Station. Both accused were interrogated in their presence. Accused Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero had suffered disclosure statements. In his disclosure statement Ex.PJ Swaranjit Singh @ Pappa had stated that he had hidden *kappa (datar)* i.e. a sharp edged agriculture implement used by him in the incident on the roof top of kotha of his tubewell, after cleaning it and he could get the same recovered. Whereas accused Jasbir Kaur @ Seero in her statement Ex.PH had stated that she had hidden a gold ring in the ventilator of the house of Swaranjit Singh @ Pappa and that she could get the same recovered. Therefore, accused- Swaranjit Singh @ Pappa led the police party and got the *kappa* recovered, which was converted into a parcel, sealed with seal of Investigating Officer, having impression 'RS' and then it was taken into possession vide recovery memo Ex.PJ/1. Jasbir Kaur @ Seero led the police party and got

recovered gold ring from the place disclosed by her in her statement, it was converted into a parcel and sealed with seal of Investigating Officer having impression 'RS'. The said parcel was taken into possession vide memo Ex.PH/1. The seal after use was handed over to Swaran Singh, PW. The Investigating Officer prepared rough site plans of places of recovery i.e. of *kappa* Ex.PJ/2 and ring Ex.PH/2. He recorded statements of witnesses and on return to the Police Station put the accused in lock-up and deposited the case property with MHC.

On 05.01.2001, police party led by SI/SHO Randhir Singh had gone to Police Station, Nihalsinghwala in search of accused Ranjeet Singh @ Jeeta. Said police party had also gone to village Panjuwala where he was not found to be there. However, PW Gurmail Singh, Pradhan had undertaken to produce him before the police, then he had produced accused Ranjeet Singh @ Jeeta before the police, on the same day he was arrested in this case. On 06.01.2001, PWs Naresh and Suresh went to Police Station Sadar, Dabwali. In their presence, accused Ranjeet Singh @ Jeeta was interrogated and he made a disclosure statement Ex.PL that he had hidden a purse containing some money of Daler Singh and his shoes in the same house of Swaranjit Singh @ Pappa. Such accused had disclosed that he had already spent money and he could get the remaining articles recovered. Thereafter, he was produced in Courts at Dabwali and he was remanded to police custody. Then accused Ranjeet Singh @ Jeeta in police custody led the police party to the disclosed place and got recovered a purse containing one Identity Card of Daler Singh and a receipt of taxi besides a pair of

shoes. Those articles were converted into a parcel and sealed with seal of Investigating Officer having impression 'RS'. The said parcel was taken into possession vide memo Ex.PM attested by witnesses. Seal after use was handed over to PW Ramesh Kumar. The Investigating Officer had prepared rough site plan of place of recovery Ex.PM/1. On return to the Police Station, he deposited the case property with MHC and put the accused in lock-up. After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court of Illaqa Magistrate.

On presentation of challan in the Court of Illaqa Magistrate, Mandi Dabwali, copies of documents relied upon therein by the prosecution were supplied to the accused, free of cost, as provided under Section 207 Cr.P.C. Then finding that offences under Sections 302 and 364 are exclusively triable by Courts of Sessions, the Magistrate committed the case to the Court of learned Sessions Judge, Sirsa. When the case was received in the Court of Addl. Sessions Judge, Sirsa, then finding a prima facie case charge for offences under Section 364 IPC was framed against accused Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero and for offence under Section 302 IPC read with Section 34 IPC against accused Swaranjit Singh @ Pappa, Ranjeet Singh @ Jeeta and Jasbir Kaur @ Seero. Swaranjit Singh @ Pappa was also chargesheeted for offence under Section 201 IPC to which they pleaded not guilty and claimed trial and case was fixed for evidence of prosecution.

During the course of evidence of prosecution, the

prosecution examined in as much as eleven witnesses.

PW1 - Constable Dharambir, a formal witness tendered in evidence his affidavit Ex.PA.

PW2 – Constable Mohan Lal, Draftsman, S.P. Office, Sirsa stated that on 01.02.2001, on pointing out of Swaran Singh and Indraj, he had prepared scaled site plan Ex.PB with correct marginal notes using the scale as 1” = 20 feet. He further added that on the same day, on pointing out of Indraj and Swaran Singh he had prepared scaled site plan Ex.PC using the same scale.

