

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

(1) CRA-D-941-DB of 2003

Jagjit Singh and others

.... Appellants

Versus

State of Punjab

..... Respondent

(2) CRA-D-67-DB of 2004

Karamjit Kaur

.... Appellant

Versus

State of Punjab

..... Respondent

(3) CRA-D-900-DB of 2005

Gurcharan Singh and another

.... Appellants

Versus

State of Punjab

..... Respondent

Reserved on : 06.02.2020

Date of decision : 02.03.2020

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. G.S. Kaura, Advocate,
for appellant Jagjit Singh
in CRA-D-941-DB-2003 and
for appellant Karamjit Kaur
in CRA-D-67-DB-2004.

Mr. S.S. Dhaliwal, Legal Aid Counsel,
for appellants Mukhtiar Singh and Jugraj Singh
in CRA-D-941-DB-2003, and
for appellants Gurcharan Singh and Pritam Singh alias Pappu.
in CRA-D-900-DB-2005.

Mr. H.S. Grewal, Additional Advocate General, Punjab.

* * *

RAJIV SHARMA, J.

1. Since common questions of law and facts are involved in these appeals, i.e. CRA-D-941-DB-2003, CRA-D-67-DB-2004 and CRA-D-900-DB-2005, therefore, these are taken up together and being disposed of by a common judgment.

2. These appeals are instituted against the judgment dated 18.11.2003 and order dated 19.11.2003, rendered by learned Sessions Judge, Faridkot, in Sessions Case RT No. 18 dated 18.09.1998/05.05.2003. Appellants Jagjit Singh, Mukhtiar Singh, Jugraj Singh, Karamjit Kaur, Gurcharan Singh and Pritam Singh alias Pappu along with co-accused Shembar Singh alias Doctor were charged with and tried for the offences punishable under Sections 148, 302/149, 343 and 201 of the Indian Penal Code (for short, 'IPC'). The appellants were convicted and sentenced as under :-

Sr. No.	Name(s) of convict (s)	Offence	Sentence
(i)	Gurcharan Singh Pritam Singh @ Pappu Jagjit Singh Mukhtiar Singh Jugraj Singh	Under Section 148 IPC	To undergo rigorous imprisonment for a period of two years, each.
(ii)	Jugraj Singh	Under Section 302 IPC	To undergo rigorous imprisonment for life and to pay a fine of ₹ 10,000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of six months.
(iii)	Gurcharan Singh Pritam Singh @ Pappu Jagjit Singh Mukhtiar Singh Karamjit Kaur	Under Section 302/149 IPC	To undergo rigorous imprisonment for life and to pay a fine of ₹ 10,000/-, each and in default of payment of fine to further undergo rigorous imprisonment for a period of six months, each.
(iv)	Gurcharan Singh Pritam Singh @ Pappu Jagjit Singh Mukhtiar Singh Jugraj Singh	Under Section 343 IPC	To undergo rigorous imprisonment for a period of two years, each.
(v)	Gurcharan Singh Pritam Singh @ Pappu Jagjit Singh Mukhtiar Singh Karamjit Kaur Jugraj Singh	Under Section 201 IPC	To undergo rigorous imprisonment for a period of three years and to pay a fine of ₹ 5,000/-, each and in default of payment of fine to further undergo rigorous imprisonment for a period of three months, each.

Co-accused Shember Singh alias Doctor was acquitted of the charges framed against him.

3. The case of the prosecution, in a nutshell, is that initially the case was registered under Sections 279/304-A/427 IPC on the basis of the statement of Swaran Singh son of Santa Singh, since it was a case of accident. However, later on, after recording the statement of Surjit Singh, brother of deceased Jasvirpal Singh, the offences were converted into Sections 148, 302/149, 343 and 201 IPC.

4. According to the prosecution case, on 15.05.1998 at about 6.00 AM, Swaran Singh had gone to irrigate his land, situated at village Talwandi Bhangarian. He saw the dead body of a clean shaven young man, aged about 25-30 years, lying on the side of metalled road. The face and head of the dead body were crushed due to passing over of tyre. One scooter make LML Vespa bearing registration No. PB-05A-3330 was also lying there in damaged condition. Swaran Singh also stated in his statement that the said unknown person had been killed in an accident by some unknown vehicle. Swaran Singh went to Police Post Focal Point, Police Station Sadar, Moga, to lodge a report. ASI Shamsheer Singh along with other police officials met him in the area of village Talwandi Bagherian. He recorded the statement Ex.PC. Thereafter, FIR Ex.PC/3 was registered. ASI Shamsheer Singh went to the spot and inspected the same in the presence of Swaran Singh PW and prepared inquest report Ex.PD. The scooter was taken into police possession. The dead body was sent for post-mortem examination. Thereafter, the statement of PW Surjit Singh was recorded. He disclosed that on 14.05.1998, his brother Jasvirpal Singh deceased told him that he had to go to his mother-in-law Karamjit Kaur at Moga to bring money. Accordingly, he and Jasvirpal Singh (deceased) came to Moga at the house

of Karamjit Kaur accused. Karamjit Kaur told them that she had a talk with Pappu etc. of village Lopo. Thereafter, he along with Jasvirpal Singh and accused Karamjit Kaur went to the house of Pappu at village Lopo. Pappu and Gurcharan Singh met them. Gurcharan Singh accused told Karamjit Kaur that the money was to be brought from village Badhni. Thereafter, Gurcharan Singh left for village Badhni. He did not come. Accused Karamjit Kaur asked Jasvirpal Singh and Surjit Singh to take meals. Surjit Singh did not take meals. His brother Jasvirpal Singh took the meals and went to sleep. Thereafter, accused Jagjit Singh, Mukhtiar Singh, Jugraj Singh and one other person, named as Doctor, came there. Accused Mukhtiar Singh and Jugraj Singh pressed the neck of sleeping Jasvirpal Singh with a *Seru* (head or foot bar of a cot frame). Accused Pappu alias Pritam Singh caught hold of Jasvirpal Singh from his legs. Accused Jagjit Singh gave a blow of handle of the hand pump over the head of Jasvirpal Singh. Surjit Singh was threatened. In the meantime, accused Gurcharan Singh also came. Thereafter, accused Mukhtiar Singh, Jagjit Singh, Jugraj Singh, Gurcharan Singh and Pappu alias Pritam Singh wrapped Jasvirpal Singh in a *Palli* (jute sheet) and placed it in truck No. 8155. They also loaded the scooter in the truck. Surjit Singh was also made to sit in the truck. They stopped the truck on Amritsar Road near the turning towards village Talwandi Bhangarian. They brought down Jasvirpal Singh, who was gasping at that time. After placing his head towards the road and the legs towards the ditches in order to show it as an accident case, they ran over his head with the front wheel of the truck. The head was again ran over by the same wheel by moving the truck back. Jasvirpal Singh died. The scooter

was also damaged. Surjit Singh was threatened that he would not be let off till the Bhog ceremony of Jasvirpal Singh was completed. Thereafter, they took him in the truck to Ludhiana to the house of Jugraj Singh and confined him there till 20.05.1998. He escaped from the house of Jugraj Singh and came to his house. He narrated the entire facts to his father Hakam Singh and Baldev Singh. On the basis of statement, Ex.PR, made by Surjit Singh, the offences were converted into Sections 302/343/201/148/149 IPC. Accused were arrested. The matter was investigated and challan was put up after completing all the codal formalities.

5. The prosecution examined a number of witnesses in support of its case. The accused were also examined under Section 313 Cr.P.C. They denied the case of the prosecution. According to them, they were falsely implicated. The appellants were convicted and sentenced, as noticed herein-above. Hence, these appeals.

6. Learned counsel appearing on behalf of the appellants have vehemently argued that the prosecution has failed to prove its case against their clients. Learned counsel appearing for the State has supported the judgment and order of the learned Court below.

7. We have heard learned counsel for the parties and gone through the judgment and record very carefully.

8. PW.1 Dr. V.J.S. Dhillon conducted the post-mortem examination on 15.05.1998. He noticed the following injuries on the body of the deceased :-

- “1. Lacerated wound arch shaped measuring 20 cms x 2 cms on skull starting from mid-line and anterior hairline and goes down and towards right upto ear and about 7 cms

from anterior hairline. Underlying skull bones were fractured and brain matter was cut. Both mandibles were fractured.

2. Lacerated wound 15 cms x 3 cms starting from left side of top of nose and goes right and downwards upto angle of mouth. Nose, part of cheek and right eye were crushed.
3. On dissection of the body, right shoulder and right arm bones were fractured. Left shoulder was dislocated.
4. There were multiple abrasions and lacerated wounds on the body.”

In his opinion, the death in this case was due to shock and haemorrhage caused by injuries to the vital parts. The injuries were ante-mortem in nature. The time between injuries and death was declared instantaneously and between death and post-mortem examination within 24 hours. He further deposed that injury No.1 found on the dead body could be caused by running over of a heavy vehicle, if the body was lying on the ground. In his cross-examination, he categorically deposed that he did not notice any external or internal injury on the neck of the deceased at the time of conducting the post-mortem examination to suggest the mark of injuries/strangulation due to placing of *Seru* on the throat of the deceased. He also admitted that if injury No.1 was caused with a handle of the pump, then crushing could not be there. The dead body at the time of post-mortem examination was not identified by any body. An application was moved on 15.05.1998 by the Investigating Officer to E.O. Municipal Committee, Moga, for making arrangement of cremation of the dead body being unclaimed body.

9. PW.7 Swaran Singh deposed that he went to his fields situated

at Talwandi Bhangerian to irrigate his fields at about 6.00 AM. He saw a dead body of 25-30 years old clean shaven man lying on the road. His head and face were crushed. Scooter was also damaged. The police came. The dead body was taken to the hospital. His statement was recorded. Police also prepared the inquest report Ex.PD. In his cross-examination, he deposed that he had not seen any body causing injuries to the deceased. He was at the spot as well as in the hospital at the time of preparing the inquest report. It was an unidentified dead body.

10. PW.8 ASI Satpal Singh deposed that on 22.05.1998, he was posted at Police Station Sadar Moga as ASI. He was member of the police party headed by SI/SHO Manminder Singh. A raid was conducted at the house of Karamjit Kaur. Karamjit Kaur and four other persons were apprehended. SHO interrogated Mukhtiar Singh. Accused Mukhtiar Singh suffered disclosure statement stating therein that he had kept concealed one *Seru* of wood in the residential house of Gurcharan Singh, resident of Lopo, in the heap of wheat straw. The statement is Ex.PM. The accused got recovered *Seru* of wood from the disclosed place. It was taken into possession vide memo Ex.PN. Accused Jagjit Singh was also apprehended. He made a disclosure statement that he had kept concealed one handle of hand pump stained with blood in the wheat straw godown. The statement is Ex.PO. Jagjit Singh got recovered the handle of hand pump. It was taken into possession vide memo Ex.PP.

11. PW.10 Surjit Singh testified that on 14.05.1998, he was present in his house. Jasvirpal Singh, his brother (now deceased), came to him. He told him that he had to take money from his mother-in-law Karamjit Kaur.

He requested him to accompany him. He also told him that Karamjit Kaur had promised him to make the payment. He along with his brother Jasvirpal Singh went on scooter to the house of Karamjit Kaur. She was present in her house. She told them that she would arrange the money and get the same from Pappu alias Pritam Singh. Thereafter, he, his brother and Karamjit Kaur went on scooter at village Lopo in the house of Pappu alias Pritam Singh and Gurcharan Singh. Pappu alias Pritam Singh and Gurcharan Singh met them. Karamjit Kaur asked Gurcharan Singh whether he had arranged money. He told that he would bring the money from Badhni. He went to Badhni, whereas they stayed at the house of Gurcharan Singh and Pappu alias Pritam Singh. Gurcharan Singh did not come. Then Karamjit Kaur prepared the meals. She asked them to take the meals. He refused to take the meals. The food was served to his brother Jasvirpal Singh. After taking meals, Jasvirpal Singh went to sleep. In the meantime, Jagjit Singh and Gurcharan Singh, again said Mukhtiar Singh and Jugraj Singh came there. Jugraj Singh accused was also son-in-law of Karamjit Kaur. One other person, called Doctor, came there. Mukhtiar Singh and Jugraj Singh placed the wooden heavy stick (*Seru*) on the front side of the neck of the deceased and pressed the same, when his brother was lying on his cot. Pappu caught hold of him from his legs. Jagjit Singh inflicted a blow with the handle of the water pump on the head of the deceased. They threatened him that he would meet the same fate. In the meantime, Gurcharan Singh also came there. Karamjit Kaur was also carrying a *kirpan* in her hands at that time. Thereafter, all the accused tied and wrapped up Jasvirpal Singh in a jute sheet (*Palli*). Jasvirpal Singh was breathing at that time. They placed the

scooter along with him in the truck. The truck was being driven by Pappu accused. Pappu and Jagjit, Jugraj along with Gurcharan Singh were sitting besides him on the seat near the seat of the driver. Mukhtiar Singh, Gurcharan Singh and Doctor were sitting with deceased Jasvirpal Singh. The accused took the truck towards Amritsar Road, By-Pass, Moga. They threw Jasvirpal Singh, his brother, on the road. The head of Jasvirpal Singh was on the metal road, whereas his legs were on the kacha road towards pits. The truck was ran over his body. The head of Jasvirpal Singh was crushed. The truck was reversed causing further injuries to Jasvirpal Singh. Jasvirpal Singh died on the spot. They also put the scooter on the road near the dead body of his brother. The scooter was also damaged. They threatened him that he would not be made free till the *Bhog* ceremony of Jasvirpal Singh was not performed. Thereafter, they took him to the house of Jugraj Singh. Jagjit Singh, Jugraj Singh and Mukhtiar Singh accused remained at the house of Jugraj Singh, whereas Pappu, Gurcharan Singh and Doctor went away. He was confined in the house of Jugraj Singh for about 4-5 days. Thereafter, he succeeded to escape from the house of Jugraj Singh. He came to his house in the evening and narrated the incident to his father Hakam Singh and one Baldev Singh. The motive behind the occurrence was that Karamjit Kaur was a characterless lady and Jasvirpal Singh was to recover money from Karamjit Kaur, which she had not returned. She in connivance with other accused had killed his brother. In his cross-examination, he deposed that he and Jasvirpal Singh were residing in the house of his father Hakam Singh. They had not enquired about the character of Karamjit Kaur at the time of engagement of Jasvirpal Singh with the

daughter of Karamjit Kaur. Karamjit Kaur had taken loan from Jasvirpal Singh. Harjinder Kaur was the wife of Jasvirpal Singh, his brother. Now, she was his wife. She was residing with him. There was no 'naka' at Bughipura Chowk, Moga, on that day. Police Station Badhni falls on the way, when going to the area of Lopo to Moga. There were some *Dhabas* and Hotels at Bughipura Chowk. When he tried to open his mouth, they used to threaten him. The dead body was taken out by the accused 2-3 *killas* short of Talwandi Bhangarian Chowk. He admitted that there was a brick kiln at a distance of 3 *killas* from the place where the dead body was thrown by the accused. Jugraj Singh and Jagjit Singh first came out of the truck. It took 10-15 minutes to put the dead body on the road and to allow the truck to pass over the same. He kept sitting on the front seat of the truck, when the accused ran over the truck over Jasvirpal Singh. He did not raise hue and cry at that time. He admitted that it was a thorough fare and traffic remained through day and night on this road. After returning from Talwandi, they passed by the side of Bughipura Chowk and then went to Ludhiana. He admitted that the house of Jugraj Singh was located in the locality. He escaped from the room at about 3.00 AM, when accused Jugraj Singh, Jagjit Singh and Mukhtiar Singh had gone to sleep after taking liquor. There could be six-seven Police Stations on his way, when he succeeded to escape from the custody of the accused. He reached to his house in the evening at about 3.00/4.00 PM. He travelled in a trolley, but he did not know the name of the owner of the trolley. In his cross-examination by the learned defence counsel representing accused Karamjit Kaur, he deposed that he did not state before the police that Karamjit Kaur was armed with *kirpan*. No

writing was done with regard to advancement of the money to Karamjit Kaur. The amount was not paid in his presence by his brother to his mother-in-law. He had not stated in his statement that the money was advanced to Karamjit Kaur and they had gone to collect the same from her.

12. PW.11 Hakam Singh is the father of the deceased. He testified that he had four sons. His son Jasvirpal Singh had to take some money from Karamjit Kaur. She belonged to Chuhar Chak. He went to Civil Hospital, Moga, to identify the dead body of Jasvirpal Singh. He had identified the clothes of the deceased in the Police Station. In his cross-examination, he categorically admitted that Jasvirpal Singh was living with him. The other three sons were living separately. On 14.05.1998, while leaving the house, Jasvirpal Singh told him that he was going to get the medicine for his wife. She was pregnant. Thereafter, he did not come back. They did not make enquiry about the character of Karamjit Kaur, mother-in-law of Jasvirpal Singh. The widow of Jasvirpal Singh has since been re-married to Surjit Singh. He went to the spot. The deceased was removed from there. His other sons and some other persons had also gone to the spot. Karamjit Kaur was present at the time of cremation. Surjit Singh, his son, met him after 4-5 days of the occurrence. Till then, he had not reported the matter to the police regarding his disappearance.

13. PW.12 Gursewak Singh prepared the scaled site plan Ex.PS. In his cross-examination, he deposed that the spot was a thorough place, i.e. G.T. Road, running from Moga to Amritsar. When he reached at the spot, some persons from the neighbourhood had gathered there. He had not obtained their signatures on the site plan.

14. PW.13 HC Jaswinder Singh deposed that he along with ASI Shamsher Singh and other police officials was present at Bughipura Chowk, Moga, on 15.05.1998. Information was received from Swaran Singh. They went to the spot. ASI Shamsher Singh prepared the inquest report. The scooter was taken into possession. The dead body was of an unidentified person.

15. PW.14 Inspector Manminder Singh testified that he was posted as SHO, Police Station Moga, on 20.05.1998. He recorded the statement of Surjit Singh vide Ex.PR. He sent ruqa to the police station. Section 302 IPC was added. He arrested five accused. Accused Mukhtiar Singh made disclosure statement Ex.PM, on the basis of which he got recovered wooden *Seru* from the disclosed place. He prepared the rough site plan, Ex.PU, of the place of recovery. Accused Jagjit Singh also made a disclosure statement that he had kept concealed a handle of hand pump in the wheat chaff godown. His disclosure statement is Ex.PO. He got recovered the handle of hand pump. The recovery memo is Ex.PP. The rough site plan was prepared. The remaining accused Jugraj Singh and Shember Singh were also arrested on 01.06.2008. Jugraj Singh made disclosure statement that he had kept concealed one *Palli* and one wooden plank stained with blood under the heap of husk lying in the husk room of his residential house. The disclosure statement is Ex.PW. *Palli* and wooden plank were got recovered. The same were taken into possession vide recovery memo Ex.PX. In his cross-examination, he admitted that he recorded the statement of Surjit Singh at about 5.00 PM. He reached the place of occurrence. He started investigation. He admitted that there were shops, *dhabas* and PCO as well

as liquor vend in the chowk of village Talwandi Bhangarian. PCO and *dhabas* remain open for 24 hours. Surjit Singh, brother of the deceased, told him that the deceased had to take a sum of ₹ 25,000/- from Karamjit Kaur. He did not disclose this fact in his first statement recorded on 20.05.1998. In his cross-examination by the learned defence counsel appearing for accused Karamjit Kaur, he admitted that he had the knowledge that case under Section 304-A IPC was already registered pertaining to this incident. He did not record the statement of Surjit Singh under Section 161 Cr.P.C. He also did not record the statement of Hakam Singh. All the accused belonged to different villages.

16. PW.15 ASI Shamsher Singh testified that on 15.05.1998, he was posted as Incharge, Police Post Focal Point, Sadar Moga. He along with other police officials was present near Bughipura Chowk on Dassanjh Road, By-Pass. Complainant Swaran Singh met him and got recorded his statement Ex.PC. The contents of the same were read over to him. FIR Ex.PC/3 was registered. He inspected the place of occurrence in the presence of Swaran Singh. He prepared the inquest report Ex.PD. The dead body could not be identified at the time of preparation of the inquest report. It was later on identified as that of Jasvirpal Singh. It was identified by Hakam Singh. In his cross-examination, he deposed that since the dead body was not identified by any body, therefore, name of the deceased was not mentioned in the inquest report. He recorded the statement of Hakam Singh PW with regard to identification of the dead body at Civil Hospital, Moga, in the presence of the doctor. During his investigation, it came out that it was a case of accident, in view of statement of the complainant. He

also admitted that the dead body was taken by Hakam Singh for cremation. Hakam Singh did not lodge any protest application with regard to missing of his another son Surjit Singh, brother of the deceased.

17. According to the FSL report Ex.PAA, metallic *hathi* (handle of hand pump), wooden *Seru*, *Palli* (jute sheet) and wooden piece of *Fatta* (wooden plank) were stained with human blood.

18. PW.1 Dr. V.J.S. Dhillon had conducted the post-mortem examination. He had noticed four injuries on the dead body. The cause of death was shock and haemorrhage caused by injuries to the vital parts. The injuries were ante-mortem in nature. The time that elapsed between injuries and death was declared as instantaneously and between death and post-mortem examination within 24 hours. He had admitted in his cross-examination that he did not notice any external or internal injury on the neck of the deceased at the time of conducting the post-mortem examination to suggest the mark of injuries/strangulation due to placing of *Seru* on the throat of the deceased. He also admitted that if injury No.1 was caused with a handle of the pump, then crushing could not be there. According to PW.10 Surjit Singh, Mukhtiar Singh and Jugraj Singh had placed the wooden heavy stick (*Seru*) on the front side of the neck of the deceased and pressed the same. Pappu caught hold of him from his legs. Jagjit Singh inflicted a blow with the handle of the water pump on the head of the deceased. PW.15 ASI Shamsheer Singh also deposed that during investigation, it came that it was a case of accident.

19. Initially, the FIR was registered under Sections 279/304-A/427 IPC on the basis of the statement, Ex.PC, made by PW.7 Swaran Singh.

Thereafter, statement of PW.10 Surjit Singh was recorded vide Ex.PR on 20.05.1998, which led to insertion of Section 302 IPC. According to PW.10 Surjit Singh, his brother Jasvirpal Singh came to him on 14.05.1998 and told him that he had to recover money from his mother-in-law Karamjit Kaur. PW.10 Surjit Singh accompanied his brother to the house of Karamjit Kaur on scooter. She told that she would arrange money from Pappu alias Pritam Singh. Thereafter, he, his brother and Karamjit Kaur went on scooter to village Lopo in the house of Pappu alias Pritam Singh and Gurcharan Singh. Karamjit Kaur asked Gurcharan Singh whether he had arranged the money. Gurcharan Singh told that he would arrange money from village Badhni. Thereafter, Gurcharan Singh went to village Badhni. Karamjit Kaur cooked the food. PW.10 Surjit Singh refused to take the food. However, his brother Jasvirpal Singh took meals. After taking meals, he went to sleep. Thereafter, Mukhtiar Singh and Jugraj Singh placed the wooden heavy stick (*Seru*) on the front side of the neck of Jasvirpal Singh and pressed the same. Pappu caught hold of Jasvirpal Singh from his legs. Jagjit Singh inflicted a blow with the handle of the water pump on the head of Jasvirpal Singh. Thereafter, all the accused wrapped the body of Jasvirpal Singh in a jute sheet (*Palli*). It was taken in a truck. PW.10 Surjit Singh along with his scooter was also taken in the truck. Jasvirpal Singh was thrown on the road. Thereafter, truck was run over his head. The scooter was also damaged. PW.10 Surjit Singh was also travelling in the truck. He was taken to Ludhiana, where he was confined in the house of Jugraj Singh at Habowal. He escaped from the room at about 3.00 AM and reached his house. Thereafter, report was lodged.

20. The prosecution has not produced any writing that Karamjit Kaur owed money to Jasvirpal Singh. The version of PW.10 Surjit Singh is not believable. He could not be a mute spectator, when throat of his brother was allegedly being pressed by accused Mukhtiar Singh and Jugraj Singh. He passed through many villages, towns and city. The house of Jugraj Singh, where he was kept confined, was also in a thickly populated locality. He had remained with the accused for almost five days, but he did not raise any alarm. His conduct was un-natural. His first reaction should have been to raise alarm while travelling in the truck through all the places, mentioned by him in his statement. It has come on record that he had married the widow of his brother Jasvirpal Singh. According to him, on 14.05.1998, his brother had come to him with a request to go to the house of Karamjit Kaur to receive the money. However, his father PW.11 Hakam Singh deposed that Jasvirpal Singh was staying with him. On 14.05.1998, while leaving the house, Jasvirpal Singh told him that he was going to get medicine for his wife. Thereafter, he did not come. The widow of Jasvirpal Singh was now re-married to Surjit Singh. PW.11 Hakam Singh also admitted that Surjit Singh had met him after 4-5 days, but he had not reported the matter to the police regarding his disappearance. If his son Surjit Singh was not available for 4-5 days, that too after the death of his another son Jasvirpal Singh, his first reaction should have been to lodge report.

21. PW.12 Gursewak Singh also admitted that the place of occurrence i.e. G.T. Road from Moga to Amritsar was a busy road. According to PW.10 Surjit Singh, there were *Dhabas* and Hotels at Bughipura Chowk. Police Station Badhni falls on the way, when one goes

to the area of Lopo to Moga. He also admitted that the place, where the body was thrown, remain busy throughout day and night. According to him, he escaped from confinement of the accused at about 3.00 AM. He reached to his house at about 3.00/4.00 PM. Though, six/seven police stations were on the way, but he had not lodged the report. Even he did not know the name of the owner of the trolley, in which he had travelled to his village. The statement of PW.11 Hakam Singh was recorded vide Ex.PW.15/C on 15.05.1998, when he identified the dead body of his son in Civil Hospital, Moga. He had not raised any suspicion against any person in his statement. He had not told the police that his son had gone to bring money from Karamjit Kaur and PW.10 Surjit Singh had also accompanied him. PW.15 ASI Shamsheer Singh also deposed in his cross-examination that Hakam Singh did not lodge any protest application with regard to missing of his another son Surjit Singh, brother of the deceased. PW.14 Inspector Manvinder Singh also admitted in his cross-examination that during the investigation of the case, father of the deceased did not give any application regarding the missing of his other son.

22. The motive attributed is that Karamjit Kaur owed some money to the deceased. Though PW.10 Surjit Singh deposed that Jasvirpal Singh had to recover ₹ 70,000/- to ₹ 80,000/- from Karamjit Kaur, but this amount was not mentioned by him in his statement Ex.PR. PW.14 Inspector Manvinder Singh, the Investigating Officer, also admitted that Surjit Singh did not show him any writing in respect of the amount.

23. It has also come on record that all the accused belonged to different villages. It was simply a case of accident, which was tried to be

converted into murder case by the family of the deceased. The statement of PW.11 Hakam Singh, father of the deceased, was recorded initially on 15.05.1998 at the time of identification of the dead body in Civil Hospital, Moga. At that time, he had not mentioned the manner in which his son had died, but only on 24.05.1998, in his statement Ex.DA, he had mentioned that his son had gone to collect ₹ 25,000/- from Karamjit Kaur along with his brother Surjit Singh. It is an after-thought.

24. The prosecution has failed to prove its case against the appellants beyond reasonable doubt.

25. Accordingly, both the appeals are allowed. The impugned judgment dated 18.11.2003 and order dated 19.11.2003 rendered by the learned trial court are set aside. The appellants are acquitted of the charges framed against them.

(RAJIV SHARMA)
JUDGE

March 02, 2020
ndj

(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes