

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

Reserved on : 14.12.2018

Date of decision : 20.12.2018

1. CRA-D No. 534-DB of 2003 (O&M)

Narinderpal Singh and others .. Appellants

versus

State of Punjab .. Respondent

2. CRA-D No. 569-DB of 2003 (O&M)

Gogi alias Jagtar Singh .. Appellant

versus

State of Punjab .. Respondent

**Coram: Hon'ble Mr. Justice Rajiv Sharma
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present Mr. R. S. Rai, Senior Advocate with
Mr. Deepinder Brar, Advocate, for the appellants
in CRA-D No. 534-DB of 2003 and
Mr. Vishal R. Lamba, Advocate, for the appellant
in CRA-D No. 569-DB of 2003.
Mr. Rajesh Bhardwaj, Sr. Deputy Advocate General, Punjab.

Rajiv Sharma, J.

1. This judgment will dispose of two cases bearing CRA-D No. 534-DB of 2003 and CRA-D No. 569-DB of 2003, as the same arise out of common judgment and order.

2. The aforesaid appeals are instituted against the judgment and order dated 2.6.2003, rendered by Sessions Judge, Bathinda, in Sessions

Case No. 21 of 9.10.2001, whereby appellants Narinderpal Singh, Paramjit Kaur, Gogi alias Jagtar Singh and Gurmit Singh were charged with and tried for the offence under Sections 302/201/120-B IPC. They were convicted and sentenced as per order dated 2.6.2003.

3. The case of the prosecution in a nutshell is that on 4.6.2001, ASI Jagroop Singh of Police Station, Nathana, was present in village Maur Dhelwan. Kulwant Rai son of Raja Ram, resident of village Sema, in the company of Sarpanch Mohinder Singh, came to him. He made a statement vide Ex.PP that he was serving as Clerk (*munshi*) with Chahal Bricks Company. The brick kiln was situated along the road. On 4.6.2001 at about 2.30 P.M., he was standing on the road. Harkaran Singh son of Bachittar Singh, resident of Mandi Kalan, was coming from the side of village Dhelwan on Vespa Scooter No. PB-10-K-5766. He was previously known to him. He was working in the Punjab State Electricity Board. He was disciple of Sant Bidhi Chand of village Dhelwan. He used to visit him frequently. When Harkaran Singh came parallel to the brick kiln, one Jeep of Military colour came from the side of village Gobindpura. It was driven by one Sikh youth aged about 20/25 years. He was having trimmed beard and wearing a headgear (*parna*) of white colour on his head. One sikh youth of the same description was also sitting besides him. Jeep was driven in rash and negligent manner. Jeep was dashed against the scooter. Harkaran Singh fell down. He received multiple injuries. Jeep also halted. Kulwant Rai asked the occupants of the Jeep that since injuries have been caused due to their act, the injured should be saved. Harkaran Singh was removed in the Jeep. He reported the matter to Mohinder Singh, Sarpanch. Thereafter, on the statement Ex.PP, FIR, Ex.PP/1 was registered. Investigation was

completed and the challan was put up after completion of all the codal formalities.

4. The prosecution examined a number of witnesses in support of its case. The statements of the accused were also recorded under Section 313 Cr.P.C. They denied the case of the prosecution. They were convicted and sentenced, as noticed in the order dated 2.6.2003 of the learned trial Court. Hence, the present appeals.

5. Learned counsel appearing on behalf of the appellants have vehemently argued that the prosecution has failed to prove its case against the appellants. Learned counsel appearing for the State submitted that the prosecution has proved its case beyond reasonable doubt.

6. We have heard learned counsel for the parties and gone through the judgment and record very carefully.

7. PW1 HC Harcharan Singh has led his evidence by filing affidavit, Ex.PA. In his cross-examination, he deposed that the statement of Kulwant Rai was recorded in his presence by ASI Jagroop Singh in his own hand writing.

8. PW5 Dr. Ramnik Mangla has conducted the post-mortem examination on the body of Harkaran Singh. He found the following injuries on the body of the deceased:-

- 1) Lacerated wound 2cm x 1 cm x 2 cm on left side of forehead.
- 2) A lacerated wound 2x1x1cms on scalp 4 cm above injury No.1.
- 3) Bleeding from right ear was present.
- 4) A bruise 4x3cms on tip of right shoulder.
- 5) Multiple bruises on right fore-arm.
- 6) A lacerated wound 5x3x2cms on dorsum of right

hand.

- 7) Semicircular bruise 15"x ½" on chest and abdomen starting from right anterior axillary line from 8th rib running towards midline, 4 cm below right nipple and then circularly passing through epigastrium to a point 3 cm left to umbilicus. Multiple ribs fractured. Tears right lung. Liver ruptured from many sides. Haemoperitoneus was present.
- 8) Multiple bruises on anterior abdominal Wall.
- 9) Lacerated wound 4x3x4cms on anterior lateral aspect of middle of right thigh. Fracture shaft femur in middle.
- 10) Multiple bruises on both lower limbs.
- 11) Compound fracture both bones of right leg. Wound was measuring 6x3x4cms on medial aspect of right leg.
- 12) A lacerated wound 7x3x3 cms on inferomedial aspect of right foot. Fracture first metatarsal.
- 13) Bruise 6x3cms on outer aspect of upper third of left arm.
- 14) Multiple bruises on back in lower half.

9. The cause of death, in his opinion, was haemorrhage and shock due to multiple injuries. The injuries were ante-mortem in nature and were sufficient to cause death in ordinary course of life. The probable time between injuries and death was immediate and the probable time between death and post-mortem was within 24 hours. He proved post-mortem report, Ex.PH.

10. PW7 Rashmi Gupta was the owner of Scooter No. PB-10K-5766 LML Vespa. She deposed that she sold the scooter to a dealer, whose name she did not remember. She also deposed that she did not know the name of the person, who purchased the scooter from the dealer. She

annexed the affidavit, Ex.PK. She could not tell the price of the scooter in her cross-examination, but said it could be, according to her, between ₹ 4,000 to ₹ 5,000/-.

11. PW13 Kulwant Rai is the material witness. According to him, on 4.6.2001 he was standing at the brick kiln along the road. Few other persons were also with him at the brick kiln. One scooterist was coming from the side of village Dhelwan. Scooter crossed him. He did not know, who was the scooterist. Thereafter, an accident between the scooter and the Jeep took place. He went to the place of accident. Jeep was without number plate. Two persons were sitting in the Jeep aged about 25 years. They had trimmed beard. The scooterist was put in the Jeep by the occupants of the Jeep. He informed the Sarpanch of the village Dhelwan. He made the statement to the police, vide Ex.PP. During examination-in-chief, the witness was declared hostile by the Public Prosecutor and cross-examined. He had not stated that Harkaran Singh was the scooterist. He did not know Harkaran Singh. He was confronted with portion A to A.1 of Ex.PP. He did not state that the Jeep was driven in rash and negligent manner. He was confronted with portion B to B.1 of Ex.PP. According to him, accused Narinderpal Singh and Gurmit Singh were not the persons, who were the occupants of the Jeep.

12. PW14 Surinder Singh alias Kaka testified that Harkaran Singh was his brother. His dead-body was found from Bir Rampura Phul on 4.6.2001. He identified the dead-body of Harkaran Singh and attested the inquest report, Ex.PH. *Bhog* was performed on 14.6.2001 in the house of his deceased brother in Bala Ram Nagar in Street No. 10. He knew the accused, who were present in the Court. They had come to the *Bhog* ceremony of his

brother. Their names were Narinderpal Singh and Gurmit Singh. Widow of his deceased brother was talking to accused Narinderpal Singh and Gurmit Singh that they had killed her husband at her asking on 4.6.2001 by way of causing accident of Jeep with scooter. She claimed that her husband was hurdle in her illicit relations with them. Harkaran Singh had earlier given her beating many a times on account of her extra marital relations with them. Paramjit Kaur further told that the matter be not disclosed to any person. They were sitting in the room near the gate of the house. He made the statement on 14.6.2001 to the police. Jeep was produced by Narinderpal Singh before the police. He had admitted his statement, Ex.DA, which he has got recorded during inquest proceedings. The statement was that death of his brother was caused due to accident between the Jeep and Scooter. They did not have any suspicion about the murder of Harkaran Singh. Volunteered that they were perplexed.

13. PW15 Jalour Singh testified that Paramjit Kaur widow of Harkaran Singh had met him on 15.6.2001 in his house. She told him that Narinderpal Singh started visiting her house. He used to visit her house in the absence of her husband. She had developed illicit relations with Narinderpal Singh. Her husband had come to know about this. She told Narinderpal Singh that her husband had come to know about their illicit relations. She told Narinderpal Singh that her husband was an obstacle in their relations so he be eliminated. On 3.6.2001, Narinderpal Singh, Gurmeet Singh and Gogi came to her house and held conversation with each other and after parking their scooter in her house, they told her that Harkaran Singh be sent on the scooter on 4.6.2001. The moment her husband would leave the house on the scooter parked by the accused, she

should inform them. On 4.6.2001, Narinderpal Singh and Gurmeet Singh committed the murder of her husband. She requested that she and other accused be produced before the police. The police was looking for them. In his cross-examination, he admitted that Harkaran Singh never told him that his wife had extra marital relations with Narinderpal Singh. He had not seen accused Narinderpal Singh at the *bhog* ceremony of deceased Harkaran Singh.

14. PW16 Sukhdev Singh deposed that on 14.6.2001, Narinderpal Singh came to him at his residence at Rampura. Gurmeet Singh, Jagtar Singh and Paramjit Kaur had also come to his house at about 7.00 A.M. Firstly, Narinderpal Singh made extra-judicial confession that he had illicit relations with Paramjit Kaur. Harkaran Singh had come to know about their illicit relationship. Harkaran Singh had started quarreling with his wife. One day Paramjit Kaur told him that her husband was creating hurdles in their relations and he should be eliminated. They all hatched a conspiracy. On 4.6.2001 Paramjit Kaur made telephonic call to him that her husband would go to Saint (vaid) of village Dhelwan for getting the medicine on scooter at about 9.00 A.M. Paramjit Kaur further told that he along with Gurmeet Singh should go in the Jeep. Narinderpal Singh told that he and Gurmeet Singh went towards village Dhelwan in the Jeep. Harkaran Singh was coming from the side of Dhelwan after bringing medicine. When he reached the brick kiln near village Dhelwan, Narinderpal Singh struck the Jeep against the scooter driven by Harkaran Singh. Harkaran Singh received injuries. He and Gurmeet Singh put the dead-body in the Jeep and thrown the dead-body in the forest. Thereafter, Narinderpal Singh informed Paramjit Kaur that they had removed hindrance in their relationship. Jagtar

Singh, Paramjit Kaur and Gurmeet Singh reiterated the confession made by Narinderpal Singh before him. They requested that they be produced before the police. In his cross-examination, he admitted that Mandi Kalan is a big village. There was Sarpanch and Member Panchayats of the village. Paramjit Kaur was slightly known to him being wife of Harkaran Singh. The accused never visited his house prior to 14.6.2001. He never visited the house of the accused. He never attended the functions in the houses of the accused. He was not aware that Paramjit Kaur had illicit relationship with Narinderpal Singh.

15. PW17 Amandeep Kaur is the daughter of the deceased. She deposed that Narinderpal Singh was coming to their house. Some time, he used to come to the house in his presence and in the absence of his father. Narinderpal Singh had developed illicit relations with her mother. When her father came to know about her relations, he was preventing her mother from doing so. On 3.6.2001, Gurmeet Singh, Jagtar Singh and Narinderpal Singh came to their house. They had come in a Jeep of military colour and one scooter. Registration number of scooter was PB-10K/5766 and registration number of Jeep was PBI-8777. Her mother was present in the house at that time. Her father and brother had gone out of the house for some domestic work. The accused were interacting / talking to her mother. They left the scooter in their house and directed her mother to send her father (Harkaran Singh) on the next day on the scooter parked by the accused. On the next day at about 9/10.00 A.M. her father had gone from the house on the scooter. On 15.6.2001, she had made the statement. In her cross-examination, she deposed that on the date of occurrence, she was a student of 9th Class.

16. PW18 Pooja Malhotra has proved computerized call details vide Ex.PT/1.

17. PW19 SI Balwant Singh (Retd.) deposed that he had arrested accused Gurmeet Singh. He also arrested accused Jagtar Singh.

18. PW20 ASI Jagroop Singh testified that Kulwant Rai, Munshi of brick kiln of Chahal Company made statement, Ex.PP, before him. FIR was registered. One affidavit of Rashmi Gupta was found in the luggage box of the scooter. It was taken into possession vide recovery memo, Ex.PC. He has recorded the statement of Surender Singh, Ex. DA.

19. PW21 Inspector Kirpal Singh deposed that on 14.6.2001 he was posted as SHO, Police Station, Nathana. Tara Singh, Member Panchayat, Dhelwan, had produced Narinderpal Singh and Jeep No. PBI-8777, before him. Jeep was taken into possession vide recovery memo, Ex.PQ. On 15.6.2001, Jalour Singh produced accused Paramjit Kaur in the police station before him. He arrested her.

20. What emerges from the evidence discussed hereinabove is that the appellants had hatched a criminal conspiracy to eliminate Harkaran Singh. The motive attributed to the appellants is that Paramjit Kaur had developed illicit relations with accused Narinderpal Singh. Narinderpal Singh being on visiting terms at the house of Harkaran Singh had parked one scooter in the house of the deceased. Appellants Narinderpal Singh, Gurmeet Singh and Gogi had told Paramjit Kaur that she would send her husband on the scooter, which was parked by them in her house, to bring medicine. On the same scooter, Harkaran Singh went to get medicines. When he left the house for bringing the medicine, Paramjit Kaur informed Narinderpal Singh and Gurmeet Singh. He was a hurdle in the illicit

relationship of Paramjit Kaur and Narinderpal Singh. They went on Jeep. Jeep was dashed against the scooter. This incident was allegedly seen by PW13 Kulwant Rai. The dead-body was sent for post mortem examination. The cause of death was haemorrhage and shock due to multiple injuries. The injuries were ante-mortem in nature and were sufficient to cause death in ordinary course of life.

21. PW13 Kulwant Rai resiled from his previous statement. He was declared hostile. According to him, appellants Narinderpal Singh and Gurmeet Singh were not the occupants of the Jeep, though he admitted his signatures on Ex.PP.

22. PW14 Surinder Singh alias Kaka was brother of the deceased. According to him, he heard the accused talking about the conspiracy, they had hatched to eliminate his brother Harkaran Singh on the day of *Bhog*. It is not believable that the accused would have discussed about the conspiracy in the house itself, more particularly, when the religious ceremony was going on. In case he had heard the above conspiracy, he should have raised the alarm then and there.

23. PW15 Jalour Singh deposed that Paramjit Kaur has made extra-judicial confession before him. She stated that accused Narinderpal Singh and Gurmeet Singh had parked the scooter in the house of the deceased and asked her to send her husband for getting the medicines on this scooter on 4.6.2001. The parking of the scooter by the accused in the house of the deceased would have raised suspicion. In case, the scooter was parked in the house of the deceased, he would have firstly enquired from the family members, who has parked the scooter in his house. PW15 has also admitted that he had not seen Narinderpal Singh in the *Bhog* ceremony of Harkaran

Singh. Thus, there is contradiction in the statement of PW14 Surender Singh that he had heard Narinderpal Singh and other co-accused talking about the murder of his brother at the time of *bhog* ceremony.

24. PW16 Sukhdev Singh deposed that all the accused had made extra-judicial confession before him. He has admitted in his cross-examination that accused had never visited him prior to 14.6.2001. He deposed that he knew about the accused slightly. He had never visited the houses of the accused and he had no dealings with them. He has also admitted that Mandi Kalan is a big village. There was duly elected Sarpanch and Member Panchayats. This is not believable why the accused would made extra judicial confession before a person, who has no authority and a complete stranger to them. Statement of PW17 Amandeep Kaur, daughter of the deceased, also does not inspire confidence. It is not believable that the accused would park the scooter and tell her mother to send her husband by using the same scooter for getting medicines. The first reaction of a person on seeing the vehicle parked in his house would be to enquire, who had parked the same in his house. PW17 Amandeep Kaur was staying with her uncle PW14 Surinder Singh alias Kaka. The extra-judicial confession is a weak evidence. It is required to be corroborated by other evidence.

25. PW13 Kulwant Rai was declared hostile and has not proved the case of the prosecution. He has failed to recognise the occupants of the Jeep. According to him, Narinderpal Singh and Gurmit Singh were not the occupants of the Jeep. The Sarpanch who met him was not produced by the prosecution.

26. The prosecution has failed to prove the case against the appellants beyond reasonable doubt. Accordingly, the appeals are allowed

and the judgment and order dated 2.6.2003 are set aside. The sentence of the appellants have already been suspended during the pendency of the appeals. Their bail bonds are discharged.

(Rajiv Sharma)
Judge

20.12.2018
vs

(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No