

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

(i)

Crl. Appeal No.D-924-DB of 2011

Amandeep Singh @ Rinku

...Appellant

VERSUS

State of Punjab

...Respondent

(ii)

Crl. Appeal No.D-926-DB of 2011

Manpreet Kaur

...Appellant

VERSUS

State of Punjab

...Respondent

(iii)

CRM No.A-30-MA of 2012

Arjun Singh Dhillon

...Applicant

VERSUS

The State of Punjab and others

...Respondents

Date of Decision: February 12, 2020

**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 appellant (in CRA No.D-924-DB of 2011).

Mr.T.S.Sangha, Senior Advocate with
Mr.G.S.Randhawa, Advocate
for the appellant (in CRA No.D-926-DB of 2011).

Mr.B.S.Sidhu, Advocate
for the applicant (in CRM No.A-30-MA of 2012).

Mr.A.A.Pathak, Addl. Advocate General, Punjab
for the respondent-State.

ARCHANA PURI, J.

Challenge in the bunch of appeals, the detail whereof, has been given in the head note of the judgment, is to the judgment of conviction dated 02.09.2011 and order of sentence dated 03.09.2011, passed by learned Sessions Judge, Sri Muktsar Sahib, vide which accused-appellants were held guilty and convicted for the commission of offences and sentenced as under:-

<i>Under Section</i>	<i>Sentence</i>	<i>In default</i>
302/34 IPC for committing murder of Surjit Singh Patwari	Imprisonment for life and to pay fine of ₹5,000/-	RI for one year
302/34 IPC for committing murder of Parminder Singh alias Gugu	Imprisonment for life and to pay fine of ₹5,000/-	RI for one year
302/34 IPC for committing murder of Ravneet Kaur alias Rubi	Imprisonment for life and to pay fine of ₹5,000/-	RI for one year
201 IPC	RI for five years and to pay fine of ₹5,000/-	RI for year

All the sentences were ordered to run concurrently.

Accused-appellants Amandeep Singh @ Rinku and Manpreet Kaur, have preferred appeals i.e. CRA No.D-924-DB of 2011 and CRA No.D-926-DB of 2011, respectively, challenging their conviction, whereas, complainant Arjun Singh Dhillon, has filed application i.e. CRM No.A-30-MA of 2012, seeking enhancement of the sentence imposed upon the accused from life imprisonment to death sentence.

The background facts, are as herein given:-

That, complainant Arjan Singh Dhillon had retired as

Development Officer from Life Insurance Company. He had four sons and his eldest son Surjit Singh, was employed as Revenue Patwari at village Mehma Bhagwana, District Bathinda. For the last about 25 years, Surjit Singh was married to Kulwant Kaur D/o Ajaib Singh Brar, r/o village Jhandeana, District Moga and from their wedlock, two children were born, one son namely Parminder Singh @ Gugu aged about 23 years and one daughter namely Ravneet Kaur @ Rubi aged about 18 years. However, Kulwant Kaur died on 17.06.2007. Thereafter, Surjit Singh had contracted second marriage with Manpreet Kaur D/o Gurbal Singh r/o village Gobindpura, on 24.11.2007. Said Manpreet Kaur was divorcee and had one son aged about 5-6 years, from her previous marriage, who resides in her parental house. Surjit Singh had met with an accident and his left leg was amputated from knee joint, which was replaced with artificial one. On 17.01.2008, at 5.30-6.00 p.m., when Surjit Singh returned from his duty, a dispute arose between him and Manpreet Kaur as usual, over the insistence of Manpreet Kaur seeking transfer of property, in her name. The complainant intervened and pacified them. Then, Manpreet Kaur had blurted out that she knows, how to get it done. On the morning of 18.01.2008 at 7.15 a.m., Manpreet Kaur addressed the complainant, from the roof of the house, thereby stating that children of Surjit Singh were not in the house and Surjit Singh is lying on the bed and something had happened to him. The complainant along with his son Manjit Singh, reached there and they found the outer gate of the house locked and they entered through the small gate on the backside of the house. They found Surjit Singh lying dead on the bed and grand-son and grand-daughter of the complainant were missing from the house. Other family members of the

complainant, also followed them and reached there. All of them tried to contact grand-son and grand-daughter of the complainant over phone but their mobile phones were switched off. Complainant Arjan Singh Dhillon got recorded his statement to ASI Surjit Singh, who made his endorsement upon the same. The complainant further stated that as death of Surjit Singh took place under suspicious circumstances, therefore, post-mortem examination of his dead body was required to be conducted, so as to ascertain the cause of death and thereafter, necessary action be taken. As the matter of cause of death of Surjit Singh was found suspicious, therefore, the matter was forwarded for conducting inquest proceedings. A report was recorded in the roznamcha of Police Station Gidderbaha.

Thereafter, ASI Surjit Singh along with police officials and Arjan Singh Dhillon, had gone to the spot of occurrence, where, photography of the spot of occurrence was got conducted. Inquest report was also prepared. Then ASI Surjit Singh had facilitated conducting of the post-mortem examination on the dead body of Surjit Singh. Copy of the post-mortem report, was thereafter, handed over to SHO, Police Station Gidderbaha on 18.01.2008, relating to which, entry was made in the roznamcha. However, the cause of death of deceased Surjit Singh was opined by the doctor on 20.01.2008, to be asphyxia due to strangulation. Thereupon, FIR No.5 dated 20.01.2008 under Section 302 IPC was registered against accused Manpreet Kaur.

SI Devinder Singh, SHO, Police Station Gidderbaha, had then gone to the spot of occurrence along with ASI Surjit Singh and inspected the spot of occurrence. Rough site plan of the spot was prepared at the instance of the complainant. Statements of witnesses were recorded. One

Gurmeet Singh Mann made his statement before SI Devinder Singh on 20.01.2008, at the spot of occurrence, regarding extra judicial confession made by accused Manpreet Kaur, vis-a-vis commission of offence by her, wherein, she had stated about impressing upon her husband Surjit Singh, to transfer some of the property in her name but he was putting off the matter, on account of which, she developed malice towards his children from the earlier wedlock. She had also disclosed that she had talked about the same to her confidante Amandeep Singh alias Rinku, who had come to meet her on the pretext of being her relation. Thereafter, she along with Amandeep Singh @ Rinku devised plan over this matter and accordingly, on 16.01.2008, Amandeep Singh @ Rinku, handed over 8/10 strips of Ativan tablets to her. In routine, she prepared dinner on the night of 17.01.2008 and mixed 50/35 tablets of Ativan in the sweetened pudding (kheer) and served the same to Surjit Singh, his son Parminder Singh @ Gugu and Ravneet Kaur @ Rubi and thereafter, all of them became unconscious and senseless. She further disclosed that as per their plan, her confidante Amandeep Singh @ Rinku came there and both of them murdered Surjit Singh and his children by throttling their necks turn by turn. The dead bodies of Parminder Singh @ Gugu and Ravneet Kaur @ Rubi, were thrown in the main canal by transporting them in the car of Amandeep Singh @ Rinku, so as to destroy them, whereas, dead body of Surjit Singh was deliberately allowed to remain the house, so that the impression/blame of murder of Surjit Singh be affixed upon Parminder Singh @ Gugu and Ravneet Kaur @ Rubi. On the basis of the statement got recorded by Gurmeet Singh Mann, Amandeep Singh @ Rinku, was also nominated as accused besides

Kaur before Investigating Officer Devinder Singh on 20.01.2008 and various documents, relating to effecting of arrest of Manpreet Kaur, in the present case, were prepared. On her personal search, one mobile set bearing SIM No.94641-29990, was recovered, which was taken into police possession vide separate memo. During the course of interrogation, Manpreet Kaur suffered disclosure statement that she along with Amandeep Singh @ Rinku, transported the dead bodies of Parminder Singh @ Gugu and Ravneet Kaur @ Rubi, son and daughter of Surjit Singh, from the place of occurrence and threw them in Rajasthan feeder canal at a distance of 1 km. from Gidderbaha to Malout road and she could point out that place. On the basis of the disclosure, so made, after associating Executive Magistrate, Gidderbaha, said accused Manpreet Kaur led the police party to the disclosed spot and pointed out the place to the police party, where signs of dragging and foot-prints were present. Photographer was present and photography of the spot was conducted. Separate memo was prepared regarding the same. Statements of the witnesses were recorded. Even on 23.01.2008, during the course of interrogation, Manpreet Kaur had made disclosure statement before the Investigating Officer, in the presence of Manjit Singh @ Kala and ASI Bant Singh, whereupon, she had stated about having kept concealed sweetened pudding, remainder of which was administered to all the deceased aforesaid and also unused Ativan tablets beneath of seater of the fridge in the kitchen by concealing them in two polythene carry bags, in the house of deceased Surjit Singh, which fact was in her exclusive knowledge and she could get the same recovered.

Thereafter, after leading the police party to the disclosed place, Manpreet

Kaur got recovered two polythene carry bags, one was found to be

containing sweetened pudding and second carry bag was containing unused strips of Ativan tablets. The same were converted into parcel and taken into possession vide separate memo.

Photographs of the place at canal, which was pointed out by Manpreet Kaur as well as house of Surjit Singh were produced before the Investigating Officer and the same were taken into possession vide separate memo.

On 03.02.2008, during the search for the bodies of Parminder Singh @ Gugu and Ravneet Kaur @ Rubi in the middle path of canal in the area of Village Fat Kera, one Raghuraj Singh met the Investigating Officer, who had stated about dead body of Parminder Singh @ Gugu, to be floating in the Rajasthan canal in the area of Katta Kera and his statement was also got recorded by the Investigating Officer and therein, he incriminated both the accused. Then the police party had reached the spot and dead body was retrieved from the canal by the police party. Raghuraj Singh and Jaswinder Singh identified the dead body of Parminder Singh @ Gugu. Inquest report was prepared. Even name 'Gugu' in capital letters was engraved on the left arm of Parminder Singh with *surma*. Then post-mortem examination was got conducted on the dead body of Parminder Singh @ Gugu. The aforesaid fact was recorded in DDR No.11 dated 03.02.2008 at Police Station Lambi. Even clothes of deceased were produced before Investigating Officer, in pursuance of the post-mortem examination and the same were converted into parcel and taken into possession, vide separate memo.

On 05.02.2008, Head Constable Karaj Singh and Head

Constable Sarwan Singh produced before Investigationg Officer, the detail

of calls of Cell phone No.99151-61604 and 94941-29990, for the period from 31.12.2007 to 18.01.2008. The aforesaid detail of calls related to accused Manpreet Kaur and Amandeep Singh and said detail of call records, was taken into possession, vide separate memo. On 06.02.2008, the Investigating Officer recorded statements of Sunil Rana of Airtel and G.P.Singh of BSNL, with regard to the aforesaid details. On 13.02.2008, photographs of dead body of Parminder Singh were produced before the Investigating Officer, which were taken into possession, vide separate memo. One Tarsem Singh has produced his affidavit before the Investigating Officer, which was also taken into possession, vide separate memo and his statement was recorded.

On 14.03.2008, Gurmeet Singh Mann got recorded his statement to the Investigating Officer, vis-a-vis the extra judicial confession of Amandeep Singh @ Rinku. On 15.03.2008, accused Amandeep Singh @ Rinku, had appeared before the Investigating Officer and various documents regarding his arrest, were prepared. During the course of interrogation, on 19.03.2008, Amandeep Singh @ Rinku had made disclosure statement before the Investigating Officer, thereby disclosing about having kept concealed Zen car bearing registration No.PB-03M-7182, in the pit of his field at village Puhla by covering it with paddy straw, which was used for transporting the dead bodies of Parminder Singh and Ravneet Kaur for throwing them in the canal, by him and Manpreet Kaur and this fact was in his exclusive knowledge and he could get the same recovered from there. He also disclosed about the identity card of Ravneet Kaur, to be lying in the dash-board of the aforesaid car and *parna* used for throttling the necks of deceased by them, to be lying beneath of driver's seat of the Zen car. After

recording of his disclosure statement, Amandeep Singh led the police party to the disclosed place, in the area of village Puhla and got recovered the Zen car along with identity card of Ravneet Kaur, issued by Principal of Malwa School, Gidderbaha and the same were taken into possession, vide separate recovery memo. On search of Zen car, registration certificate of the car was recovered, which was in the name of Satish Kumar Karkara and the same was also taken into possession vide separate memo.

On 19.03.2008, the Investigating Officer along with police party, had visited the house of Amandeep Singh at village Puhla and one bill of mobile set was recovered from his house, which was in his name and the same was taken into possession. On 28.03.2008, the Investigating Officer had taken the possession of identity of mobile No.94661-29990, into police possession vide separate memo along with identity of two other mobile sets.

On 03.04.2008, dead body of Ravneet Kaur was spotted in Rajasthan Canal from burji No.396. After associating the Executive Magistrate, Gidderbaha, the dead body of Ravneet Kaur was retrieved from the canal. Inquest report of the dead body was prepared and thereafter, post-mortem examination on the dead body of Ravneet Kaur @ Rubi, was also got conducted. On 04.04.2008, the Investigating Officer, recorded statement of concerned Clerk of DTO Office, with regard to registration of Zen car in question. Even, registration certificate of marriage of Surjit Singh and Manpreet Kaur was obtained from Registrar of Marriages at Bathinda and the same was taken into possession. In pursuance of the post-mortem examination on the dead body of Ravneet Kaur @ Rubi, her clothes were

also taken into possession, after converting the same into parcel.

Even, during the course of investigation, the Investigating Officer recorded statement of Charanjit Singh pertaining to mobile connection. Even, statement of Mohan Singh, Clerk of the office of SDM Gidderbaha, was recorded, who produced photocopy of the application before the Investigating Officer, which was given by accused Manpreet Kaur to the Tehsildar, Gidderbaha. Sarabjit Singh produced his affidavit before the Investigating Officer regarding ownership and possession of accused Amandeep Singh @ Rinku, vis-a-vis the above-said car. The Investigating Officer recorded statement of Satish Kumar Karkara in this case regarding production of documents by him. On 10.04.2008, an application was moved by the Investigating Officer to the concerned doctor to know about the contents of Ativan tablets. Even statement of Harmander Singh of Randhawa Electronics at Bathinda, with regard to purchase of one set Nokia e-50-im Black 512-MB, IMEI-351895013086119, on 24.11.2007 by Amandeep Singh and the bill was taken into possession, from the house of accused Amandeep Singh @ Rinku. Scaled site plan of the occurrence was also got prepared.

On completion of investigation, challan was presented. After compliance of Section 207 Cr.P.C., the case was committed to the Court of Session.

In pursuance of the commitment proceedings, on the basis of material coming forth, charge was framed under Sections 302/34 and Section 201 IPC against both the accused, to which they pleaded not guilty and claimed trial.

In endeavour to establish its case, the prosecution examined as

many as 31 witness, besides adducing documentary evidence. The

witnesses, so examined are PW-1 Paramjit Singh, PW-2 Arjan Singh Dhillon, PW-3 Gurmanjit Rai, Associate Professor, Medical College, Amritsar, PW-4 Dr.Sudarshan Singla, Medical Officer, PW-5 Manjit Singh, PW-6 Raghuraj Singh alias Rozi, PW-7 Gurmeet Singh, PW-8 Gurinderpal Singh, PW-9 Pawan Kumar, Registration Clerk, PW-10 Arvinderpal Singh, Teshildar-cum-Executive Magistrate, PW-11 Anoop Singh, PW-12 Ajit Sharma, Draftsman, PW-13 Satish Kumar, PW-14 Harmander Singh, PW-15 Sarup Singh, Photographer, PW-16 Kuljinder Singh, Photographer, PW-17 Mohan Singh, PW-18 ASI Sarwan Singh, PW-19 Head Constable Malkit Singh, PW-20 Head Constable Hardial Singh, PW-21 Head Constable Chamkaur Singh, PW-22 Head Constable Sukhmander Singh, PW-23 Jaspal Singh, Photographer, PW-24 Sarabjit Singh, PW-25 Jugraj Singh, PW-26 Tarsem Singh, PW-27 Sunil Rana, PW-28 Jatinder Chinia, Sub Divisional Engineer, PW-29 ASI Surjit Singh, PW-30 SI Devinder Singh, SHO and PW-31 Head Constable Charanjit Singh.

On closure of the prosecution evidence, all the incriminating circumstances appearing in the prosecution evidence were put to the accused in their respective statements under Section 313 Cr.P.C. However, the accused denied those allegations and pleaded their innocence and asserted their false implication. In fact, accused Amandeep Singh @ Rinku, denied the allegations and asserted that he does not know Manpreet Kaur and he had no relations with her, at any time, in any manner. During his studies, he stayed at the house of his maternal uncle Gurmail singh at village Gill Kalan and did his matriculation from Rampura. His marriage was fixed for 27th/28th January 2008, at Moga. The mobile records only implicates

Balraj Singh and Tarsem Singh and he had never used any of the mobile

phones or numbers, mentioned in this case. He had been using mobile No.98729-91416. He further took the plea that he had never made any of the calls as mentioned in this case. He was not on good terms with his brother Balraj Singh, who might have implicated him in this case with the help of police.

Likewise, accused Manpreet Kaur denied the allegations levelled against her and also stated that she was married to Surjit singh but her in-laws', including father of her husband, brothers of her husband and their wives, were very greedy type of person and they often used to force her husband to help them with money and also asked him to transfer his property in their names. All of them were not happy with her marriage to Surjit Singh and they often used to taunt her husband. They were afraid of birth of any male issue to her from the lions of Surjit Singh. Due to above reasons, her husband used to remain under mental depression and indulged in excessive intake of liquor. Further, she also stated that she used to stay at Kharar with Amarjit Dhillon wife of Saiffudin Bhat of 7B Marry Gold Society, Kharar. She had gone to Kharar to meet said Amarjit Dhillon on 16.01.2008 and when she returned on 18.01.2008, she came to know about death of her husband and about missing of her two children. She specifically pleaded that her in-laws' family had murdered her husband Surjit Singh by conspiring with Gurmit Singh Mann, SHO Devinder Singh and Paramjit Singh. She had no mobile phone at any time. She loved and respected her husband Surjit Singh and her step children.

In defence, accused examined as many as 5 witness, namely

DW-1 Amarjit Kaur, DW-2 Gurmit Singh, DW-3 Gurmel Singh, DW-4 Ved

Parkash, Clerk, Judicial Record Room, Gidderbaha and DW-5 Nirmaljit

Singh, Ahlmad, Court of Addl. Civil Judge (Sr.Division), Gidderbaha.

After hearing learned Public Prosecutor, learned defence counsel and on appraisal of the evidence brought on record, vide judgment of conviction dated 02.09.2011 and order of sentence dated 03.09.2011, accused-appellants were held guilty, convicted and sentenced, as already detailed aforesaid.

Feeling aggrieved by the aforesaid judgment of conviction and order of sentence, appellants-convicts have filed two appeals, the detail whereof, has been given in the head note of the judgment.

Complainant has also preferred an application seeking leave to appeal against the impugned judgment, seeking enhancement of the sentence imposed upon the accused, as detailed aforesaid.

Lower Court record was requisitioned.

We have heard learned counsel for the parties and learned State counsel and have perused the record.

At the very outset, learned counsel for the accused-appellants, in unison, have submitted that in the present case, there is no eye witness to the occurrence in question and in the absence of any witness to the occurrence, the prosecution is duty bound to establish the chain of circumstantial evidence, to this extent that it only leads to the conclusion of accused persons, being the culprits. However, they pointed out that the circumstantial evidence, so relied upon by the prosecution is incoherent and insufficient in form, continuity and content and falls short of the legally prescribed standards, to return a finding of guilt, on the basis thereof.

Making reference to the so called circumstances, allegedly surfacing from the evidence brought on record, it has been emphatically submitted that the

prosecution has failed to establish the guilt of accused persons, beyond shadow of reasonable doubt. Learned counsel for the appellants, in unison, have very painstakingly drawn our attention to the various aspects of the case, which according to them, demolish the very substratum of prosecution case. In fact, it is submitted that there are yawning gaps, in between, which in all human probability, do not link the accused persons, to the commission of crime. In fact, it is pointed out that there is no acceptable evidence to establish the linkage of the accused, vis-a-vis the commission of the crime. The circumstantial evidence, so relied upon by the prosecution, is the padding coming forth, in exaggeration, to establish the connectivity of the accused with the occurrence in question. It is submitted that evidence coming on record as it is, so considered, at the maximum, can be taken to raise suspicion, but it does not conclusively prove the guilt of the accused. Rather, it is pointed out that the version of extra-judicial confession made by Manpreet Kaur as well as Amandeep Singh @ Rinku, and also about the disclosure statement made by Manpreet Kaur, thereby affixing the place of throwing of the dead bodies of Parminder Singh @ Gugu and Ravneet Kaur @ Rubi as well as phono-connectivity of both the accused and the last scene evidence, so coming forth, have been padded down. Recovery on the basis of disclosure statement, spotting of the accused persons, near the spot of taking place of occurrence as well as having been last seen in the company of victim, have been padded down and despite the same, the string of circumstantial evidence, does not stand completed. Even, learned counsel for the appellants submitted that the witnesses, so relied upon by the prosecution, are related to the deceased, which in itself raises suspicion about the truthfulness of the version, so put

forth by them.

Thus, summing up their arguments, learned counsel for the accused-appellants, have made a prayer for acquittal of both the appellants.

In refutation, learned State counsel has submitted that even though, there is no direct evidence vis-a-vis the murder of Surjit Singh, Parminder Singh @ Gugu and Ravneet Kaur @ Rubi, coming on record, but however, the circumstantial evidence brought on record, does amply establish the complicity of both the accused, in causing the death of aforesaid three persons. It is pointed out that the chain of circumstantial evidence has been completely linked to both the accused, which unerringly point the needle of guilt towards them. He submits that the prosecution has proved the case to the hilt and the guilt of the accused is deducible from the circumstances coming forth, as from the testimonies of various witnesses examined by the prosecution. He has pointed out various circumstances, spelt out in the evidence, relating to the making of the extra judicial confession, making of disclosure statement and affixation of the spot, where the dead bodies of children of Surjit Singh were thrown in the canal and the recovery of the incriminating articles, on the basis of the disclosure statements, as well as last seen evidence and phono-connectivity of both the accused. It is submitted by learned State counsel that fact of relationship existing between the deceased and the prosecution witnesses, solely does not raise any doubt about the truthfulness of the testimonies of the aforesaid witnesses. In fact, at the maximum, the testimonies are to be appraised with caution but even then, they inspire confidence. Thus, while concluding his arguments, learned State counsel has submitted that learned trial Court has

rightly appraised the evidence, so brought on record and rightly convicted

and sentenced the both accused Amandeep Singh @ Rinku and Manpreet Kaur.

Learned counsel for the complainant-applicant has submitted that considering the gruesome murders committed by Manpreet Kaur with assistance of her confidante Amandeep Singh @ Rinku and also considering the relationship of Manpreet Kaur with the deceased Surjit Singh and his children, the sentence imposed upon the accused-appellants should be enhanced from life imprisonment to death sentence.

Very true, as pointed out during the course of arguments, that there is no direct evidence to connect both the accused with the crime. However, the prosecution has relied upon circumstantial evidence, to prove the charges against the accused persons. In a case of circumstantial evidence, all the circumstances must be fully established and all the facts, so established, must be consistent only with the hypothesis of the guilt of the accused. The circumstances, so established, should exclude every other possible hypothesis except one, sought to be proved. The circumstances must be conclusive in nature. The circumstantial evidence is a close companion of factual matrix, creating a fine network, through which, there can be no escape for the accused, primarily because the said facts, when taken as a whole, do not permit the Court to arrive at any other inference, but one indicating the guilt of the accused. At the same time, while dealing with the case of circumstantial evidence, the Court has to be circumspect. A note of caution has been sounded by the Hon'ble Courts, time and again, while dealing with a case of circumstantial evidence. The Courts have to be watchful and avoid the danger of allowing the suspicion to take the place of

legal proof.

Even, during the course of arguments, much emphasis has been laid upon the prosecution witnesses to be interested witnesses, as they are close relatives to deceased Surjit Singh, Parminder Singh @ Gugu and Ravneet Kaur @ Rubi. However, the aforesaid submission is not tenable. Relationship is not a factor to effect the credibility of a witness. It is settled proposition of law that a close relation would be the last to screen the real culprit and falsely implicate an innocent person. Very true, when feelings run high and there is personal cause for enmity, then there is a tendency to drag in an innocent person against whom, a witness has a grudge, along with the guilty, but the foundation must be laid for such a criticism and the mere fact of relationship far from being a foundation is often a sure guarantee of truth. However, every case has to be adjudicated in the backdrop of its own factual position and the Courts have to adopt a careful approach and analyse the evidence to find out, whether it is cogent and reliable. Simply on the score of prosecution witnesses being close relatives of deceased, as such, is no ground to discard their testimonies, if it otherwise, inspires confidence. However, the Courts have to be cautious enough to scrutinize their testimonies more carefully.

In this backdrop, now adverting to the case in hand.

To establish the fact and cause of death of all the three deceased namely Surjit Singh, Parminder Singh @ Gugu and Ravneet Kaur @ Rubi, the prosecution has examined PW-3 Gurmanjit Rai, Associate Professor as well as PW-4 Dr.Sudarshan Singla, Medical Officer, Civil Hospital, Gidderbaha, who had conducted post-mortem examination on the dead body of Ravneet Kaur @ Rubi as well as Surjit Singh and Parminder Singh @ Gugu. Both the said witnesses have duly proved the post-mortem

reports and also in pursuance of receipt of report of chemical examiner, opined cause of death of Surjit Singh, on account of asphyxia due to his strangulation vide report vide Ex.PW13/A and also qua Parminder Singh @ Gugu, the cause of death to be on account of asphyxia. These witnesses have identified signatures of other members of the Board of Doctors also. Qua death of Ravneet Kaur @ Rubi, PW-3 has proved about the same to have taken place on account of asphyxia due to her strangulation. Thus, from the testimonies of the aforesaid witnesses, the fact of death of all the three deceased, stands amply established.

Even, learned counsel for the appellants have asserted about the identity of the dead bodies Parminder Singh @ Gugu and Ravneet Kaur @ Rubi, to have not been established. However, aforesaid submission is not tenable. Suffice to consider the statement of PW-5 Manjit Singh, who has deposed that on 03.04.2008, while he was present in the police party of SHO Devinder Singh and were searching for missing Ravneet Kaur @ Rubi, the dead body of Ravneet Kaur @ Rubi was recovered from near Burji No.394 in Rajasthan canal in the area of village Tharaajwala and he identified the dead body of Ravneet Kaur @ Rubi from the clothes worn by her. He is the real paternal uncle of the deceased and even though, the body was in highly decomposed condition and the flesh on the face was completely excarnated but however, Manjit Singh is the real paternal uncle of Ravneet Kaur @ Rubi and he identified the dead body, on the basis of the clothes. Even, assessment of the identity of the dead body, can be made on the basis of the body structure and keeping in view the relationship of Manjit Singh with deceased Ravneet Kaur @ Rubi, it is quite obvious that

photographs of the dead body, so coming in evidence, also show that assessment of the identity of the dead body, could be made. Likewise, so far as identification of dead body of Parminder Singh @ Gugu is concerned, suffice to make reference to PW-6 Raghuraj Singh, who has deposed that Parminder Singh @ Gugi was his class fellow from fifth standard. He has deposed about there to be tattoo inscribed on the arm of Parminder Singh @ Gugu. The dead body was floating in the canal in the area of Katta Kera and this witness has deposed having noticed the same. He identified the dead body from the clothing of the same as well as the body structure and tattooing of his name on the left arm. Even, Jaswinder Singh had identified the dead body of Parminder Singh @ Gugu, as deposed by Investigating Officer Devinder Singh PW-30. Thus, the identification of the dead bodies of Parminder Singh @ Gugu and Ravneet Kaur @ Rubi, stands duly established.

The first circumstance to establish the connectivity of the accused-appellants with the occurrence in question, is the testimony of PW-1 Paramjit Singh, who had seen accused Amandeep Singh @ Rinku, sitting on the driver seat of the car, whereas accused Manpreet Kaur was closing the door of the house of Surjit Singh deceased at Gidderbaha, on the intervening night of 17th/18th January 2008. The said witness has categorically deposed about the manner, in which he was proceeding to Rajasthan, while accompanying Gurdial Kaur at the relevant time and he also deposed that when he reached Gidderbaha, at about 12'O clock at night, he found Amandeep Singh sitting on the driver seat of the car and accused Manpreet Kaur closing the door of the house and children of Surjit Singh, who are Parminder Singh and Ravneet Kaur were on the back seat of the car

with their necks stretched to one side. Thus, this witness has categorically deposed about the children to be in the company of both the accused on the day of occurrence. Though, now it is submitted by learned counsel for the appellants that said witness, as such, cannot be relied upon being relative of the complainant but however, as already held aforesaid, simply on the score of two nieces of the said witnesses to have been married with son of complainant Arjan Singh, as such, do not give reason to discard his testimony. This witness has categorically deposed about the manner in which, he had spotted both the accused in the company of children of Surjit Singh. It is, though, stated that he is a chance witness but there is no hard and fast rule that testimony of a chance witness, as such, cannot be accepted. He has duly explained his manner of presence at the spot, at the relevant time and precisely, on this account, it can be taken into consideration. Even though, as so pointed out, the said witness had not stopped on spotting of both the accused in aforesaid manner, but however, this does not raise any suspicion, as any person, even though, may be relative, is not interested to know about the movement of his relatives, all the time. Thus, said witness has proved presence of both the appellants with children, outside the house of deceased Surjit Singh at Gidderbaha, on the date of occurrence.

Another circumstance so relied by the prosecution is vis-a-vis the phono-connectivity of both the appellants Amandeep Singh @ Rinku and Manpreet Kaur. It is claim of the prosecution that they had been calling on mobile phone numbers 99151-61604 and 94641-29990. In this regard, the prosecution has duly proved the call details of the mobile numbers by

PW-28 Jatinder China, BSNL. Even, by virtue of retrieval of mobile bill from the house of Amandeep Singh @ Rinku, as detailed in the earlier portion of the judgment, the prosecution has examined PW-14 Harmander Singh, who has categorically proved the purchase of one mobile set E-50 of Nokia company, by Amandeep Singh vide Ex.PW14/A. This bill, as such, connects the purchase of phone by Amandeep Singh. Even, the prosecution has examined PW-26 Tarsem Singh, to establish about the phone bearing No.94641-29990, to be actually used by the accused. Though, much emphasis has been laid upon PW-26 Tarsem Singh, who had gone to Australia and handed over the phone to Amandeep Singh, as per the version, having not supported the prosecution version. No doubt, the said witness has turned hostile but however, it is pertinent to mention that conduct of the witness, to have come under the influence of accused, is the most expected human behaviour, considering the societal circumstances, existing in our part of the country and for this reason, there his not supporting the role, so attributed to the accused during the course of investigation, does not flitter the prosecution version, even though, he has toe down to assist the accused. It is pertinent to mention that affidavit of Tarsem Singh has been proved as PW-26/B, which is dated 12.02.2008, wherein, he had stated that he had been receiving calls from Sim card No.99151-61604 on his mobile No.99158-68022 from Manpreet Kaur accused. He has categorically stated in the affidavit about Amandeep Singh to be close friend of Manpreet Kaur. Even, record of the mobile phone No.94641-29990, has been proved by PW-8 Gurinderpal Singh. Tarsem Singh, while facing cross-examination, at the instance of the public prosecutor, has also admitted that accused Amandeep Singh was his room-

mate in the Institute at Patiala. He also admitted that he had purchased one Sim of Airtel bearing No.99151-61604. He admitted that Amandeep Singh had received this Sim No.99151-61604 from him, when he was to go to Australia. He further stated that he had purchased the stamp paper and sworn affidavit before the Executive Magistrate vide Ex.PW16/B. Thus, from the facts, so elicited in his cross-examination, it is evident that he has given Sim No.99151-61604 to Amandeep Singh accused. It is the claim of the prosecution that this number was further given by Amandeep Singh to Manpreet Kaur. This is so in the exclusive knowledge of the accused and the prosecution has given evidence, on the basis of the circumstances only. So far as, Sim No.98765-42402 is concerned, there is evidence of the prosecution about the same belonging to Balraj Singh, the real brother of Amandeep Singh. Though, accused Amandeep Singh has taken the plea about his false implication, at the instance of Balraj Singh, with whom he is not having good relationship, but however, it is pertinent to make reference to the testimony of DW-3 Gurmel Singh, who is real maternal uncle of Amandeep Singh, who besides admitting about the relationship between the accused and Balraj Singh, has also deposed that Balraj Singh to be having one cell phone bearing No.98765-42402. Considering the testimony of DW-3 Gurmel Singh, real maternal uncle of the accused Amandeep Singh and Balraj Singh, it becomes evident that relationship between the accused Amandeep Singh and his brother, were cordial and therefore, the circumstance surfing up, is about Balraj Singh to have handed over the Mobile/Sim to his brother Amandeep Singh. It is pertinent to mention that at the time of arrest of Manpreet Kaur, even SIM No.94641-29990 was

recovered from Manpreet Kaur. This connection was in the name of

Parminder Singh @ Gugu, which fact has been proved by PW-28 Jatinder Chinia. Considering the connection to be in the name of Parminder Singh @ Gugu, it is possible that Surjit Singh had laid hands on the said Sim, which he had given to his wife Manpreet Kaur. In the light of the same, thus what can be gathered is that Sim No.98765-42402 was in possession of Amandeep Singh @ Rinku and he had been using the same and even Sim No.99151-61604, which belonged to Tarsem Singh, was given to Manpreet Kaur by Amandeep Singh @ Rinku, her confidante. Considering the same, there is established to be exchange of calls between both the accused-appellants, from the detail of calls so made, on 17.01.2008 at 22.32.10 and thereafter, on 18.01.2008 at 02.10.10. It is evident that during the interregnum period of about four hours, there was no call made and that period relates to the taking place of the occurrence. Even, the tower location of the said mobile phones is the area of Gidderbaha, which is also strong connecting linkage, of the usage of said mobile phones by the accused.

Additional credence is lent to the version of the prosecution, on account of disclosure statement made by Manpreet Kaur on 20.01.2008, thereby, affixing the place, where the dead bodies of Parminder Singh @ Gugu and Ravneet Kaur @ Rubi, were thrown in the canal and documents relating to the making of the disclosure statement and pointing of the place thereupon, stands duly established from the testimony of Investigating Officer PW-30 SI Devinder Singh. Though, dead bodies, as such, have not been recovered from the said place but however, it is pertinent to mention that dead bodies were thrown into the canal and with the flow of the water, they have gone further. It is the discovery of the fact, on the basis of the disclosure statement and therefore, the same, as such, can be taken into

consideration and it fastens the accused with the criminal knowledge, regarding the place of disposal of the dead bodies. Furthermore, even another disclosure statement was made by accused Manpreet Kaur, on the basis whereof, the residue of sweetened pudding (kheer) and Ativan tablets were also recovered. The witnesses, vis-a-vis the recovery have also been examined namely PW-5 Manjit Singh as well as PW-7 Gurmit Singh. Though, no report of Chemical Examination, as such, relating to the residue (kheer), which allegedly contained Ativan tablets, has come on record but however, it matters not much, as other circumstances, do establish the connectivity of the accused with the occurrence.

Besides the same, there is also disclosure statement, so made by Amandeep Singh @ Rinku, during the course of interrogation on 19.03.2008, on the basis whereof, one Zen car bearing registration No.PB-03M-7182, used in the commission of crime, was got recovered by Amandeep Singh @ Rinku. Even, the identity card of Ravneet Kaur @ Rubi as well as *parna*, used for throttling the deceased, was so recovered, on the basis of said disclosure statement, which also, is an important link in the chain of evidence. To establish about issuance of identity card to Ravneet Kaur @ Rubu, PW-11 Anoop Singh, Clerk of Malwa School, Gidderbaha, has been examined by the prosecution, who had proved the relevant entry in the register, relating to the issuance of the same. Now, it is submitted by learned counsel for the appellants that Amandeep Singh @ Rinku, is not the owner of the Zen car. However, it is pertinent to mention that during the search of said car, after taking the same into possession, the registration certificate Ex.PW9/B was recovered, which was in the name of

Satish Kumar Karkara and the same was also taken into possession. Said

Satish Kumar Karkara has been examined as PW-13 and he has deposed about sale of said car to Sarabjit Singh s/o Tejwant Singh r/o Khiali Chehlasali, District Mansa, vide Ex.PW13/A. Furthermore, to establish link, said Sarabjit Singh has also been examined by the prosecution as PW-24. He has, though, not supported the version of the prosecution and was cross-examined at length but however, it is pertinent to mention that he had stated about the police to have obtained the affidavit from him forcibly and the police had taken said car from him and he had moved the telegrams to the authorities concerned, which are Ex.DW24/A to Ex.DW24/D but however, it is pertinent to mention that recovery of the car from the accused Amandeep Singh by the police is dated 19.03.2008 and the telegrams, so relied upon, are dated 09.04.2008, which categorically establish about the same to have been made subsequent to the alleged recovery and therefore, no sustenance can be drawn, from the dispatch of the said telegrams and it appears to be an afterthought action. Even, Sarabjit Singh, during the course of cross-examination, conducted by the Public Prosecutor, has admitted about the existence of his signatures on the affidavit Ex.PW24/B, vis-a-vis, the sale of car to accused Amandeep Singh @ Rinku. In the light of the same, said witness has not been able to explain about the execution of the said affidavit. It is a matter of common knowledge that sale of vehicles is made in this manner, by virtue of execution of an affidavit and when affidavit, as such, has come on record, it was upon the said witness, to explain about the recitals of the said affidavit. In the light of his not supporting the prosecution version, in the examination-in-chief, but however, he has not been able to counter the recitals of the said affidavit, regarding the sale of the car, having made to Amandeep Singh @ Rinku.

Thus, the ownership of the car, relates to Amandeep Singh @ Rinku and the recovery of car, having effected on the basis of his disclosure statement, together with identity card and *parna*, as such, nails down the accused qua their role vis-a-vis, the deaths in question.

Additional credence is lent to the version of the prosecution, from the extra judicial confession, so made by Manpreet Kaur before Gurmit Singh Mann. The prosecution has examined Gurmit Singh Mann as PW-7, who resides in the neighbourhood of the complainant. The said witness has categorically stated about Manpreet Kaur to have made extra judicial confession before him on 20.01.2008, relating to the manner of causing of the occurrence, with her companion as detailed in the earlier portion of the judgment. Though, as pointed out by learned counsel for the appellants, PW-7 Gurmit Singh Mann, who is an Advocate by profession, had not disclosed the name of Amandeep Singh co-accused, in his statement, before the Court, but however, it is pertinent to mention that he had sworn an affidavit in this case, wherein, name of Amandeep Singh @ Rinku has been specifically mentioned by him. The said witness was cross-examined at length by the Public Prosecutor and was confronted with his previous statement PW-7/D and he also admitted about the memo Ex.PW7/C, having prepared in his presence by the police, in which name of Amandeep Singh has been duly mentioned. This witness has also admitted about swearing of the affidavit Ex.PW7/F, before SDJM, on 24.03.2008. This, in itself, establish about the said witness, now making an exaggerated effort, to render assistance to Amandeep Singh, to wriggle out of the criminal liability. However, it is pertinent to mention that from the evidence,

Manpreet Kaur and Manpreet Kaur had confessed about her guilt that she along with Amandeep Singh had committed the crime of causing of death of Surjit Singh Patwari, his son Parminder Singh @ Gugu and daughter Ravneet Kaur @ Rubi, by giving them Ativan tranquilizers in sweetened pudding. Though, PW-7 Gurmit Singh Mann, as such, has not supported the prosecution version, while deposing in the Court but it has to be kept in the mind that there are various societal pressures and the witness often tow down to the will of the accused and does not support the prosecution version but however, in the cross-examination of the said witness, name of Amandeep Singh @ Rinku has also spelt out and suffice to consider the same, to establish incriminating role of companion of Manpreet Kaur. It is submitted that 'extra judicial confession' is a weak type of evidence and it is unsafe to rely upon extra judicial confession to base conviction of the accused. However, the aforesaid submission is not tenable. It is not open to any Court to start with a presumption that extra judicial confession is a weak type of evidence. It would depend upon the nature of the circumstances, the time when the confession was made and the credibility of the witness, who speak to such a confession. As already observed aforesaid, even though, PW-7 Gurmit Singh Mann, as such, has not supported vis-a-vis the role of Amandeep Singh but however, his examination-in-chief, alone is not to be taken into consideration. The incriminating role of Amandeep Singh is spelt out from the recitals of the memo, so prepared qua the role spelt out by Amandeep Singh and also the affidavit, so executed by PW-7, which fact is admitted in his cross-examination. The said witness resides in neighbourhood of the complainant and is an Advocate by profession and it is quite obvious that when such an educated person is

available in the neighbourhood itself, the wrong doer is bound to look towards him, to save his skin and he had produced Manpreet Kaur before the police. Thus, extra judicial confession, so made by Manpreet Kaur, can be relied upon and it establish the incriminating role of both the appellants.

Even though, it is submitted that there is delay in initiation of action but however, it is pertinent to mention that occurrence came to the notice of the complainant, on the morning of 18.01.2008 and on that very day, he had got recorded his statement, which is Ex.PW2/A. However, no opinion qua death of Surjit Singh came from the concerned doctor, therefore, only DDR was recorded and no FIR was registered. It was only in pursuance of the cause of death having been stated by the doctor on 20.01.2008, to be asphyxia due to strangulation, that FIR was registered. In the light of the same, the delay, as such, in registration of the FIR, duly stands explained and therefore, it rules out the registration of case, in pursuance of consultations and deliberations.

Even, plea of alibi was pleaded by Manpreet Kaur, by way of examination of DW-1 Amarjit Kaur, as such, also does not stand established. The visit of Manpreet Kaur to the house of Amarjit Kaur, at the relevant time, does not stand established. In fact, the nature of the interaction between the two, is not established. Even, the detail of documents, which was intended to be collected by Manpreet Kaur, has not been disclosed by said witness or by Manpreet Kaur. Therefore, in the light of the same, the plea of alibi, seems to be an afterthought.

Rather, motive on the part of the accused, stands amply established. The complainant in his statement, which forms basis of the present case and while deposing in the Court as PW-2, has categorically

stated about Manpreet Kaur, to be picking up fights with Surjit Singh, since deceased, to coerce him to transfer his property in her name and when Surjit Singh, one day prior to the occurrence in question, in the evening, had refused to so transfer the property in the name of Manpreet Kaur, she blurted out to know, as to how the property is to be got transferred and she will get same done. This, in itself, establish the clear intention on the part of accused, to obtain the property, by hook or crook.

In the light of the various circumstances, so discussed aforesaid, the incriminating role of the appellants is evident and therefore, learned trial Court has appraised the evidence in correct perspective and rightly held accused Amandeep Singh @ Rinku and Manpreet Kaur guilty and convicted them, as detailed aforesaid.

At this juncture, it is pertinent to mention that complainant Arjun Singh Dhillon has filed CRM No.A-30-MA of 2012, seeking enhancement of the sentence. Perusal of the record reveals that both the accused-appellants have been sentenced to undergo life imprisonment for commission of the offence under Section 302 read with Section 34 IPC, besides imposition of fine and also both the said appellants have been sentenced to undergo rigorous imprisonment for a period of five years, for the offence under Section 201 IPC and fine has also been imposed with the default clause. Learned counsel for the complainant has made a prayer for the modification of the sentence and to award death sentence, keeping in view the facts and circumstances of the case. However, the aforesaid submission is not tenable, particularly, considering the detailed order of sentence passed by learned Sessions Judge, Sri Muktsar Sahib. Learned trial

Court has prepared the balance sheet of both the mitigating and aggravating

circumstances in the case and has duly considered the same. The age of accused Manpreet Kaur and Amandeep Singh @ Rinku and also there being no criminal background, have been taken into consideration and precisely, considering the same, it has been concluded that there are chances of reformation. Even, Manpreet Kaur has one small child to look after. Considering all these circumstances, coming forth, we feel that this case does not fall in the category of rarest of rare cases and thus, the imposition of life imprisonment upon the accused-appellants, is just and reasonable and calls for no interference by this Court.

As such, impugned judgment, merits no interference.

Resultantly, both the appeals and application filed by the complainant, sans merit and the same are hereby dismissed.

(JITENDRA CHAUHAN)
JUDGE

(ARCHANA PURI)
JUDGE

February 12, 2020
Vgulati

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No