

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Crl. Appeal No.D-613-DB of 2003
Date of Decision: December 03, 2019

Ram Singh and another
...Appellants

VERSUS

State of Punjab
...Respondent

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

Present: Mr.Vishal Rattan Lamba, Advocate
for the appellants.

Mr.Bhupinder Beniwal, Asstt. Advocate General, Punjab
for the respondent-State.

ARCHANA PURI, J.

Challenge in the present appeal, is to the judgment of conviction and order of sentence dated 15.07.2003 passed by learned Sessions Judge, Bathinda, vide which appellants Ram Singh and Nirranjan Singh were held guilty and convicted and sentenced as under:-

<i>Under Section</i>	<i>Sentence</i>	<i>In default</i>
302/34 IPC	Imprisonment for life and to pay fine of ₹1,000/-	RI for three months
324/34 IPC	RI for two years	

Both the sentences were ordered to run concurrently.

The background facts in nutshell are as follows:-

That, on 31.12.2000, complainant Chhinder Kaur along with

her husband Darshan Singh and son Manjit Singh, was returning back from

their fields known as Sukha SinghWala with wheat chaff on bullock cart. Darshan Singh reined the bullock cart, while complainant Chhinder Kaur and her son Manjit Singh were following the cart. At about 3.00 p.m., when they reached near tube-well bore of Chhotu Singh, then brother-in-law (devar) of complainant, namely Ram Singh, Narinder Singh and Kuldeep Singh, each armed with *gandasa*, Sukhraj Singh armed with *kulhari* and Sukhpal Singh armed with *dang*, had come there. Ram Singh had extorted that Darshan Singh should not be spared and he should be taught a lesson for grabbing land of Rupo Bhua. Thereafter, all the assailants had surrounded Darshan Singh. Ram Singh gave *gandasa* blow on the left side of temporal region of complainant's husband. Nirranjan Singh had given a *gandasa* blow, which landed on the backside of head of Darshan Singh and Kuldeep Singh also gave *gandasa* blow on the backside of head of Darshan Singh. Darshan Singh fell on the ground. While he was on ground, Sukhraj Singh gave an Axe blow on the right side of his back and another blow was given on his left shoulder. Sukhpal Singh had given *dang* blow to Darshan Singh on his right shoulder. Complainant Chhinder Kaur and her son Manjit Singh had raised alarm '*na maro na maro*'. When Manjit Singh came forward to rescue his father, then Kuldeep Singh gave *gandasa* blow towards his head. In order to ward off the blow, Manjit Singh raised his left hand and the blow landed on the thumb of his left hand. Sukhpal Singh gave *dang* blow on right arm of Manjit Singh. Then, Manjit Singh, in order to save his life, had fled away. Thereafter, all the accused continued to inflict blows with their respective weapons upon Darshan Singh and then they had ran away. When complainant Chhinder Kaur came forward, she

found her husband to have succumbed to the injuries. Boota Singh s/o

Mittu Singh, came at the spot. While leaving Boota Singh to look after the dead body, the complainant herself proceeded to inform the police along with Chanan Khan, Chowkidar.

The proceedings in the present case were initiated, on the basis of the statement got recorded to SHO Sukhchain Singh, when enroute to the police station, Chhinder Kaur had met SHO Sukhchain Singh, at the gate of Government School and on her statement, FIR was got registered. Even, the complainant had stated that motive for causing of the occurrence was that her husband was having possession of the land of his Bhua and assailants had grudge against them.

During the course of investigation, the Investigating Officer had inspected the spot of occurrence and prepared the inquest report. Even, he facilitated the conducting of the post-mortem examination, on the dead body of Darshan Singh. Blood-stained and simple earth were lifted from the place of occurrence. They were converted into parcel and taken into possession vide separate memo. Rough site plan of the spot of occurrence was prepared. Even, parcel of clothes of deceased, which were handed over by the doctor to Head Constable Harbhajan Singh were taken into possession by the Investigating Officer, vide separate memo.

On 07.01.2001, Kheta Singh, Member Panchayat, had produced Ram Singh, Sukhpal Singh and Sukhraj Singh before SI Sukhchain Singh. Their arrest was effected. Even, they had produced gandasas, dang and Axe respectively, which were also taken into possession vide separate memos, after preparing rough sketches of the same.

On 08.01.2001, Niranjana Singh and Kuldeep Singh were arrested by SI Sukhchain Singh and they had also produced gandasas,

relating to which rough sketches were prepared and they were taken into possession vide separate memo. Parcel of blood-stained earth and simple earth were sent to the Forensic Science Laboratory and vide its separate report, it was opined that contents of the same were stained with human blood. On completion of investigation, the challan was presented initially against Ram Singh, Niranjana Singh, Kuldeep Singh, Sukhraj Singh and Sukhpal Singh.

However, at this juncture, it is pertinent to mention that Kuldeep Singh and Sukhpal Singh were concluded to be juvenile and as such, their proceedings were bifurcated.

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

In pursuance of the commitment proceedings, on the basis of material coming forth, charge was framed against the accused Ram Singh, Niranjana Singh and Sukhraj Singh under Sections 148, 302 read with Section 149 IPC and 324 read with Section 149 IPC, to which they pleaded not guilty and claimed trial.

In endeavour to establish its case, the prosecution examined as many as 8 witnesses, besides adducing documentary evidence.

PW-1 Dr.Manmohan Kumar has deposed about conducting of the post-mortem examination on the dead body of Darshan Singh on 01.01.2001. He also deposed about the injuries, found on the dead body, which are herein given:-

1. *Incised wound 8 cm x 2.5 cm on the left side of head in parietal area. Bone deep. Clotted blood was present.*

2. *Incised wound 5 cm x 2 cm on the right side of occipital region 8 cms from the right pinna. Underlying bone was found fractured. Clotted blood was present.*
3. *Incised wound 5 cm x 2 cm on the right side of occipital area. Bone deep. Underlying bone was fracture. The injury was located just above injury No.2.*
4. *Incised wound 6 cm x 2 cm on the right side of occipital temporal region. Bone deep. Underlying bone was fractured. Clotted blood was present. 4 cm away from the right pinna.*
5. *Reddish blue contusion on the upper part of front of neck 9 cm x 4.5 cm in size. Horizontal in direction. On dissection blood clots were present underneath and underlying bone was fracture.*
6. *A reddish blue contusion on right side of scapular region 13 cm x 15 cm in size.*
7. *A reddish blue contusion 11 cm x 1 cm on the left side of scapular region.*
8. *Reddish blue contusion 7 cm x 1 cm on the left side of upper part of scapular region.*
9. *An abrasion on the dorsal side of base of index finger of right hand.*

Further, the said witness also stated that in his opinion, the death in this case was due to shock and haemorrhage resulting from the injuries to the vital organs i.e. brain and asphyxia. Injuries were ante-mortem in nature and were sufficient to cause death in the ordinary course of nature. Probable time that elapsed between injury and death was immediate and the time between death and post-mortem was within 24 hours. The said witness proved the carbon copy of post-mortem report, which is Ex.PA and pictorial diagrams are Ex.PA/1 and Ex.PA/2. He also

deposed about having seen the weapons when produced in the Court and

also deposed that injuries No.1 to 4 could be caused by the *gandasas* and injuries No.5 to 9 could be caused with *lathi* and reverse side of *kulhari*. On police request **Ex.PD**, he gave opinion regarding the weapons used for causing the injuries, vide report **Ex.PD/1**.

PW-2 Dr.Pawan Kumar Garg has deposed about having examined patient Manjit Singh on 31.12.2000, on his arrival in the hospital. He deposed about dispatch of **Ex.PE** to the police regarding arrival of injured Manjit Singh to the hospital. He further deposed about the detail of injuries found on the person of Manjit Singh, which are herein given:-

1. *An incised wound measuring 3.5 cm. x 1 cm. and soft tissue deep, was situated on the base of terminal phalank of left thumb. Fresh bleeding was present.*
2. *Contusion reddish measuring 2 cm. broad x 8 cm. in length situated on the antero lateral aspect of right forearm. About 5 cm. below the right cubital fossa.*

Further, this witness deposed that injuries were simple in nature. Injury No.1 was caused by sharp weapon and injury No.2 was caused by blunt weapon. The probable time was within six hours. He also proved the carbon copy of MLR, which is **Ex.PF**. He further deposed that on police request **Ex.PG**, he declared patient to be unfit to make statement vide endorsement **Ex.PG/1**. On 01.01.2001, on police request **Ex.PH**, he declared patient fit to make statement, vide endorsement **Ex.PH/1**.

PW-3 C-1 Gurwinder Singh and **PW-4 Head Constable Inderjit Singh**, have tendered into evidence, their affidavits **Ex.PJ** and **Ex.PK**, respectively, which is formal evidence.

PW-5 Chhinder Kaur is the complainant, at whose instance, the prosecution proceedings were initiated. She has deposed in consonance with the prosecution version as set up in the report under Section 173 Cr.P.C.

PW-6 Manjit Singh, son of the complainant, who is also an eye witness to the occurrence, has deposed about the manner of causing of the occurrence by the accused and his testimony is also in consonance with the testimony of his mother PW-5 Chhinder Kaur.

PW-7 SI Sukhchain Singh, is the Investigating Officer of the present case. He has deposed about recording of statement **Ex.PL** of complainant Chhinder Kaur on 31.12.2000, when she met him while he was present along with police party near the school of village Ghuman Kalan. His endorsement upon the same is **Ex.PL/1**, on the basis whereof, FIR **Ex.PL/2** was got registered. This witness further deposed that thereafter, he had proceeded to the place of occurrence and prepared inquest report **Ex.PC**. He facilitated the conducting of the post-mortem examination on the dead body of Darshan Singh. Blood-stained earth and simple earth were lifted from the place of occurrence and they were converted into parcels and taken into possession vide recovery memo **Ex.PM**. He prepared the rough site plan **Ex.DA** and recorded statements of the witnesses. He further deposed about having recorded statement of Manjit Singh on 01.01.2001 and also taking into possession parcel of clothes of deceased vide memo **Ex.PN**. This witness also deposed about Kheta Singh to have produced Sukhpal Singh, Sukhraj Singh and Ram Singh before him on 07.01.2001 and they had produced *gandasa*, *dang* and *kulhari* before him, which were taken into possession vide separate memos, after preparing the sketches.

This witness also deposed that on 08.01.2001, Nirranjan Singh and Kuldeep Singh were arrested by him and they had produced *gandasas* before him and after preparing the sketches, the weapons were taken into possession vide recovery memo. He also deposed about preparation of report under Section 173 Cr.P.C.

PW-8 Head Constable Amrik Singh has deposed about having handed over Special Report to the Magistrate, Talwandi Sabo at 8.30 p.m. on 31.12.2000.

Thereafter, learned Public Prosecutor, tendered into evidence, report of FSL **Ex.PY** and closed the prosecution evidence.

On closure of the prosecution evidence, all the incriminating circumstances appearing in the prosecution evidence were put to the accused in his statement under Section 313 Cr.P.C. However, accused Ram Singh denied those allegations and pleaded innocence. For the convenience of discussion, the plea so taken by accused Ram Singh, is reproduced in verbatim, as herein given:-

“I and my co-accused have been falsely implicated in this case by complainant Chhinder Kaur due to enmity and suspicion. Deceased Darshan Singh had a land dispute with our sister Rupo. The son of Rupo used to attend the proceedings of the case and wanted to take forcible possession of land, which was illegally occupied by Darshan Singh deceased. Sons of Rupo used to stay at our house, whenever they used to come to village Ghuman Kalan. The land in question was voluntarily given by us to deceased Darshan Singh as he used to contest the Civil case and to bear the expenses thereof and a writing was duly executed regarding the land, which was duly attested

by me, my brother Niranjana Singh, by the deceased, Kheta Singh and Bagga. Deceased, myself and my co-accused have agricultural land towards village Sukha Singh Wala adjacent to each other's fields and we daily used to work on our respective fields. We did not make any attempt on his life. The occurrence took place at about 1.00 p.m. and dead body was seen by Jarnail Singh son of Ishar Singh, resident of Sukha Singh Wala and Sukha Singh son of Sher Singh, resident of village Ghuman Kalan. They informed the wife of deceased at her house. Thereafter the police of P.S. Maur came to the spot and registered the false case against me, my sons Sukhraj Singh and Sukhpal Singh and also against my brother Niranjana Singh and his son Kuldeep Singh. Kuldeep Singh and Sukhpal Singh, who are minors aged about 15 years, were not spared. All male members of both the families have been falsely involved in this case. We were arrested on the same day in the evening and weapons such as Gandasa, kulhari etc. were planted upon us."

Likewise, Sukhraj Singh and Niranjana Singh also took similar pleas. However, the accused did not lead any evidence in defence.

After hearing learned Public Prosecutor, learned defence counsel and on appraisal of the evidence brought on record, vide judgment dated 15.07.2003, accused Sukhraj Singh was acquitted of the charges levelled against him. However, accused Ram Singh and Niranjana Singh were convicted of the charges under Sections 302/34 and 324/34 IPC and they were sentence, as already detailed aforesaid.

Feeling aggrieved by the aforesaid judgment, the appellants Ram Singh and Niranjana Singh have filed the present appeal.

At this juncture, it is pertinent to mention that during the pendency of the appeal, appellant Niranjn Singh has died and learned State counsel, on telephonic instructions from SHO, Police Station, Maur, had confirmed the said fact. Therefore, appeal qua Niranjn Singh stands abated.

We have heard learned counsel for the appellant Ram Singh as well as learned State counsel and have perused the record.

At the very outset, learned counsel for the appellant has assiduously submitted that the prosecution has miserably failed to establish the guilt of the accused. The entire prosecution version rests on the testimonies of interested witnesses i.e. PW-5 Chhinder Kaur and PW-6 Manjit Singh, who are widow and son of deceased Darshan Singh. Since, they are witnesses interested in the success of the case, they have deposed in exaggerated manner about the incriminating role of Ram Singh appellant. In fact, they had never witnessed the occurrence and they have been padded later on by the Investigating Officer to give strength to the version of the prosecution. He also stated that there is mismatch of the ocular version with the medical evidence, so coming on record. In fact, the prosecution is silent about two of the injuries found on the dead body of Darshan Singh. Furthermore, it is submitted that only on account of their being mismatch of the injuries with the weapons of offence, the presence of Sukhraj Singh, at the place of occurrence has been held to be doubtful and he has been acquitted of the charge. Also, it is submitted that appellant Ram Singh has been falsely implicated in the present case. While summing up his arguments, learned counsel for the appellant has made a prayer for the acceptance of the appeal and to acquit appellant Ram Singh.

On the contrary, learned State counsel has refuted the claim of

the appellant, tooth and nail. He submits that vivid eye witness account is coming forth from the mouth of complainant **Chhinder Kaur PW-5** and her son **Manjit Singh PW-6**. Even though, both the eye witnesses are stated to be close relatives of the deceased, this *ipso facto* does not lead to the conclusion of their role having been padded later on by the Investigating Officer. In fact, they have been subjected to lengthy cross-examination but nothing came forward to dislodge the version of the prosecution. Since, there is prompt lodging of the FIR, soon after the occurrence, the role of both the said witnesses, as such, cannot be doubted. Rather, Manjit Singh had sustained injuries, in the occurrence in question, on which account, his being an eye witness, as such, cannot be doubted. Also, it is submitted that there is no such mismatch of the ocular version and the medical evidence, so coming on record. The broad manner of causing of the occurrence by appellant Ram Singh and his companions, stands amply established. Even though, some variation is coming forth but however, the same does not prove fatal to the prosecution version. Also, it is submitted by learned State counsel that learned trial Court has rightly appraised the evidence of the prosecution and reached the conclusion of the guilt of the accused. Even, sentence imposed, is just and reasonable. As such, a prayer has been made by learned State counsel for dismissal of the appeal.

Throughout the arguments, learned counsel for the appellant Ram Singh has laid much emphasis on the testimonies of PW-5 Chhinder Kaur and PW-6 Manjit Singh, to be not inspiring confidence as they are interested witnesses, being widow and son of deceased Darshan Singh. However, the aforesaid submission is not tenable. Relationship is not a

would conceal actual culprit and make allegations against an innocent person. Ordinarily, a close relation would be the last to screen the real culprit and falsely implicate an innocent person. However, where, only related witnesses have been examined, the Courts are required to adopt a careful approach and analyze the evidence to find out, whether it is cogent and reliable. The credibility of a witness cannot be judged, solely on the basis of his close relation with the deceased and as such, cannot be a ground to discard his testimony. Whenever a close relative of the injured or deceased, steps into witness box, it only cautions the Court to scrutinize their statements, more carefully. In the light of the same, the fact of relationship of the eye witnesses with the deceased in the case in hand, *ipso facto* does not lead to the conclusion of the rejection of prosecution version. Thus, the submission so made, on this count, pales into insignificance.

In this backdrop, while proceeding further, it is pertinent to mention that to establish the fact of death of Darshan Singh, the prosecution has examined **PW-1 Dr.Manmohan Kumar**, who had conducted post-mortem examination on the dead body of Darshan Singh on 01.01.2001. He has categorically deposed about the details of injuries found on the dead body and further has also proved the post-mortem report, which is **Ex.PA**. Even, to establish the receipt of injuries by Manjit Singh, injured, medical specialist has been examined by the prosecution. **PW-2 Dr.Pawan Kumar Garg**, has detailed about the injuries, so received by Manjit Singh and has also proved carbon copy of the MLR, which is **Ex.PF**. Besides the same, both the eye witnesses i.e. PW-5 Chhinder Kaur and PW-6 Manjit Singh have also deposed about the death of Darshan Singh in pursuance of the

occurrence in question. Thus, from the testimonies of the aforesaid witnesses, the fact of death of Darshan Singh and receipt of injuries by Manjit Singh, in the occurrence, stands amply established.

Now, to establish the incriminating role of appellant Ram Singh (and other accused), the prosecution has examined PW-5 Chhinder Kaur. She has categorically stated that on 31.12.2000, she along with her husband and son Manjit Singh, were returning back from the fields Sukha Singh Wala, while bringing wheat chaff on the bullock cart. She also deposed that she herself and her son Manjit Singh were following the bullock cart on foot and when, at about 3.00 p.m., they reached near tube-well of Chhotu Singh, from the *katcha* path of village Ghuman Kalan, her husband's younger brother Ram Singh armed with *gandasa* along with other assailants while armed with respective weapons of offence, had come there. Ram Singh raised *lalkara*, saying that they would teach a lesson to Darshan Singh for grabbing land of Rupo Bhua. This witness also deposed that her husband was surrounded by all the accused. Ram Singh gave *gandasa* blow on the left side of temple of Darshan Singh. She further deposed about the details of injuries caused by other accused with their respective weapons. She also deposed that she and her son Manjit Singh had raised alarm saying '*na maaro na maaro*'. When her son intervened to rescue her husband, then Kuldeep Singh gave a *gandasa* blow towards the head of her son, he raised his left hand and blow fell on thumb of his left hand. Furthermore, she has also deposed that Sukhpal Singh gave *dang* blow to her son on his right arm. She further deposed that her son had ran away in order to save his life. Also she deposed that accused continuously gave blows to her husband and thereafter, accused ran away. When she came forward, she found that her

husband had succumbed to the injuries. She also deposed about the manner of recording of her statement Ex.PL by SHO Sukhchain Singh, on the basis whereof, case was registered. She further deposed about having accompanied the police party to the place where dead body of her husband was lying and about the proceedings conducted by the police at the spot.

Even PW-6 Manjit Singh, another eye witness has given vivid account of the manner of causing of occurrence by Ram Singh while armed with *gandasa* and his companions with their respective weapons of offence and causing of injuries to his father on 31.12.2000. Furthermore, he has also deposed about the manner in which, he was inflicted injuries by Kuldeep Singh, when he intervened to rescue his father. He also deposed that he had ran away to save himself and he got himself admitted in the Civil Hospital, Maur. Both the said aforesaid witnesses have given sequence of the events, in which the injuries were caused by Ram Singh while armed with *gandasa* and his companions with respective weapons, to Darshan Singh. Though, both the said witnesses have been subjected to lengthy cross-examination but nothing material elicited out, to dislodge the version of the prosecution.