PW3 – Head Constable Diwan Singh, stated that on 26.12.2000 he was posted at Police Station Sadar, Dabwali when dead body of Daler Singh was handed over to him by SI/SHO Randhir Singh for getting postmortem examination conducted. However, the postmortem examination could not be got conducted on that day from Civil Hospital, Moga. As such, on the next day, dead body was taken to Medical College, Faridkot where postmortem examination was carried out. The witness added that after postmortem examination, the Doctor handed over to him a sealed parcel, containing clothes of deceased, a copy of postmortem report and a sample seal and he had given those articles to SI/SHO Randhir Singh, who took the same into possession vide recovery memo Ex.PD. The witness ended his examination- in-chief stating that after postmortem examination he had handed over dead body to relatives of the deceased.

PW4 – Gurmail Singh, a younger brother of deceased deposed that on 18.12.2000 Daler Singh had left home at about

6.00/6.15 A.M. for attending hearing of a case in Court at Sirsa but he did not come back till 7.00 P.M. They launched a drive to trace him but to no effect. Since, he could not be found till 19.12.2000, therefore, according to this witness, he had lodged missing report to the police, copy of report being Ex.PE. He stated that Daler Singh was wearing a pant and shirt, a khakhi colour Jersi and a gold ring with his name engraved thereon when he left home. The witness further added that on 24.12.2000 Indraj, PW came to their house and informed that Daler Singh had met him at Bus Stand, Lakhuana on 18.12.2000 at about 6.30/6.45 A.M. That he had further informed him that Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero had come there in a jeep and they took away Daler Singh with them. That Indraj had told him that he had accompanied them in the jeep upto Bhatinda and Indraj had contacted him after reading a news in newspaper '*Lahu Ki Lau*' inserted by them. The witness stated that thereafter he went to Dabwali, got typed application Ex.PF and submitted it at Police Station Sadar, Dabwali. He stated that Swaranjit Singh-accused is known to him since he used to supply them labourers for plucking cotton and he knew Jasbir Kaur @ Seero as she had come to their village for plucking cotton. That both the accused had taken a loan of Rs.20,000/- from Daler Singh but had not returned the amount.

PW5 – Indraj supported the prosecution story, as regards his coming across Daler Singh at Bus Stand of village Lakhuana on 18.12.2000 in a jeep driven by Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero, as occupant, coming at that place side of Abubshahar,

Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero asking Daler Singh to accompany them to their house as they were to return loan amount to him, ultimately, he and Daler Singh boarding the jeep, his alighting from the jeep at Bathinda and Daler Singh alongwith two accused going with them, his returning to house on 23.12.2000 in the evening and his daughter showing him newspaper carrying news regarding missing of Daler Singh and thereafter his going to house of Daler Singh on 24.12.2000 at about 5.00 A.M. and informing Gurmail Singh in that regard. He further deposed that on 01.10.2000, Daler Singh since dead, had given Rs.20,000/- to Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero in his presence and that of Gurmail Singh. He stated that Swaranjit Singh @ Pappa accused has illicit relations with Jasbir Kaur @ Seero.

PW6 – Baldarshan Singh, Sarpanch of village Killianwali stated that on 26.12.2000, he had gone to village Nihalsinghwala, where Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero accused met him and told him one after the other that on 18.12.2000 they took away Daler Singh from Bus Stand Lukhuana in a jeep on the pretext of returning his amount on Rs.20,000/- and then taking him to village Himmatpura with intention to kill him. Then they further told him that their relative Ranjeet Singh @ Jeeta was already present there; while Jasbir Kaur @ Seero and Ranjeet Singh-accused had caught hold of Daler Singh, Swaranjit Singh @ Pappa attacked him on the neck with a *kappa* as a result of which, Daler Singh died. According to this witness, both the accused had asked him to produce them before police which was already

in search of them and that he took them in his jeep and produced them before police at village Nihalsinghwala.

PW7 – ASI Ramesh Kumar, a formal witness tendered in evidence his affidavit Ex.PG.

PW8 – Swaran Singh, stated that on 18.12.2000 in response to police summons, they had gone to a place called Nihalsinghwala where they had met Baldarshan Singh near the grain market. He had arrived there in a jeep along with accused Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero and that he further stated that on 26.12.2000, both the accused were interrogated by the police in his presence in the premises of grain market of village Nihalsinghwala. Accused Pappa made statement before the police in his presence that the dead body of Daler Singh was lying underneath heap of wheat husk, again said underneath heap of garbage inside the premises of his Nohra. His statement Ex.PG was recorded which was thumb marked by accused Swaranjit Singh @ Pappa and it was signed by him and Kamaldeep in token of its correctness.

Thereafter, the accused led police party to the garbage site and got the dead body dug out which was got photographed by the police. The inquest proceedings were carried out, then dead body was taken to Government Hospital, Moga for autopsy, from where it was referred to Medical College, Faridkot and on 27.12.2000, after autopsy dead body was delivered to them which was subsequently cremated. The witness further stated that on 28.12.2000, the police had again summoned him and Kamaljit Singh to the Police Station. Jasbir Kaur @

Seero was interrogated in the first instance and she disclosed before the police that a ring made of gold belonging to deceased Daler Singh had been hidden by her in the ventilator in the house of Swaranjit Singh @ Pappa Ex.PH. Swaranjit Singh @ Pappa was also interrogated and suffered statement Ex.PJ that he had hidden *kappa* used in the occurrence over roof of a *kotha* in his fields about which no other person had the knowledge. That statement was thumb marked by the accused and thereafter the accused while in police custody led the police party to village Himmatpura and got recovered *Kappa* which was seized vide memo Ex.PJ/1 then accused Jasbir Kaur @ Seero got recovered ring from site already disclosed by her which was seized vide memo Ex.PH/1. Letters 'DS' were engraved on the ring. That both the articles were converted into sealed parcels and then taken into possession. The witness proved the *Kappa* Ex.P-1 and the ring of gold Ex.P-2.

PW9 – Dr. Virender Singh, Medical Officer, Civil Hospital, Bagha Purana, District Moga, Punjab stated that on 27.12.2000, while he was posted as Registrar in the Department of Forensic Medicines, on that day he had conducted postmortem examination on dead body of Daler Singh and observed as follows:-

“The body was emitting foul smell. Eye balls putrified and coming out from the eye sockets. Mouth was partly opened, stool was lying outside. Body was swollen due to putrefication. Scrotum and penis was swollen Rectum was protruded out. Hairs easily pulled out. Mud was present all over the body

and clothes Skin was peeled off at places.”

Injuries :-

“1 – Incised wound 13 cms x .2 to .5 cm was present on the anterior aspect of neck starting from 2 cms below the left angle of jaw and going transversely towards the other side of the neck. Clotted blood was present. On dissection, underlying tissue, subcutaneous tissue, larynx, oesophagus, muscles, blood vessels, nerves were seen cut. Clotted blood was present.

2 – Incised wound 7 cms x .3 to 3.5 cms present on left side of mandible starting from 2 cms laterally to left angle of mouth going down and medially 2 cms above the middle of lower border of mandible. Clotted blood was present and on dissection, lower lip sub cutaneous tissue, teeth and mandible were seen fractured. Clotted blood was present.

All other organs were seen putrified.”

He stated that the cause of death, in his opinion was due to shock and haemorrhage as a result of injury No.1 and injury No.2. He further opined that injury No.1 was sufficient individually to cause death in ordinary course of nature and that all the injuries were ante mortem in nature and those injuries were caused by heavy sharp edged weapon. He gave the time which elapsed between injuries and death as within few minutes and between death and autopsy as about one to two weeks.

PW-10 Ramesh Kumar, Photographer stated that on 02.12.2000, he had gone to village Himmatpura and taken photographs of dead body of deceased numbering six Ex.P-3 to P-8, negatives Ex.P-9 to P-14 and had handed over such photographs to the police. This witness further stated that on 06.01.2001, he and Naresh Kumar had visited Police Station Sadar, Dabwali and in their presence accused Ranjeet Singh @ Jeeta was interrogated, who had disclosed that he had hidden a purse and a pair of shoes of Daler Singh-deceased underneath the heap of wheat chaff in the house of accused Swaranjit Singh @ Pappa and that he could have those recovered. The disclosure statement made by accused being Ex.PL and, thereafter, accused Ranjeet Singh @ Jeeta was produced before Area Magistrate and was taken to village Himmatpura where he got recovered purse containing currency notes worth Rs.670/- Ex.P-15, one identity card Ex.P-16, and a chit Ex.P-17, one card of Ardi Taxi and one pair of shoes Ex.P-18 and P-19 from the place disclosed by him. Those articles were seized vide memo Ex.PM attested by him and Naresh Kumar. This witness volunteered to state that accused- Ranjeet Singh @ Jeeta had informed that he had already spent amount of Rs.670/-. That the police had converted aforesaid articles into two separate parcels sealing those with his seal.

PW11 – SI/SHO Randhir Singh, since promoted as Inspector, the Investigating Officer of this case deposed regarding the investigation conducted by him, proving various documents. The Public Prosecutor closed the evidence of prosecution after tendering report of FSL Ex.PBB.

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.

Jasbir Kaur @ Seero stated that she has been implicated in a totally false case on mere suspicion, that she has nothing to do with either abduction or death of Daler Singh because she had no motive to harm him; that she had never taken any money from him much less alleged amount of Rs.20,000/-; that she has nothing to do with co-accused Ranjeet Singh @ Jeeta and Swaranjit Singh @ Pappa; that the weapon of offence has been planted upon her. She was arrested on 23.12.2000 and not on 26.12.2000 as alleged.

Ranjeet Singh @ Jeeta stated that he has been implicated in a totally false case, that his imported watch was embezzled by Gurmail Singh, Pradhan, resident of village Himmatpura, who had friendly relation with Swaranjit Singh @ Pappa-accused, that a dispute arose between him and Gurmail Singh, Pradhan over that issue as such he had enmity with him and he has been implicated at instance of Gurmail Singh, Pradhan that he has nothing to do with accused-Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero, that he was produced by Jagdev Singh, Member Panchayat and Bhola Singh of village Pakharwadh before police and not by Gurmail Singh, Pradhan. That the alleged articles i.e. purse and shoes have been planted upon them and he had never suffered any disclosure statement before the police.

Swaranjit Singh @ Pappa took up a plea that he has been

involved in this case on the basis of suspicion and he has nothing to do with either abduction or death of Daler Singh, since, he has no motive to harm him; that he had not taken any money from him much less alleged amount of Rs.20,000/-; that he had nothing to do with his co-accused Ranjeet Singh @ Jeeta and Jasbir Kaur @ Seero; that a weapon of offence has been planted upon him; and that he was arrested on 23.12.2000 and not on 26.12.2000 as alleged.

During the defence evidence, accused examined in as much as three defence witnesses as detailed below:-

DW1 – Gurmail Singh, resident of Village Himmatpura stated that he is Panch (Member of Gram Panchayat) of his village for the last about 19 years and knows accused Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero who belong to his village. On 23.12.2000, the police force of Haryana had come to their village and enquired about them, that Haryana Police officials were accompanied by the police force of P.S. Nihalsinghwala. The witness stated that on 24.12.2000, he had produced both the accused before the police of P.S. Nihalsinghwala and they were produced before Haryana Police. The police prepared memo Ex.DC, signed by him. He stated that Ranjeet Singh @ Jeeta - accused is neither known to him nor he had produced him before the police.

DW-2 Bhola Singh @ Jitender Singh of village Pakharwadh, District Moga stated that he knows accused Ranjeet Singh @ Jeeta of his village. He, Jagdev Singh and Labh Singh, father of such accused has produced Ranjeet Singh @ Jeeta before the police at P.S.

Nihalsinghwala on 05.01.2001 at about 10.00 A.M; that police of P.S. Sadar, Dabwali had arrived at about 12.00 Noon and had brought Ranjeet Singh @ Jeeta-accused to Police Station Sadar, Dabwali; that he has been falsely implicated at the instance of Gurmail Singh of village Himmatpura since there was a dispute between Gurmail Singh and Ranjeet Singh @ Jeeta regarding an imported watch which had arisen about one month prior to 05.01.2001.

DW-3 Gurtej Singh, MHC, P.S. Nihalsinghwala had brought the summoned record, stating that as per entry at serial No.17 dated 24.12.2000 in the daily diary of the Police Station, a police party headed by SI/SHO Randhir Singh, P.S. Sadar, Dabwali had arrived at 5.45 P.M. and then immediately departed from the Police Station; that there is no entry in respect of police help sought by police party from the local Police Station. The witness stated that there is no entry in respect of the arrival of the police party from Dabwali, on 25, 26 and 28.12.2000 as well as on 06.01.2001.

With that the defence evidence of accused was closed.

After hearing arguments, the trial Court convicted and sentenced accused Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero as mentioned above whereas acquitted Ranjeet Singh @ Jeeta.

Feeling aggrieved by the judgment of their conviction and sentence, Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero have filed the present appeals.

We have heard learned counsel for the appellants, learned Assistant Advocate General for the State besides going through the

record and we find that there is absolutely no merit in the appeals. This case is mostly based upon circumstantial evidence. However, the prosecution has successfully completed the chain of events and established a plausible motive for the incident. From the statement of complainant PW4 – Gurmail Singh, it comes out that his elder brother Daler Singh had left home on 18.12.2000 and he did not come back till evening of the following day, therefore, he had lodged a missing report with the police, copy of the report being Ex.PE. From the statement of PW-5 Indraj, it comes out that on 18.12.2000 itself at Bus Stand of village Lakhuana, he had come across Daler Singh-deceased at about 6.45 A.M., who had told him that he was going to Sirsa, in the meanwhile, a jeep had come from side of Abubshahar. Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero were occupants of the jeep and they asked Daler Singh to accompany them to their house since they had money with them for returning to him. Ultimately, Daler Singh agreed to do so and sat in the jeep, so did this witness who travelled with them up to Bathinda and got down from the jeep whereas Daler Singh left with Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero for going to their house. Thus, Indraj provided the crucial evidence of deceased being last seen in company of accused Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero before his disappearance. This witness stated that he had returned to his house on 23.12.2000 in the evening when his daughter told him about publication of news item in the newspaper regarding missing of Daler Singh; that he had gone to house of complainant on the next day in the morning and informed him what he

had seen. In his cross-examination, this witness remained unshattered. No reason was there for him to come forward to depose falsely in favour of the complainant and against the accused. This witness categorically stated that Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero were known to him as they used to come to fields of Daler Singh for plucking cotton and from there he used to take them to his own fields for that very purpose. He stated in no uncertain terms that Swaranjit Singh @ Pappa was having illicit relations with Jasbir Kaur @ Seero-accused. He provided the motive for the incident, when he stated that on 01.10.2000, Daler Singh, since deceased, had given Rs.20,000/- to Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero as loan at his house in his presence and in presence of Gurmail Singh. PW-4 Gurmail Singh had also testified in that regard stating that accused were known to him earlier and they had taken a loan of Rs.20,000/- from his brother Daler Singh but had not returned the same. The deceased was taken away by accused Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero to their place on the pretext of returning his money. Though, as stated by Indraj, PW deceased was not willing to go with them but on insisting of Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero, he had accompanied them to their house in their jeep. That goes to show that these two accused had kidnapped Daler Singh. From the statement of PW6 – Baldarshan Singh, Sarpanch of village Killianwali, it comes out that accused Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero had approached him on 26.12.2000 and had disclosed their criminal acts stating that on 18.12.2000, they had taken away Daler Singh from Bus

Stand, Lakhuana in a jeep on the pretext of returning the amount of Rs.20,000/- and then taken him to village Himmatpura with an intention to kill him. Baldarshan Singh happened to be a respectable man being Sarpanch of his village. Thus, there was every likelihood of such accused approaching him, with a request to produce them before the police to save them from police torture and as such they had been produced before the police by this witness as stated by him in his examination-in-chief. From statement of PW-8 Swaran Singh, it comes out that Baldarshan Singh had brought accused Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero in his jeep to Nihalsinghwala. PW8 – Swaran Singh also deposed regarding accused Swaranjit Singh @ Pappa making a disclosure statement that dead body of Daler Singh was lying underneath heap of garbage inside premises of his Nohra and thereafter in pursuance of that statement and got the dead body recovered. This is a very strong piece of evidence against the accused. The disclosure statement Ex.PG had led to recovery of dead body of Daler Singh. Therefore, the same is admissible in terms of Section 27 of the Evidence Act. Then accused Jasbir Kaur @ Seero had got gold ring of deceased. Daler Singh recovered from a place in the house of Swaranjit Singh @ Pappa whereas Swaranjit Singh @ Pappa had got recovered *kappa* used in the incident from his possession in pursuance of the disclosure statements. All these are strong incriminating circumstances against the accused. Medical evidence duly corroborates the prosecution story. PW9 – Dr. Virender Singh, who had performed postmortem examination on dead body of Daler Singh, when shown weapon of

offence Ex.P-1, referred to as *barchha* that the injuries on person of dead body could be inflicted by such type of weapon. The prosecution had successfully proved its charge against the accused that sharing a common intention, Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero had kidnapped Daler Singh with a view to murder him and he was so murdered by Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero had taken away gold ring of Daler Singh, hiding it in house of Swaranjit Singh @ Pappa itself. Furthermore, after committing murder of Daler Singh, they had tried to dispose of his dead body to conceal/destroy the evidence of such murder. The prosecution being successful in its endeavour to prove its charge against the accused by bringing enough cogent and convincing and reliable evidence, the trial Court was justified in convicting and sentencing accused Swaranjit Singh @ Pappa and Jasbir Kaur @ Seero. There is no illegality or infirmity in the impugned judgment of conviction of sentence. The same is upheld whereas appeals filed by the accused are found to be without merit and are dismissed accordingly.

(T.P.S. MANN)
JUDGE

(H.S. MADAAN)
JUDGE

February 14, 2017

rajneesh

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