

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D-658-DB-2005
Date of Decision: 13.12.2019

MASSA RAM

.....Appellant

V/S

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN
HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Narinder Singh, Amicus Curiae
for the appellant.

Mr. A.A. Pathak, Additional A.G., Punjab.

ARCHANA PURI, J.

Challenge in the present appeal is to the judgment of conviction dated 16.02.2005 and order of sentence dated 18.02.2005 passed by the learned Sessions Judge, Kapurthala, vide which appellant-Massa Ram, was held guilty and convicted and sentenced as under:-

<i>Under Section</i>	<i>Sentence</i>	<i>In default</i>
302 IPC	Imprisonment for life and to pay a fine of ₹2,000/-	RI for one month
326 IPC	RI for four years and to pay a fine of ₹1,000/-	RI for one month
324 IPC	RI for one year and to pay a fine of ₹500/-	RI for one month

All the sentences were ordered to run concurrently.

The background facts in nutshell are as follows:-

That complainant-Thakar Dass, who is resident of Mothanwala, is working as labourer. In his haveli, he has constructed three shops and two of them have been rented out and one is lying

vacant. In one shop, Massa Ram, son of Jeet Ram is running a barber shop and the other shop has been rented out to Dr. Surti Ram, who runs his clinic in the said shop. On 03.08.2004 at about 7:30 P.M., son of complainant namely Kashmir Singh had gone to the shops given on rent. Accused-Massa Ram was asked by Kashmir Singh that he was consuming more electricity, whereas Dr. Surti Ram was consuming less electricity. Kashmir Singh had asked Massa Ram that on this account, he was required to pay more energy charges. Massa Ram retorted as to who Kashmir Singh was to demand more electricity charges from him. Then, Massa Ram and Sunny Kumar entered into a scuffle with Kashmir Singh. On commotion, complainant had also come there. Then, Kashmir Singh son of complainant was caught hold by Sunny and Massa Ram had inflicted blow on the chest of Kashmir Singh with scissor in his hand. Complainant raised alarm “maar ditta” “maar ditta”. On hearing alarm of complainant, his parternal uncle's son, Malkiat Singh and nephew of complainant, Sukhdev Singh had come to the spot. Massa Ram had also inflicted blow with scissor on the complainant, on his left wrist. When Malkiat Singh came to rescue the complainant, Massa Ram had also given a blow with scissor to Malkiat Singh, which landed on the little finger of his left hand. Thereafter, Massa Ram had given 3-4 blows to the son of the complainant, two on his shoulder as well as back. As a result thereof, Kashmir Singh had fallen on the ground. Upon hearing raula, both Massa Ram and Sunny Kumar had fled away from the spot along with the weapons of offence. After making arrangement of the vehicle, the injured Kashmir Singh and

complainant were taken to Civil Hospital, Sultanpur Lodhi, where his son has succumbed to his injuries and complainant was admitted in the hospital. Both Massa Ram and Sunny Kumar conspired with each other and inflicted injuries to Kashmir Singh, on account of demand, raised by him for giving more electricity charges and they had inflicted injuries on Kashmir Singh.

The proceedings in the present case were initiated on the basis of the statement got recorded by complainant-Thakar Dass to SI Ram Dutt, when on 03.08.2004 itself on receipt of MLR of Thakar Dass, Sub Inspector Ram Dutt had reached Civil Hospital, Sultanpur Lodhi. The statement of the complainant was got recorded, after obtaining opinion regarding fitness from the concerned doctor.

Thereafter, Ram Dutt, Sub Inspector came to know about the death of Kashmir Singh and he reached the dead house of Civil Hospital, Sultanpur Lodhi, where Malkiat Singh and Sukhdev Raj also joined proceedings. Inquest report was prepared. Even postmortem of the dead body was got conducted. Then, Ram Dutt, Sub Inspector along with his companions and with Malkiat Singh and Ravinder Ram, Member Panchayat, had reached haveli of Thakar Dass in the area of village Mothanwala, where the occurrence had taken place. Blood-stained earth was lifted from the spot. It was converted into parcel and taken into possession vide separate memo. Site plan of the occurrence was also prepared. Even the clothes of the deceased, after being converted into parcel were taken into possession vide separate memo. Statement of witnesses were recorded.

