

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D No.202-DB of 2013 (O&M)
Date of decision : August 06, 2018

Jatinder Kumar Sharma @ Jindu Appellant

Versus

The State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE A.B. CHAUDHARI
HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Raj Kumar Gupta and
Mr. Balbir Singh Jaswal, Advocates for the appellant.

Ms. Anju Arora, Addl. A.G., Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J.

Impugned in the present appeal is the judgment of conviction dated 29.01.2013 and order of sentence dated 30.01.2013 passed by learned Sessions Judge, Ferozepur, vide which the accused-appellant, namely, Jatinder Kumar Sharma @ Jindu was convicted and sentenced as under:

S.N.	Under Section	Sentence
1.	302 IPC	R.I. for life, to pay a fine of Rs.20,000/- and in default of payment of fine, to further undergo R.I. for six months.
2.	302 IPC	R.I. for life, to pay a fine of Rs.20,000/- and in default of payment of fine, to further undergo R.I. for six months.

3. 27 of the Arms Act R.I. for three years, to pay a fine of Rs.2,000/- and in default of payment of fine, to further undergo R.I. for two months.

All the sentences were directed to run concurrently.

The present case was registered on the statement (Ex.P12) dated 05.03.2010 of Jatinder Sharma @ Happy (Jindu), who was later on accused in this case. In his statement Jatinder Sharma @ Happy (Jindu) stated that he was a student of 10+2 and Malkiat Singh (since deceased) son of Suba Singh, resident of Dera Baba Ram Lal Gurudwara, Ferozepur, who had left his studies after 10+1 class, was his friend. Jatinder Sharma @ Happy (Jindu) had love affair with Manisha Paul D/o Late Sh. Parshotam Lal and his friend Malkiat Singh had love affair with Manisha Paul's sister Rupali Paul, residents of Dera Baba Ram Lal, since long. Rupali Paul, girl friend of his friend Malkiat Singh was to be engaged on 06.03.2010. On 04.03.2010 around 4.00 P.M., his friend Malkiat Singh told him that he cannot live without Rupali Paul and will die. Jatinder Sharma @ Happy (Jindu) told him that he will meet Manisha Paul, sister of Rupali Paul and thereafter they will initiate dialogue with her mother. But Malkiat Singh said that they would meet tomorrow near electric tubewell on the fields at village Hakewala, where they would also call their respective girl friends. On 05.03.2010, at about 9.30 A.M., Jatinder Sharma @ Happy (Jindu) and Malkiat Singh reached the electric tubewell. Their girl friends, namely Manisha Paul and Rupali Paul also reached there. Malkiat Singh along with his girl friend Rupali Paul sat near the wall of the of tubewell and started talking to each other. After sometime, Malkiat Singh started hurling abuses at his girl friend. Jatinder Sharma @ Happy (Jindu) and Manisha Paul

rushed towards them. Then Malkiat Singh lifted .12 bore DBBL gun from the barseen fields. He was also holding two live cartridges of the same bore in his hand. Jatinder Sharma @ Happy (Jindu) snatched both the cartridges from the hands of Malkiat Singh and tried to snatch the gun but Malkiat Singh did not hand over the gun. Manisha Paul ran towards the outer fields raising alarm. Jatinder Sharma @ Happy (Jindu) chased Manisha Paul to stop her to raise alarm. Suddenly, they heard the sound of firing of gun shot from the back side. Then Jatinder Sharma @ Happy (Jindu) and Manisha Paul while running towards Malkiat Singh saw that Rupali Paul was breathing with difficulty. In their presence, Malkiat Singh fired a shot from his gun towards his forehead and fell down and died at the spot. Thereafter, Jatinder Sharma @ Happy (Jindu) and Manisha Paul in order to save Rupali Paul made arrangement for a vehicle to shift her to Civil Hospital, Ferozepur, where doctor declared her to be dead. Thereafter, Jatinder Sharma @ Happy (Jindu) brought the heirs of Malkiat Singh along with him towards the fields and after leaving Sahbi daughter of paternal uncle of Malkiat Singh near the dead body went to the police station, where he met S.H.O. Sarabjit Singh, near Basti Nizamdin, Peer Ke Ahmad and got recorded his statement. The S.H.O. made the endorsement on the same and sent the same to the Police Station at 10.30 A.M., where formal FIR No.40, dated 05.03.2010 (Ex.P13), under Sections 302 IPC and Section 25 of the Arms Act was registered at 11.05 A.M. The inquest report (Ex.P4) was prepared. The site plan of the place of occurrence was also prepared. 12 bore DBBL gun along with two empty cartridges were recovered from the place of occurrence and were taken into possession, vide memo Ex.P15. The

two live cartridges, which were snatched by Jatinder Kumar @ Happy from Malkiat Singh were also produced by him before the police. Memo recovery of blood stained earth and simple earth was also prepared. The statements of witnesses were also recorded. The postmortem of dead bodies of Malkiat Singh and Rupali Paul was got conducted.

It comes out that Suba Singh father of deceased Malikat Singh moved an application before the Sr. Superintendent of Police, Ferozepur on 29.03.2010 (Ex.P2/A), which was received in the office of Sr. Superintendent of Police, vide endorsement No.1889, dated 10.06.2010. In the said complaint, Suba Singh put forwarded another version of the story. He stated that Jatinder Kumar Sharma @ Jindu and his son Malkiat Singh (since deceased) were close friends. Jatinder Kumar Sharma @ Jindu frequently used to visit his house. On 04.03.2010, Jatinder Kumar Sharma @ Jindu came to his house and after taking meal, he slept there at night. In the morning, Jatinder Kumar Sharma @ Jindu after taking tea, took away his .12 bore gun along with the cartridges and went away. He was seen by the neighbour taking away the gun. Thereafter, his son Malkiat Singh took a bath and went to the motor. Suba Singh and other family members had gone to attend Bhog of Shri Akhand Path in the neighbourhood. On 05.03.2010 at about 10.00 A.M., he received information that his son Malli (Malkiat Singh) has received bullet injury and has died. Suba Singh along with neighbourers reached the spot, where the dead body of Malkiat Singh was lying in the fodder and the gun was lying at the distance of about 25 feet near the wall of motor. At the spot, Suba Singh came to know that one girl from their neighbourhood, namely, Rupali Paul, her sister Manisha Paul

along with Jatinder Kumar Sharma @ Jindu had come on motorcycle/scooter at the spot. Rupali Paul also received gun shot injury. Therefore, Jatinder Kumar Sharma @ Jindu and Manisha Paul took Rupali Paul on the scooter to the Civil Hospital, Ferozepur, where she died. Suba Singh had made inquiries at the spot and had come to know that Jatinder Kumar Sharma @ Jindu along with some unknown persons had fired shots and killed Rupali Paul and Malkiat Singh with the licensed gun of Suba Singh. In order to show the public, Jatinder Kumar Sharma @ Jindu took Rupali Paul to the hospital and also made statement to the police. Suba Singh also stated that the motive for the crime is that Jatinder Kumar Sharma @ Jindu had borrowed ₹20,000/- from Malkiat Singh, which he had advanced after withdrawing the same from post office. Malkiat Singh was demanding that money but Jatinder Kumar Sharma @ Jindu did not return the money. Therefore, Jatinder Kumar Sharma @ Jindu killed his son. On the basis of the said complaint, an inquiry was conducted by Deputy Superintendent of Police, Police Station, Sadar Ferozepur, and submitted his report dated 06.08.2010 (Ex.P8), in which he found that Jatinder Kumar Sharma @ Jindu has committed murders of Malkiat Singh and Rupali Paul. Therefore, he recommended that Jatinder Kumar Sharma @ Jindu be challaned.

Accordingly, Jatinder Kumar Sharma @ Jindu was arrested on 23.09.2010, vide memo Ex.P9.

After completion of the investigation, the challan was presented in the Court. The accused-appellant was charge-sheeted for the commission of offence punishable under Sections 380 and 302 IPC for two counts and

Section 30 of the Arms Act, 1959, to which he pleaded not guilty.

In support of its case, the prosecution examined Krishan Lal Sondhi, Draftsman as PW1, Suba Singh father of deceased Malkiat Singh as PW2, Salwinder Singh as PW3, Bhagat Singh as PW4, Ashwani Kumar as PW5. Dr. Rajinder Kumar Manchanda as PW6, Maghar Singh Sr. Assistant of the office of Deputy Commissioner, Ferozepur as PW7, DSP Joginder Singh as PW8, ASI Suresh Kumar as PW9 and Investigating Officer Sarabjit Singh, PW10 and thereafter close the prosecution evidence.

When examined under Section 313 Cr.P.C., accused-appellant claimed that he is innocent. He put up the following version:

“I and Malkiat Singh (deceased) were good friends. I was in love with Manisha Paul and Malikat Singh was in love with Rupali Paul. Both Rupali Paul and Manisha Paul were real sisters. Malkiat Singh was very deeply in love with Rupali Paul. Both Rupali and Manisha used to come to the field of Malkiat Singh to meet me and Malikat Singh. Love affairs were quite old ones. Rupali Paul was to be engaged on 6.3.2010. Both Rupali and Manisha were called by me and Malkiat Singh in the fields of Malkiat Singh on 5.3.2010 in the morning at about 9.00 a.m. Malkiat Singh who was upset with the news of Rupali's engagement with some body else on 6.3.2010, as usual myself and Manisha went to one side of the field and Malkiat Singh and Rupali sat near the motor in the fields. After few minutes. I and Manisha heard the sound of fire from the side of the motor where Malkiat Singh & Rupali were sitting. I rushed towards that side

and saw that Rupali had been hit by the gun shot fired by Malkiat Singh and before I could reach near them Malkiat Singh placed DBBL gun under his chin and fired another shot. Coming near, I found that Malkiat Singh had died and Rupali was still struggling. I immediately with the help of Manisha managed to take her to the hospital where she also expired and then I moved towards the police station and got my statement recorded which is the basis of the FIR. In this case, statement of Manisha, real sister of Rupali was also made to the IO. While proceeding towards the police station I had left the daughter of uncle of Malkiat Singh, who was made to sit near the dead body of Malkiat Singh for guarding.”

The accused-appellant did not lead any evidence in defence.

After hearing the prosecution, learned defence counsel and going through the evidence, learned Sessions Judge, Ferozepur convicted and sentenced the accused-appellant aforesaid.

We have heard learned counsel for the parties and have also carefully gone through the case file.

First of all, it is necessary to examine the medical evidence.

Dr. Rajinder Kumar Manchanda, PW6 conducted the postmortem of the dead body of Malkiat Singh. The following injuries were found on his person:

“ 1) An entry wound, a lacerated punctured wound with inverted margins on the base of chin. Clotted blood was present. The underlying tissues were found congested and infiltrated with blood and tissues were found badly lacerated.

Mandible was found fractured at both angles.

2) A lacerated punctured wound with everted margins on the base of nose (exit wound), badly lacerated and abraded. Clotted blood was present. The underlying tissues were congested and infiltrated with blood. The tract of injury no.1 was found communicating with injury no.2. Fracturing and Lacerating the tissues and bones in between and found leading to the brain which was found badly lacerated and infiltrated with blood. Nasal Bone supra orbital margins of the skull and Frontal Bone all were found fractured.”

The stomach contained about 100 ml of semi digested food and all other organs were found healthy. As per the opinion of the doctor, the cause of death was due to hemorrhage and shock and injury to the vital organ brain which was ante-mortem in nature and was due to gun shot injuries which were sufficient to cause death in an ordinary course of nature.

The postmortem of dead body of Rupali Paul revealed the following injuries:

1) An entry wound, a lacerated punctured wound with inverted margins measuring a 3.5 cm. x 3.5cm. on the left side of the chest, 8 cm. away from left nipple, 4 cm. from mid line and 12 cm. away from the umbilicus. Margins of the wound were abraded. Clotted blood was present. The underlying tissues were found congested and infiltrated with blood and tissues were found badly lacerated. The tract of the wound was found leading to the peritoneal cavity after injuring and lacerating the muscles and tissue in

between fracturing the lower ribs. On opening of the peritoneal cavity, whole cavity was found full of blood (hemoperitoneum). Spleen and left side of the liver were found badly lacerated and shattered. Stomach small and large gut were found lacerated. 11 metallic pieces and one shell was taken out from the peritoneal cavity and the tissues and handed over to the police in a sealed container for ballistic expert examination. Rest of the pallets could not be taken out as they were found deeply invaded in the viscere and spinal cord.”

In the opinion of doctor, the cause of death was due to hemorrhage and shock and injury to the vital organs liver and spleen which were ante-mortem in nature and were due to gun shot injuries which were sufficient to cause death in an ordinary course of nature.

The inquest report (Ex.P2) of Malkiat Singh was witnessed by Inder Singh S/o Kundan Singh and Niranjn Singh S/o Karnail Singh. The inquest report (Ex.P20) of Rupali Paul was witnessed by Manisha Paul and her mother Devki Rani.

Before this Court, there are two versions. One given by Jatinder Kumar Sharma @ Jindu, which was recorded within one hour of the occurrence and the other version is given by Suba Singh, father of deceased Malkiat Singh, in an application moved on 29.03.2010, which received in the office of Sr. Superintendent of Police, Ferozepur on 10.06.2010 i.e. about more than three months of the occurrence. Now, this Court is to examine which of the version is likely to be correct.

It has come in evidence that Jatinder Kumar Sharma @ Jindu as

well as deceased Malkiat Singh were close friends. Both of them were having love affair with two sisters, namely, Manisha Paul and Rupali Paul. This affair was going on for long. As per statement of Suba Singh himself, due to close relationship of Jatinder Kumar Sharma and deceased Malkiat Singh, on 04.03.2010, Jatinder Kumar Sharma @ Jindu took meal at his house and slept there at the night. According to the statement of Suba Singh, next day i.e. 05.03.2010 (the day of occurrence), Jatinder Kumar Sharma @ Jindu after taking tea and in his absence took away his 12 bore gun along with cartridges from his house. Suba Singh and his wife had gone to attend the Bhog of Shri Akhand Path. His son was taking bath. According to him, he received information about the receipt of bullet injury to his son on 05.03.2010 at 9.30 A.M., whereas in his written complaint, he has given the time of receiving such information at 10.00 A.M. The occurrence in this case took place at 9.30 A.M. According to Suba Singh, Ashwani Kumar had seen the accused-appellant Jatinder Kumar Sharma @ Jindu taking away his gun. According to him, the gun was lying in the near room meant for motor at a distance of 25 feet from the body of his son. Sahib Singh told him that two boys and two girls had come to the motor besides Malli (Malkiat Singh) and Jindu (Jatinder Kumar Sharma). Those two girls were stated to be Manisha Paul and Rupali Paul. According to Suba Singh, he became perturbed and became unconcious. According to him, there was a scuffle between Malli (Malkiat Singh) and Jindu (Jatinder Kumar Sharma) and Jindu (Jatinder Kumar Sharma) fired a shot, which hit the face of Malli (Malkiat Singh). The occurrence was witnessed by Salwinder Singh and Bhagat Singh. During his cross-examination, Suba Singh, he stated that

Salwinder Singh is from his brotherhood and Bhagat Singh is his brother-in-law (wife's brother). Therefore, according to Suba Singh, there are two eye witnesses, namely, Salwinder Singh and Bhagat Singh and that Ashwani Kumar had told him that he saw the accused-appellant taking away his gun. Suba Singh had admitted that his son Malkiat Singh and accused-appellant were good friends. Ashwani Kumar is the resident of his locality. He did not know when he left his house, his son Malkiat Singh was taking bath.

In this case, the entire statement of Suba Singh is hearsay evidence. He himself did not see that Jatinder Kumar Sharma @ Jindu had taken away his gun nor he saw the occurrence. Salwinder Singh is from the brotherhood of Suba Singh and Bhagat Singh is his brother-in-law (wife's brother).

Salwinder Singh appearing as PW3 claimed that his land is adjoining to the land of complainant Suba Singh. He stated that Malli (Malkiat Singh) and Jindu (Jatinder Kumar Sharma) were very close friends and he had seen them together several times. On 05.03.2010, he along with his brother-in-law (wife's brother) Bhagat Singh had gone to have a round of his fields. He heard the sound of gun fire shot. He saw Malli (Malkiat Singh), Jindu (Jatinder Kumar Sharma) and two unidentified persons. He saw that Rupali had received injury and she had fallen on the ground. Malkiat Singh said to Jindu (Jatinder Kumar Sharma) as to why he had fired a shot at Rupali Paul. Jindu (Jatinder Kumar Sharma) kept the gun under the chin of Malkiat Singh and fired a shot. Salwinder Singh and Bhagat Singh ran away from the spot. The police met them near village Hakewala but their statements were not recorded. The cross-examination of Salwinder

Singh shows that complainant Suba Singh is his cousin brother. Suba Singh stated that Bhagat Singh is his brother-in-law (wife's brother) and Salwinder Singh also claimed that Bhagat Singh is also his brother-in-law (wife's brother). Meaning thereby that the wives of Salwinder Singh and Suba Singh are real sisters. However, Salwinder Singh admitted that Malkiat Singh and Jindu (Jatinder Kumar Sharma) had friendship with those girls. Malkiat Singh was friendly with Rupali Paul and Jatinder Kumar Sharma was friendly with Manisha Paul. Bhagat Singh, who is the brother-in-law (wife's brother) of both Salwinder Singh and Suba Singh is resident of village Oadian, Tehsil Fazilka.

Bhagat Singh, appearing as PW4 in his statement stated that he is a taxi driver at taxi stand Udham Singh Chowk, Ferozepur. His sister Gurmit Kaur is married to Salwinder Singh . On 04.03.2010, he had gone to see his sister. On 05.03.2010, he along with his jija (sister's husband) Salwinder Singh had gone to have a round of the fields. There, they heard the sound of gun fire shot and saw a rifle in the hand of Jatinder Kumar Sharma @ Jindu. A girl, namely, Rupali Paul was in injured condition. Malkiat Singh @ Malli was asking Jatinder Kumar Sharma @ Jindu as to why he had fired a shot at Rupali Paul. Jatinder Kumar Sharma @ Jindu fired a shot at the mouth of Malkiat Singh. They fled away from the spot.

Complainant is resident of Baba Ram Lal Nagar, Gali No.2, Ferozepur. Bhagat Singh is resident of village Oadian, Tehsil Fazilka which is a different place.

Ashwani Kumar, who is a Railway Driver and is resident of Baba Ram Lal Nagar, appearing as PW5 stated that on 05.03.2010 at about

7.30 A.M., he was going to mandi for bringing vegetables. On the way, Suba Singh met him and asked him to bring 5Kgs. of onion for him. At about 8.30 A.M., he came back after buying the vegetables and while he was going for delivering the onions to Suba Singh, he saw Jatinder Kumar Sharma @ Jindu with a 12 bore DBBL gun in his hand coming out of the house of Suba Singh. Suba Singh and his wife were not present in the house as they had gone to attend Bhog of Shri Akhand Path. In his cross-examination, he stated that he did not tell Suba Singh immediately after seeing Jindu (Jatinder Kumar Sharma) taking away the gun from his house.

Sarabjit Singh, PW10, who was the then SHO Incharge proved that he had recorded the statement of Jatinder Kumar Sharma @ Jindu. He also stated that from the place of occurrence, one 12 bore DBBL gun belonging to Suba Singh was found and was taken into possession. Two empty cartridges of the same bore were also found and taken into possession. In his cross-examination, he admitted that Rupali Paul (deceased) and Manisha Paul are real sisters. He also admitted that on 05.03.2010, he had recorded the statement of Manisha Paul also, in which she had put forward the same version as given by Jatinder Kumar Sharma @ Jindu. He also admitted that it had come in investigation that Malkiat Singh and Rupali had love affair and so was case of Jatinder Kumar Sharma @ Jindu and Manisha Paul. It has also come in the statement of Jatinder Kumar Sharma @ Jindu that on the day of occurrence, Malkiat Singh, Rupali Paul, Jatinder Kumar Sharma @ Jindu and Manisha Paul planned to meet in the fields of Malkiat Singh. He also stated that as per his investigation, the same version was found to be correct. He also admitted that Jatinder Kumar

Sharma @ Jindu had taken Rupali Paul to the hospital when she was injured. It must have taken 40-45 minutes to take her to the hospital. He admitted that engagement of Rupali Paul was to take place on 06.03.2010. On the day of occurrence i.e. 05.03.2010, no counter version was put forth that Salwinder Singh was present at the place of occurrence. Salwinder Singh, PW3 was present at that time when police reached the spot but did not make any statement. Bhagat Singh and Ashwani Kumar also did not meet the police at spot.

In this case, the most material witness was Manisha Paul, who both the parties claimed to be innocent and is real sister of deceased Rupali Paul and who was having love affair with deceased Malkiat Singh. She was present at the spot but she was not examined as a witness to give the first hand account of the occurrence. However, during investigation, she had supported the version put forth by accused-appellant Jatinder Kumar Sharma @ Jindu.

Now, it is necessary to see that even as per the version of Salwinder Singh and Bhagat Singh, they saw Jatinder Kumar Sharma @ Jindu asking Malkiat Singh as to why he had fired shot at Rupali Paul. According to them, Jatinder Kumar Sharma @ Jindu took the gun and fired at Malkiat Singh. Meaning thereby even as per their version, Malkiat Singh had shot dead Rupali Paul and Jatinder Kumar Sharma @ Jindu shot dead Malkiat Singh.

Now, this Court is to examine whether the statements of Suba Singh, Salwinder Singh, Bhagat Singh and that of Ashwani Kumar are dependable or the version given by Jatinder Kumar Sharma @ Jindu, as

supported by Manisha Paul during investigation is correct?

It is necessary to examine the medical evidence.

As per the medical evidence, the gun shot hit the left side of chest of Rupali Paul, badly damaging spleen and liver. 11 metallic pieces and one shell were taken out from the parietal cavity. It means that Rupali Paul was shot dead from the front. This even according to Salwinder Singh and Bhagat Singh was done by Malkiat Singh. According to these witnesses, whose presence at the spot is to be discussed in the later part of the judgment, Jatinder Kumar Sharma @ Jindu had fired shot at Malkiat Singh. The injuries on the dead body of Malkiat Singh show that injury of punctured wound with inverted margin was on the base of chin. The lacerated punctured wound everted with the margin on the base of nose which is the exit wound. Injury No.1 was communicating with injury No.2. There was fracturing and laceration of tissues and the bone leading to the brain, which was badly lacerated and inflated with blood. Since 12 bore gun has the palletes, therefore, it depends as to from which angle, it is fired to see whether there could be exit wound on the base of nose. It is also to be seen whether somebody after snatching the gun, can fire in the manner, resulting in the injury, as found on the person of Malkiat Singh as discussed above.

We are of the view that the injury on the person of Malkiat Singh is apparently suicidal. Even if, somebody snatches the gun from Malkiat Singh, Malkiat Singh being young boy, it will not be possible to put gun under the chin and fire a gun shot, considering the length of the barrel. Malkiat Singh had shot dead his girl friend Rupali Paul on account of the

fact that her engagement was fixed with another guy for the next day i.e. 06.03.2010 and apparently Rupali Paul was not agreeing to the terms of Malkiat Singh. Therefore, it was Malkiat Singh, who had a motive to kill Rupali Paul. Once, he killed Rupali Paul, he is likely to get frustrated and was also afraid of the consequences of murder of Rupali Paul. Therefore, in these circumstances, it is most likely that Malkiat Singh, had self inflicted the injuries with his gun as found during the postmortem. The said injury cannot be given while holding the gun from front and it is not possible to put the gun under the chin to cause such injury, considering that Malkiat Singh was a young and energetic man. It is to be noted that the prosecution kept away the material witness Manisha Paul for which the adverse inference is drawn against the prosecution.

Now, coming to the question whether Salwinder Singh and Bhagat Singh were present at the spot?

We find that they are unlikely to be present at the spot. Salwinder Singh and Bhagat Singh both are close relation of complainant Suba Singh. They were present when the police visited the spot, immediately after the occurrence. They did not put forth any version. Their version was coming after three months of the occurrence when Suba Singh moved a complaint before the police. Bhagat Singh is resident of a different village and unlikely to be present at the spot.

It also comes out that deceased Malkiat Singh had access to the gun of his father. Jatinder Kumar Sharama @ Jindu is unlikely to know where the gun of the father of Malkiat Singh is lying. Malkiat Singh was annoyed on account of impending engagement of his girl friend. Jatinder

Kumar Sharma @ Jindu had no reason to carry the gun. The statement of Salwinder Singh, Bhagat Singh and Ashwani Kumar are undependable. The statements of Salwinder Singh and Bhagat Singh are contradictory to the medical evidence. Therefore, we come to the conclusion that the version put forth by accused-appellant Jatinder Kumar Sharma @ Jindu is correct. In fact, on account of engagement of Rupali Paul to be held on 06.03.2010, Jatinder Kumar Sharma @ Jindu and Malkiat Singh decided to meet their girl friends in the fields of Malkiat Singh. Since, Malkiat Singh was annoyed, probably he took the gun with him, which might not be in the notice of Jatinder Kumar Sharma @ Jindu and when Rupali Paul did not agree with some proposals of Malkiat Singh, he shot Rupali Paul dead and thereafter committed suicide. Had there been a criminal intent on the part of Jatinder Kumar Sharma @ Jindu, he would not have immediately removed Rupali Paul on his scooter accompanied by Manisha Paul to the hospital. After the occurrence at about 9.30 A.M., Rupali Paul was removed to the hospital, which was at a distance of about 30-40 Kms. and then when Rupali Paul was found dead, he came back to the spot. Had the sister of Manisha Paul been killed by Jatinder Kumar Sharma @ Jindu, she would have been the first person to come forward and make statement against Jatinder Kumar Sharma @ Jindu. The conduct of accused-appellant Jatinder Kumar Sharma @ Jindu also shows that it was a natural conduct. He did not run away from the spot. He along with Manisha Paul removed Rupali Paul to the hospital and when he came back, he informed the father of the deceased and came back to the spot. Recording of his statement, which might had taken 30 minutes was completed at 10.30 A.M. i.e. within one hour of the

occurrence. The FIR was prompt. Therefore, accused-appellant Jatinder Kumar Sharma @ Jindu had no time to concoct any version. Therefore, the version put forth by him is supported by medical evidence and circumstances of the case.

In view of the foregoing discussion, we come to the conclusion that the prosecution could not prove its case against Jatinder Kumar Sharma @ Jindu beyond all reasonable doubts. Accordingly, the appeal is allowed and the accused-appellant Jatinder Kumar Sharma @ Jindu is acquitted of all the charges framed against him. He be released forthwith, if not required in any other case.

(A.B. CHAUDHARI)
JUDGE

(KULDIP SINGH)
JUDGE

August 06, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes