

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRA-D-1236-DB-2015

Amarpreet Singh

... Appellant

Versus

State of Punjab

... Respondent

2. CRA-D-1322-DB-2015

Amardeep Singh @ Sunny

... Appellant

Versus

State of Punjab

... Respondent

3. CRA-D-1325-DB-2015

Jasdeep Singh @ Jassu

... Appellant

Versus

State of Punjab

... Respondent

4. CRA-D-1448-DB-2015

Ramsimran Singh Makkar

... Appellant

Versus

State of Punjab

... Respondent

5.

CRA-AD-74-2015

Rajbir Singh Sekhon

... Appellant

Versus

State of Punjab and others

... Respondents

Reserved on : 09.09.2019**Date of decision: 16.10.2019**

***CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU***

Present: Mr.Vinod Ghai, Senior Advocate with
Ms.Kanika Ahuja, Advocate,
Mr.J.S.Mehndiratta, Advocate
for the appellants in CRA-D-1236-DB-2015 and
CRA-D-1448-DB-2015.

Mr.P.S.Ahlulwalia, Advocate
for the appellants in CRA-D-1325-DB-2015,

Mr.S.S.Narula, Advocate
for the appellant in CRA-D-1322-DB-2015.

Mr.Vikram Chaudhary, Senior Advocate with
Mr. Rahul Mahajan, Advocate and
Mr.A.P.S.Randhawa, Advocate
for the appellant-complainant in CRA-AD-74-2015.

Mr.H.S.Grewal, Addl.A.G. Punjab.

RAJIV SHARMA, JUDGE

Since common questions of law and facts are involved in the
aforesaid appeals, therefore these are taken up together and disposed of by a
common judgment.

2. These appeals have been instituted against the judgment and
order dated 03.08.2015 rendered by the Sessions Judge, Gurdaspur, in
Sessions case no.28 of 2011 whereby appellants Amarpreet Singh,
Amardeep Singh @ Sunny, Jasdeep Singh @ Jassu and Ramsimran Singh
Makkar were charged with and tried for offences punishable under Sections

120-B, 302 of the Indian Penal Code (in short 'IPC') and 25 and 27 of the Arms Act. The appellants were convicted and sentenced as under:-

Name of convict	Offence under Section	Sentence
Ramsimran Singh Makkar	U/s 304 Part I IPC	To undergo imprisonment for life and to pay fine of Rs.10,000/- and in default of payment of fine to undergo further RI for one year.
	U/s 25 Arms Act	To undergo rigorous imprisonment for two years and to pay fine of Rs.2000/- and in default of payment of fine to undergo further RI for three months.
	U/s 27 Arms Act	To undergo rigorous imprisonment for five years and to pay fine of Rs.5000/- and in default of payment of fine to undergo further RI for six months.
Amardeep Singh Sachdeva	U/s 304 Part I, read with Section 34 IPC	To undergo imprisonment for life and to pay fine of Rs.10,000/- and in default of payment of fine to undergo further RI for one year.
	U/s 25 Arms Act	To undergo rigorous imprisonment for two years and to pay fine of Rs.2000/- and in default of payment of fine to undergo further RI for three months.
Jasdeep Singh	U/s 304 Part I, read with Section 34 IPC	To undergo imprisonment for life and to pay fine of Rs.10,000/- and in default of payment of fine to undergo further RI for one year.
Amarpreet Singh Narula	U/s 304 Part I, read with Section 34 IPC	To undergo imprisonment for life and to pay fine of Rs.10,000/- and in default of payment of fine to undergo further RI for one year.

All the substantive sentences were ordered to run concurrently.

3. The case of the prosecution, in a nutshell, is that the case was registered at the instance of Rajbir Singh, father of the deceased on the allegations that he was owner of Sekhon Grand Hotel, near Namdev Chowk, Jalandhar. He and his son used to remain at the hotel. On the intervening night of 20/21.04.2011 his son Gurkirat Singh did not come back to the house till late hours of night. Then at about 12.45 A.M. he went to see him.

When he reached near Baba Rasoi Dhaba, he found his son Gurkirat Singh along with Sukhdev Singh son of Chanan Singh, resident of village Barsal, P. S. Lambra, District Jalandhar, standing on the main road. All the accused were also standing there. They were exchanging hot words with his son. He tried to intervene. In the meantime, accused Amardeep Singh @ Sunny took out revolver from his *dab* and grappled with his son. Accused Jasdeep Singh and Prince Narula raised lalkara instigating Ramsimran Singh what were they waiting for. Accused Ramsimran Singh took out revolver from his *dab* and fired on the back of his son Gurkirat Singh. Gurkirat Singh collapsed on the ground. Accused ran away from the spot. He with the help of Varun Gumbar, owner of the Baba Rasoi Dhaba and Sukhdev Singh put Gurkirat Singh in his vehicle. His son was taken to Satyam Hospital. He succumbed to the fire arm injuries. He and Sukhdev singh witnessed the whole occurrence. The motive behind the occurrence was that some time ago, police had raided his hotel at the instance of Ramsimran Singh Makkar, due to which his son and Ramsimran Singh were not on good terms. His statement is Ex.P.L. FIR Ex.PL/1 was registered. Investigating Officer along with the complainant went to Satyam Hospital, Jalandhar. He prepared inquest report. He got the post-mortem conducted on the dead body. He raided the house of the accused. The blood stained clothes of the deceased along with bullet which was extracted from the dead body during post-mortem examination, were taken into possession. These were converted into parcels. Accused surrendered in the Court. Recoveries were made. Investigation was completed. Challan was put up in the Court after completing all the codal formalities.

4. Prosecution examined as many as 27 witnesses. The statements

of appellants were also recorded under Section 313 Cr.P.C. They have denied the case of the prosecution. The appellants have also produced 16 defence witnesses. The appellants were convicted and sentenced as noticed hereinabove. Hence these appeals.

5. Complainant Rajbir Singh Sekhon has also filed an appeal (CRA-AD-74-2015) seeking conviction of the accused under Section 302 and 120-B IPC instead of Section 304 Part I IPC.

6. Learned counsel appearing for the appellants have vehemently argued that the prosecution has failed to prove the case against the appellants.

7. Learned counsel appearing on behalf of the State has supported the judgment and order of the learned trial Court.

8. Learned counsel for complainant-appellant Rajbir Singh Sekhon has vehemently argued that appellants should have been convicted under Section 302 IPC.

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

10. PW-1 Dr. Surinder Pal had conducted the post-mortem examination on the dead body of Gurkirat Singh. He noticed the following injuries on the person of the deceased:-

“1. An oval lacerated wound with inverted margins 1.5 cm x 1 cm on the back of right side of chest, 10 cm medial to lower end of scapula and 14 cm away from mid line (spine). The wound was surrounded by small abrasions. Blackening was present around the wound. On exploration, the track followed through the posterior chest wall, left pleural cavity, through and through left

lung, which was collapsed, injuring the vessels and other structures throughout the track and pierces through the left chest wall (lateral) and massive blood was present in left pleural cavity. Haematoma was present in between muscles and left chest wall. The muscles were lacerated. The bullet was removed from the subcutaneous tissue covering left chest wall. The bullet was sealed in glass container and was handed over to the police.

- 2. Abrasion 1 cm in diameter just below right knee.*
- 3. Abrasion size 1 cm x 0.5 cm on the front of middle part of left leg.*
- 4. Abrasion 0.75 cm on front of left knee.*
- 5. Abrasion size 6x1 cm on the back of left upper arm, just above elbow joint.*
- 6. Abrasion size 1.5 x 1 cm posterior-medical aspect of right forearm, just below elbow joint.*
- 7. Abrasion size 2 x 1.5 cm on left temporal region.*
- 8. An abrasion size 3 x 2 cm on left cheek.”*

Injuries no.2 to 8 were the result of blunt weapon whereas injury no.1 was the result of fire arm. All the injuries were ante mortem in nature and were sufficient to cause death in the ordinary course of nature. The probable time that elapsed between injuries and death was within few minutes and the time that elapsed between death and post-mortem was within 18 hours. On receipt of the report of Chemical Examiner Ex.PC, the Medical Board opined that there was no poison in the viscera. The cause of death in this case was hemorrhage and shock due to injury no.1 which was sufficient to cause death in the ordinary course of nature. The Board gave final report Ex.PC/1 regarding cause of death. On 24.04.2011 accused Amardeep Singh @ Sunny was produced before him for medical examination. He noticed the

following injuries:-

- “1. Contusion with abrasion 1 cm x 1 cm on the back of right elbow.*
- 2. Brownish contusion size 3.5 x 3 cm on medial aspect of left elbow.*
- 3. Small needle like pointed mark on posterior aspect of left elbow joint, which were contused tissue mark.”*

The weapon used for the injuries was blunt. Probable duration of the injuries was above 72 hours. In his cross-examination, he deposed that the possibility of the deceased having become unconscious after suffering the bullet injury could not be ruled out. The deceased could be in a position to speak for few minutes after suffering of the injury. The deceased might have died within 3-4 minutes of receiving the injury. Dr. Davinder Singh removed the bullet from the dead body. He conducted search for the bullet in the body.

11. PW-19 Dr. Davinder Singh deposed that the bullet was taken from the body of deceased by him. He put the same in the glass container. It was sealed by the technician in his presence. He also deposed that all the injuries were ante mortem in nature and were sufficient to cause death in the ordinary course of nature. Injury no.1 was the result of fire arm. The cause of death was hemorrhage and shock due to injury no.1 which was sufficient to cause death in the ordinary course of nature. In his cross-examination, he denied the suggestion that bullet was not traced in the dead body.

12. PW-4 Ramesh Kumar, JE, deposed that he was posted in Model Town, Jalandhar in April, 2011. The model town area was supplied electricity from 132 KV feeder, Urban Estate Phase-II, Jalandhar. It was under his supervision. He did not receive any complaint regarding the shut down of electricity on 20.04.2011 from 9.00 A.M. to 4.00 A.M. on the next

day.

13. PW-5 Dalip Singh, draftsman proved site plan Ex.PK.

14. PW-6 Rajbir Singh Sekhon deposed that on 20.04.2011 again said on the intervening night of 20/21.04.2011 he was at his house. His son did not come back to the house during the late hours of night. He started for his hotel to see him. He reached at about 12.45 O'clock at night near Baba Rasoi Dhaba. He found his son Gurkirat Singh along with Sukhdev Singh son of Chanan Singh standing in the street adjoining Baba Rasoi Dhaba. The street leads to Baba Rasoi from main road. They were standing just at the point where street starts. Amardeep Singh @ Sunny Sachdeva, Ramsimran Singh Makkar @ Prince Makkar, Jasdeep Singh @ Jassu and Amanpreet Singh Narula @ Prince Narula had encircled his son. Hot words were being exchanged. Amardeep Singh @ Sunny took out a revolver from his dab and pointed it on the chest of his son Gurkirat Singh. All the four accused started grappling with his son. Amarpreet Singh @ Prince Narula and Jasdeep Singh @ Jassu raised lalkara. Accused Ramsimaran Singh took out the revolver from his dab and fired on the back of his son Gurkirat Singh. Gurkirat Singh fell down. All the accused ran away from the spot. He with the help of Sukhdev Singh and Varun Gumber removed his son to Satyam Hospital in his car. When he sat in the car, his son told him that all the accused called him by misrepresentation and fired at him with the intention to kill him. Varun Gumber was the owner of Baba Rasoi Dhaba. He reached at the spot on hearing the sound of fire arm. His son was declared dead. The post-mortem was conducted on the dead body. In his cross-examination by learned counsel appearing on behalf of accused Ramsimran Singh, he deposed that he used to come back to the house at

about 10.30/11.00 P.M. Sometimes he used to come late. He went to his hotel presuming that his son would be there. He went to his hotel in Innova car. He did not state to the police in his statement Ex.PL that when they were in the car, his son told him that all the accused called him by misrepresentation and fired at him with the intention to kill him. However, he stated this fact in his supplementary statement. He did not state this fact to the police when his statement was recorded in the Satyam Hospital. He had not stated to the police that all the accused got conducted a raid at their hotel.

15. PW-7 HC Lakhwinder Singh deposed that a parcel sealed with seal bearing impression SS was produced before him. After removing the seal, a revolver .22 bore was taken out for test. He checked the revolver mechanically. It was found in working condition. Again it was put in the same parcel. It was sealed with his seal LS. The revolver was produced before him by Inspector Sakattar Singh.

16. PW-10 Sukhdev Singh deposed that he knew Rajbir Singh's son Gurkirat Singh. They were running a hotel business namely Sekhon Grand. He did not know whether the accused murdered Gurkirat Singh on 21.04.2011. He was not killed in his presence. He was declared hostile and cross-examined by the learned Public Prosecutor. He deposed that his village was at a distance of 7-8 kilometers from Jalandhar. He knew Rajbir Singh for the last several years. He also knew his son Gurkirat Singh. He received telephone of Rajbir Singh between 9.00 A.M. to 10.00 A.M. on 21.04.2011. He met Rajbir Singh 2-3 days prior to the incident. He admitted his signatures on Ex.PF and PF/1.

17. PW-12 Narinder Kaur deposed that licence no.16643/DM/JAL

was issued on 15.07.2004 in the name of Ramsimran Singh for double barrel gun and revolver no.B4172 and gun no.CS20168 have been entered in his licence. It was valid upto 14.07.2010.

18. PW-13 Amardeep Singh deposed that on 20.04.2011 he and his friend Gurpreet Singh went to house no.387, Mota Singh Nagar, Jalandhar. He and Gurpreet Singh after roaming at about 10.00/10.15 P.M. reached Baba Rasoi Dhaba to receive their meals. It was his birthday. They sat outside the dhaba. After 5-7 minutes, four youngmen came there and sat on the adjoining table. Three of them were wearing turbans and one was “mullan” fashion. Prince Makkar was saying to his companions that Gikki was leveling false allegations against him bringing bad name to him in the city. Thereafter he told that Gikki was to pass from that way as per his daily routine. Prince Makkar further told that they were to finish Gikki as per their earlier plan. Thereafter, Prince Makkar put his hand at his dab and stated that he had the revolver with him. He asked others about their weapons. Accused put their hands on their respective dabs. On the next morning at about 7.30/8.00 A.M. they came to their village. On 28.04.2011 he told his friend Gurpreet Singh that he was to go to Jalandhar to see the tyres for jeep. After alighting at the bus stand at Jalandhar, he asked him to meet the aunt first. He identified the accused present in the Court.

19. PW-14 HC Sawraj Thappar had led his evidence by filing affidavit Ex.PS. He averred in his affidavit that inquest proceedings were completed. Statements of witnesses were recorded in Satyam Hospital, Jalandhar. He and ASI Kirpal Singh went to the Civil Hospital, Jalandhar. They got conducted the post-mortem examination. After post-mortem examination, doctors handed over to them the clothes of the deceased

Gurkirat Singh consisting of one T-shirt of black colour, one jean of black colour, one underwear of green colour, white colour shocks, one leather belt of black colour and a pair of black shoes along with parcel of vial containing bullet sealed with seal impression CHJ, viscera of deceased Gurkirat Singh. After the post-mortem examination, they met Inspector Sakattar Singh, SHO, P.S. Division no.6, Jalandhar, at Milk Bar Chowk, where ASI Kirpal Singh handed over the clothes of the deceased Gurkirat Singh handed over to them by the doctors including parcel of vial containing bullet. These were taken into possession by SHO Sakattar Singh. These were deposited by him with MHC Gurmit Singh in the malkhana. On 25.04.2011, MHC Gurmit Singh handed over to him one plastic box containing blood stained earth, sealed with seal impression SS by taking the same from Malkhana in intact condition, for depositing the same with Forensic Science Laboratory, Mohali. He deposited the same in the office of Forensic Science Laboratory, Mohali. MHC Gurmit Singh handed over to him the viscera of deceased Gurkirat Singh. He deposited the same with the Chemical Examiner, Kharar. In his cross-examination, he deposed that parcel containing bullet was given to him after post-mortem examination but he could not tell the time. ASI Kirpal Singh handed over that parcel to Inspector at Milk Bar Chowk.

20. PW-16 HC Gurmit Singh led his evidence by filing an affidavit Ex.PU. In his affidavit, he had sworn that clothes of the deceased including plastic box containing blood stained earth were handed over to him by SHO Sakattar Singh. Viscera was also got deposited with him by HC Sawraj Thappar on 21.04.2011. On 24.04.2011 SHO Sakattar Singh Inspector had deposited the case property, i.e. one Skoda car and one mobile phone, with

him in the malkhana. On 25.04.2011 sealed parcel of plastic box containing blood stained earth was taken out from the malkhana in intact condition and was handed over to HC Sawraj Thapar for depositing the same with Forensic Science Laboratory, Mohali. HC Sawraj Thapar deposited the parcel of plastic box containing blood stained earth with Forensic Science Laboratory, Mohali on 25.04.2011. On 25.04.2011 Inspector Sakattar Singh had deposited with him in the malkhana one parcel of plastic box containing .32 bore revolver no.B-4172 MK-1 SAF KANPUR 2000 along with polythene bag recovered from accused Ramsimran Singh Makkar along with sample seal, one mobile phone, one parcel of plastic box containing .22 bore revolver recovered from the accused Amardeep Singh @ Sunny along with sample seal, one parcel containing seven cartridges of .22 bore sealed with seal impression SS, two mobile phones. Viscera of deceased Gurkirat Singh was handed over to HC Sawraj Thapar to be deposited in the office of Chemical Examiner, Kharar. He deposited the same in the office of Chemical Examiner, Kharar, on 28.04.2011 itself. On 06.05.2011 one vial parcel containing bullet sealed with seal impression CHJ and one parcel of plastic box containing .32 bore revolver sealed with seal impression SS having three seals recovered from accused Ramsimran Singh Makkar along with sample seal were taken out from the malkhana in intact condition. These were handed over to SHO Sakattar Singh to deposit the same with Central Forensic Science Laboratory, Sector 36-A, Chandigarh. On 06.05.2011 SHO Sakattar Singh had deposited the parcel of vial containing bullet and one parcel of plastic box containing .32 bore revolver with Central Forensic Science Laboratory, Chandigarh, in intact condition. On 27.05.2011 a parcel of plastic box containing .22 bore revolver with seal

impression SS recovered from accused Amardeep Singh @ Sunny was handed over to SHO Sakattar Singh to obtain the test report from Head Armourer of Police Line, Chandigarh. On the same day, SHO Sakattar Singh after getting the test report, deposited with him a parcel of plastic box containing .22 bore revolver. On 15.07.2011 ASI Gurpal Singh brought one sealed parcel of plastic box containing .32 bore revolver sealed with seal impression CFSL, CHD from Central Forensic Science Laboratory, Sector 36-A, Chandigarh. The parcels remained with him. Neither these were tampered with nor he allowed anybody to tamper with them.

21. PW-17 Constable Kulbir Singh had handed over special report to Illaqa Magistrate on 21.04.2011.

22. PW-18 ASI Kirpal Singh deposed that after post-mortem examination, the clothes of the deceased and one parcel containing bullet were given to him by the doctor. These were handed over to Inspector Sakattar Singh.

23. PW-20 Manoj Madan had produced the record relating to mobile no.98146-61313 and mobile no.98140-07360. He had proved the call details of 98146-61313 Ex.PU and 98140-07360 Ex.PU/1. He also proved certificate Ex.PU/2.

24. PW-21 Damandeep Singh also proved call details of mobile no.99884-00002 and 98880-80808 vide Ex.PU/3 and Ex.PU/4. He also produced certificate Ex.PU/5.

25. PW-22 Kamal Mehra had proved the call details of mobile no.93579-10052 vide Ex.PW22/A. The certificate under Section 65-B of the Evidence Act is Ex.PW22/B.

26. PW-23 Varun Gumber deposed that he was running a dhaba

under the name and style of Baba Rasoi at Model Town, Jalandhar. On the intervening night of 20/21.04.2011 he was present at his dhaba. He closed his dhaba at about 11.00/11.30 P.M. On that day, he continued sitting in his dhaba for some time more to settle the account. At that time 1 or 2 waiters and one person who was cleaning the utensils were present in the dhaba. At about 1.00 A.M. when he was about to go, his employee Manoj told him that one person was lying outside his dhaba. When he came out, he saw that person lying outside his dhaba was his friend Gurkirat Singh. He was in injured condition. Blood was oozing out from his injuries. He was almost unconscious. With the help of his employees, he put Gurkirat Singh in the car owned by his friend Sumant Ralhan. They were taking him to Satyam Hospital, Jalandhar but he died on the way. His employees Manoj and Ramu were with him in the car. No other person had accompanied them in the car to the hospital. He was declared hostile and was cross-examined by the learned Public Prosecutor. He had identified his signatures on Ex.PF/2. He denied the suggestion that he had got recorded in his statement Ex.PF/2 that during the intervening night of 20/21.04.2011 at about 1.00 A.M. he came to know about sustaining of bullet injury by Gurkirat Singh from his father Rajbir Singh and he accompanied Rajbir Singh and Sukhdev Singh and put Gurkirat Singh in a vehicle and took him to Satyam Hospital, Jalandhar. He was confronted with portion A to A1 of his statement Ex.PF/2. However, he denied the same. He denied the suggestion that Gurkirat Singh was put in the car of his friend Sumant Ralhan. He identified his signatures on inquest report Ex.PF.

27. PW-24 Sakattar Singh was the Investigating Officer. He recorded supplementary statement of Sukhdev Singh Ex.PQ on 21.04.2011.

He also recorded supplementary statement of Rajbir Singh Ex.DA. Accused were arrested. They were medically examined. They were interrogated. Recoveries were made. He prepared the site plan of the place from where the car was recovered. Ramsimran Singh made the disclosure statement that one revolver .32 bore was kept concealed by him in lawn of his house. The disclosure statement is Ex.PW24/L. Amardeep Singh also made a disclosure statement that one revolver .22 bore with live cartridges were kept by him in a cloth in a room of his house. His disclosure statement is Ex.PW24/M. Accused Amardeep Singh got recovered revolver with 7 loose live cartridges lying underneath the cloth under the bed. The revolver is Ex.P1. 7 live cartridges are Ex.P11 to Ex.P17. Mobile phone was also taken into possession. He prepared site plan of the place of recovery of articles Ex.PW24/O. Ramsimran Singh also led the police party to the place disclosed by him and got recovered one revolver .32 bore after digging the earth from his lawn. Revolver was put in a parcel. The parcel of revolver, one mobile phone and licence were taken into possession vide memo Ex.PW24/Q. In his cross-examination, he deposed that he correctly recorded the statement of Rajbir Singh complainant Ex.PL. He also correctly recorded statements of Ex.DA and Ex.PF/2. He also correctly recorded the statement of Amardeep Singh Ex.DE. He also correctly recorded statements of C.Kulbir Singh Ex.DD and ASI Kirpal Singh Ex.DE. He also recorded statement of MHC Gurmit Singh regarding bullet on 07.05.2011. He had taken the bullet, the revolver and some spare rounds to the FSL on 06.05.2011. He could not send the bullet to the FSL earlier to the recovery of the revolver because of work load. He had prepared a docket for sending the bullet and revolver to the FSL. He denied the suggestion that the bullet

deposited with the CFSL had been fabricated as no bullet was recovered from the body during the post-mortem. He categorically deposed in the cross-examination that the revolver shown in the CD was not that revolver which he had shown to have taken into possession vide memo Ex.PW24/Q. He denied the suggestion that revolver shown in the CD mark D1 was given to him later on by Mr.Benipal which he planted upon the accused.

28. PW-25 Victor Masih had produced the summoned record. According to record, arm licence no.18077/DM/Jalandhar was earlier issued by the DM, Jalandhar, which was valid upto 28.08.2010.

29. PW-26 Randhir Singh Rana had brought the mobile opening form of mobile no.93579-10051 issued in the name of Hotel Sunshine Private Limited, Gujral Nagar, Jalandhar.

30. PW-27 Surjit Singh had brought the customer application form applied for mobile no.98141-60013.

31. DW-8 Dr. Sunita Verma deposed that there was facility of forensic DNA test in the laboratory since the year 2000. In her cross-examination, she admitted that facility of DNA database of partial cases was not available in the CFSL. The database facility was not available in India till date.

32. DW-12 Dr.Ashok Bhagat deposed that if the death was caused by bullet injury, it was not necessary that bullet would be found in the dead body because of various reasons such as the bullet had entered the stomach and was vomited out or the bullet had entered the wind pipe and was coughed out or the bullet was passed through stools through anus.

33. DW-1 Sukhjit Singh Kang deposed that he knew Amardeep Singh. He was son of his maternal uncle. He had not visited their house for

the last about 5/6 years, nor on 20.04.2011 and 28.04.2011. In his cross-examination, he deposed that he did not remember the date of birth of Amardeep Singh. He could not tell the reason why Amardeep Singh had not visited their house for the last 4/5 years. Their relations were not strained with him. He had not given statement in this case before any other authority earlier.

34. DW-3 Rakesh Kumar deposed that he used to work at Kohli Studio, Partap Bagh, Jalandhar. He was asked to make a videograph film of the post-mortem examination of the dead body of Gurkirat Singh. He took about one hour to make the film. The post-mortem examination was stopped 2-3 times because of change of gloves by the doctors. During examination, various parts of the body were taken out from the dead body. He had not seen any person extracting the bullet from the dead body. He saw the bullet in the hand of the doctor who was wearing white gloves. He saw the bullet after about 45-48 minutes of the start of post-mortem examination.

35. DW-4 Arvind Sud had examined the questioned writings marked as Q1 to Q3. In his opinion, the questioned writings marked as Q1 to Q3 present at Sr. No.16 dated 21.04.2011, Sr. No.19 dated 21.04.2011 and Sr.No.15 dated 25.04.2011 in the Roznamcha register contain alterations and additions. He had given the detailed reasons of his opinion in his report Ex.DW4/A. In his cross-examination, he admitted that there was no addition, alteration, erasing or overwriting in the second line of body writing of Q1 writing at entry no.16 dated 21.04.2011 at which the Sections 302, 34 IPC, 25-54-59 Arms Act were written. He also admitted that neither there was any addition or alteration, erasing or overwriting in the date written as 21.04.2011 in the second line of the entry of Sr. no.16 of

Roznamcha register. He also admitted that all the body writings of Sr.no.16 is written by one and the same person. He also admitted that there was no overwriting, erasing, alteration or addition in the date or in the Sections of the IPC mentioned in the body of Entry no.19. He also admitted that there was no additions, alterations, overwriting and erasing in the date portion 21.04.2011 and Sections of offence in the second line of Entry no.15 dated 25.04.2011. He also admitted that all the body writings and hand written portion at entry no.15 dated 25.04.2011 were by one and the same person with the same pen and ink. In answer to the court question, he admitted that there was no addition, alterations etc. in the names of the accused persons at entry no.15 as well as entry no.16.

36. DW-5 HC Vinay Kumar admitted in his cross-examination that entry was not written in his presence. Overwriting was also not made in his presence. He had no personal knowledge about the entry.

37. DW-6 Bodh Raj deposed that he had brought the summoned record regarding mobile no.94176-30501. The number belongs to Constable Sawraj Thapar. It was issued to him on 06.07.2010. This mobile number 94176-30501 remained connected on 21.04.2011 from 4.20 A.M. to 9.59 A.M. with Tower, Model Town, Jalandhar. In his cross-examination, he admitted that father's name or address of Sawraj Thapar was not mentioned in CAF form. The mobile numbers of incoming calls to this number were there in the record produced by him but their particulars were not mentioned in the record.

38. DW-7 S.P.Jain had brought the call details, tower location chart and CAF form of mobile no.98159-91104. As per CAF form, the mobile number was allotted to Shri Baltej Singh Dhillon. The call details was

Ex.DW7/B. In his cross-examination, he deposed that he could not tell who used the mobile numbers issued vide CAF form Ex.DW7/D. He had not brought the original CAF form of Ex.DW7/A.

39. DW-9 Parampal Singh had brought the site plan of Adarash Nagar, Jalandhar. Certified copy of the same was Ex.DW9/B. In his cross-examination, he admitted that site plan brought by him was not signed by any authority and it was only traced copy.

40. DW-10 Baljinder Singh had produced the report Ex.DW10/C giving distances of the places.

41. DW-13 Nippun Bhalla had produced the site plan Ex.DW13/A. In his cross-examination, he admitted that he was hired by brother of one of the accused Amardeep Singh Sachdeva for preparing the map. He admitted that he had only consulted GPS device and taken no assistance from the local administration.

42. DW-14 Harpreet Singh deposed that on 24.04.2011 he was posted as ACP Model Town, Jalandhar. He was the Halqa Officer of P.S. Division no.6, Jalandhar. Three persons namely Paramjit Singh, uncle of accused Ramsimran Singh, Pappu Khosla relative of the above said accused and one more person had produced one revolver along with licence in connection with this case before him. The licence was in the name of accused Ramsimran Singh. He had compared the number of the revolver mentioned in the arms licence with the number of the revolver. He handed over the revolver and the arms licence to the Investigating Officer Sakattar Singh. In his cross-examination, he deposed that he came to know that accused had surrendered themselves in the Court on the day they surrendered. Paramjit Singh belong to the family of Shri Sarabjit Singh

Makkar. He did not know him earlier. He did not meet him before 24.04.2011. On 24.04.2011 Paramjit Singh came to his house to hand over the revolver to him. At that time they had prepared a video of handing over the revolver to him without his knowledge. He did not enquire who prepared that video. He did not enquire about the identity of third unknown person who had come along with Paramjit Singh. He had categorically deposed in his cross-examination that he did not prepare any memo regarding handing over of the revolver to him by Paramjit Singh and others on 24.04.2011 nor he entered this fact in the case diary. He did not seal the revolver when it was handed over to him. He admitted that he had not prepared any document or memo regarding handing over the revolver to Investigating Officer Sakattar Singh nor he made any entry in this regard in the case diary.

43. DW-15 Rakesh Chohan had brought the complaint register qua maintaining of street light. The complaint was received about breaking of electric wire of street light in front of house of B.S. Rana. The complaint was handed over to the computer operator. In his cross-examination, he admitted that he had not visited the street regarding which complaint Ex.DW15/A was filed. He did not know from where the street light in question starts and where it terminates.

44. DW-16 Raj Kumar deposed that a complaint was given to him for correction in the evening of 19.04.2011. The broken wire was repaired by him on 21.04.2011. In his cross-examination, he admitted that site plan mark DXX was seen by him in the Court for the first time. He also admitted that as per Ex.PYY/1 entry no.70 was of dated 21.04.2011. As per this entry, only one street light was off. He also admitted that in the document,

different complaints were entered with regard to number of street lights which were not working. There were 4-5 electric poles of street light between these two points.

45. PW-1 Dr.Surinder Pal had noticed as many as 8 injuries on the body of deceased. Injury no.1 was the result of fire arm. Injuries no.2 to 8 were the result of blunt weapon. All the injuries were ante mortem in nature. The cause of death was hemorrhage and shock due to injury no.1 which was sufficient to cause death in ordinary course of nature. The probable time that elapsed between injuries and death was within few minutes. He had categorically deposed that Dr.Davinder Singh removed the bullet from the dead body. PW-19 Dr. Davinder Singh has also corroborated the statement of PW-1 Dr. Surinder Pal qua the injuries as well as the cause of death. However, he deposed that the deceased could not speak after the receipt of bullet injuries. He has also deposed in his examination-in-chief that bullet was taken from the body by him which was put in the glass container. The same was sealed by the technician in his presence.

46. Ex.PC is the Chemical Examiner report. According to it, no poison / no alcohol was detected in the contents of exhibits I, II, III, IV & V. According to FSL report Ex.PX, soil contained human blood. According to CFSL report Ex.PX/1, human blood was found on exhibit-1. It was in fact bullet recovered from the dead body. According to CFSL report Ex.PX/2, two .32” revolver cartridges were successfully test fired through .32” MK-1 revolver. It was found to be in working order. .32” revolver lead bullet marked B/1 was fired through the .32” revolver MK-1 bearing no.B 4172 marked A. It could not have been fired through any other fire arm because every firearm has its own individual characteristic marks. Ex.PK is site

plan. Mark A is the place where Gurkirat Singh had received gun shot and blood stained earth was lifted. The statement of complainant Ex.PL was recorded on 21.04.2011. His supplementary statement was also recorded vide Ex.DA. In earlier statement, he had not disclosed that his son had told him that a misrepresentation was made to him and he was called to the spot to murder him. He had said so only in his supplementary statement Ex.DA. Recoveries of weapons were made at the instance of appellants along with cartridges. PW-4 Ramesh Kumar has categorically deposed that he had not received any complaint regarding shutting down of electricity. PW-5 Dalip Singh had proved Ex.PK site plan. PW-6 Rajbir Singh Sekhon is an eye witness. He has categorically deposed that his son did not come back to the house during the late hours of intervening night of 20/21.04.2011. He went to hotel. On the way he saw his son Gurkirat Singh along with Sukhdev Singh in the street. Accused Amardeep Singh @ Sunny took out a revolver from his dab and pointed it on the chest of his son Gurkirat Singh. All the four accused started grappling with his son. Amardeep Singh @ Prince Narula and Jasdeep Singh @ Jassu raised lalkara. Accused Ramsimran Singh had fired at the back of his son Gurkirat Singh. He with the help of Sukhdev Singh and Varun Gumber removed him to the hospital. PW-7 HC Lakhwinder Singh had tested the revolver .22 bore. It was found in order. PW-10 Sukhdev Singh though was declared hostile but he identified his signatures on the identification of dead body in column no.4 of Ex.PF as well as inquest report. He also identified his signatures on Ex.PF/1. PW-12 Narinder Kaur has proved the licence issued in the name of Ramsimran Singh. PW-13 Amardeep Singh had heard the conversation of accused. He identified the accused in the Court. PW-14 HC Sawraj Thappar deposed that

after the post-mortem examination, the doctors handed over to him the clothes of deceased Gurkirat Singh as well as vial sealed with seal impression CHJ. ASI Kirpal Singh handed over the clothes of deceased Gurkirat Singh and vial containing bullet to Inspector Sakattar Singh. He had taken the case property to FSL, Mohali. PW-16 HC Gurmit Singh had led his evidence by filing affidavit Ex.PU. He also deposed that the case property was deposited with him. He handed over the same to HC Sawraj Singh. He had taken to Chemical Examiner, Kharar. The case property was deposited with him by SHO Sakattar Singh. SHO Sakattar Singh was handed over a vial parcel containing bullet CHJ along with weapon of offence. These were sent to CFSL, Chandigarh without being tampered. PW-18 ASI Kirpal Singh has also corroborated the statement of PW-14 HC Sawraj Thappar that the case property was handed over to him by the doctor and he handed over the same to Inspector Sakattar Singh including clothes and bullet. PW-23 Varun Gumber also supported the case of prosecution though not entirely but he has deposed that dead body was found in front of his dhaba. The dead body was removed by him with the help of his friend Sumant Ralhan. He identified his signatures on inquest report Ex.PF/2 and also post mortem reports Ex.PB. PW-24 Sakattar Singh was the Investigating Officer. He got the post-mortem conducted. On the basis of disclosure statements, accused got recovered the weapons of offence. He took the same in possession. He deposited the case property in the malkhana. He recorded the statement of complainant and supplementary statement of complainant as well as Sukhdev Singh.

47. Learned counsel appearing on behalf of appellants Amarpreet Singh, Amardeep Singh @ Sunny, Jasdeep Singh @ Jassu and Ramsimran

Singh Makkar have placed strong reliance on the statement of DW-14 Harpreet Singh who deposed that one Paramjit Singh uncle of accused Ramsimran Singh, Pappu Khosla relative of accused had produced one revolver along with licence before him. However, PW-24 Inspector Sakattar Singh has categorically deposed that revolver shown in the CD was not a revolver which was taken in possession vide Ex.PW24/Q. DW-14 Harpreet Singh has also admitted in his cross-examination that no memo regarding handing over revolver to him by Paramjit Singh and others on 24.04.2011 was entered into case diary. He did not seal the revolver when it was handed over to him. He did not prepare any document or memo regarding handing over the revolver to Investigating Officer Sakattar Singh nor he made any entry in this regard in the case diary. DW-14 Harpreet Singh was holding a very important post. He has tried to fabricate the evidence in favour of the accused.

48. PW-26 Randhir Singh Rana has proved the mobile opening form of mobile no.93579-10051 Ex.PW22/C. PW-27 Surjit Singh has proved the customer application form applied for mobile no.98141-60013. PW-20 Manoj Madan has proved the record regarding phone no.98146-61313. He has also proved the call details vide Ex.PU and Ex.PU/1. PW-21 Damandeep Singh has proved the call details Ex.PU/3 and Ex.PU/4. PW-22 Kamal Mehra proved the call details Ex.PW22/A of mobile no.93579-10052. He also proved the certificate Ex.PW22/B issued under Section 65-B of the Evidence Act.

49. Statement of DW-1 Sukhjot Singh Kang does not inspire confidence. He could not assign any reason why Amardeep Singh had not visited his house for the last 4-5 years when their relations were cordial.

DW-2 HC Shashi Kant admitted in his cross-examination that he was not posted in the police station on 21.04.2011. The roznamcha was not prepared in his presence nor he knew in whose handwriting these entries were made. DW-3 Rakesh Kumar deposed that he saw the bullet in the hand of doctor who was wearing white gloves. It has come on record that bullet was handed over to ASI Kirpal Singh. ASI Kirpal Singh handed over the same to Sakattar Singh. Thereafter it was sent for forensic examination. The bullet was recovered by PW-19 Dr. Davinder Singh. Now as far as the statement of DW-4 Arvind Sud is concerned, he has admitted in his cross-examination that there was no addition or alteration in entry no.15 of 25.04.2011 and 16 of 21.04.2011 and entry no.19. DW-5 HC Vinay Kumar in his cross-examination has admitted that he was not posted in the police station on 24.06.2014. The entry no.15 was not written in his presence. He had no personal knowledge about this entry. DW-6 Bodh Raj in his cross-examination has admitted that he could not tell who used the mobile phone at the relevant times nor he could assign the reason why this number was issued after four years of its activation. DW-7 S.P.Jain had not brought the original CAF form of Ex.DW7/A. DW-9 Parampal Singh has also admitted in his cross-examination that the site plans were not prepared by him. These were prepared much prior to his joining in the department. He did not know who prepared the site plan. He also admitted that the site plan was not signed by any authority. It was only traced copy. DW-10 Baljinder Singh has admitted in his cross-examination that he had not entered his visit in any official record. He had not taken any prior permission to physically verify distances from his seniors. Similarly DW-13 Nippun Bhalla has prepared site plan Ex.DW13/A only on the basis of google. DW-15 Rakesh Chohan

admitted in his cross-examination that he had not visited the street regarding which complaint Ex.DW15/A was received. He also admitted that complaint no.70 was pertaining to only one street light. DW-16 Raj Kumar also admitted in his cross-examination that as per Ex.PYY/1 entry no.70 was dated 21.04.2011 and as per this entry, only one street light was off. DW-8 Dr. Sunita Verma has admitted in her cross-examination that the database facility was not available in India till date. Statement of DW-12 Dr.Ashok Bhagat defies the logic. It cannot be believed that the bullet recovered from the body could be coughed out as stated by DW-12 Dr.Ashok Bhagat. The article relied upon by DW-12 Dr.Ashok Bhagat has been taken from internet but this article has not been approved by the Medical Council of India.

50. The FSL report Ex.PX/2 has been prepared by Mrs.Asha Dhir. She has been examined as Court witness. She has checked the seals before opening the parcel containing bullet. It was not possible to open the container without breaking the seals.

51. The prosecution has duly proved that the appellant Ramsimran Singh has shot Gurkirat Singh at his back. It proved fatal. This incident was seen by PW-6 Rajbir Singh. The statement made by him is natural and inspire confidence. He has taken the injured son to the hospital. The statement made by PW-6 Rajbir Singh is duly corroborated by medical evidence. The FSL report Ex.PX/2 duly proved that the weapons recovered from the appellants were used in the commission of crime. The bullet recovered from the body of the deceased was sent for CFSL examination. The blood was found on exhibit I, i.e. metallic piece, as well as on the earth. All the appellants had common intention to commit the crime. They were present on the spot. The weapons of offence were recovered at the instance

of the appellants. The prosecution has duly proved the motive. The prosecution has proved the case under Sections 304 Part I read with Sections 34 IPC against the appellants namely Amarpreet Singh, Amardeep Singh @ Sunny, Jasdeep Singh @ Jassu and Ramsimran Singh Makkar, under Section 25 of the Arms Act against appellants Ramsimran Singh Makkar and Amardeep Singh and under Section 27 of the Arms Act against appellant Ramsimran Singh Makkar, beyond reasonable doubt.

52. Learned counsel appearing on behalf of the appellant-complainant Rajbir Singh Sekhon has also argued that Gurkirat Singh had made dying declaration before his father that a misrepresentation was made to him and he was called to the spot where he was to be killed. Though Rajbir Singh has made this statement while appearing as PW-6 but it does not find mention in Ex.PL. Now as far as Ex.DA is concerned, it is an afterthought. PW-1 Dr. Surinder Pal, in his cross-examination, has categorically deposed that the possibility of the deceased having become unconscious after suffering the bullet injury, could not be ruled out. He could speak for few minutes after suffering of injury. He may have died within 3-4 minutes after receipt of injury. Similarly PW-19 Dr. Davinder Singh, in his cross-examination, has deposed that the deceased could not speak after receipt of bullet injury.

53. Accordingly, there is no merit in the appeals bearing no.CRA-D-1236-DB-2015, CRA-D-1322-DB-2015, CRA-D-1325-DB-2015 and CRA-D-1448-DB-2015 and the same are dismissed. Appellants Amarpreet Singh, Amardeep Singh @ Sunny and Jasdeep Singh @ Jassu are on bail. Their bail bonds and surety bonds are cancelled. The police is directed to take appellants Amarpreet Singh, Amardeep Singh @ Sunny and Jasdeep

Singh @ Jassu into custody to undergo remaining sentence imposed by the trial Court vide judgment and order 03.08.2015. There is also no merit in CRA-AD-74-2015 and the same is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

October 16, 2019.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No