Further investigation was handled by ASI Bhajan Singh. On

04.08.2004, while ASI Bhajan Singh was present at Bus Stand Dadwindi, in connection with the patrol duty, then Joginder Singh, Member Panchayat, produced before him Massa Ram and Sunny Kumar (Juvenile). They were arrested by him and various memos relating to their arrest were prepared. On 06.08.2004, during the course of interrogation, Massa Ram had made statement, thereby disclosing about having concealed a scissor, in the cremation ground of village Mothanwala, on the basis whereof from the disclosed spot, the scissor was got recovered. Sketch of the same was prepared and thereafter, it was converted into parcel and taken into possession vide separate memo. Site plan of the spot of recovery was also prepared. Statement of witnesses were recorded.

On completion of investigation, the challan was presented against the accused.

On presentation of the challan, compliance of Section 207 Cr.P.C. was made and thereafter the case was committed to the Court of Sessions.

At this juncture, it is pertinent to mention that in pursuance of criminal proceedings, on the basis of the application separately filed, Sunny Kumar was concluded to be less than 18 years of age and hence juvenile and proceedings qua Sunny Kumar, as such, were bifurcated.

On the basis of the material coming forth, charge was framed under Sections 302, 326 and 324 IPC, against accused Massa Ram, which was read over and explained to him. However, he did not plead guilty and claimed trial.

In endeavour to establish its case, the prosecution has examined as many as 14 witnesses, besides adducing documentary evidence.

PW-1, Dr. Ravinder Pal, Medical Officer, has deposed about having medico legally examined complainant-Thakar Dass on 03.08.2004 and he deposed that there was history of alleged assault. Patient was conscious, well-oriented and patient came walking. He also gave the detail of the injuries found on his person, which are hereingiven:-

“1) An incised wound measuring 3 cm x 1 cm present on the dorsal surface of left fore-arm. It was oblique in direction. Margins were defined. Underlying muscles were coming out of the wound. Perfuse bleeding was present in the wound. Patient was unable to move the fingres of left hand. Orthopadic surgeons opinion was advised.

2) Patient complaining of pain on the frontal side of both side of chest, but there was no any mark of fresh external injury.”

He also deposed that injury No.1 was kept for orthopaedic opinion and injury No.2 was simple in nature. Kind of weapon used for injury No.1 was sharp and injury No.2 was blunt. He proved the carbon copy of the MLR, which is **Ex.PA** and pictoral diagram is **Ex.PA/1**. He also deposed the **possibility of injury No.1** on the person of injured with Ex.P1-Scissor, **could not be ruled out**. In pursuance of receipt of report of Orthopaedic Surgeon, he declared injury No.1 of the injured to be grievous in nature and report sent to SHO in this regard is Ex.PB.

The said witness further deposed about having medico

legally examined Malkiat Singh injured, on that very day at 10:35 P.M. He deposed about the detail of the injuries found on **his** person which are hereingiven:-

*“1) Incised wound measuring 2 cm x half c.m was present, on the palmer surface of left little finger 3 cm above the base of little finger. Margins were regular. It was **mussle** deep Fresh bleeding was present while examination.”*

He also deposed that nature of injury was declared as simple. He proved the carbon copy of the MLR, which is Ex.PC. He also deposed that the **possibility of injury on the person of injured** (Malkiat Singh) **with scissor Ex.P1 shown to him, could not be ruled out**. He also proved the opinion qua fitness of injured Thakar, given by him, which is Ex.PD/1 on the application Ex.PD. Ruqa Ex.PE, was sent to the police station with regard to intimation about Kashmir Singh having brought dead to the hospital.

PW-2, Thakar Dass, is the complainant at whose instance the proceedings were initiated. He has deposed about the detail, about manner in which the occurrence was caused by Massa Ram and further deposed about the injuries sustained by Kashmir Singh to have proved fatal and have also deposed about himself to have sustained injuries. His testimony is in verbatim with the version putforth by the prosecution, as detailed in the report under Section 173 Cr.P.C.

PW-3, Malkiat Singh, is the another witness examined by the prosecution, who had witnessed the occurrence and has sustained injury in same occurrence. His testimony is also in consonance with the testimony of complainant-Thakar Dass.

PW-4, Charanjit Singh, has deposed about having prepared the scale site plan Ex.PJ. **PW-5, Manjit Singh**, MHC, has tendered into evidence his affidavit Ex.PK. **PW-6, Constable Maninderjit Singh**, tendered into evidence his affidavit EX.PN, which is formal evidence.

PW-7, Constable Jorawar Singh, has deposed about having facilitated the conducting of postmortem examination on the dead body and the clothes of the deceased, having been handed over to him, which were further handed over by him to Ram Dutt, who took into possession vide memo Ex.PM.

PW-8, Surti Lal, Cashier, PSEB, Sultanpur Lodhi, has brought the ledger starting w.e.f. 28.04.2004 and deposed that there is an entry in the name of Thakar Dass S/o Ujjagar Ram, at page No.28, wherein it is mentioned that meter No.454954 to be in the name of Thakar Dass and a sum of ₹800 was deposited on 27.08.2004, in respect of domestic energy charges.

PW-9, Bhajan Singh, ASI, has deposed about accompanying SI Ram Dutt on 03.08.2004 and about statement of Thakar Dass having recorded by Investigating Officer in his presence on the basis thereof FIR was got registered. He also deposed about the detail of the various proceedings, having conducted during the course of investigation while he was accompanying SI Ram Dutt. He further deposed about the manner of accused having produced by Joginder Pal, Member Panchayat, on 04.08.2004 in his presence and further also deposed about the making of disclosure statement by the accused and the recovery of scissor at the instance of Massa Ram. On

the basis of this disclosure statement, he further disclosed about proceedings conducted vis-a-vis the said recovery.

PW-10, Des Raj, Medical Officer, Civil Hospital, has deposed about himself to be Orthopaedic Surgeon and having given opinion qua injury No.1 on the person of Thakar Dass. He deposed that injury No.1 was incised wound as was described in MLR. He also deposed about the detail of the injury and further deposed about the admission and discharge of the patient Thakar Dass in the hospital, who proved the bed head ticket, which is ExPT.

PW-11, Baljit Singh, Medical Officer, Civil Hospital, Sultanpur Lodhi, has deposed about conducting of the postmortem on the dead body of Kashmir Singh on 04.08.2004 and further deposed about the detail of injuries found on the dead body of Kashmir Singh, which are hereingiven:-

- “1) There was a stab wound, measuring 2.5 cm x 1 cm, elleptical in shape lying on fifth intercostal space just lateral to mammarry line. On dissepting the wound the under lying musscles were found to be cut. Left ventrical heart was found to be punctured. Left ventrical was found to be empty. Left side of thorasic cavity was found to be full of dark brown blood.*
- 2) There was another, elptical stab wound, musscle deep on four inter costal space just medial to nipple.*
- 3) There was another eleptical stab wound measuring 2 x 1 cm on 3rd inter costal space just lateral to sternum. It was musscle deep.*
- 4) There was another eleptical stab wound measuring 2 x 0.5 cm musscle deep on interior exillary line near the axilla. It was musscle deep.*
- 5) There was a stab wound measuring 3 x 1.5 cm*

musscle deep on back side of chest left side near the upper and lateral part of scapulla.

- 6) *Another stab wound measuring 3 x 1 musscle deep on back side of left side of chest near the inferior angle of scapulla.”*

He also deposed that as per his opinion the cause of death occurred in the case due to hypovolaemic shock, due to massive bleeding, as a result of injury No.1. All the injuries were found to be antermortem in nature. Injury No.1 was sufficient to cause death, in the ordinary course of nature. He also proved the carbon copy of postmortem report, which is Ex.PU and Ex.PU/1 is the pictorial diagram and Ex.PU/2 is also the pictorial diagram showing the seats of injuries. He also deposed about the injuries on the person of the deceased could be possible with the scissor, EX.1, shown to him in the Court.

PW-12, Bhupinder Singh, has deposed about special reports Ex.PM having delivered to Illaqa Magistrate by him.

PW-13, CII Santokh Singh, has deposed about having associated ASI Bhajan Singh in the investigation of the present case and also deposed about the disclosure statement made by the accused Massa Ram during the course of interrogation on the basis whereof, the scissor was recovered and also deposed about the detail of the manner of recording of the statement and also about detail of the documents prepared qua recovery of the scissor.

PW-14, Ram Dutt, is the retired Sub Inspector, who is the Investigating Officer of the case. He has deposed about having reached Civil Hospital, Sultanpur Lodhi, on 03.08.2004, on receipt of

Ex.PD for seeking opinion of fitness to make statement qua Thakar Dass and doctor vide endorsement Ex.PD/1 had declared Thakar Dass, fit to make statement and thereupon he had recorded the statement of Thakar Dass, which is Ex.PF and his endorsement upon the same is Ex.PF/1, on the basis whereof FIR Ex.PF/2 was registered. Furthermore, he has also deposed about having come to know about death of Kashmir Singh and had gone to dead house of Civil Hospital, Sultanpur Lodhi, where other witness Malkiat Singh and Sukhdev Singh were joined. He deposed about preparation of inquest report Ex.PG and also having facilitated conducting of postmortem on dead body. Further, he deposed about having gone to spot of occurrence along with Malkiat Singh and Ravinder Ram. He lifted blood-stained earth from the spot, and converted the same into parcel and taken into possession vide memo Ex.PH. He also deposed about preparation of the site plan of the spot of occurrence which is Ex.PW. Even the clothes of the deceased were produced before him, which were converted into parcel and taken into possession vide memo Ex.PM. He also deposed about recording of statement of the witnesses and also deposed about further investigation of the case to have been conducted by ASI Bhajan Singh.

Thereafter, the Public Prosecutor, tendered into evidence report, chemical examiner Ex.PX and closed the prosecution evidence.

On closure of the prosecution evidence, all the incriminating circumstances appearing in the prosecution evidence were put to the accused Massa Ram, in his statement under Section

313 Cr.P.C. However, the accused pleaded false implication in the present case and claimed himself to be innocent. However, the accused did not lead any evidence in defence.

After hearing the learned counsel for the State and learned counsel for the accused and on appraisal of the evidence brought on record, vide judgment dated 18.02.2005, accused Massa Ram was held guilty and convicted for commission of offence under Section 302, 326 and 324 IPC and was sentenced, as detailed in earlier portion of the judgment.

Feeling aggrieved by the aforesaid judgment of conviction and order of sentence, the appellant/convict-Massa Ram filed the present petition.

In pursuance of notice issued by court, learned State Counsel made appearance on behalf of the State. Even the lower court record was requisitioned.

We have heard the learned counsel for the appellants as well as learned State Counsel and have perused the record.

At the very outset, counsel for the appellant has assiduously submitted that the false case has been planted upon the accused. The eye-witnesses are related to the deceased and, therefore, they are interested in the success of the prosecution. As such their testimonies are not above board. Furthermore, it is also submitted that the statement of Thakar Dass-complainant has been managed by the prosecution at a later stage, only to give strength to the prosecution version. Even Malkiat Singh has not witnessed the occurrence in question and has been padded later on. As such, it is submitted that

the prosecution has miserably failed to establish the guilt of the accused, as per the demanding degree of proof. As such a prayer has been made for the acceptance of the appeal and to acquit the appellant.

In refutation, the learned State Counsel has resisted the claim of the appellant, tooth and nail. It is submitted that learned trial Court has rightly appraised the evidence and has reached the correct conclusion about the guilt of the accused. There is vivid eye-witness account given by Thakar Dass, PW-2, as well as Malkiat Singh, PW-3, who had witnessed the occurrence and their role, as such cannot be doubted as they themselves had sustained injuries, in the occurrence in question. Even the ocular version, so putforth, gains strength from the medical evidence brought on record. The concerned doctor has also stated about the possibility of the injuries in question to be caused by scissor, which is a weapon of offence in the present case, cannot be ruled out. Further, it is also submitted that the version of the prosecution also gains strength from the very fact of the accused, having got effected the recovery of weapon of offence, in pursuance of the disclosure statement, made by him. As such, a prayer has been made for the dismissal of the appeal.

Throughout the arguments, much emphasis has been laid upon the testimonies of PW2 Thakar Ram and PW3 Malkiat Singh, to be not inspiring confidence as both the said witnesses are closely related to the deceased. Complainant-Thakar Dass is the father of the deceased-Kashmir Singh and Malkiat Singh, witness is the cousin of the complainant. It is pointed out that since both these witnesses are

closely related, they have deposed, in an exaggerated manner, only with the purpose to nail down the accused. As such their testimonies, are not above board. However, the aforesaid submission is not tenable.

Relationship is not a factor to effect the credibility of a witness. It is more often than not, that relation would conceal actual culprit and make allegations against any innocent person. Ordinarily, a close relation would be the last to screen the real culprit and falsely implicate an innocent person. However, where only a related witness has been examined, the Courts are required to adopt a careful approach and analyse the evidence to find out, whether it is cogent and reliable. Credibility of a witness cannot be judged, mainly on the basis of his close relation with the deceased and as such, cannot be a ground to discard his testimony. However, there cannot be a mechanical rejection of the witness, who is related to a deceased. It has to be kept in mind that each case has to be adjudicated in the backdrop of its own factual position and the Courts have to adopt a careful approach and analyse the evidence, whether it is cogent and reliable. If witness, who is related to the deceased steps into the witness box, this only cautions the Court to scrutinize his testimony, more carefully. Considering the same, it is pertinent to mention that in the present case, both complainant Thakar Dass, PW-2 and Malkiat Singh, PW-3, who are the father and uncle of the deceased, have given a very vivid eye-witness account vis-a-vis occurrence, having caused by the accused and both the said witnesses have been subjected to the lengthy cross-examination but nothing material

elicited out to dislodge the version, so put forth by them. Even their presence gets stamped as both of them had sustained injuries in the occurrence in question. Thakar Dass had sustained grievous injury, whereas, injury on the person of Malkiat Singh is simple in nature. Further, possibility of the injury so received by them having caused by the scissor, which is weapon of offence, has not been ruled out by the concerned doctor. Considering the same, another fact which gains momentum is that no such enmity or animosity of the victims side qua the appellant is alleged or evident from the evidence led in the case and therefore, there is no reason, as such coming forth for the complainant's side, to falsely depose qua the role of Massa Ram, in the case. Thus, the submission so made about the testimony of both these witnesses to be not above board, on account of interestedness being relatives of the deceased, as such pales into insignificance.

Now proceeding further. So far as the fact of death of the deceased-Kashmir Singh is concerned, the prosecution has examined PW11 Baljit Singh, Medical Officer, who had conducted postmortem examination on the dead body of Kashmir Singh. He has deposed about the detail of the injuries found on the body of the deceased, which have already been detailed, in the earlier portion of the judgment and he has duly proved the carbon copy of the postmortem report, which is Ex.PU. Thus, from the testimony of this witness, the fact of death of Kashmir Singh stands amply established.

Now, it is to be ascertained, whether the death was due to homicidal violence or not. To establish the incriminating role of Massa Ram, the prosecution has examined complainant-Thakar Dass

at whose instance, the ball went rolling. The said witness has very categorically stated about his relationship with the deceased-Kashmir Singh and also about the fact of two shops, having rented to Massa Ram and Surti Ram. He also categorically deposed that on 03.08.2004 at about 7-8 p.m. his son Kashmir Singh went to the shop of Massa Ram and further deposed about Kashmir Singh, having asked Massa Ram that he was consuming more electricity and he should pay more electricity charges. He also deposed that upon this, Massa Ram retorted, who was Kashmir Singh to stop him from consuming more electricity. Thereupon, Sunny Ram, brother of accused Massa Ram, held Kashmir Singh, by his arms and Massa Ram gave blows with scissor on the chest of Kashmir Singh. He also deposed that he raised alarm to save his son and then Massa Ram had given injury, on his left forearm with the same scissor. Then, Malkiat Singh, son of his uncle and Sukhdev Singh, his nephew had also come there. Massa Ram has then given 4 more blows with the same scissor, on the back of Kashmir Singh. Massa Ram caused injury with scissor, on the left finger of Malkiat Singh. He also categorically deposed about himself and Kashmir Singh to have been taken to Civil Hospital, Sultanpur Lodhi, and his son had died at 9:00 P.M. This witness also deposed that he was admitted in hospital and he became unconscious. He also deposed about recording of his statement, which is Ex.PF.

Besides the aforesaid witness, PW-3, Malkiat Singh had also deposed about the manner of occurrence, caused by the accused Massa Ram and inflicting of injuries by Massa Ram on Kashmir Singh with the scissor and further also deposed about the injuries

having inflicted upon Thakar Dass as well as himself. He also deposed about having associated in the investigation of the present case. Both the said witnesses were cross-examined at length, vis-a-vis, the manner of taking place of the occurrence and also qua the incriminating role, as spelt out in their examination-in-chief, but nothing material elisted out to dislodge their version qua the role of Massa Ram, in inflicting of injuries to Kashmir Singh and to both the said witnesses. In the light of the same, the testimonies of both the witnesses inspire confidence.

Proceeding further, the ocular version so given by PW-2, Thakar Dass and Malkiat Singh PW-3, finds corroboration from the medical evidence brought on record. As already detailed aforesaid. PW-1 Dr. Ravinder Pal has deposed about having conducted medico legal examination on Thakar Dass on 03.08.2004 and he has also proved the carbon copy of the MLR, which is Ex.PA and the pictoral diagram is Ex.PA/1. He further deposed that the possibility of injury No.1 on the person of injured with the Ex.P1 cannot be ruled out. Also, he deposed that in pursuance of Orthopaedic Surgeon, he declared injury No.1 on the person of injured to be grievous in nature. Further, this witness has also deposed about the detail of injury found on the person of Malkiat Singh, on his medical examination and also deposed about the said injury to be simple in nature.

Even Dr. Des Raj, Orthopaedic Surgeon, PW-10, has deposed about injury No.1 on the person of Thakar Dass to be incised wound and the said injury was declared grievous injury by PW-1.

Furthermore, even PW-11, who conducted postmortem on the dead

body of the deceased had deposed about the injuries found on the dead body, could be possible with the scissor, Ex.P1. Scissor so coming forth is the weapon of offence of the present case.

Additional credence is lent to the prosecution version from the very fact of the scissor, which is weapon of offence, having recovered, in pursuance of disclosure statement made by the accused Massa Ram. Even, further corroboration is lent from the contents of the FSL report, which states about the soil lifted from the place of occurrence and the scissor to be stained with human blood.

Version of the prosecution is further stamped from the very fact of the FIR, having been got registered, without much loss of time. The occurrence had taken place on 03.08.2004 at about 7:30 p.m. in the area of Village Mothanwala and the FIR was registered at about 11:45 p.m. by Police Station Sultanpur Lodhi, which is at a distance of 13 kilometers from the place of occurrence. The time of arrival of Thakar Dass in Civil Hospital, Sultanpur Lodhi, is 9:10 p.m. It thus shows that soon after the occurrence, the complainant as well as Kashmir Singh, were taken to Civil Hospital, Sultanpur Lodhi. Kashmir Singh was declared to have been brought dead. Considering the timings of taking place of the occurrence and post occurrence movement of the injured, it is quite obvious that the complainant and the other persons had the anxiety to extend timely medical help to Kashmir Singh, who was extensively injured. It was only in pursuance of receipt of MLR, SI Ram Dutt had reached Civil Hospital, Sultanpur Lodhi and after obtaining requisite opinion from the concerned doctor, he had recorded the statement of Thakar Dass.

The police proceedings were completed at 11:30 p.m.

Thus, considering this seriatim of post occurrence movement of the persons concerned, the FIR so got lodged is very prompt, which rules out chances of tutoring or the coloured version coming forth and this very fact also renders strength to the prosecution version.

Though now, it is submitted by the counsel for the appellant that the statement of Thakar Dass has been padded later on, by the prosecution as Thakar Dass while facing cross-examination had stated about having not recorded statement to the police and also about himself to have become unconscious, soon after the receipt of the injuries, but however, the aforesaid submission is not tenable. Very true, Thakar Dass has so stated about himself to have become unconscious soon after the receipt of injuries, but however, this part of the testimony of the complainant has to be appraised, in the backdrop of the other evidence coming on record. It is pertinent to mention that PW1 Dr. Ravinder Pal, who had conducted medico legal examination of Thakar Dass, has very clearly stated that the patient i.e. Thakar Dass was conscious, well-oriented and he came walking. He also duly stated that application Ex.PD was filed by the police and he had given the opinion that injured was fit to make statement and this opinion is Ex.PD/1. In the light of such opinion coming forth and the observation so made by the medical specialist, the contradiction vis-a-vis the version of the prosecution so coming forth in the cross-examination of Thakar Dass, pales into insignificance.

Also learned counsel for the appellant has submitted that

there was no motive, on the part of the accused to cause the death of Kashmir Singh and even intention on the part of the accused to cause death of Kashmir Singh, does not stand established. However, on this count also, the submission so made, does not carry weight. It is pertinent to mention that as per the version of the prosecution, Kashmir Singh had gone to the shop occupied by Massa Ram and thereby apprised him of the consumption of more electricity by him and that he was now liable to pay more energy charges. It was only thereupon, scissor blows were inflicted by Massa Ram. Calling upon to pay more energy charges proved to be a trigger, which incited Massa Ram to cause injuries on the person of Kashmir Singh. Had it been only one injury caused by the accused to Kashmir Singh, then things would have been different. It could be said that it was at the spur of the moment, feeling enraged, he caused the injury. However, it is not so in the present case. At first instance, appellant Massa Ram had given two blows with scissor on the chest of Kashmir Singh. Thereafter, he had given further injuries, on the person of Kashmir Singh. Not only this, he has also caused injuries to Thakar Dass and Malkiat Singh, who had come forward to rescue Kashmir Singh, from the clutches of Massa Ram. The concerned doctor had also opined that injury No.1 on the person of Kashmir Singh, to be sufficient to cause death. Such being the circumstances spelt out about the taking place of the occurrence and the detail of the injuries so caused, the incriminating role of the accused Massa Ram stands amply established and it speaks volumes about the intention, on the part of the accused, to commit murder.

In the light of the aforesaid cumulative discussion, learned trial Court has rightly held appellant Massa Ram guilty and convicted him under Section 302, 326 and 324 IPC. Thus, the appeal sans merit and the same is hereby **dismissed**.

Accused-appellant, namely, Massa Ram, is stated to be on bail. A copy of the judgment be sent to concerned Chief Judicial Magistrate, to get the accused-appellant arrested, so as to serve the remaining part of the sentence.

(JITENDRA CHAUHAN)
JUDGE

(ARCHANA PURI)
JUDGE

13.12.2019

Himanshu

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No