

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

(i) Crl. Appeal No.D-335-DB of 2017 (O&M)

Bhim Sain alias Kaka Ganth

...Appellant

VERSUS

State of Haryana

...Respondent

(ii) Crl. Appeal No.D-398-DB of 2017 (O&M)

Randeep Singh @ Rana and others

...Appellants

VERSUS

State of Haryana

...Respondent

Date of Decision: February 10, 2020

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

Present: None for the appellant
in CRA No.D-335-DB of 2017.

Mr.Sartej Singh Narula, Advocate
for appellants namely Randeep Singh @ Rana, Parveen Kumar
@ Kaka, Vivek @ Kali and Prabhjot @ Rajji
(in CRA No.D-398-DB of 2017).

Mr.Ravinder Bangal, Advocate
for appellant namely Rajesh Kumar @ Don
(in CRA No.D-398-DB of 2017).

Mr.Brijender Kaushik, Advocate
for appellant namely Mohit @ Kaga
(in CRA No.D-398-DB of 2017).

Mr.Baldev Singh Badhran, Advocate
for appellant namely Chaman Lal
(in CRA No.D-398-DB of 2017).

Mr.Vikrant Pamboo, Deputy Advocate General, Haryana
for the respondent-State.

ARCHANA PURI, J.

Challenge in the twin appeals, is to the judgment of conviction dated 14.02.2017 and order of sentence dated 17.02.2017 passed by learned Addl. Sessions Judge, Ambala, vide which the appellants were held guilty and convicted and sentenced as under:-

<i>Under Section</i>	<i>Sentence</i>	<i>Fine</i>	<i>In default</i>
364/120-B IPC	Imprisonment for life	₹10,000/-	RI six months
302.120-B IPC	Imprisonment for life	₹10,000/-	RI six months
201 IPC	RI for three years	₹10,000/-	RI two months

All the sentences were ordered to run concurrently.

The background facts in nutshell are, as herein given:-

That, Gurpal Singh, father of complainant Jagpreet, had left the house at about 10.00 a.m., on 08.07.2013, in his Ford Fiesta car bearing registration No.HR-01V-1666. On that very day, his father Gurpal Singh, had gone to meet his sister Paramjit Kaur wife of Roshan Bharti, r/o Prabhu Prem Puram, Ambala Cantt, at about 6.30 p.m. After meeting, paternal aunt of the complainant, while his father was returning back to his house and had reached the main gate of Prabhu Prem Puram Ashram, then some unknown persons had stopped his car and abducted him (father of the complainant). The assailants were having one small white coloured car. All the assailants had taken away the car of the complainant as well as their own car. The complainant along with his Fufa Roshan Bharti s/o Chandan Singh, had reached the spot and searched for his father, at their own level but no clue was found.

Proceedings in the present case, were initiated on the basis of

Section 365 IPC. During the course of investigation, on 09.07.2013, dead body of one person, whose head, both hands and feet were amputated, was recovered and the same was identified by complainant Jagpreet, to be that of his father Gurpal Singh, on account of their being one old injury mark and one allergy mark. Addition of Sections 302 and 120-B IPC was made. Post-mortem examination of the dead body was conducted. On 09.07.2013, accused Randeep Singh @ Rana s/o Satwinder Singh as well as Rajesh @ Don s/o Jai Parkash, were arrested in the present case. On 10.07.2013, during the course of the police remand, the aforesaid accused had made disclosure statements, about having committed murder of Gurpal Singh and thereafter, had cut his head, both legs and arms with 'chaper' and had thrown the torso along with body parts in the canal. Even, at the instance of the aforesaid accused, car bearing No.HR-01V-1666 make Ford Fiesta was recovered near Tangri reservoir and the same was taken into possession. After the identification of the spot of murder, blood stains were lifted. On 12.07.2013, during the course of investigation, both the aforesaid accused had also got recovered 'chaper' weapon of offence, used in causing murder of Gurpal Singh as well as car used in the occurrence, bearing registration No.CH-03M-6052, make Maruti 800. Also, on 14.07.2013, various body parts of Gurpal Singh were recovered from the canal of Narwana Branch. Thereafter, on 15.07.2013, post-mortem examination of the body parts, so recovered, was also got conducted in PGIMS, Rohtak. **The concerned doctor opined the cause of death of Gurpal Singh to be decapitation injury, described via injury No.1. In the subsequent post-mortem report, it has been opined that calculated length of the human being,**

cms. Available mutilated body parts appear to be of some individual and bones show male characteristic features. The injuries described via injury No.1 to 3 are post-mortem in nature.

During the course of further investigation, other accused involved in the occurrence were arrested, namely Parveen @ Kala @ Topiwala, Vivek @ Kali, Mohit @ Kaga, Chaman Lal and Sunny Sharma. Even, accused Randeep Singh @ Rana and his father Satinder Singh @ Kaka, in their statements, had disclosed about they along with other fellow accused, having committed murder of Gurpal Singh @ Pala, to take revenge qua murder of their chacha/brother Joginder Singh @ Heera. Even, car bearing registration No.HR-01Z-0202, in which, various body parts of Gurpal Singh @ Pala, after committing murder, were taken and disposed of in the canal of Narwana Branch, was also taken into possession. The CCTV footage of the relevant time of Bank of Baroda Branch, Kardhan Road, Prabhu Prem Puram Ashram, Ambala Cantt., was also obtained.

On completion of investigation, report under Section 173 Cr.P.C. was presented against all the accused.

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 120-B, 364, 302, 212 and 201 IPC, against all the accused, to which they pleaded not guilty and claimed trial.

In endeavour to establish its case, the prosecution examined as many as 29 witness, besides adducing documentary evidence.

deposed about the preparation of CD from CCTV footage of 08.07.2013 and had produced the same, which was taken into possession, vide recovery memo Ex.P2. He had seen the CD, which is Ex.MO/1.

PW-2 Darshan Singh, who is brother of the deceased, has deposed about the bitterness existing between the complainant side and Satwinder Singh, Joginder Singh and others, on account of quarrel having taken place in the year 1991, vis-a-vis encroachment upon the plot of his brother-in-law Nirbhay Singh. Relating to the same, a case was registered against Joginder Singh etc., in which, a compromise was effected. In the year 1999, Joginder Singh Heera was murdered and case was got registered by his wife, against various persons. Gurpal Singh (since deceased) and Nirbhay Singh were discharged, whereas, other accused were acquitted in the said criminal case. Due to the said case, the accused were nursing grudge against them and they were threatening to kill him (this witness) and his brother Gurpal Singh. He further deposed about abduction of his brother Gurpal Singh by the accused on 08.07.2013 and they had committed his murder.

PW-3 ASI Subhash Chander, has deposed about having reached the spot, in pursuance of information received on 09.07.2013 from Police Station Ismailabad by SI Phool Singh, about finding of the dead body without head and legs. He deposed about conducting of the proceedings under Section 174 Cr.P.C. and had facilitated conducting of the postmortem examination. The dead body was identified by Jagpreet, Surinder Singh and Devinder Pal etc.

PW-4 Constable Ram Mehar, on the basis of the record, proved the copy of DDR report No.25 dated 09.07.2013 and report No.17

dated 14.07.2013, which are Ex.P5 and Ex.P6, respectively.

PW-5 Head Constable Mahinder Pal, has tendered into evidence, his affidavit Ex.P6, which are formal evidence.

PW-6 SI Phool Singh has deposed about conducting of part investigation of the present case. He has deposed about having received information about tracing of the body, without head, legs and arms, floating in the Narwana Branch canal. Thereafter, he alongwith other police officials had gone to the spot and retrieved the dead body, which was identified by Jagpreet, Surinder and Devinder Pal etc. and photographs of the dead body were got clicked, which are Ex.P7 to Ex.P11. Further, proceedings under Section 174 Cr.P.C. Ex.P12 were conducted. He recorded statements of various witnesses. Then, he facilitated conducting of the postmortem examination on the dead body. He also deposed that on 14.07.2013, he received information about tracing of some parts of the body of deceased floating in the canal, whereupon, he had reached the concerned spot and retrieved body parts of the deceased. There was one sandal of leather in one foot of part of the body. The same were also identified by Jagpreet, Devinder and Surinder, to be body parts of deceased Guralpal Singh. Then, proceedings under Section 174 Cr.P.C. Ex.P13 were conducted. Statements of witnesses were recorded. He facilitated conducting of the postmortem examination on the body parts of the dead body, whereupon, same were handed to the relatives of the deceased.

PW-7 Dr.Kunal Khanna, has deposed about having conducted postmortem examination on the body of Guralpal Singh along with Dr.Jitender Kumar Jakhar and proved postmortem report **Ex.P16**. He also

stated to be of Gurpal Singh and proved the postmortem report **Ex.P17**.

PW-8 Jagpreet, is the complainant, at whose instance, the prosecution proceedings were initiated. Besides deposing about enmity existing between his paternal family and the accused side, has also deposed that accused Satwinder Singh @ Kaka had been threatening his father. Even, other accused used to intimidate his father to cause his death. He also deposed that on 08.07.2013, while his father, after meeting his Bua Paramjit Kaur, at her residence, was returning back and had reached main gate of Prabhu Prem Puram area, then, accused had kidnapped his father and committed his murder by cutting his limbs. He moved application on 08.07.2013, which is Ex.P20, to the police but however, the same was written under the pressure of the police. He also deposed that accused had caused the murder of his father, after hatching conspiracy with accused Satwinder Singh @ Kaka and Harminder @ Harry. He further deposed about the manner of spotting of dead body of his father, in pursuance of disclosure statements made by Randeep Singh @ Rana and Rajesh @ Don, on 09.07.2013 and he had identified the dead body. This witness also deposed there were mark of injury and signs of allergy, on the back of his father. He also deposed about recovery of various body parts, which were also identified by him and postmortem examination upon the same was also got conducted. He further deposed that on 12.07.2013, during the course of interrogation, Randeep @ Rana and Rajesh @ Don separately have made disclosure statements, which are Ex.P21 and Ex.P22 and they had admitted about involvement in the commission of the crime in the present case and accused Rajesh @ Don, offered to get the car recovered bearing registration

Likewise, even Randeep @ Rana, while admitting his involvement in the commission of crime in the present case, offered to get recovered iron chaper used by him and his co-accused while committing murder of Gurpal Singh. They also disclosed about the involvement of various other accused. On the basis of disclosure statements, so made, chaper and requisite car were recovered from the disclosed spots and the same were taken into possession by the police, in his (this witness) presence and various memos relating to the same were prepared.

PW-9 EASI Karamvir Singh, PW-11 Constable Sunil Kumar and PW-12 EASI Gian Chand, have tendered into evidence, their affidavits, Ex.P31, Ex.P34 and Ex.P35, respectively. **PW-10 Head Constable Ram Saran** proved the scaled site plan of the place of occurrence near Prabhu Prem Ashram and office of Bhim Sain @ Kaka Ganth in Ganesh Vihar, Ambala Cantt., which are Ex.P32 and Ex.P33. **PW-13 Head Constable Jusab Deen**, has deposed about delivery of Special Reports to the Duty Magistrate and other police officers.

PW-14 EASI Rakesh Kumar, has also deposed about having conducted initial investigation of the present case. He deposed about accused Satwinder Singh @ Kaka, on 14.09.2013, during the interrogation, had made disclosure statement about having conspired with other two accused and details of conspiracy. He further deposed about the details of the stay of other accused Rajji, Nani and Harminder @ Harry, after commission of crime, in Haridawar, Hodel and Mandi, respectively. He also deposed about the disclosure statements of Harminder Singh @ Harry, with regard to the conspiracy and pointing of the place of stay of fellow

PW-15 ASI Main Pal has deposed about having associated the investigation of the present case with ASI Naresh Kumar on 25.07.2013 and also about disclosure made by Vivek @ Kali, about assemblage at the house of Randeep Singh alongwith fellow accused and hatched conspiracy to murder Gurpal Singh and thereafter, stating about the manner of having executed their plan and also deposed about pin pointing of place, where kidnapping had taken place. Furthermore, the said witness also deposed about Sunny Sharma @ Pandit, to have been interrogated on 07.09.2013 by ASI Naresh Kumar and disclosure statement made by him, thereby stating about having given cash amount to father of accused Randeep @ Rana and to Navjot alias Nani as well as Rajesh Don and having given shelter to the accused.

PW-16 ASI Jarnail Singh has deposed about having effected arrest of accused Mohit @ Kaga on 12.08.2013 and memos prepared by him qua his arrest. He also deposed about disclosure statement Ex.P45 made by accused Mohit on 13.08.2013, thereby, admitting his involvement in murder of Gurpal on 08.07.2013. He further deposed that the accused also stated about the manner, in which they had executed their plan, vis-a-vis murder of Gurpal Singh. He also identified the spot of kidnapping of Gurpal Singh and even Activa Honda was got recovered. This witness further deposed about interrogation of Chaman Lal and disclosure statement Ex.P50 made by him on 19.08.2013, thereby, admitting his involvement in the present case, vis-a-vis killing of Gurpal Singh and even the office of Kaka Ganth was pointed by him.

PW-17 Inspector Munish Kumar has deposed about having

conducted part investigation of the present case and recording of statement

of MHC and Constable Sunil Kumar and on completion of investigation, challan was presented under his signatures.

PW-18 ASI Dharamvir has deposed about initial investigation conducted by him on 08.07.2013, when he was present in the police station Mahesh Nagar. An application Ex.P20 was filed by complainant Jagpreet, on the basis whereof, FIR Ex.P52 was registered by him and endorsement upon the same is Ex.P53. Thereupon, he had visited the spot of occurrence and on his demarcation, rough site plan of place from where Gurpal Singh was abducted, was prepared, which is Ex.P54. He recorded statements of witnesses. Further, he deposed that on 09.07.2013, investigation was taken over by Inspector Ramesh Chander, SHO and on that very day, he arrested accused Randeep Rana and Rajesh @ Don. He further deposed about Randeep @ Rana and Rajesh @ Don, on 10.07.2013, one by one, having suffered disclosure statements Ex.P55 and Ex.P56, thereby, admitting their respective involvement in the present case and also disclosed about the background of enmity existing between them, on account of which, they conspired to abduct and kill and committed murder of Gurpal Singh. They also disclosed about the role played by accused Naini. Even, as per their disclosure statement, car bearing registration No.HR-01V-1666, was got recovered. Various memos relating to the same were prepared. Even, they had led the police party to the places, where parts of body of Gurpal Singh were thrown by them. The memos of identification of the places were prepared, which are Ex.P60 to Ex.P62. This witness further deposed about the aforesaid accused, on 11.07.2013, to have identified the place from where Gurpal Singh was abducted and memos relating to same, Ex.P63 and Ex.P64 were prepared. Also, on the same day, aforesaid accused led the

police party to the place where they had committed murder of Gurpal Singh along with fellow accused and memos relating to the same are Ex.P65 and Ex.P66. He also deposed about various other proceedings in the investigation having conducted in his presence. Further also, the said witness deposed about disclosure statements made by Randeep @ Rana and Rajesh Kumar on 12.07.2013 and the same are Ex.P21 and Ex.P22 and on the basis thereof, chaper as well as car bearing registration No.CH-03M-6052 were got recovered. Even, accused Parveen @ Kala had made disclosure statement Ex.P69, thereby, admitting about his involvement in the present case and also about the phone of deceased having handed over to him with the direction to put the same in the train, which was to go towards Punjab from platform No.6, Railway Station, Ambala Cantt., so that location of Gurpal Singh, could not be traced. This witness further deposed about disclosure statement Ex.P84 made by Parveen on 14.07.2013, whereby, he retracted from his previous statement and has admitted about his involvement in the commission of the crime of the present case and offered to get recovered driving licence and copy of ration card of Gurpal Singh and to get the place of occurrence identified. Thereupon, he had identified the place, where they had thrown the body parts of Gurpal Singh on 09.07.2013 and furthermore, identified the place, where they hid mobile phones, after commission of the crime. He also got recovered driving licence of Gurpal Singh and copy of his ration card, which were taken into possession by the Investigation Officer vide Ex.P87. He also identified the place from where they kidnapped Gurpal Singh, vide memo Ex.P89.

PW-19 EASI Sukhdip Singh has deposed about conducting

interrogation of accused Prabhjot @ Rajji on 21.03.2014 and has deposed

about his having admitted involvement in the commission of the crime of the present case and offered to identify the place of occurrence, where the body and other body parts were thrown and also to get recovered the PAN card of the deceased and the motorcycle. He also deposed that in pursuance of the disclosure statement, so made, the place, from where deceased was kidnapped, was identified. Even, the place where body parts were throw was also identified and motorcycle as well as PAN card of the deceased was got recovered. The memos relating to the same are **Ex.P74 to Ex.P77**.

PW-20 Satish Kumar, Clerk, Judicial Record room, Session Court, Ambala, has proved the true attested copy of the judgment Ex.P30, relating to the case titled as 'State vs. Ravinder etc.', FIR No.86 dated 23.05.1999 under Sections 302, 201, 343, 395 and 120-B IPC, registered at Police Station Mahesh Nagar.

PW-21 Surinder Singh is the brother of deceased Gurpal Singh, who has deposed in consonance with various other witnesses about the enmity existing between their family and accused, due to which reason murder of his brother Gurpal Singh has been committed. He further deposed about the manner of retrieval of the dead body of the deceased having witnessed by him and further also deposed about handing over of the dead body and recovery of various other body parts of deceased on 14.07.2013, which were also identified by them. Thereafter, the same were also handed over to them.

PW-22 Inspector Ram Niwas has deposed about preparation of report under Section 173(8) Cr.P.C. qua accused Harminder Singh @ Harry and presentation of same on 13.01.2014.

PW-23 Anil Kumar, MVC, SDM Office, Ambala, on the basis

of the record, has deposed about car bearing registration No.HR-01Z-0202, to be registered in the name of Sanjeev Mohan Librahan and about having made report of the said recitals.

PW-24 Jeewan Sonkhla has deposed about himself to be Engineer of Balaji Digital Security Advisor and about having contract with Bank of Baroda, Khojkipur Branch. He deposed about preparation of CD Ex.MO/4, on 08.07.2013, from the Security System of Bank of Baroda, Khojkipur Branch, on the asking of the Investigating Officer and as per direction of Manager of the said Bank.

PW-25 Inspector Kulbhushan has deposed about having conducted part investigation of the present case. He deposed about recording statements of complainant and various other persons on 20.07.2013 and also deposed about having effected arrest of Vivek @ Kali on 24.07.2013 and about disclosure made by him about his assemblage alongwith other accused, at the house of Randeep Singh and having hatched conspiracy to kill Gurpal Singh. The accused also stated about the manner of kidnapping of Gurpal Singh and murdering him and thereupon, disposal of his body parts. The accused also disclosed about the demarcation of the place where the accused were hiding and also about his pointing out the room, where murder of deceased was committed. The said witness also deposed about preparation of the memos, relating to the identification, on the basis of disclosure statements. He further deposed about having effected arrest of Mohit @ Kaga, who stated about the manner of execution of their plan vis-a-vis murder of Gurpal Singh and about identification of various places vis-a-vis disposal of the body and the body parts of Gurpal Singh.

Even, Aactiva Honda was got recovered by him. On 18.08.2013, arrest of

Chaman Lal was effected and he also made similar disclosure statement and places were identified by him. On 06.09.2013, accused Sunny was arrested and he also made disclosure statement about having given various amounts to the father of Randeep Rana, Navjot @ Naini and having borne expenses of Rajesh @ Don. He also deposed about having facilitated the arrangement of the house on rent for Navjot @ Naini, Prabhjot @ Rajji. On 08.09.2013, swift car bearing registration No.HR-01Z-0202 was produced before this witness by Sanjeev Mohan and the same was taken into possession vide memo Ex.P43. He also deposed about having effected arrest of Satwinder Singh @ Kaka on 14.09.2013 and disclosure statement Ex.P36 was made by him on the same day, thereby, admitting about having conspired with other accused vis-a-vis offence of the present case and about identification of various places. This witness further deposed about having taken mother of Gurpal Singh namely Ishar Kaur on 04.10.2013 to Madhuban, for sampling of blood for the purpose of DNA test and further also deposed about the Medical Officer having obtained blood samples, which were deposited with concerned branch of FSL by him. He also deposed about having effected arrest of Harminder Singh @ Harry on 23.10.2013 and similar disclosure statements, as aforesaid, was made by him.

PW-26 Paramjit Kaur is the bua of complainant Jagpreet. She has deposed about deceased Gurpal Singh, her brother, to have come to her house in Prabhu Prem Puran on 08.07.2013 and she also deposed that he had left her house at about 7.15 p.m. The car of her brother was HR-01V-1666. She further deposed that her brother sat in the car and left towards Prabhu Prem Puram. She alongwith her husband went towards that side and

number of which is 6052. The car of his brother crossed that car, then the maruti car chased the car of his brother and said maruti car stopped in front of the car of her brother, after crossing it, near the gate of Prabhu Puram Ashram. 7-8 boys had cordoned of the car of her brother and she also deposed that on hearing cries of her brother 'bachao bachao', she started walking swiftly towards that side but however, said boys had bungled her brother, into the car and had run away. Two boys were on motorcycle at the spot, who lifted turban of her brother and left the spot.

PW-27 Inspector Ramesh Chander has deposed about having arrested Randeep Rana along with Rajesh @ Don on 09.07.2013, in pursuance of secret information. He also deposed about the manner of receipt of information about tracing of the dead body and further also deposed about having conducted interrogation of Randeep @ Rana and Rajesh @ Don, vis-a-vis their involvement in the occurrence in question. He further deposed about the identification of incriminating places by both the aforesaid accused. He further deposed about recovery of maruti car and chapter at the instance of both the accused.

PW-28 Inspector Rajneesh Yadav has deposed about preparation of supplementary report under Section 173 Cr.P.C. against Prabhjot Singh @ Rajji on 04.06.2014.

PW-29 ASI Ram Singh (Retd.) has deposed about having effected arrest of Prabhjot Singh @ Rajji, on 19.03.2014 and further deposed about disclosure statement made by said accused, on the basis whereof, PAN card of deceased and motorcycle used in the commission of crime, was got recovered.

Thereafter, FSL reports Ex.P81 and Ex.P82 were tendered and

then, evidence of the prosecution was closed.

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 innocence and false implication and preparation of false documents, after obtaining their signatures on blank papers.

In defence, accused have tendered certain documents Ex.D1 to Ex.D18 and Ex.DX and Ex.DY.

After hearing learned Public Prosecutor, learned counsel for the accused and on appraisal of the evidence, brought on record, vide impugned judgment of conviction and order of sentence, accused **Randeep Singh @ Rana, Rajesh Kumar @ Don, Parveen Kumar @ Kala, Vivek @ Kalil, Mohit @ Kaga, Chaman Lal, Prabhjot @ Rajji and Bhim Sain @ Kaka Ganth**, were held guilty, convicted and sentenced, as detailed in the earlier portion of the judgment. However, accused **Sunny Sharma, Satwinder Singh @ Kaka and Harminder @ Harry**, were acquitted of the charges, framed against them.

Feeling aggrieved by the aforesaid judgment of conviction and order of sentence, appellants have filed the respective appeals.

We have heard learned counsel for the appellants and learned State counsel and have perused the trial Court record.

As per the version of the prosecution, all the accused, who faced trial, in connivance with each other, had agreed to do an illegal act and in pursuance of the same, had abducted Gurpal Singh, in order to

Sharma, harboured his co-accused and caused disappearance of the evidence, vis-a-vis murder of Gurpal Singh.

The proceedings in the present case, were initiated on the basis of the complaint Ex.P20, lodged by complainant Jagpreet, on the date, when Gurpal Singh, went missing. It is the version of the complainant that his father Gurpal Singh, in his car bearing registration No.HR-01V-1666, had left the house at 10.00 a.m. and on that very day, in the evening, at about 6.30 p.m., Gurpal Singh had gone to meet his sister Paramjit Kaur at Prabhu Prem Puram, Ambala Cantt. While, he was returning back from the house of Paramjit Kaur, at the main gate of Prabhu Prem Puram Ashram, they came to know that some unknown persons had stopped his father and abducted him in a small white coloured car. Thereafter, the complainant along with his fufa Roshan Bharti, had gone to the spot and searched for his father but no clue was found, whereupon, a complaint was lodged. The incident had taken place at about 7.30 p.m. However, the complaint was lodged by the complainant at 10.30 p.m. Subsequently, the matter was enquired. Paramjit Kaur, sister of deceased and husband of Paramjit Kaur, had last seen Gurpal Singh and some persons had abducted Gurpal Singh and taken him away in a small white coloured car. After lodging of the complaint by the complainant, the spot was inspected and it was noticed about the existence of CCTV camera, in the vicinity of the spot, as there was a bank near Prabhu Prem Puram Ashram. The CCTV footage of the relevant time was looked into by the police and on the noticing of the car and accused, further investigation was conducted.

Considering the aforesaid manner of occurrence caused by the assailants, it is pertinent to mention that Gurpal Singh went missing on

08.07.2013 and on the next day i.e. 09.07.2013, his dead body was found. Thereupon, the motive was ascertained regarding the commission of crime. It was then unfolded about the accused persons to be having previous enmity with the paternal family of the complainant, as deceased Gurpal Singh, had earlier faced murder trial, at the instance of the accused party, in case bearing FIR No.86 of 1999 but he along with Nirbhaya Singh, his brother-in-law, was discharged, whereas others were acquitted. Even, the supplementary statement was recorded by the complainant, wherein, he had stated about the receipt of the threat to life by his father, at the instance of accused.

In pursuance of looking into the CCTV footage, involvement of various persons in the occurrence in question, was there and on the basis thereof, accused Randeep Singh @ Rana and Rajesh @ Don were arrested on 09.07.2013. As already detailed aforesaid in the earlier portion of the judgment, both the said accused had made disclosure statements, thereby, giving detail of the assemblage of them along with other accused, to cause murder of Gurpal Singh. They have also disclosed about the manner, in which, their plan was executed and further also deposed about role assigned to various other accused, who had faced trial. They had deposed about the manner, in which, deceased Gurpal Singh was made unconscious and was taken away to the office of Kaka Ganth, where Chaman Lal was also present and Gurpal Singh was murdered by cutting his head and other body parts, which were packed by them in polythene and another car was called and body and body parts were taken and thrown in the canal. Furthermore, other disclosure statements on 12.07.2013, were made, vis-a-vis weapon of offence and car used to facilitate the commission of offence and the same

were also go recovered, at their instance.

In the light of the retrieval of torso and various body parts, which are alleged to be that of Gurpal Singh, now submission is assiduously made by learned counsel for the appellants that sufficient identification of the dead body was not made. It is submitted that without the head, arms and legs, the identification of anybody could not be made. However, the aforesaid submission is not tenable. It is pertinent to mention that it is specifically coming in the statement of son of the deceased as well as brother of the deceased, about there to be an old injury mark as well as allergy mark on the back of the body, on the basis whereof, they identified the same to be that of Gurpal Singh. Besides the same, it is also pertinent to mention that DNA examination was also got conducted. PW-25 Inspector Kulbhushan, had taken mother of deceased namely Isha Kaur for DNA examination, with that of Gurpal Singh and report, relating to the same, Ex.P81 was obtained, wherein, it has been specifically observed that DNA profile of source of Item No.1 (bone) stated to be of Gurpal Singh matches with the DNA profile of Isha Kaur (source of Item No.4) and conclusively proves that source of Item No.4 (Isha Kaur) is the biological mother of source of Item No.1 (bone). In view of the recitals of the said DNA report Ex.P81, it has been rightly concluded about Isha Kaur to be the biological mother of source of Item No.1, which is bone of tibia of left leg of the dead body, which is of Gurpal Singh. Thus, the identification of the dead body, to be that of Gurpal Singh, father of the complainant, is amply established. Even, body parts, so recovered, stands sufficiently identified, to be that of Gurpal Singh as Board of Doctors, who had conducted the post-mortem examination on the dead body of Gurpal Singh, has specifically mentioned

in the subsequent post-mortem report about the available mutilated body parts, to be of same individual and bones show male characteristic feature. This assertion has also been reiterated by PW-7 Dr.Kunal Khanna, in his affidavit **Ex.P18**. Thus, there is sufficient identification of the body and the body parts, to be relating to Gurpal Singh, father of Jagpreet, who had since died.

Credence is lent to the version of the prosecution about involvement of Randeep Singh @ Rana and Rajesh @ Don, on the basis of the disclosure statements, made by both the aforesaid accused and identification of the places and also of the place where the murder was committed and furthermore, of the manner of recovery of weapon of offence 'chaper' as well as car used in the commission of offence, at their instance. They have also disclosed about the motive for causing the occurrence as they have deposed about the manner of previous litigation between them and complainant party and about their nursing grievance, on account of discharge of Gurpal Singh and acquittal of various other accused, as per the judgment Ex.P30, which related to the death of Joginder Singh @ Heera.

So far as, other convicts of the case, who have filed various appeals, it is pertinent to mention that they were named by fellow accused i.e. Randeep Singh @ Rana and Rajesh @ Don. Even though, disclosure statements are stated to have been made by them, thereby affixing the place of commission of offence of kidnapping and murder of Gurpal Singh and also relating to the disposal of the body parts of the dead body and the recovery of various other articles of the deceased but however, it is pertinent to mention that the facts, so asserted to have come forth, in pursuance of disclosure statements, had already come in the disclosure statements of

Randeep Singh @ Rana and Rajesh @ Don and they had already been affixed. Even the articles like PAN card and copy ration card, are not such, which directly establish the involvement of the aforesaid accused, in the occurrence in question, more particularly, when the fellow accused Satwinder Singh @ Kaka, Harminder @ Harry and Sunny Sharma, have been acquitted of the charge, levelled against them. Considering the same, the role so assigned to convicts-appellants Bhim Sain @ Kaka Ganth, Parveen Kumar @ Kala, Vivek @ Kali, Mohit @ Kaga, Chaman Lal and Prabhjot @ Rajji, cannot be termed to be free from doubt and precisely, on this account, while extending benefit of doubt to them, they ought to be acquitted of the charge levelled against them.

As such, CRA No.D-335-DB of 2017 filed by appellant-Bhim Sain @ Kaka Ganth, is allowed, whereas CRA No.D-398-DB of 2017 is dismissed qua appellants-Randeep Singh @ Rana and Rajesh Kumar @ Don, whereas, it is allowed qua Parveen Kumar @ Kala, Vivek @ Kali, Mohit @ Kaga, Chaman Lal and Prabhjot @ Rajji. The judgment of conviction dated 14.02.2017 and order of sentence dated 17.02.2017 passed by Additional Sessions Judge, Ambala, are set aside and accused, namely, Bhim Sain @ Kaka Ganth, Parveen Kumar @ Kala, Vivek @ Kali, Mohit @ Kaga, Chaman Lal and Prabhjot @ Rajji, are acquitted of the charges framed against them. They be released, if not required in any other case.

(JITENDRA CHAUHAN)
JUDGE

(ARCHANA PURI)
JUDGE

February 10, 2020
Vgulati

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No