Further credence is lent to the ocular version, coming forth, from the medical evidence, coming on record. **PW-1 Dr.Manmohan Kumar** has categorically deposed about the detail of the injuries, found on the dead body of Darshan Singh and further, has also deposed that the death in this case was due to shock and haemorrhage, resulting from the injuries to the vital organs and he also deposed that injuries were ante-mortem in nature and sufficient to cause death in ordinary course of nature. He proved the post-mortem report. Even, weapons of offence were shown to the said

stated that injuries No.1 to 4, could be caused by gandasas. It is pertinent to mention that at the relevant time, Ram Singh appellant was armed with *gandasa*. Even this witness has deposed about the opinion so was given by him about the injuries as found in the post-mortem examination, to have been caused by weapons *gandasa* and *kulhari* and he had stated vide opinion **Ex.PD/1** that possibility of weapon used for these injuries, cannot be ruled out. Likewise, even PW-2 Dr.Pawan Kumar Garg has also stated about the detail of the injuries found on the person of Manjit Singh and has also proved his MLR.

Further credence is lent to the version of the prosecution, from the very fact that appellant along with his fellow companion to have been produced by Kheta Singh, Member Panchayat before SHO Sukhchain Singh and weapon of offence, *gandasa* was produced by Ram Singh and the same was taken into possession. This weapon was shown to the medical specialist, when he stepped into witness box and he stated that about injury could be caused by the *gandasa*. Injury No.1, as detailed in the post-mortem report, stands connected to Ram Singh.

There is stated to be some variation in the role, so attributed to the appellant as well as to other companions of the appellant and the seats of injuries, as mentioned in the post-mortem report. However, it is pertinent to mention that though injuries No.4 and 5, are stated to have not been attributed to any of the accused but this in itself, is not sufficient to dislodge the version of the prosecution. It is pertinent to mention that the occurrence in question, had taken place, all of a sudden and there were five assailants and they pounced upon deceased Darshan Singh with their respective weapons. Looking at this manner of taking place of the occurrence, it

cannot be expected from the eye witnesses, who have rustic background, to give specific and finer details of the injuries caused by the assailants. Broad manner of taking place of occurrence and the specific role, so attributed to Ram Singh, as such, has been categorically deposed by both PW-5 Chhinder Kaur and PW-6 Manjit Singh. Missing of attribution of one or two blows so given by the respective weapons to the deceased, as such, would not make the entire prosecution version, to be doubtful. Rather, the testimonies of Chhinder Kaur and Manjit Singh, are most nature and flawless. Their parrot like statement, not coming forth, qua each injury, establish about these witnesses to be giving truthful version and precisely, on this account, there cannot be said to be mismatch of the ocular and medical evidence, so coming forth. Injury given by Ram Singh on the person of deceased Darshan Singh, stands duly connected by Chhinder Kaur as well as by Manjit Singh and precisely, on this account, Ram Singh's presence at the spot and his participation in the occurrence in question, stands duly established.

Even from the evidence brought on record, fact of the injury sustained by Manjit Singh son of deceased in the occurrence in question, also stands duly established. Though, much emphasis has been laid upon Manjit Singh to have been padded later on, as it is pointed out that his statement was recorded by the Investigating Officer on the next day but however, this itself does not belie the prosecution version. Even though, the statement of Manjit Singh had been recorded by the Investigating Officer on the next day of occurrence but is pertinent to mention that PW-2 Dr.Pawan Kumar Garg has stated about patient to have been admitted in the hospital

was incised wound caused at the terminal phalanx of left thumb and on the basis of police request, **Ex.PG**, he had declared the patient to be unfit to make statement vide endorsement **Ex.PG/1**. He was declared fit to be make statement on 01.01.2001 vide endorsement **Ex.PH/1**, made on the application **Ex.PH**. Considering the same, there cannot be said to be any slackness on the part of the Investigating Officer in recording the statement of Manjit Singh on 01.01.2001 and precisely, on this account, no doubt can be raised about Manjit Singh to be present at the spot of occurrence and having witnessed the occurrence. In fact, the presence of the injury on his person, itself strengthens fact of his presence at the spot at the relevant time.

Even, during course of arguments, learned counsel for the appellant Ram Singh has submitted that Chanan Khan, Chowkidar has not been examined by the prosecution. Very true, as so pointed out by learned counsel for the appellant, but however, non-examination of Chanan Khan, chowkidar, *ipso facto*, does not render the prosecution version doubtful. It is pertinent to mention that he had accompanied complainant Chhinder Kaur, soon after taking place of the occurrence. He is not claimed to be an eye witness of the occurrence and considering the same, his non-examination by the prosecution, does not matter much.

Besides, eye witness account and the medical evidence, so coming forth and the weapons of offence, having produced by the appellant, the fact of action having initiated soon after the taking place of the occurrence, rules out any false implication of the accused. In fact, occurrence had taken place at 3.00 p.m. and soon thereafter, Chhinder Kaur, who is widow of deceased, had got recorded her statement, which is **Ex.PL**

was completed by 5.30 p.m. and thereupon, FIR Ex.PL/2 was got registered. Even PW-8 Head Constable Amrik Singh has deposed about Special Report to have been handed over to Magistrate, Talwandi Sabo at 8.30 p.m. The seriatim of facts in the post occurrence period, as such, rule out about the false version, so coming forth, as alleged. Rather, the prompt lodging of the FIR, strengthens the version of the prosecution.

Furthermore, it is pertinent to mention that appellant Ram Singh had taken plea in his statement under Section 313 Cr.P.C. about the occurrence to have taken place at about 1.00 p.m. and the dead body was seen by Jarnail Singh s/o Ishar Singh r/o Sukha Singh Wala and Sukha Singh s/o Sher Singh, r/o village Ghuman Kalan and about they having informed wife of the deceased at her house. Only thereafter, the false case was registered. However, qua the same, it is pertinent to mention that no evidence of any kind has been led by the accused. Even, no question has been put in cross-examination to the prosecution witnesses, thereby disputing about the time of taking place of the occurrence and about the same to have been witnessed by Jarnail Singh and Sukha Singh. Moreover, to establish this plea, it was required on the part of the accused to examine Jarnail Singh and Sukha Singh, who would have made the things crystal clear but no steps have been taken. In fact, no defence of any kind has come forth.

Though much emphasis has also been laid upon litigation being there between Rupo Bhua and deceased Darshan Singh but this does not, ipso facto, lead to the conclusion, about complainant side to be nursing grievance against accused persons. It is pertinent to mention that

complainant Chhinder Kaur while facing cross-examination, has admitted

about there to be litigation pending between Rupo Bhua and her husband Darshan Singh but she has categorically stated that Darshan Singh never had any litigation with his brothers and Ram Singh appellant, is one of the brothers of Darshan Singh. Thus, even though, the litigation, as such, was pending but the fact of litigation with Rupa Bhua in itself, does not establish about the false implication of the appellant at the instance of the complainant party. Though, the fact of litigation, may faintly form motive for causing of the occurrence but however, motive is a double-edged weapon. This fact of litigation can be a motive in either way but however, the motive aspect does not carry much weight in the present case, as there is direct evidence, in the form of testimonies of Chhinder Kaur and Manjit Singh, coming forth. When there is direct evidence, as such coming forth, the motive aspect, pales into insignificance and precisely on this account, the submission aforesaid, does not carry much weight.

In the light of aforesaid discussion, judgment of the trial Court merits no interference. As such, appeal sans merit and is hereby dismissed.

As accused-appellant namely Ram Singh, is on bail, his bail bonds stand cancelled and he is directed to surrender himself before the jail authorities immediately for completing remainder of sentence, failing which the concerned authority shall proceed against him in accordance with law.

(JITENDRA CHAUHAN)
JUDGE

(ARCHANA PURI)
JUDGE

December 03, 2019
Vgulati

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No