

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

CRA-D No. 1544-DB of 2014 (O&M)

Reserved on : 27.5.2019

Date of decision : 30.5.2019

Kulwinder Singh @ Mintu

.... Appellant

versus

State of Punjab

... Respondent

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

Present Mr. Swarn Tiwana, Advocate, for the appellant.
Mr. S. P. S. Tinna, Additional Advocate General, Punjab.

Rajiv Sharma, J.

1. The present appeal has been instituted against judgment and order dated 9.9.2014, rendered by learned Additional Sessions Judge, Fatehgarh Sahib, in Sessions Case No. 12-RT of 2014. Appellant Kulwinder Singh @ Mintu along with co-accused Sonu Gupta was charged with and tried for the offence punishable under Sections 302, 364, 201, 404 read with Section 34 IPC. Accused Kulwinder Singh @ Mintu was convicted and sentenced under Section 302 IPC to undergo life imprisonment and to pay fine of ₹ 10,000/- and in default of payment of fine, to further undergo rigorous imprisonment for six months. He was also convicted and sentenced under Section 201 IPC to undergo rigorous imprisonment for seven years and to pay fine of ₹ 10,000/- and in default of payment of fine, to further undergo rigorous imprisonment for six months. Both the sentences were ordered to run concurrently. Co-accused Sonu Gupta was acquitted.

2. The case of the prosecution in a nutshell is that one Gurpreet Singh deceased was the owner of Truck No. HR-01-GA-5527. As per the contents of the FIR, Ex.PA, he had employed Kulwinder Singh accused as his helper. In the evening of 14.1.2014, Gurpreet Singh loaded his truck with iron pipes and left for Gurgaon, in the company of accused Kulwinder Singh. On the way, Sonu Gupta also met them. Sonu Gupta and accused Kulwinder Singh hatched a conspiracy to kill Gurpreet Singh with the motive of taking away money and to dispose of the truck as well as the iron pipes. When they reached in the vicinity of Narwana Branch in the area of Sirhind, they asked Gurpreet Singh to stop the truck. Sonu held Gurpreet Singh and accused Kulwinder Singh gave fatal blows on his head with a *panna*. After killing him, they threw the body in the canal. Thereafter, they took the truck towards Doraha side. On seeing the police on the way, they abandoned the truck in the area of village Asgaripur. On the next day, deceased's brother Kulwinder Singh got a telephonic call from Police Post, Kota (Khanna), about the said truck lying abandoned in the area of village Asgaripur. Under these circumstances, the FIR was registered. The investigation was initiated and challan was put up after completion of codal formalities.

3. The prosecution examined as many as 25 witnesses in support of the case. The statements of the accused were also recorded under Section 313 Cr.P.C. According to them, they were falsely implicated in the case. Co-accused Sonu Gupta was acquitted. Accused Kulwinder Singh @ Mintu was convicted and sentenced, as noticed above. Hence, the present appeal.

4. Learned counsel appearing on behalf of the appellant vehemently argued that the prosecution has failed to prove its case. Learned

counsel appearing for the State vehemently argued that the prosecution has proved its case beyond reasonable doubt and supported the judgment and order of the learned Court below.

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

6. PW1 Kulwinder Singh is brother of deceased Gurpreet Singh. He testified that his brother Gurpreet Singh was owner of truck bearing no. HR-01-GA-5527. He used to go on truck out of station. On 14.1.2014 at about 5.00 P.M., Gurpreet Singh left the house along with truck for Gurgaon. He went to Bansal Kanda. At about 8.00 P.M., Gurpreet Singh along with accused Kulwinder Singh left Bansal Kanda for Gurgaon along with goods. After about half an hour, Gurpreet Singh contacted him on his phone. After some time, he tried to contact Gurpreet Singh telephonically but his mobile phone was switched off. On 15.1.2014 at about 3.30 P.M., he received a phone call from Police Post, Kota, District Khanna informing him that truck was lying abandoned. He went to Police Post, Kota. He recorded his statement vide Ex.PA. According to him, his brother was murdered by accused Kulwinder Singh. On 16.1.2014, he along with police officials went to the spot where truck was found in abandoned condition. The police lifted the broken pieces of glasses and blood from the clutch, breaks and driver seat of the truck. These were taken into possession. On 21.2.2014, dead-body of deceased Gurpreet Singh was recovered from Jansui Head, Narwana Branch. The dead-body was sent for post-mortem examination to Civil Hospital, Patiala. Inquest report, Ex.PD, was prepared. He identified the dead-body. In his cross-examination, he deposed that accused Kulwinder Singh was employed as helper in the truck by his

brother Gurpreet Singh. On 15.1.2014 at about 3.30 P.M., he went to Police Post, Kota, District Khanna. Harwinder Singh witness is son of his uncle (Taya).

7. PW2 Harwinder Singh testified that on 14.1.2014 at about 8.00 P.M., he was present at Satnam Dhaba, Mandi Gobindgarh. He was taking dinner. Meanwhile Gurpreet Singh, son of his paternal uncle namely Sri Ram, came there. He was accompanied by accused Kulwinder Singh and Sonu Gupta. After taking tea, they left the dhaba at about 8.15 P.M. in the truck. The truck was loaded with iron pipes. They went towards Sirhind side. On 16.1.2014, he came to know that the truck was found abandoned in the area of village Asgaripur. Blood along with broken pieces of glass were also found in the truck.

8. PW3 Ashok Kumar Kaplish deposed that he was leader of Congress Party. His wife Kamal Kaplish was Ex. M. C. of Mandi Gobindgarh. On 19.1.2014, he was present in his house. Accused Kulwinder Singh @ Mintu came to his house. He was earlier known to him. Accused Kulwinder Singh @ Mintu told him that he know Sonu Gupta accused since childhood. He and Sonu Gupta were neighbours. They used to visit the house of each other. Accused Kulwinder Singh told him that Gurpreet Singh used to go to Gurgaon on truck loaded with goods/ iron from Mandi Gobindgarh. He also used to go with Gurpreet Singh. Whenever accused Kulwinder Singh went with Gurpreet Singh, he used to give money to him. Gurpreet Singh was owner of the truck and was having lot of money. Accused Kulwinder Singh and Sonu Gupta hatched a conspiracy to kill Gurpreet Singh. On 13.1.2014, Gurpreet Singh met accused Kulwinder Singh and told Kulwinder Singh that he would load the truck on 13.1.2014.

They left Mandi Gobindgarh on 14.1.2014. Gurpreet Singh parked his truck near Bansal Kanda and told Kulwinder Singh that they would leave for Gurgaon in the evening. They started from Mandi Gobindgarh for Gurgaon. Sonu Gupta also boarded the truck from Bus-stand Mandi Gobindgarh. They started from Bus-Stand to Gurgaon. They halted at Satnam Dhaba and took tea. When they reached near Narwana Branch, accused Kulwinder Singh and Sonu Gupta told him to stop the truck. Sonu Gupta caught hold Gurpreet Singh from the neck and accused Kulwinder Singh gave *panna* blows on his person. They took the truck towards old bridge towards Sirhind. Accused Kulwinder Singh was driving the truck and Sonu Gupta was sitting on adjoining seat. They placed dead body of Gurpreet Singh on back of the truck. They stopped the truck in the middle of old bridge and threw away the dead-body in the canal. Thereafter, they took the truck towards Doraha side on Beeja Payal Road. However, on seeking the police naka, they stopped the truck and left the place due to fear and came to their houses. When they came to know that the police is searching for them, then both accused left their houses. Accused Kulwinder Singh told him that he had good relations with the police so he should produce Kulwinder Singh before the police. Kulwinder Singh stated that he had committed a mistake. He produced Kulwinder Singh at about 11.30 A.M. before the police. Accused was arrested. He was interrogated. He made disclosure statement, Ex.PK, that he along with Sonu Gupta had thrown the dead-body of Gurpreet Singh in Bhakhra Canal, Narwana Branch. They went towards the place where Gurpreet Singh was murdered. In his cross-examination, he deposed that he was simply member of Congress Party. His wife was M.C. from the year 2003 to 2008.

9. PW4 ASI Taranjit Singh testified that spot was inspected by them. Photographs were taken. Broken pieces of glass stained with blood and blood-stained earth were lifted from the spot. Investigating Officer SI Jaswinder Singh interrogated accused Kulwinder Singh. He made disclosure statement, on the basis of which accused Kulwinder Singh got recovered one jacket and one *panna* from near the petrol pump of Chandigarh Petrol Pump, G. T. Road, Ambey Majra. Disclosure statement is Ex.PQ. Accused Sonu Gupta also made disclosure statement.

10. PW7 Vinay Kumar deposed that he was in the business of iron. His godown of iron was situated near old Radha Swami Satsang Bhawan towards Sirhind side under the name and style of Sri Lakshmi Pipes Godown, Mandi Gobindgarh. He was partner in the business. On 13.1.2014, 15 ton 410 kg iron pipes were sent from godown vide bill no. 1019 dated 13.1.2014 to Chopra Steel, 33 Miles Stone, NHB Jharsa Chowk, Gurgaon, in truck No. HR-01-GA-5527. He proved the copy of bill vide Ex.PY. He also brought the original record.

11. PW8 Sanjeev Kumar brought the summoned record. He deposed that as per record, on 13.1.2014 iron pipes were loaded in the truck from Sri Lakshmi Pipes Mandi Gobindgarh for Chopra Steel Jharsa Chowk, Gurgaon.

12. PW12 Darbara Singh deposed that he was President of meat market. On 23.1.2014 Sonu Gupta accused came to him. He was earlier known to him. He made extra-judicial confession before him that he had committed the murder along with another person.

13. PW14 SI Jaswinder Singh was the Investigating Officer. According to him, after preliminary interrogation Kulwinder Singh accused

was arrested. During investigation, accused Kulwinder Singh made disclosure statement to the effect that he along with Sonu Gupta committed the murder of Gurpreet Singh. He got demarcated the place where he along with his co-accused committed the murder of Gurpreet Singh. Accused Kulwinder Singh also made disclosure statement that he had concealed one *panna* and jacket in the area of village Ambey Majra near/ backside of Chandigarhia Petrol Pump G. T. Road. His disclosure statement is Ex.PQ. He got recovered *panna* and jacket from the spot.

14. PW15 SI Hakam Singh corroborated the statement of PW14 SI Jaswinder Singh and the manner in which the accused made disclosure statements and from where the *panna* and jackets were recovered.

15. PW17 Balkar Khan deposed that he was transporter by profession. He was having two trucks. Accused Kulwinder Singh some times used to go as conductor on his trucks. On 18.1.2014 at about 10.00 a.m. accused Kulwinder Singh came to his house and handed over one sealed envelope and stated that he should deliver the same to Sonu Gupta. He was in a hurry. He did not open the same and handed over to Sonu Gupta. Later on, he came to know that Kulwinder Singh and Sonu Gupta had committed the murder of Gurpreet Singh. The envelope is MO4.

16. PW18 ASI Baldev Singh deposed that inquest report, Ex.PD, was prepared. Statements of complainant Kulwinder Singh and Sri Ram were recorded. The body was sent for post-mortem examination to Rajindra Hospital, Patiala. In his cross-examination, he deposed that dead-body was decomposed, however, it was identifiable from the face.

17. PW19 Gurdial Singh deposed that he had taken one Tempoo/ Tata Ace on rent. On 21.2.2014, he received phone call from Sohan Lal

driver to the effect that a dead-body had been fished out from Bhakhra canal to be taken to Civil Hospital, Mandi Gobindgarh. He went to Jansui Head Canal and the dead body was kept in his vehicle.

18. PW21 Harmail Singh deposed that he was having truck no. HR-01-GA-5527, which was registered in the name of his father Javandh Singh. On 19.5.2003, the said truck was sold by him to Sri Ram, resident of village Nasrali, District Fatehgarh Sahib. Agreement to this effect was prepared. Affidavit was also given by his father to this effect.

19. PW22 ASI Major Singh deposed that accused Sonu Gupta made disclosure statement to the effect he had kept concealed one black colour wallet of Gurpreet Singh containing Aadhar Card and one letter written by accused Kulwinder Singh in the petti underneath the cloth in the room of his residential house. Disclosure statement is Ex.PAW. He got the same recovered.

20. The statement of PW22 ASI Major Singh was duly corroborated by PW23 Inspector Guriqbal Singh qua recovery of black colour wallet at the instance of accused Sonu Gupta.

21. PW11 Dr. A. D. Aggarwal conducted the post-mortem examination of dead-body of Gurpreet Singh. He noticed the following injury:

“1. Lacerated wound of size 5 c.m. x 3 c.m. on right lateral aspect of neck extending upto back of ear, bone deep, infiltration of blood present, on opening scalp brain was reddish liquified.

He proved the post-mortem report, Ex.PAE. According to him, the cause of death was due to injury described, which was ante-mortem and sufficient to cause death in ordinary course of nature. As the body was decomposed, it

was not possible to preserve the finger tips. In his cross-examination, he denied the suggestion that the face of the dead-body was totally beyond recognition. There was only one injury on the dead-body.

22. FSL report is Ex.PAZ. According to the result of examination, *Panna* and Jacket were stained with human blood. Similarly as per FSL report, Ex.PBA, glass pieces were stained with human blood.

23. PW1 Kulwinder Singh has categorically deposed that his brother Gurpreet Singh had taken away the truck on 14.1.2014 towards Gurgaon from Mandi Gobindgarh. Accused Kulwinder Singh was employed as helper. He had tried to contact his brother, but his mobile phone was switched off. On 15.1.2014 at about 3.30 P.M., he received a phone call that truck was lying abandoned. Thereafter, he got the report lodged. The dead-body was recovered on 21.2.2014 from Jansui Head, Narwana Branch. Post-mortem was conducted on 22.2.2014.

24. PW2 Harwinder Singh had seen Gurpreet Singh in the company of accused Kulwinder Singh and Sonu Gupta on 14.1.2014. According to him, after taking tea, they left the dhaba at about 8.15 P.M. in the truck.

25. Accused Kulwinder Singh @ Mintu had made extra-judicial confession before PW3 Ashok Kumar Kaplish and narrated the manner in which he had committed the murder of Gurpreet Singh by hatching conspiracy with Sonu Gupta. The weapon of offence *panna* and jacket were got recovered by accused Kulwinder Singh @ Mintu on the basis of his disclosure statement.

26. PW7 Vinay Kumar has specifically deposed that on 13.1.2014, 15 ton 410 kg iron pipes were sent from his godown vide bill no. 1019 dated 13.1.2014 to Chopra Steel 33, Miles Stone, NHB Jharsa Chowk, Gurgaon,

in truck no. HR-01-GA-5527. He proved the copy of bill vide Ex.PY.

27. PW12 Darbara Singh deposed that on 23.1.2014 Sonu Gupta accused had made extra-judicial confession before him.

28. PW14 SI Jaswinder Singh was the Investigating Officer. According to him, accused Kulwinder Singh made disclosure statement before him that he along with Sonu Gupta had committed the murder of Gurpreet Singh. He also got demarcated the place where murder of Gurpreet Singh was committed. He also got recovered one *panna* and jacket.

29. PW17 Balkar Khan testified that accused Kulwinder Singh used to go on truck as conductor.

30. PW18 ASI Baldev Singh deposed that dead-body of Gurpreet Singh was recovered from the canal. It was sent for post-mortem examination to Rajindra Hospital, Patiala. In his cross-examination, he admitted that dead-body was decomposed, however, it was identifiable from the face.

31. PW21 Harmail Singh deposed that he sold the truck to Sri Ram, resident of village Nasrali, District Fatehgarh Sahib. Agreement to this effect was prepared by him.

32. The prosecution case is that appellant Kulwinder Singh @ Mintu had hatched conspiracy with Sonu Gupta to kill Gurpreet Singh. They got the truck stopped and gave *panna* blows, on his head. After killing him, they threw the dead-body in the canal. The police during investigation lifted pieces of glass stained with blood. Blood was also lifted from the truck also. As per FSL report, human blood was found on glass pieces and *panna* and jacket vide FSL reports, Ex.PAZ and Ex.PBA.

33. According to PW11 Dr. A. D. Aggarwal, the cause of death was due to injury, which was ante-mortem and sufficient to cause death in ordinary course of nature. He denied that the face of the dead-body was totally beyond recognition. There was only one injury on the dead-body.

34. The motive to kill Gurpreet Singh was to rob him and to dispose of the truck loaded with pipes. The dead-body was thrown in the canal. The appellant after seeing the police naka, stopped the truck and left the place due to fear. There is sufficient material on record that deceased Gurpreet Singh had employed accused Kulwinder Singh as helper.

35. In view of the afore-discussed evidence, the prosecution has proved the case against the appellant beyond reasonable doubt. Accordingly, there is no merit in the appeal. The same is dismissed.

(Rajiv Sharma)
Judge

30.5.2019
vs

(Harinder Singh Sidhu)
Judge

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