

CRA-D-540-DB-2003 (O&M)
CRR-2233-2003 (O&M)
CRA-D-101-DBA-2004

{1}

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

1. CRA-D-540-DB-2003 (O&M)

RAVINDER KUMAR @ RAJU AND ANOTHERAppellants

V/S

STATE OF PUNJABRespondent

2. CRR-2233-2003 (O&M)

KRISHAN KUMAR BEHALPetitioner

V/S

RAVINDER KUMAR AND OTHERSRespondents

3. CRA-D-101-DBA-2004

THE STATE OF PUNJABAppellant

V/S

GHANIAYA LALRespondent

Date of Decision: 03.12.2019

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

Present: Mr. Vinod Ghai, Senior Advocate, with
Ms. Kanika Ahuja, Advocate,
for the appellants in CRA-D-540-DB-2003.

Mr. Bhupender Beniwal, A.A.G., Punjab,
for the appellant-State in CRA-101-DBA-2004 and
for the respondent-State in CRA-D-540-DB-2003 &
CRR-2233-2003.

Mr. J.S. Bhatia, Advocate,
for the respondent in CRA-101-DBA-2004.

Mr. A.P.S. Mann, Advocate,
for the petitioner in CRR-2233-2003.

CRA-D-540-DB-2003 (O&M)
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CRA-D-101-DBA-2004

{2}

ARCHANA PURI, J.

Challenge in the present twin appeals, is to the judgment dated 24.05.2003 passed by learned Additional Sessions Judge (Ad hoc), Patiala. The appeal bearing CRA-D-540-DB-2003 titled “Ravinder Kumar @ Raju and another Vs. State of Punjab” has been filed to challenge the judgment of conviction and the order of sentence, vide which, Ravinder Kumar and Lajja Ram were sentenced to undergo imprisonment for life and pay fine of Rs.2,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for 2 months. Likewise, State of Punjab has challenged the impugned judgment qua the acquittal of Ghaniaya Lal. Besides the appeals, even the Revision Petition bearing No. 2233 of 2003 has been filed by the complainant-Krishan Kumar Behl to challenge the judgment of acquittal of Ghaniaya Lal and also seeking enhancement of sentence qua Ravinder Kumar @ Raju to death sentence.

The background facts in nutshell are as follows:-

That, on 10.04.2000, Inspector Kuldeep Sharma, S.H.O., P.S. Civil Lines, Patiala, along with H.C. Narinder Singh, C. Mehar Lal, C. Jajvinder Singh, was present near the gate of Rajindra Hospital, Patiala in connection with general duty. There, ASI Angrej had met Inspector Kuldeep Sharma and apprised him that on 05.04.2000, Sandeep Behl S/o K.K. Behl had suffered injuries and he was admitted in Amar Hospital, Patiala. However, K.K. Behl expressed his inability to give further details, on the pretext that his son was undergoing operation. On 07.04.2000, in pursuance of

information received from DMC, Ludhiana, ASI Angrej Singh had gone to New DMC, where the doctor incharge had declared Sandeep Behl unfit to make statement. Even K.K. Behl father of Sandeep Behl had not got recorded his statement, as he remained involved in treatment of his son.

On 10.04.2000, after information was received from Mr. Behl regarding death of Sandeep Behl in DMC, Ludhiana, ASI Angrej Singh, had gone to new DMC, Ludhiana, wherefrom he had brought dead body along with injury report of Sandeep Behl to Rajindra Hospital, Patiala.

Thereafter, K.K. Behl submitted an application to SHO Kuldeep Sharma, thereby apprising that on 05.04.2000 at about 5:30 P.M., all the accused had attacked Sandeep Behl with deadly weapons, with the result that Sandeep Behl had become unconscious. On 10.04.2000 at about 5:40 P.M., Sandeep Behl had undergone an operation and ultimately, he had died. Sandeep Behl could not get the FIR registered as he had become unconscious. However, he had given information orally on 05.04.2000 at Police Station Civil Lines and at P.P. Model Town, Patiala.

The Municipal Corporation, Patiala had got registered an FIR bearing No.207 dated 16.08.1999 against K.K. Behl and his son and the hearing was fixed by the Court for 07.04.2000 for framing of charges.

On 05.04.2000 at about 5:30 P.M., K.K. Behl and his son

case. When they reached near the crossing at Bhupindera Road, then they found that lots of vehicles were passing thereby. In the meanwhile, a three wheeler struck against a scooter, with the result that scooter driver had fallen down. The driver of the three wheeler ran away from the spot. He (K.K. Behl) and his son tried to help the scooter driver, who was slightly injured. Thereafter, they found that they knew both the occupants. The driver of scooter was Rajesh Bhatia and the other person was Prempal Bansal and both of them were posted as Lecturers in Thapar College, Patiala. Thereafter, both the lecturers as well as they themselves, started following three wheeler and noted down the number of the three wheeler. They found that the said three wheeler was already parked near Raj Kamal Palace, Patiala. Prempal Bansal identified Ravinder Kumar S/o Ghaniaya Lal as driver of three wheeler. Rajesh Bhatia had told Ravinder Kumar that he had not done right thing by striking at the scooter. The three wheeler driver and his companions, did not feel sorry for the same. Rather, they abused and in the meantime, a scuffle had ensued between them. Lajja Ram S/o Bihari Ram had brought a dang and Ghaniaya Lal also brought another instrument meant for sweeping. Ghaniaya Lal raised a lalkara, whereupon, Ravinder Kumar took out an iron rod from three wheeler and gave a blow of the same to Sandeep Behl and hit him on the head. Even, the other two persons had caused him injuries.

In the meantime, his other two sons i.e. Yadwinder Behl

and Rakesh Behl also reached at the spot. One Suresh Kumar S/o

Amarnath also reached the spot. Thereafter, his sons proceeded towards P.P. Model Town for informing the police about the incident. However, enroute, the condition of his son-Sandeep deteriorated, whereupon, he had taken him to Garg hospital. Then Sandeep Behl murmured that accused had given a blow of iron rod on his head and he wouldn't spare them and immediately, he became unconscious. The doctor incharge had given him primary treatment. The concerned doctor advised him to get C.T. Scan of Sandeep Behl done and the needful was done. After getting the C.T. Scan, they took him to Amar Hospital. The doctor concerned at Amar Hospital demanded Rs.10,000/- and asked them not to inform the police, as they will not be able to operate upon Sandeep Behl in that situation. Under compelling circumstances, they asked the doctor to operate upon Sandeep Behl. The concerned doctor namely Arun Bansal started operating upon Sandeep Behl at about 9:00 on 05.04.2000, which continued for four hours. However, the condition of Sandeep Behl did not improve and he was referred to DMC, Ludhiana, where he had ultimately succumbed to his injuries on 10.04.2000.

On the basis of the application filed by K.K. Behl, **Ex.PW-10/A**, FIR **Ex. PW15/D**, was got registered.

During the course of investigation, postmortem of the dead body was got conducted. All the accused were arrested in the present case on 12.04.2000. Even during the course of interrogation, they made disclosure statements, on the basis whereof, from the disclosed

recoveries were prepared. Even the site plans of the spot of recoveries were prepared.

On completion of the investigation, challan was presented.

On presentation of the challan, compliance of Section 207 Cr.P.C. was made.

In pursuance of the commitment proceedings, on the basis of the material coming forth, charge was framed against Ravinder Kumar @ Raju and Lajja Ram under Section 302 read with Section 34 IPC, which was read over and explained to the accused in simple punjabi language, to which the accused pleaded not guilty and claimed trial.

In an endeavour to establish its case, the prosecution examined as many as 17 witnesses, besides adducing documentary evidence.

PW-1 Dr. O.P. Aggarwal deposed about conducting of postmortem on the dead body of Sandeep Behl on 10.04.2000. He has deposed about the injuries found on the dead body which are reproduced in verbatim as hereingiven:-

“1. There was brown colour contusion 7 cm x 2 cm on the right side of head. It was oblique in direction. It was near the hair line and 5 cm above the right ear. Underneath the depressed fracture present. On dissection clotted blood present under the fracture. The brain was injured. Extensive oedema of brain was seen. There was infract of right side of brain. Midline of the brain was shifted.

2. There was brown colour contusion 6 cm x 3 cm on the

back of the left arm.

3. *There was diffused swelling on the right ankle joint.*
4. *There were multiple contusions on the left scapular area were present. Bluish brown in colour.”*

The said witness also deposed that cause of death in his opinion was shock, haemorrhage, coma, resulting from above ante mortem injuries. They were sufficient to cause death in ordinary course of nature and they were caused with blunt weapons. Probable time elapsed between injury and death was 4 to 5 days. Time elapsed between death and postmortem was between 12 to 15 hours. He also proved the carbon copy of the postmortem report, which is Ex. PA and Ex. PA/1 is the pictorial diagram, showing the seats of injuries. Besides the same, he also proved police request, Ex. PA/2 and his endorsement on the same is Ex. PA/3. He had also deposed that on police request, Ex. PB, he opined vide Ex. PB/1 that injury No.1 **was individually sufficient to cause death in the ordinary course of nature.** He also deposed that he further opined that this injury could be caused with iron rod.

PW-2, Dr. Arun Bansal, Consultant, Neuro Surgeon, Amar Hospital, Patiala, has also deposed about the arrival of Sandeep Behl in unconscious condition in Amar Hospital on 05.04.2000 with the alleged history of assault injury. He further deposed that patient was hit on head with an iron rod. He further deposed that condition of the patient was very serious, pupils were dilated and non-erection to the light, C.T. Scan showed fracture of

parietal area. He further deposed about having brought the treatment file, copy whereof is Ex. PC. He also deposed that he issued medico legal case summary, which is Ex. PD.

PW-3, Surinder Kaur, Clerk of DTO, Patiala, on the basis of record brought by her, deposed about the three wheeler bearing No. PB-11-N-8512, to have been registered in the name of Ghaniaya Lal, Lakhan Pal sons of Jogeshwar Ram R/o Village Kaliya, District Patiala, and the same was registered in their names on 09.07.1999. **PW-4, CII Naresh Kumar 1626, Police Line, Patiala**, has proved his affidavit, Ex. PE. **PW-5, Himmat Singh, Clerk in the office of DTO, Patiala**, has deposed about driving licence to have been issued for LMV vide No. 11163/P99 in the name of Ravinder Kumar and its date of validity was from 14.09.1999 to 13.09.2000. He proved the licence, which is Ex. P1.

PW-6, Dr. Ruchi Seth, Consultant, Radiologist at Delta C.T. & Ultrasound Scan Centre, Chhoti Baradri, Patiala, has deposed about having conducted C.T. Scan of Sandeep on 05.04.2000 and she observed as hereingiven:-

- “1. acute subdural haematoma measuring 1.9 cm in maximum thickness on the right side.*
- 2. generalised cerebral swelling.*
- 3. midline shift of 1.7 cm towards left side*
- 4. Fracture of right squamous temporal bone. On the next day C.T. Scan of Sandeep was repeated after operation of SDH.”*

She further deposed, that on the next day again C.T. Scan,

after operation of SDH, was conducted and she observed the following:-

- “1) Non-haemorrhagic contusions/oedema in the right frontal and temporal region.*
- 2) Acute infracts in the right medial parieto occipital region.*
- 3) Haemorrhage in bilateral sylvian fissures and in the right MCA Cistern.*
- 4) generalised cerebral swelling.*
- 5) midline shift of 1.1 cm towards left side.”*

Her reports are Ex. PF and PG.

PW-7, Amarjit Singh, Additional Ahlmad, on the basis of the Court, record brought by him, proved the copy of the FIR bearing No.207 dated 16.08.1999 under Section 353, 186, 506 and 34 IPC, Police Station Civil Line, Patiala, which is Ex. PH.

PW-8, Dr. Naresh Garg of Garg Hospital, deposed that Sandeep Behl was brought to him in injured (unconscious) condition on 05.04.2000 at about 5:00 P.M. He deposed that since the patient was in an unconscious condition, he advised his relatives to take the injured immediately for C.T. Scan and get him admitted in Hospital.

PW-9, Rajinder Singh, has deposed about having prepared the scaled map of the spot at the instance of Krishan Kumar Behl and the same is Ex. PJ.

PW-10, Krishan Kumar Behl, is the complainant, at whose instance, the proceedings were initiated and he has deposed about the detail of the manner of the occurrence caused by the

accused persons and about the receipt of injuries by Sandeep Behl,

which ultimately proved fatal.

PW-11, Rajesh Bhatia, another eye-witness to the occurrence in question has deposed, in consonance with the prosecution version and in verbatim with the testimony of PW-10, Krishan Kumar Behl.

PW-12, Ravinder Pal Singh, Senior Resident, DMC, Ludhiana, had brought about record of admission of Sandeep in DMC and has deposed that after admission of Sandeep Behl, he had sent information to police, Ex. PW12/A. On the application Ex. PW12/B, filed by ASI Angrej Singh on the same day, Dr. Naveen Bansal had made endorsement vide Ex. PW12/C and the patient was unfit to make statement. He further deposed that attested copy of the admission file is PW12/D, attested copy of the bed head ticket (originally brought by this witness) is Ex. PW12/E. Besides deposing about the entries of the treatment record having been made by him, he also deposed that the patient died due to injuries suffered by him.

PW-13, Dr. Sachin Jindal, Senior Resident, DMC, has also deposed about the admission of Sandeep Behl in DMC, Ludhiana. He also deposed that he had brought the indoor admission record and further deposed about the certificates of unfitness of the patient to make statements, having been made on the applications filed by the police, which is Ex. PW13/A.

PW-14, Sunil Kumar, has deposed about himself to be having temporary incharge of P.P. located in DMC Hospital,

Ludhiana on 07.04.2000. He has proved the docket, Ex. PW14/A, on

the basis of the police information, which is contained in Ex. PW14/B.

PW-15, ASI Angrej Singh, has deposed about himself to have been posted as P.P. in Model Town, Patiala. On 07.04.2000, he had reached DMC Hospital, Ludhiana, and moved an application, Ex. **PW15/A** to know about the fitness of injured-Sandeep Behl. However, vide endorsement, Ex. PW13/A, Sandeep Behl was declared unfit to make statement. Then again, on 08.04.2000, he was declared unfit to make statement. Then on 10.04.2000, he received telephonic information about death of Sandeep Behl in DMC, Ludhiana. Thereupon, he reached there. He also proved the original request qua fitness of Sandeep Behl, which is Ex. PW12/B, and endorsement is Ex. PW12/C, Rough site plan of the dead body of Sandeep Behl was lying in DMC Hospital, which is Ex. PW 15/A. He also deposed that after receiving the dead body of the deceased, they brought it to Rajindera Hospital, Patiala. He also deposed that he along with other officials, met Kuldeep Sharma, SHO, Civil Lines, Patiala, where K.K. Behl had given application, Ex. PW10/A for registration of the case. Endorsement of SHO on the same is Ex. PW 15/C and thereupon formal FIR, Ex. PW15/D were recorded by SI, Ajmer Singh. He also deposed that inquest report of the deceased was prepared by Kuldeep Sharma, SHO, which is **Ex. PA/4**. He deposed about the conducting of the postmortem of the dead body of the deceased and also deposed that on 12.04.2000, he along with other

they were going to hold nakabandi at PRTC Workshop, where Ravinder Kumar, Ghaniaya Lal and Lajja Ram were seen in a three wheeler bearing No. PB-11-N-8512. Then, K.K. Behl, witness, identified the accused, whereupon Kuldeep Sharma apprehended the accused. Their memos of arrest was prepared which are **Ex. PW15/F, PW15/F/1 and PW 15/F/2**. There personal search memos are **Ex. PW15/F/3, PW15/F/4 and PW15/F/5**. Information memo relating to arrest of accused was prepared, which is **Ex. PW15/F/6**. He further deposed that on 14.04.2000, all the accused were interrogated and during the course of interrogation, they had made a separate disclosure statement about having kept concealed the weapons of offence. Iron rod was got recovered from Ravinder Kumar, whereas, broom fitted with iron handle was got recovered from Ghaniaya Lal and Lajja Ram got recovered a Dang. The disclosure statements of all the three accused respectively are **Ex.PW15/G, PW15/G/1, PW15/G/2** and the recovery memos of iron rod, broom with iron patti and dang, respectively are **Ex.PW15/H/1, PW15/H/2 and PW15/H/3**. Rough sketch were also prepared separately and the same were also taken into possession. On completion of investigation, challan was presented.

PW-16, Inspector Kuldeep Sharma, has deposed about investigation of the present case. He deposed about having been apprised of death of Sandeep Behl S/o K.K. Behl. He has deposed that on 10.04.2000, he met ASI Angrej Singh and K.K. Behl, who

which he received on 05.04.2000 and handed over Ex. PW10/A and his endorsement about the same is **Ex. PW15/C**, on the basis whereof Ex. PW15/D was got recorded. He further deposed about the ruqa, **Ex. PW15/E**. He also deposed about inquest report, Ex. PA/4 and the application for conducting of postmortem prepared by him is Ex. PA/2. Rough site plan of the place of occurrence is PW16/A. He also deposed about recording of statement of various witnesses. Further, he deposed about the manner of having effected arrest of all the three accused on 12.04.2000 at the instance of K.K. Behl. He further deposed about having prepared rough site plan of their arrest, which is Ex. PW16/B and proved the memo of ground of arrest, Ex. PW15/F to PW15/F/2 to have been prepared. Their personal search memos are Ex. PW15/F/3 to PW15/F/5. Information memo is Ex. PW15/F/6. Three wheeler in question was taken into possession vide memo PW10/B. He further deposed about challan to have been presented on investigation.

PW-17, Constable Jaswinder Pal, proved the DDR bearing No.10 dated 07.04.2000, on the basis of the record brought by him and copy of the same is **Ex.DX**.

Thereafter, the Public Prosecutor closed the prosecution evidence.

On closure of the prosecution evidence, all the incriminating circumstances appearing in the prosecution evidence were put to all the three accused in their respective statements under

allegations and pleaded that false case has been registered against them and that they are innocent.

In defence, the accused examined ASI, who proved DRR, Ex. DC and then the accused closed the defence evidence.

After hearing learned counsel for the parties and on appraisal of the evidence brought on record, vide judgment dated 02.06.2003, accused **Ghaniaya Lal** was **acquitted** of the charge framed against him. However, accused **Ravinder Kumar** was held guilty and convicted under **Section 302 IPC**, whereas, accused **Lajja Ram** was held guilty and convicted under **Section 302 and 34 IPC**. Vide the same judgment, both the convicts Ravinder Kumar and Lajja Ram, for the commission of offence under Section 302 and 302 read with Section 34 IPC, were sentenced to undergo life imprisonment and a fine of Rs.2,000/- each was also imposed, in default whereof, they were ordered to undergo rigorous imprisonment for a period of two months.

Feeling aggrieved by the aforesaid judgment, the twin appeals, as detailed aforesaid and the revision petition have been filed.

In pursuance of notice issued by the Court, the counsel for the concerned parties have made appearance. Even the trial Court record was requisitioned.

We have heard learned counsel for the appellants as well as State Counsel and also learned counsel for the complainant. With

their able assistance, we have perused the lower court record.

So far as, fact of death of Sandeep Behl is concerned, the same stands amply established from the medical evidence brought on record. PW-1 Dr. O.P.Aggarwal, has deposed about conducting of the post-mortem examination, the detail whereof has already been reproduced in the earlier portion of the judgment. Thus, from the post-mortem report and its contents, it stands amply established that Sandeep Behl had died on account of the injuries sustained in the occurrence in question.

To establish the incriminating role of the accused, the prosecution has mainly relied upon the testimonies of PW-10 Krishan Kumar Behl, who set the ball rolling and also PW-11 Rajesh Bhatia. Before adverting to the testimonies of aforesaid witnesses, it is pertinent to mention that throughout the arguments, much emphasis has been laid upon their being delay in initiation of action. The occurrence in question had taken place on **05.04.2000** and undisputedly, FIR was got registered on **10.04.2000**. Definitely, there is delay in initiation of action but however, delay *ipso facto* does not prove fatal to the prosecution version. It is pertinent to mention that it is always delay unexplained, which raises doubt about the coloured and tutored version, coming forth. However, it is pertinent to mention that soon after the taking place of the occurrence on 05.04.2000, information was given by complainant K.K.Behl about causing of the occurrence by the accused and further about sustaining of injuries by his son Sandeep Behl. Even, DDR was got recorded,

categorically stated about his son Sandeep Behl to have sustained injuries in the occurrence having taken place in the evening at 7.00 p.m. on 05.04.2000, in which, Ravinder Kumar S/o Ghaniaya Lal, Ghaniaya Lal S/o Yogeshwar Lal and Lajja Ram S/o of Bihari Lal residents of Kalyan Colony, Patiala, to have inflicted injuries with iron rod. He also stated in the DDR that his son is admitted in Amar Hospital, Patiala, for his treatment and major operation of his skull has been done and he is still unconscious. He also categorically stated further that on coming in senses of his son Sandeep Behl, he will take legal action against them. As such, the very fact of causing of the scuffle, at the instance of all the accused and inflicting of injuries on the person of Sandeep Behl, was brought to the notice of the police authorities by the complainant, without any loss of time. It is pertinent to mention that as per the version of the prosecution, the occurrence had taken place on 05.04.2000. Soon after the occurrence, K.K.Behl had lodged the report in Police Post Model Town, Patiala, vide DDR No.27 dated 05.04.2000. Sandeep Behl was in serious condition. He was firstly taken to Garg Hospital, Model Town, Patiala. Dr.Naresh Garg advised to get CT scan done as injured was in serious condition and needful was got done. PW-6 Dr.Ruchi Seth has proved the CT scan reports, which are Ex.PF and Ex.PG. It was advised by the doctor to get the injured Sandeep Behl treated as his condition was precarious because of the head injury. Thereupon, injured was brought to Amar Hospital, where he had undergone treatment. PW-2 Dr.Arun Bansal, Neuro Surgeon, Amar

Hospital, Patiala, who had examined patient Sandeep Behl, found him to be in unconscious condition and he had extended treatment to the patient. He proved the treatment file Ex.PC and case summary is Ex.PD. He also deposed that patient on his advice, was shifted to DMC, Ludhiana, where he was treated further by Dr.R.K.Kaushal and Dr.Sachin Jindal. As per Dr.Sachin Jindal, PW-13, the injured remained under treatment of Dr.R.K.Kaushal at DMC and it was on 10.04.2000, Sandeep Behl had succumbed to his injuries. It is pertinent to mention that post-mortem report and the ruqa reveals about death of Sandeep Behl to have taken place in the wee hours on 10.04.2000 i.e. around 5.00-5.40 p.m. and on that very day, application Ex.P10/A was filed by K.K.Behl, who is father of the deceased and on the basis whereof, FIR Ex.PW15/D was got recorded. It is, though, now argued that during the intervening period, since the inflicting of injuries till the death of Sandeep Behl, K.K. Behl was available and he could have got recorded his statement. He had intentionally not got recorded the statement, as he was not an eye witness to the occurrence in question, as claimed. However, aforesaid submission is not tenable. It is pertinent to mention that in the DDR, which was got registered at first instance by K.K.Behl, he has categorically stated about the injuries having inflicted to his son and he has also stated that his son was unconscious and was admitted in Amar Hospital, Patiala for treatment. He also stated therein, that legal action will be taken, only when he comes into senses. It cannot

family members of the injured, also get perplexed and are not in stable state of mind, to initiate legal proceedings. They get involved in the treatment of the injured and as such, some delay in initiation of action, is bound to be there. Soon after the death of his son Sandeep Behl, K.K.Behl had filed an application on coming back to Patiala from Ludhiana hospital. He got the application filed and got registered the case. Thus, the interregnum period, as such, stands duly explained for non-initiation of action, at first instance. In these circumstances, the delay so occurred, does not prove fatal to the prosecution version.

Further, to establish the incriminating role of the accused, the prosecution had examined PW-10 K.K.Behl, who is father of Sandeep Behl. He had categorically deposed about the manner in which the accused had inflicted injuries on 05.04.2000 to his son. He had deposed about previous facts of the manner in which, accused had caused the striking of the three-wheeler with the scooter of which, Rajesh Bhatia and Prem Bansal, were occupants and further deposed about they having tried to chase the wrong doers and further also about the manner in which, they had spotted the three-wheeler in question. Throughout the arguments, much emphasis has been laid by the learned State counsel that learned trial Court has wrongly acquitted Ghaniaya Lal. Even though, in the DDR, K.K.Behl had clearly specified the involvement of all the three accused namely Ravinder Kumar, Ghaniaya Lal and Lajja Ram. Even though, learned

Kumar but it is pertinent to mention, that considering this relationship, it has been held that his false implication, as such, cannot be ruled out and no specific injury has been attributed to him and that too, only with broom-stick. It was a matter of abundant caution that benefit of doubt has been extended to him. However, it is pertinent to mention that in the DDR in question, even though, complainant had named all the three accused, having inflicted injuries but it has been stated therein that injuries were caused with iron rod by Ravinder Kumar and no specific role of other two accused has been mentioned. Not only this, it is further pertinent to mention that in the application Ex.P10/A, which was got filed after the death of Sandeep Behl, though, there is mention made by the complainant about Ghaniaya Lal, to have brought broom and Lajja Ram to have brought *soti* as well as Ravinder Kumar having taken out rod from the three-wheeler but however, no detail about the injuries, so having inflicted by Lajja Ram and Ghaniaya Lal, as such, has been mentioned in the application. In fact, while conducting cross-examination of complainant K.K.Behl, he was confronted with the mention made in the application Ex.P10/A, about the seat of injuries specifically caused to Sandeep Behl by Lajja Ram and Ghaniaya Lal but however, he had not made specific denial that he does not remember. In the application Ex.P10/A, there is no specific injury, having so caused by the said accused Ghaniaya Lal and Lajja Ram mentioned. Though, there is specific mention of Ravinder Kumar to

injury with the iron rod on the head of his son (Sandeep Behl) but qua the other two accused, there is no such mention. In this regard, it is also pertinent to mention that in the DDR Ex.DX, there is also mention made by the complainant of Sandeep Behl to have been inflicted injuries on the head with iron rod by Ravinder Kumar son of Ghaniaya Lal and Ghaniaya Lal s/o Yogeshwar Lal and Lajja Ram s/o Bihari Lal. It makes mention of an injury caused with iron rod on the head. There is no mention of other weapons, so claimed to be with Ghaniaya Lal and Lajja Ram. It is also pertinent to mention that there is nothing, as such, coming on record, wherefrom, Ghaniaya Lal and Lajja Ram had brought broom and *soti*. If the eye witness to the occurrence in question, could depose about the procurement of the iron rod by Ravinder Kumar, then the question arises, he ought to be knowing about the manner, in which Ghaniaya Lal and Lajja Ram came to be armed with broom with iron *patti* and *soti*. Furthermore, also it should be noted that in Ex.P10/A, complainant had also stated that enroute to hospital, after inflicting of the injuries, Sandeep Behl had told his brothers that they have inflicted injuries with iron rod on his head and he will not leave them alive. Keeping in view the evidence in entirety, definitely, doubt is raised about the **participation/involvement** of Ghaniaya Lal and Lajja Ram in the occurrence in question. Even though, they have been named in the DDR by K.K.Behl but however, doubt is raised about their participation in the manner in which, there was silence, at first instance, relating to their incriminating role and the weapons with

which, they were armed. In fact, right from the beginning, it is coming forth that Ravinder Kumar with an iron rod, had inflicted blow on the head of Sandeep Behl. Thus, doubt is definitely raised about the involvement of both Ghaniaya Lal and Lajja Ram. Moreover, it is important to make reference to the opinion, so given by PW-1 Dr.O.P.Aggarwal. He had proved the application Ex.PB, which is a police request, made to know about injury No.1 on the head can be caused by hitting with an iron rod, sufficient to cause death in ordinary course of nature and the said doctor had categorically opined vide endorsement Ex.PB/1 made on the application itself, that injury No.1 was individually sufficient to cause death, in ordinary course of nature. The injury could be caused with iron rod. Considering the same, it is evident that injury which was caused by Ravinder Kumar with an iron rod on the head of Sandeep Behl, was sufficient to cause death in ordinary course of nature.

In the light of the aforesaid discussion, learned trial Court has rightly extended benefit of doubt to accused Ghaniaya Lal but however, at the same time, even incriminating role of Lajja Ram, is not above board and while extending benefit of doubt to him, Lajja Ram is also **acquitted** of the charge levelled against him. So far as, revision petition is concerned, looking at the manner of causing of the injuries, the case does not fall in the **rarest of rare** case and thus, the sentence imposed by learned trial Court is **just and reasonable**.

Considering the same, CRA-D-540-DB-2003 is **accepted**

qua appellant Lajja Ram and it stands **dismissed** qua appellant

Ravinder Kumar. Even, CRA-101-DBA-2004 filed by the State stands **dismissed** and CRR No.2233 of 2003 filed by the complainant, also stands **dismissed**.

Since appellant Lajja Ram is on bail, his bail/surety bonds stand discharged.

Accused-appellant, namely, Ravinder Kumar, 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

03.12.2019
Himanshu

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