

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

(1) CRA-D-570-DB-2002 (O&M)

Rajinder Singh @ Raja and another

...Appellants

Versus

State of Punjab

...Respondent

(2) CRA-D-595-DB-2002 (O&M)

Jagtar Singh @ Tara and another

...Appellants

Versus

State of Punjab

...Respondent

(3) CRA-D-603-DB-2002 (O&M)

Amit @ Mit

...Appellant

Versus

State of Punjab

...Respondent

**Date of decision: 04.10.2019**

**CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN  
HON'BLE MR.JUSTICE H.S. MADAAN**

Present: Mr. Vinod Ghai, Sr. Advocate with  
Mr. V.S. Virk, Advocate for the appellants.

Mr. Hittan Nehra, Addl. A.G., Punjab.

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**H.S. MADAAN, J.**

In nutshell, facts of the case as per prosecution story are that

criminal machinery in this case was set into motion by Harpal Singh son of Mukhtiar Singh, resident of Village Chhokran, who in his statement got recorded with Inspector Tale Ram, SHO Police Station Dhuri, who was heading a police party, which was on patrol duty present in the area of Malkerkotla Bye-pass Dhuri, stated that marriage of Paramjit Kaur sister of Karamjit Singh son of Baldev Singh was solemnized on 14.12.1997. Karamjit Singh was student of BA 3<sup>rd</sup> class at Bardwal College. Marriage of his sister Paramjit Kaur was attended by a number of boys from the said college. A day earlier i.e. 16.12.1997, Karamjit Singh told that he would bring sweets for the purpose of distribution amongst his college mates and that he would be accompanied by his friends Gurlal Singh and others. At asking of Karamjit Singh, complainant Harpal Singh along with Gurlal Singh @ Lali, Palwinder Singh and Baldev Singh accompanied Karamjit Singh. All of them were students of college at Bardwal. They were travelling in a car having registration No.PB-28-6289 belonging to Karamjit Singh. The car was being driven by Gurlal Singh, whereas, complainant Harpal Singh was sitting by his side. The other persons were sitting on the rear seat of the car. At about 12.00 noon, when they had reached near canteen of Bardwal college, then Jagtar Singh @ Tara, who was earlier acquainted with the complainant having a kirch, Raja (Rajinder Singh accused) a student of BA Ist class also having a kirch, another boy from village Ladhewala (Gurmit Singh accused) a student of BA Ist Class having a gandas, Mit Singh (Amit) were standing there. Mit Singh gave a lalkara to teach a

lesson to Lali for becoming a leader and then using the stick which he was having, he broke the wind screen of the car and also glass pan of the window of the driver side. Jagtar Singh gave kirch blows to Gurlal Singh on different parts of body. Boy belonging to village Ladhewala broke glass of window of back seat of the car. Raja opened the backside door of the car and gave kirch blows to Baldev singh on his right leg and right side of the back and arms. As Palwinder Singh came out of the car, he was given injuries by means of gandasa by boy from village Ladhewala, whereas, others gave fists blows and then they raised alarm 'marta-marta'. Then all the accused/assailants ran away from the spot along with their respective weapons. Gurlal Singh and others injured were taken to Civil Hospital, Malerkotla in that very car but the doctor declared Gurlal Singh to be dead. As narrated by the complainant in his statement to the police, the motive behind the incident was that Iqbal Singh was elected as President of College union. Jagtar Singh accused and Gurlal Singh deceased used to proclaim that Iqbal Singh had become president on account of their individual efforts. On the basis of that issue, a fight had already taken place inter se between them about 20-25 days earlier to the incident. For that reason, Jagtar Singh along with his co-accused companions had caused injuries. Lali @ Gurlal Singh had succumbed to the injuries whereas Baldev Singh and Palwinder Singh received injuries in the incident. The said statement was signed by the complainant. The Investigating Officer (for short 'the IO') appended his endorsement below that statement and sent ruqa to the police station, on the basis of which,

formal FIR was recorded. The IO along with other police officials went to Civil Hospital, Malerkotla and collected MLRs of the injured and then the police party went to the spot. The IO took into possession the blood stained earth from the spot and he prepared rough site plan of the place of incident. The damaged car in which the victims were travelling was taken into possession from the compound of the hospital, after getting it photographed. The boxes containing sweets were also seized vide a recovery memo. The accused were arrested in this case. Jagtar Singh accused was arrested on 23.12.1997 and on being interrogated, he suffered a disclosure statement that he had kept concealed a kirch/chura about which, he knew and could get the same recovered. Thereafter, in pursuance of the disclosure statement, he got the kirch/chura like kirpan recovered from his possession. Inspector Tale Ram prepared rough sketch of that kirch as Ex.PW12/F and took it into possession, vide recovery memo Ex.PW12/E. He prepared rough site plan of the place of recovery Ex.PW12/B. Accused Amit and Raja were arrested on 22.12.1997. Gurmit Singh was arrested on 24.12.1997. Ranjit Singh (since dead) was arrested on 05.01.1998.

After completion of investigation and other formalities, the challan against accused was prepared and filed in the Court of SDJM, Dhuri, who supplied copies of documents relied upon in the challan to the accused free of costs as provided under Section 207 Cr.P.C and then finding that the offences for which the accused had been booked were exclusively triable by the Court of Sessions, vide order dated 17.03.1998,

committed the case to the Court of Sessions, from where, it was assigned to Addl. Sessions Judge (Adhoc), Sangrur.

Finding a prima facie case, charge for offences under Sections 302, 302 read with Section 149, 148, 324, 324/149, 323/34, 427, 427/149 IPC was framed against the accused, to which, they pleaded not guilty and claimed trial.

However, accused Ranjit Singh had died during the pendency of the trial. Therefore, proceedings against him stood abated.

During the course of prosecution evidence, prosecution examined inasmuch as 13 witnesses, as per details below.

PW-1 Dr. Shital Jain, SMO Civil Hospital, Malerkotla, stated that he had medico-legally examined Palwinder Singh injured on 17.12.1997 at 6.00 pm and found following injuries on his person:-

- 1. Abrasion reddish in colour 3.5 cm x 0.25 cm on the upper part lateral surface left upper arm 2cm away from the tip of left shoulder joint.*
- 2. Abrasion reddish colour 2 in number each being 10 cm long lying transversely left side on back side of chest with an intervening space of 2.5 cm on one side towards mid line and 6.5 cm on the other side. This abrasion being 16 cm below the tip of left shoulder joint, area tender. Advised X-ray chest.*

On that very day at about 6.30 pm, he had medico-legally examined Baldev Singh and proved copy of MLR Ex. PB finding the following injuries:-

- 1. Swelling 5cm x 4.5cm on the dorsum of right hand with an incised injury 0.75 cm x 0.25 cm spindle in shape in the centre of the contusion. Area was tender. X-ray was advised of right hand, AP and lateral view.*
- 2. Incised injury 0.75 cm x 0.25 cm x 0.5 spindle shape on the posterolateral surface on the upper part of the right elbow joint AP and lateral view.*
- 3. Incised injury 15 cm x 1 cm x 0.75 cm on the fronto lateral surface upper part, right upper arm 11 cm below the right shoulder joint. X-ray was advised right upper arm, AP and lateral view.*
- 4. Incised injury 1.5cm x 0.5cm x 0.5cm spindle shape on fronto lateral surface upper part, right thigh 3 cm away from right iliac crest.*
- 5. Incised injury 0.5 x 0.25 cms spindle shape on the palmar surface of terminal phalanx right middle finger.*

PW-2 Dr. M.P Garg stated that he had conducted post mortem examination on dead body of Gurlal Singh on 17.12.1997 and found following injuries on the person of the deceased:-

- 1. 2.2cm x 2 cm incised wound on right side of nose cutting the nostrils. Clots were present.*
- 2. 2.5cm x 3 cm incised wound on left side of the nose. Clots were present. Wounds No.1 & 2 were communicating with each other.*
- 3. 2.2cm x 2.5 cm incised wound on right shoulder, lateral aspect 8 cm below the acromioclavicular joint. Clots were present.*
- 4. 3.5cm x 1 cm incised wound on right lateral aspect of right upper arm 6 cm from right elbow joint. Clots were present.*

*5. 2.5cm x 1.2 cm incised wound on right axilia 11.5 cm away from the nipple. Underlying vessels were cut. Clots were present.*

*6. 3.3cm x 1 cm incised wound on right lateral aspect of back 14 cm from right nipple. Clotts were present.*

Regarding the cause of death, he stated that the same was due to injury on the vital organ viz. Right lung and axillary blood vessel leading to massive hemorrhage, which was sufficient to cause death in the ordinary course of nature. According to him, the injuries were ante-mortem in nature and probable time that had elapsed between injuries and death was immediate and between death and post mortem, it was within 12 hours. According to such witness, the dead body was identified by Harpal Singh son of Mukhtiar Singh and Karamjit Singh son of Baldev Singh.

PW-3 Lakha Singh Patwari proved the scaled map of place of occurrence as Ex.PL.

PW-4 Gurcharan Singh, Clerk, SDM Office, Malerkotla had brought the relevant record and proved registration of Maruti Car bearing No.PB-28-6289 in name of Baldev Singh son of Labh Singh, resident of Village Narike (father of Karamjit Singh) as Ex.P7.

PW-5 HC Bikkar Singh, a formal witness, tendered his affidavit Ex.PM with regard to depositing the case property by the IO with him.

PW-6 Manjit Singh Photographer proved the photographs of the car as Ex.PN/1 to Ex.PN/6 and negatives Ex.PN/7 and Ex.PN/12.

According to him, he had taken the photographs of the car at Civil Hospital, Malerkotla on 17.12.1997.

PW-7 Harpal Singh, PW-8 Baldev Singh and PW-9 Palwinder Singh provided the eye witness account of the incident supporting the prosecution story on material aspects.

PW-10 Constable Jarnail Singh who had mechanically tested the car at PS Dhuri, finding the front wind screen and glass pan of the right door as well as rear glass of the car to be broken, proved his report Ex.PQ giving opinion that the entire mechanism of the car was in proper order.

PW-11 Constable Bidhi Singh a formal witness tendered his affidavit Ex.PR.

PW-12 ASI Mohinder Singh who was member of the police party headed by Inspector Tale Ram when Harpal Singh complainant had got his statement recorded with Inspector Tale Ram deposed in that regard, stating that Inspector Tale Ram had appended his endorsement Ex.PW12/A below such statement, sending ruqa to police station, on the basis of which formal FIR Ex.PW12/B was recorded. He further deposed regarding carrying out of post mortem examination on dead body of Gurlal Singh and handing over of belongings of deceased to him, which he had produced before Inspector Tale Ram and those have been taken into police possession. He further deposed regarding being member of the police party on 23.12.1997 when Jagtar Singh was arrested and had suffered a disclosure statement getting a kirch recovered from his

possession which had been seized vide memo etc.

PW-13 Inspector Tale Ram, IO of this case deposed regarding the investigation conducted by him. He proved various documents.

Learned Public Prosecutor had given up PWs-Constable Rajinder Singh, ASI Kirpal Singh as unnecessary, PW Narinder Singh as having died, PWs Karamjit Singh and Baljit Singh having been won over by the accused. He further tendered into evidence report of Chemical Examiner and an affidavit, thereafter closed the evidence of prosecution.

Statements of the accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against the accused were put to them but they denied the same, contending that they are innocent and have been falsely involved in this case.

After hearing arguments, learned Addl. Sessions Judge (Adhoc) Sangrur, vide judgment dated 23.07.2002, convicted and sentenced the accused as follows:-

| Sr. | Name of accused                                        | Under Sections  | Imprisonment | Fine                                                                        |
|-----|--------------------------------------------------------|-----------------|--------------|-----------------------------------------------------------------------------|
| 1.  | Jagtar Singh @ Tara, Rajinder Singh @ Raja, Amit @ Mit | 148 IPC         | 1 year       | -                                                                           |
| 2.  | Jagtar Singh @ Tara                                    | 302 r/w 149 IPC | For life     | -                                                                           |
| 3   | Rajinder Singh @ Raja                                  | 324 IPC         | 1 year       | Rs. 200, in default of payment of fine, to further undergo RI for 03 months |

| Sr. | Name of accused                                           | Under Sections  | Imprisonment | Fine                                                                               |
|-----|-----------------------------------------------------------|-----------------|--------------|------------------------------------------------------------------------------------|
| 4.  | Jagtar Singh @ Tara, Amit @ Mit and Gurmit Singh          | 324 r/w 149 IPC | 1 year       | Rs. 200/- each, in default of payment of fine, to further undergo RI for 03 months |
| 5.  | Gurmit Singh                                              | 323 IPC         | 6 months     | -                                                                                  |
| 6.  | Jagtar Singh @ Tara, Rajinder Singh @ Raja and Amit @ Mit | 323 r/w 149 IPC | 6 months     | -                                                                                  |
| 7.  | Amit @ Mit and Gurmit Singh                               | 427 IPC         | 1 year       |                                                                                    |
| 8.  | Jagtar Singh @ Tara and Rajinder Singh @ Raja             | 427 r/w 149 IPC | 1 year       |                                                                                    |

Feeling aggrieved by judgment of their conviction and sentence, the accused/convicted have filed instant appeals before this Court, notice of which were issued to the State, who has put in appearance through counsel. Since all the appeals have arisen out of the same judgment, those have been taken up together for disposal.

We have heard learned counsel for the parties besides going through the record.

The first argument advanced by learned counsel for the appellants was that presence at spot of Harpal Singh is doubtful which is proved from the fact that he had not received any injury in the incident, which argument was strongly rebutted by learned State counsel. We on our part feel that keeping in view the facts and circumstances of the case, more particularly, that the incident is said to have been taken place on 17.12.1997 at about 12.00 noon in which Gurlal Singh had suffered fatal

injuries, whereas, Baldev Singh and Palwinder Singh had also received injuries, the injured had been taken to hospital in that very car. The natural human reaction is to make earnest efforts to save the lives of the injured, rather than, leaving them unattended and going to the police station, first to lodge report regarding the incident. The injured were taken to Civil Hospital, Malerkotla. Thereafter, the complainant had got his statement recorded with the police which is quite detailed one with respect to the manner of the incident, the part played by each of the accused, the weapons they were carrying and which they had used. If Harpal Singh was not present at the spot and had not seen the incident, he could not possibly have been imported to the spot within a short time and then presented as an eye witness. He could not have possibly given such detailed version of the incident, if he was not present at the spot as had been given by him in his statement to the police, which formed basis for registration of the FIR. As regards Harpal Singh not suffering any injury in the incident, the same may be due to the fact that accused had no grudge against him and for that reason, they did not inflict any injury upon him and they concentrated on the persons with whom they were nurturing a grudge or in the alternative, he might have had a miraculous escape. As regards the wind screen being broken by Amit Garg and the glass pieces not hitting Harpal Singh stated to be sitting on the front seat, that might have resulted in absence of any injury on his person for that reason, is no ground to view his presence at the spot with suspicion when otherwise, it stands established. If we see the statement of Harpal Singh

made to the police, the same is in a very natural manner. Regarding accused Jagtar Singh @ Tara, he stated that he was known to him earlier. One of the persons, he mentioned as a boy from village Ladhewala. If he was a tutored person, he could very well give the name of that boy as Gurmit Singh instead of saying a boy from Ladhewala. His saying by boy of Ladhewala seems to be natural narration. Accused Gurmit Singh is resident of village Ladhewala. All the three eye witnesses had specifically identified all the assailants including Gurmit Singh of Village Ladhewala and his identity as Gurmit Singh assailant stands fully proved on the record. Therefore, non mentioning of his name as Gurmit Singh in the statement of complainant and FIR registered on the basis thereof cannot result in giving any benefit to him. One more particular thing to be seen is that if the complainant Harpal Singh was not present at the spot and had not seen the incident, there was no necessity for the police to cite him as a complainant/eye witness, since two other injured persons were there who could very much give narration of the incident. It needs to be mentioned here that complainant is also a student of the same college, where the accused and deceased and injured were studying. Therefore, his presence at the spot at the relevant time cannot be doubted. When he got his statement recorded in the Court, he deposed in a natural and convincing manner, so did the other eye witnesses, namely, Baldev Singh and Palwinder Singh. Both of them having suffered injuries in the incident are stamped witnesses and their presence at the spot cannot be doubted. The complainant is not shown to have any previous enmity with the accused

prompted by which he might have involved the accused in this case wrongly or deposed against them to secure their conviction. Similarly, the two other eye witnesses would have been last persons to screen the actual culprits and substitute the accused in this case wrongly. They themselves having suffered injuries in the incident, in which Gurlal Singh had lost his life. It would have been their earnest endeavor to ensure that the guilty persons were brought to book and punished suitably, rather than allowing the actual culprits to escape and involve some innocent persons in this case wrongly. The account given by all the three eye witnesses inspire confidence. They could not be shattered at any material point in their cross examination.

One more argument advanced by learned counsel for the appellants was that the identity of the accused has not been proved satisfactorily, as such, benefit of doubt should be given to such accused, whereas, learned State counsel has vehemently countered that contention.

After hearing the rival contentions, we find that such argument put forward by learned counsel for the appellants lacks merit. All the assailants/accused Jagtar Singh @ Tara has been specifically mentioned by name having a kirch with him at relevant time, which he had used in the incident. Rajinder Singh accused has been mentioned as Raja, Amit as Mit Singh, Gurmit Singh as a boy from village Ladhewala. As already observed, all the assailants were specifically identified by the eye witnesses in the Court. It is not very uncommon to refer to a person by his nick name and short name, therefore, referring to Rajinder Singh

by Raja and Gurmit Singh as a boy from Ladhewala is not something unnatural, so is referring to Amit by name of Mit. In schools or colleges, sometimes, a person is not known by his actual name and is rather identified by some altered name, nick name or pet name, though the man remains the same. The eye witnesses were not strangers to the assailants, since, they belongs to the same college. A specific reference to them being there was in the FIR, there was no necessity of holding any test identification parade. Eye witnesses having seen the accused/assailants during the fight which had taken place at day time, they had sufficient occasion to see the assailants so as to grasp their identity and there was no necessity of holding any identification parade. The accused on their part had not themselves requested for arranging any test identification parade, so as to get themselves identified from the eye witnesses. Therefore, identification of assailants in the Court by the eye witnesses cannot be said to be for the first time and non holding of test identification parade does not adversely affect the prosecution story.

One more argument advanced by learned counsel for the appellants was that except weapon of Jagtar Singh, no other weapon was recovered from the remaining three accused, which as a result affects the credibility of prosecution story. However, we find little merit in this contention. The recovery of weapon if effected from remaining accused would have definitely lent more corroboration to the prosecution story but it being not so, cannot result in viewing the prosecution case with suspicion. It is quite possible that soon after the incident, accused had

realized that the recovery of weapons from their possession would lend them in trouble. Such accused might have destroyed the weapons or disposed those of. They cannot get any advantage by default.

Another contention of learned counsel for the appellants was that the prosecution had not examined Karamjit Singh and Baljit Singh, therefore, the prosecution story becomes doubtful, whereas, learned State counsel has contended that no such conclusion should be arrived at by the Court. We on our part feel that it is quality of the evidence and not the quantity which matters. The prosecution is to decide as to which witness of the incident is to be examined/not examined. Each and every eye witness of the incident need not be made to stand in the witness box and his/her statement recorded. The prosecution had examined three eye witnesses of the incident i.e. Harpal Singh complainant, Baldev Singh and Palwinder injured/eye witnesses. As already discussed above, all three of them deposed in a natural and convincing manner and account of the incident given by them inspire confidence. Therefore, non-examination of Karamjit Singh and Baljit Singh does not make any difference especially when they had been given up as having being won over by the accused, by the prosecution.

One more argument put forward by learned counsel for the appellant was that though according to the prosecution story an earlier altercation had taken place between the parties about 20-25 days prior to the occurrence but no evidence in that regard has been brought. However, we find that in the FIR itself, there is reference to such altercation, as

rightly observed by the trial Court in case of direct evidence of the incident being available motive pales into insignificance. Furthermore, motive lies hidden in the mind of a criminal and it is very difficult to dig it out. Therefore, this argument is rejected.

We find that the prosecution has successfully proved its charge against the accused beyond shadow of reasonable doubt by bringing cogent, convincing, reliable evidence both ocular and otherwise. The medical evidence duly corroborates the ocular evidence. The investigation has been conducted in a fair and impartial manner. The accused could not render any reasonable or plausible explanation for their alleged false implication in this case. The accused being armed with dangerous weapons and being there at the spot, attacking car in which the deceased, injured and complainant were travelling and then causing injuries to the occupants except the complainant show their common object. Of course they had formed an unlawful assembly. Their common object was to cause murder of Gurlal Singh and injuries to Palwinder Singh and Baldev Singh. From the magnitude and site of the injuries on person of Gurlal Singh, the intention to cause his death becomes abundantly clear. Therefore, the accused were rightly convicted for the offence of murder and other offences for which they had been charged.

The judgment passed by the trial Court does not suffer from any illegality or infirmity, rather the appeals are found to be without any merit and are dismissed accordingly. The accused/convicts who are on bail as a result of suspension of sentence be taken into custody to undergo

the remaining sentence. Necessary compliance in this regard be made by Chief Judicial Magistrate, Sangrur, to whom a copy of this judgment be sent at the earliest.

**(JITENDRA CHAUHAN)**  
**JUDGE**

04.10.2019  
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**(H.S. MADAAN)**  
**JUDGE**

|                             |     |    |
|-----------------------------|-----|----|
| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |