

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

CRA-D-1150-DB-2011 (O&M)

Reserved on: 19.09.2022

Date of decision: 26.09.2022

PREM SINGH AND OTHERS

...Appellants

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. P.S. Hundal, Senior Advocate with
Mr. Vikramjeet Singh, Advocate
for appellant No.1 – Prem Singh.

Ms. Deepanshu Gupta, Advocate for
Mr. Puneet Sharma, Advocate (Amicus Curiae)
for appellant No.2 – Amritpal Kaur @ Jyoti
for appellant No.3 – Nirmala Devi.

Ms. Monika Jalota, Sr. DAG, Punjab

Mr. A.D.S. Sukhija, Advocate
for the complainant.

SURESHWAR THAKUR, J.

1. The instant appeal is directed against the verdict recorded on 08.10.2011, upon Sessions Case No.12 of 16.05.2008, by the learned Additional Sessions Judge, Hoshiarpur wherethrough in respect of charges drawn for offences punishable under Sections 302, 201, 120-B of IPC, he made a verdict of conviction upon the accused. Moreover through a sentencing order drawn on 08.10.2011, he proceeded to sentence the convicts to undergo life imprisonment, and, also proceeded to impose upon the convicts sentence(s) of imprisonment as well as of fine to the extent as becomes extracted hereinafter.

<i>NAME OF CONVICT</i>	<i>UNDER SECTION</i>	<i>SENTENCE</i>
<i>Prem Singh, Amritpal Kaur @ Jyoti and Nirmala Devi</i>	<i>302/102B IPC</i>	<i>To undergo imprisonment for life and to pay fine of Rs.20,000/- each. In default of payment of fine the convicts shall undergo further rigorous imprisonment for two years.</i>
<i>Prem Singh, Amritpal Kaur @ Jyoti and Nirmala Devi</i>	<i>201 IPC</i>	<i>To undergo imprisonment for a period of three years and to pay fine of Rs.5,000/- each. In default of payment of fine the convicts shall undergo further rigorous imprisonment for three months each.</i>

All the above imposed sentences were ordered to run concurrently. Moreover, the period spent in custody by the convicts during the investigation, and, trial of the case, was in terms of Section 428 of Cr.P.C., ordered to be set off from the above imposed sentence(s) of imprisonment, upon each of the convicts.

2. The convicts are obviously aggrieved from the above made verdict of conviction, and, from the consequent therewith sentence(s) (supra), as became imposed upon them, thus they are led to constitute thereagainst the instant appeal before this Court.

FACTUAL BACKGROUND AND INVESTIGATION

3. The genesis of the prosecution case is embodied in the FIR to which Ex.PA/2 is assigned, therein, it is narrated that on 01.12.2007, Suresh Kumar son of Sita Ram, Panchayat Member of village Ahrana Kalan got recorded his statement to Sub Inspector- Jiwan Kumar. Suresh Kumar complainant made telephone call to Police Station Mehtiana on which Sub Inspector Jiwan Kumar, along with other police officials reached at the spot and recorded statement Ex. PA of complainant Suresh Kumar. It was got recorded by Suresh Kumar that at about 7.00 A.M., he was going to his fields and when he reached near “T-Point Kavran Bala” Manjit Singh son of Khushi Ram and Pappi son of Karam Chand, both residents of village Ahrana Kalan met him and told him that a dead body

wrapped and tied in a double bed sheet was lying on the metalled road near the fields of Nirmal Singh son of Daulat Singh. After recording statement, Sub Inspector Jiwan Kumar made his endorsement Ex.PA/1 and sent the ruqa to the police station on the basis of which present FIR Ex.PA/2 was registered. SI Jiwan Kumar called photographer, finger print expert, DSP(R) and senior police officials at the spot. He prepared inquest report Ex.PW29/A in respect of dead body of unknown person found at the spot. Photographer clicked the photographs of the dead body at the spot. Finger print expert Gurdip Singh SI also inspected the spot and tried to take the finger print impressions from the spot. Investigating Officer lifted blood stained earth from the spot and prepared its parcel and took into possession vide memo Ex.PW27/A. Investigating Officer moved application Ex.PW29/B for conducting post mortem examination of dead body to SMO Civil Hospital Hoshiarpur and dead body of unknown person along with the police request and inquest report was sent to Civil Hospital Hoshiarpur. Investigating Officer prepared rough site plan Ex.PW29/C of the place of recovery of dead body. SI Jiwan Kumar was present at Civil Hospital Hoshiarpur where he received a message from MHC PS Sadar Phagwara that son of Krishan Kumar Kaura resident of Phagwara is missing since 28.11.2007 and Krishan Kumar is coming to identify the dead body at civil hospital Hoshiarpur. Thereafter SI Jiwan Kumar shown the dead body to Krishan Kumar Kaura and Raj Kumar and they identified the dead body of unknown person to be of Raman Kumar vide identification memo of dead body Ex.PW20/A. He prepared inquest report Ex.PW29/D. Post mortem of dead body of Raman Kumar was got conducted and after post mortem examination dead body was handed over to Krishan Kumar Kaura against receipt Ex.PW20/B.

4. SI Jiwan Kumar prepared parcel of clothes of deceased Raman

Kumar containing one blanket, two pieces of seba (cord), two glazed envelop which were meant for covering the pillows and took into possession vide memo Ex.PW27/B. Krishan Kumar Kaura father of deceased Raman Kumar got recorded the mobile Number of Raman Kumar as 99881-83171. Investigating Officer received the details of calls of the above said mobile number on 6.12.07. On 7.12.07 Investigating Officer visited Phagwara and met Krishan Kumar Kaura. Krishan Kumar Kaura after going through the call details of the mobile phone of deceased expressed his suspicion towards Prem Singh, Amritpal Kaur alias Jyoti accused. He raided the house of Amritpal Kaur alias Jyoti at Phagwara. On 8.12.07 Investigating Officer visited Batala at the address which was given by Prem Singh in the agreement to sell which was handed over to him by Krishan Kumar Kaura but accused Prem Singh was not found there however, Gurwant Singh Head Constable disclosed to Investigating Officer that Prem Singh might be available at the house of Bawa Singh who is residing at village falls in the jurisdiction of PS Ghanni Ke Wanger, who is the husband of sister of Prem Singh. Then Investigating Officer visited the house of Bawa Singh at his village who disclosed that Prem Singh had left the village along with his belongings. Bawa Singh also disclosed that Prem Singh got one driver for his car with the help of Ashish Malhotra. Investigating Officer went to the shop of Ashish Malhotra and he disclosed that one Jagdeep alias Deesha driver was engaged by Prem Singh to go to Mumbai. On 9.12.07 SP (D) Sh Shushil Kumar told to Investigating Officer that Prem Singh had been arrested by the police of Gujarat State. On 10.12.07 Investigating Officer moved a request Ex.PW29/F to the Illaqa Magistrate for obtaining production warrant of accused Prem Singh. On 10.12.07 after obtaining the production warrants of accused Prem Singh Investigating Officer along with his police party proceeded to PS Palanpur

Taluka district Binskat, Gujarat and on 12.12.07 Investigating Officer reached at sub Jail Palanpur Taluka and handed over the transit remand copy to Jail authorities and obtained the custody of accused Prem Singh. Investigating Officer obtained Santro Car bearing no.PB-09-H-3404 of white colour vide memo Ex.PW29/H. Shaboor Bhai ASI, MHC PS Palanpur Taluka handed over to SI Jiwan Kumar Investigating Officer one suitcase, currency notes of Rs.89150/-, Santro Car aforesaid and various clothes of the accused Prem Singh, one mobile phone Nokia Ex.P25, some papers pertaining to his personal account etc. Investigating Officer also took victim Shera and Jagdeep Singh Disha driver of the Santro car and they returned back to police station Mehtiana and deposited the above said articles with the MHC of the police station and the accused was lodged in the police station.

5. On 14.12.07 accused was taken from the lock up and was produced before the Illaqa Magistrate and formally arrested in the present case vide arrest memo Ex.PW27/C. During personal search of the accused Prem Singh, one wrist watch, one gold ring, two SIM Ex.P26 and Ex.P27, one Perchi Ex.P28 bearing mobile number 9915855645 and on the back side of the said Perchi another mobile No.98723 41444 Baljit Singh were written were recovered vide personal search memo Ex.PW27/B. Accused was remanded to police custody up to 18.12.07 by the Illaqa Magistrate.

6. On 14.12.07 Investigating Officer conducted raid the house of accused at Phagwara and arrested Amritpal Kaur @ Jyoti, Nirmala Devi and Jai Dev (Juvenile) vide arrest memo Ex.PW27/E. On the personal search of accused Amritpal Kaur @ Jyoti Ex.PW27/F one Motorola Mobile Phone bearing chip no.99155 20565 Ex.MO-1 and chip Ex.MO-2 were recovered. From personal search of accused Nirmala Devi one mobile Nokia 3310 is Ex.MO-3 and another

mobile phone Nokia 1110 along with sim bearing 94170 79119. Ex.MO-4 and Ex.MO-5 were recovered vide personal search memo Ex.PW27/H. Personal search of accused Jai Dev was also conducted and no cash or ornament was recovered from him and his personal search memo Ex.PW27/G was prepared.

7. On 15.12.07 accused Jai Dev was produced before the Court of Juvenile Board at Hoshiarpur who was sent to juvenile home and accused Amritpal Kaur and Nirmala Devi were produced before the Illaqa Magistrate and police remand was obtained. On the same day, Shera victim was handed over to his mother Samitra Devi vide handing over memo Ex.PW4/A.

8. On 16.12.07 during interrogation Amritpal Kaur @ Jyoti suffered disclosure statement Ex.PW27/I and got recovered one baseball bat, one ring of gold and one bracelet of gold from the disclosed place and Investigating Officer took the same into possession vide recovery memo Ex.PW27/J. Investigating Officer prepared rough site plan Ex.PW29/K of the place of recovery.

9. On 17.12.07 accused Prem Singh suffered disclosure statement Ex.PW27/L and on 18.12.07 he got recovered one mobile phone make Nokia N-95 without sim which was taken into possession vide memo Ex.PW27/M. Investigating Officer prepared site plan of its place of recovery Ex.PW29/L.

10. On 19.12.07, SI Jiwan Kumar again interrogated accused Amritpal Kaur and Nirmala Devi and he collected evidence regarding ownership of the car for which an application Ex.PW29/M was moved before the DTO Kapurthala. Investigating Officer also obtained the call details Ex.PW24/A, Ex.PW24/B, Ex.PW24/C, Ex.PW25/D, Ex.PW25/E, Ex.PW25/F of mobile phones.

11. On 29.12.07 Investigating Officer recorded statement of PW Hardip Singh Parmar from whom accused Prem Singh taken the Kothi of Taranjit Kaur

on rent. He also took into possession photo copy of agreement of rent mark-B and photo copy of sale deed dated 4.7.07 mark-C. On 24.1.08 Investigating Officer recorded statement of PW Samitra Devi and Ajay Kumar. Investigating Officer also recorded statements of other PWs and he also took into possession photo copy of ration card of Bawa Singh who is brother in law of accused Prem Singh, copy of identity card of Bawa Singh, photo copy of passport of Prem Singh and photo copy of vehicle delivery receipt Ex.PW12/A

12. On 12.2.08 Krishan Kumar Kaura visited PS Mehtiana and identified the ring and bracelet of gold amongst the similar bracelets and rings which were five each as belonging to his son Raman Kumar deceased vide identification memo Ex.PW17/A. Finger print expert Gurdip Singh also produced his report Ex.PW29/N before SI Jiwan Kumar. Investigating Officer got prepared scaled site plan Ex.PW16/A and Ex.PW16/B. On receipt of report of chemical examiner Ex.PW29/P, Ex.PW29/Q, Ex.PW29/R, Ex.PW29/S, challan of this case was prepared and presented in Court for trial of the accused.

COMMITTAL PROCEEDINGS

13. On conclusion of investigation, the investigating officer concerned, presented a report under Section 173 Cr.P.C., before the learned Committal Court concerned. Subsequently, the learned Committal Court vide order dated 01.05.2008 committed the accused to face trial before the Court of Session.

TRIAL PROCEEDINGS

14. The prosecution examined as many as 29 witnesses and, subsequently, the public prosecutor closed prosecution evidence. After the closure of the prosecution case, the learned trial Judge drew proceedings under Section 313 Cr.P.C., wherein, the accused pleaded innocence, and, claimed

false implication. In defence, the learned defence counsel examined 6 defence witness.

SUBMISSIONS OF LEARNED COUNSELS FOR APPELLANTS

15. The learned counsels for the appellants submit that no sanctity is to be assigned to the respectively made signed disclosure statements, and, also to the consequent therewith recoveries, as they are tainted with a vice of concoction, and, invention deployed by the investigating officer concerned.

16. Contrarily, the learned State counsel has argued that, the verdict challenged before this Court is well merited, and, does not warrant its becoming interfered with, by this Court.

MEDICAL EVIDENCE (POST MORTEM REPORT)

17. The body of deceased Raman Kumar was identified by his father Krishan Kumar Kaura. The post mortem report is carried in Ex.PC. The doctor who made an autopsy on the body of the deceased Raman Kumar is Dr. JPS Bains. Dr. JPS Bains stepped into the witness box as PW-11, and, during his examination-in-chief, he made echoings that, on his making an autopsy on the body of deceased Raman Kumar, his noticing thereon the hereinafter extracted ante-mortem injuries.

“1. Lacerated wound 3x0.4 cm obliquely placed, present on left parietal region of scalp, 6 cm above the left ear. Clotted blood was present.

2. Lacerated wound irregular in shape 6x0.6 cm present on left parieto occipital region of scalp, clotted dry blood present.

3. Lacerated wound obliquely placed irregular in shape, measuring 7x0.5 cm present on left parietal region of scalp, 5 cm above injury no.1. Dried clotted blood was present.

4. Lacerated wound obliquely placed irregular in shape, 8x2x bone deep with abulsion of scalp present on mid parietal region of scalp.

5. *Lacerated wound 6x0.5 cm obliquely placed present on right occipitals region of scalp. Dried clotted blood was present.*

6. *Lacerated wound irregularly curved in shape 5x0.4 cm present on the right parietal region of scalp, 6 cm above the right ear with bleeding from right ear.”*

He also opined the cause of demise of deceased Raman Kumar arose from cerebral compression owing to intra cranial haemorrhage arising from ante-mortem head injuries, which were sufficient to cause death in the ordinary course of nature. In his examination-in-chief he also echoed, that the fatal head injuries were possible owing to users thereons of a baseball bat. Though in his cross-examination he has mentioned, that some of the ante-mortem injuries, as observed in the post mortem report to occur on the body of the deceased, are incised wounds, besides he has thereafter stated that there is a possibility, and, probability of incised injuries becoming caused on account of road accident. However, yet the above statement existing in the cross-examination of PW-11, does not bely, for reasons made hereinafter, either the evidentiary efficacy of the signed disclosure statements as made by the convicts concerned, nor does bely the evidentiary efficacy of the consequent therewith recoveries, as became effected through the relevant recovery memos.

DISCLOSURE STATEMENT OF CONVICT AMRITPAL KAUR @ JYOTI EX. PW27/I

18. During the course of the custodial interrogation of convict Amritpal Kaur @ Jyoti she made a signed disclosure statement. The relevant portion of the signed disclosure statement, as made by the convict Amritpal Kaur alias Jyoti is extracted hereinafter.

“Disclosure Statement of Amritpal Kaur @ Jyoti

xxx

After that Prem Singh struck a deal of Kothi No.564 Arban Estate Phagwara with Sunita Rani w/o Ravinder Kumar R/o 367 Hargobind

Nagar Phagwara through Krishan Kumar Kora S/o Shan Lal R/o 570 Arban Estate Phagwara property dealer. Our I and Joti frequently visiting the house of Krishan Kumar Kora. Befixed our eye on the Kothi No.570 of Krishan Kumar Kora. Be hitched a plan to abduct the son of Krishan Kumar Kora and try to take ransom. I through my mobile matrola in which sim No.98781-15929 has been given by Prem Singh is inserted and on the mobile I express my feeling to love him, with this pretext. He was called out side and took him in the rented Kothi of Prem Singh in Adarsh Nagar Phagwara. I took Raman Kumar on 28.11.2007 on the same day. First of all I served him juice in which sleeping pills sera administrated. After that I Prem Singh above said and my mother Nirmala Devi and brother Jai Dev gave Raman Kumar sleeping pills or morphine-injunction so that he may not be conscious on 30.11.07 at about 5-0 lock. I Prem Singh my mother Nirmalaa Devi and brother Jai Dev in connivance with each other while he was sitting on floor in an unconscious condition inflicted injuries in the back side of his head with the baseball bat, which was brought by me from my quarter and murdered him after that a double bed sheet which was spread on the bed of Prem Singh, and a pillow cover clothes of old pillows and also two new polythene pillows wrapped on the pillows and tied it with two swing and cover the face of Raman Kumar. The all clothes wearing by Raman Kumar were removed except underwear on the same night at about 11-0 clock in a Centro Car bearing No.PB09 H-3404. The dead body bundle of Raman Kumar was thrown at Mohtiana Kalan on the link road at about 11 P.M. After the death of Raman Kumar on 30.11.07 I removed the gold bracelet about 4 tola and one gold ring about one tola on it the word R.K. were inscribed. The same were kept conceal in the godrej Almirah lying in my quarter No.281 and from the internal lock of the Almirah. The keys were with me and open the same and kept the same inside the Almirah. Bat of base ball the portion which was stained with blood was washed with surf and water after using the same and kept it conceal underneath the godela of the double bed lying in quarter No.281. I have the exclusive knowledge about it and can get it recovered after demarcation. The gold bracelet and ring as also baseball bat. Disclosure statement of Amritpal Kaur @ Joti has been prepared. The same has been attested by the accused as also by the witnesses.

*Adarsh Singh @ Joli s/o
Manohar Singh r/o quarter
No.248 CRP Colony Phagwara
Sd/- Adarsh Singh in english.
Gurmail Singh Sidhi s/o
Tarlok Singh R/o 69
Arban estate CRP Colony
Phagwara Sd/- Gurmail Singh
in Hindi*

*Amritpal Kaur @ Joti above said
accused sd/- in english.
L/C Surjit Kaur No.1277
Sd/- in english
HC Ajay Pal Singh 170
Sd/- in english.
Sd/- Jiwan Kumar, S.I. SHO
P.S. Mehtiana 16.12.07."*

19. In pursuance to the signed disclosure statement as made by the convict Amritpal Kaur alias Jyoti, she through a recovery memo Ex.PW29/J caused effectuation of recoveries of one bracelet gold, on which words R.K. were engraved in English, and, also caused recovery of a gold ring on which words R.K. were engraved in English. Moreover, she also to the investigating officer concerned, caused recovery of the incriminatory baseball bat.

20. In the signed disclosure statement made by convict Amritpal Kaur alias Jyoti she confesses her guilt in the relevant offence. She has echoed therein the nursing of a motive by her, and, the other co-convicts. The relevant motive is comprised in the factum, that they were frequent visitors to the house of the father of the deceased Krishan Kumar Kaura, and, they were eyeing his kothi bearing No.570. Therefore, she confessed that they hatched a conspiracy to abduct the son of Krishan Kumar Kaura namely one, deceased Raman Kumar for taking ransom from the father of the deceased. Moreover, she recites therein, that through from her mobile Motorola wherein sim bearing No.98781-15929, was inserted, she made a call to the deceased, and, expressed a pretextual love to allure him to the rented house of co-convict Prem Singh located in Adarsh Nagar, Phagwara. She also confessed therein that on 28.11.2007, she served juice with sleeping pills to the deceased, and, subsequently, when the deceased was lying in an unconscious state on the floor, she in the presence of the other co-convicts inflicted injuries on the backside of his head with baseball bat.

Moreover, she also echoes therein that thereafter after covering the face of the deceased Raman Kumar, besides after removing the clothes except the underwear of deceased Raman Kumar rather all the convicts on the night of 30.11.2007 at 11 p.m., carrying the deceased in a santro car bearing No.PB-09H-3404, whereafter the body of the deceased Raman Kumar, was thrown at Mehtiana Kalan on the link road at about 11 p.m. Moreover, after the demise of Raman Kumar she echoes that she removed the gold bracelet weighing 4 tolas, and, one gold ring weighing about one tola, on which words R.K., were engraved. The above made disposal of the body was made at a place known only to her. She echoes that the baseball bat, besides the gold bracelet, and, one gold ring were all kept by her in the godrej almirah lying in her quarter No.281. She stated that the key(s) of the almirah is with her.

ANALYSIS OF THE DISCLOSURE STATEMENT

21. The above made disclosure statement clearly underlines the motive nursed by the co-convicts concerned. Moreover, since it is a signed disclosure statement of the convict, who however did not either ably deny the same nor ably proved the denial. Thus, sanctity is to be meted thereto. Moreover, since in consequence thereof, the recoveries of the clothes worn at the relevant time by the deceased also became recovered by her, besides recovery of one bracelet gold on which word R.K., were engraved in English, also became effected by her, and, also when recovery of a gold ring on which word R.K., were engraved in English, also became recovered at her instance to the investigating officer concerned. Thus when the recoveries became effected rather through hers locating the keys of the godrej almirah from underneath the mattress of her bed, wherein, the above incriminatory items were kept. Moreover, with recovery memo also carrying thereons the undisputed signatures

of convict Amritpal Kaur alias Jyoti. Therefore, the causings of recovery(ies) through Ex.PW29/J in the manner (supra) echoed in Ex.PW29/I, qua the items mentioned therein, thus vividly disclose that the relevant recoveries were from a place known only to the accused, and, not known earlier to the police officer. More so, when she evidently alone knew the place where she had hidden the keys of the godrej almirah, wherefrom the above incriminatory items became recovered.

INFERENCES DRAWN FROM THE ABOVE MEMOS

22. The confession of guilt as made by the convict, in her undisputed signed disclosure statement, is that, it is not a bald confession, but also did lead to the relevant recoveries being through memo Ex.PW29/J hence caused by her to the investigating officer concerned. Therefore, even if assumingly some effort is made by the defence to create a possible exculpatory plea qua recoveries being tainted yet the above exculpatory pleas cannot be assigned credence. The reason becomes comprised in the factum, that the defence has not been able to cogently establish that the investigating officer concerned, held possession of the keys of the house of the convict Amritpal Kaur alias Jyoti, nor has been able to convincingly establish, that the police also held the possession of the keys of the relevant godrej almirah, wherein, the relevant incriminatory items were kept, and, also became recovered, and, that too imperatively earlier to the drawings of Ex.PW29/J. Thus in the absence of the above evidence rather completest evidentiary sanctity is to be meted to the above drawn memos. In consequence, the above proven prime incriminatory link in the chain of circumstantial evidence, does firmly connect, the convict in the commission of the charged offence. More so, when the father of the deceased while stepping into the witness box, as PW-20 (Krishan Kumar Kaura), has proven that the

recovered gold items belonging to his deceased son. Moreover, when he has also proven that the clothes of his deceased son, as became recovered at the instance of the convict Amritpal Kaur alias Jyoti also belonging to his deceased son, especially when no evidence contra therewith, as comprised in the best DNA evidence, became adduced nor when the signed disclosure statement making narrations in respect thereof besides nor when the consequent therewith recovery(ies), as made through the recovery memo (supra), became proven to be either fictitious or engineered at the instance of the investigating officer concerned. More so, when the inquest report to which Ex.PW29/A, is assigned, discloses that at the relevant stage qua drawings of Ex.PW29/A, the deceased was only adorning one blue underwear. Thus, corroboration therefrom is also lent to the above declarations as made in the disclosure statement Ex.PW27/I, and, is also lent to the consequent therewith recovery of clothes of the deceased, as were worn by him at the relevant time.

DISCLOSURE STATEMENT OF CONVICT PREM SINGH EX.PW-27-L

23. During the course of the custodial interrogation of convict Prem Singh, he made a signed disclosure statement. The relevant portion of the signed disclosure statement, as made by the convict Prem Singh is extracted hereinafter.

“Disclosure Statement of Prem Singh

xxx

After that I struck a bargain of Kothi No.564 Arban Estate Phagwara with Sunita Rani W/o Ravinder Kumar R/o Hargobind Nagar Pharwara through Krishan Kumar Kora S/o Sham Lal R/0570 Arban Estate Phagwara property dealer Phagwara. Due to this reason I and Joti visited the house of Karishan Kumar Kora frequently be kept an eye (sic) on the Kothi No.570 of Krishan Kumar Kora. Be hatched a plan to abduct the son of Krishan Kumar Kora to

secure ransom Jyoti through her mobile Matrola in which sim card No.9878115929 was put in brought by me. From her mobile he made a call to Raman Kumar with the pretext to love him and, called him and took her at my Kothi Adarsh Nagar Phagwara. And on 28.11.07 first of all she served a juice in which sleeping pills were administrating to drink. After that I and Joti above said and her mother Nirmla Devi and her brother Jai Dev gave him sleeping pills and also injecting with morphine time to time so that Raman Kumar be live under the influence of intoxicating on 30.11.07 at about about 5-0 clock Joti and her mother Nirmla Devi and brother of Joti Jai Dev in connivance each other inflicted injury by Joti with the Base ball which was brought from her quarter while he was seating on the earth in a unconscious condition and killed him. After that a double bed sheet lying on my bed as also old pillow cover clothes lying in the house as also two new polythene pillow cover at the same time wrapped her face and head with the two and tied the same with the sting of gunny bag. The clothes except underwear, removed from the body of Raman Kumar on the same night at about 11 P.M. in a centro car bearing No. PB09 H3404. In the diggi of the car the dead body was put in and the bundle of dead body was thrown at Mehtiana Kalan on the link road at about 11 P.M. after the death of Raman Kumar has been taken place on 30.11.07. He has kept a mobile Nokia phone No.95 fitted with big screen. Its front side body is white colour and from the back side of it is a cocacola colour and the screen is also coca cola from it. The sim card of Joti has been out along with sim No.98781-15929 of flash has been taken out and after that the mobile phone of Raman Kumar above said has been kept conceal in a Almirah lying in the rented Kothi in Adarsh Nagar Phagwara. I have the exclusive knowledge about it. The key of the Almirah has been kept underneath the gadela of the double bed lying in the rented kothi. I have the exclusive knowledge about it and

can get it recovered after demarcation. The same has been attested by the accused as well as by the witnesses.

Sd/- Prem Singh above said in Punjabi.

*Sd/- Jiwan Kumar, SHO
Mehtiana 17.12.07*

Sd/- Ajaypal Singh 170 in english.”

24. A reading of the signed disclosure statement of convict Prem Singh reveals that it echoes, about the convicts nursing a motive to murder deceased Raman Kumar, and, the same being comprised in theirs through abducting the deceased seeking to demand ransom money from his father Krishan Kumar Kaura. In his disclosure statement the convict disclosed, that the body of the deceased Raman Kumar was carried in car bearing registration No.PB-09H-3404, whereafter it became thrown at Mehtiana Kalan. Moreover, he also echoed therein, that he can cause recovery of the mobile phone with SIM Card bearing No.98781-15929 from the almirah existing inside his rented kothi located at Adarsh Nagar. He further stated that the key of the almirah, is concealed by him under the gadela of the double bed, lying in the rented kothi. Since in pursuance to the above signed disclosure statement, through recovery memo to which Ex.PW27/M is assigned, he caused the recoveries of the above incriminatory items, as became echoed in his signed disclosure statement. Thus, the confession of guilt as made by convict Prem Singh, is not, a bald confession, as subsequent thereto it led to recovery(ies) at his instance of the relevant incriminatory items, especially when the place of their respective keepings, and, hidings by him was evidently exclusively known to him.

CONCLUSION FROM THE ABOVE

25. Therefore, utmost evidentiary sanctity is to be assigned to the above drawn memos, especially when there is neither any apt denial of the signatures existing thereons of convict Prem Singh nor when the apposite denial has been

ably proven. Moreover, also when there is no firm cogent evidence hence displaying that earlier to the relevant recoveries being caused at the instance of the convict rather the investigating officer concerned, had earlier visited the relevant house, but with his holding possession of the keys of the relevant house, and, had then hence planted the recoveries onto the relevant house nor when any evidence is adduced qua the investigating officer concerned, earlier possessing the keys of the godrej almirah, and, had hence planted them there. Therefore, the inference to be drawn from the above, is that, the above proven memos comprise a vital link to connect the convict in the commission of the charged offence.

26. Even though convict Nirmala Devi did not make any signed disclosure statement to the investigating officer concerned, nor did she cause any recovery of any incriminatory item to the police officer, but when evidence has emerged qua her incriminatory participation in the relevant offences, inasmuch as, the same existing in the proven signed disclosure statements of the convicts. Thus, irrespective of hers not making any signed disclosure statement nor hers not causing any consequent therewith recoveries to the investigating officer concerned, yet she is to be concluded to be conspiring with the co-convicts in committing the charged offence.

RECOVERY OF CRIME CAR THROUGH EX.PW29/H

27. During the course of investigations being made into instant FIR, the crime car was also recovered, through recovery memo Ex.PW29/H, at the instance of the convict concerned. The crime car was stationed at police station concerned. However, since the very same crime car was used in the commission of the extant offence, thus through memo Ex.PW29/H, which became proven by PW-29, it became lawfully received from Police Station Palanpur Taluka,

District Binsate (Gujarat) by the police officials of Police Station Mehtiana, District Hoshiarpur.

28. Though the learned counsels for the convicts argue that since the registered owner of the vehicle, one Saroj Rani while stepping into the witness box as PW-14 has testified that she had sold the crime car to Maharaja Motors, Dayal Nagar. But yet when she has expressed in her cross-examination, that she does not know whether the RC of the crime car, is yet in her name. Therefore, the learned counsel(s) for the convicts argue that the recovery of the crime car or its being used in the alleged offence rather becomes suspect. Thus, they contend that the recovery of the crime car is tainted. However, for carrying forward the above plea, it was to be also established through suggestions being meted to PW-14, that Inderjit Singh the owner of Maharaja Motors, to whom the registered owner of the crime car one Saroj Rani, had sold the same rather being investigated about whether subsequently he had handed over its possession to the convicts concerned. However, the above evidence is not on record. Thus it has to be inferred that the convicts either lawfully or unlawfully assumed possession of the crime car, from Inderjit Singh, the owner of Maharaja Motors. In consequence, it has to be concluded that it was, as disclosed by the convicts concerned, in their respectively made disclosure statement, hence in their possession at the relevant time or that they had used the crime car for the relevant purpose. Thus, recovery of the crime car at the instance of the convicts also comprises a firm incriminatory link for connecting the convicts in the charged offence.

FINAL ORDER

29. In consequence, the impugned verdict of conviction, and, also the consequent therewith order of sentence, as becomes respectively recorded, and,

imposed, upon each of the convicts by the learned trial Judge concerned, does not suffer from any gross perversity, or absurdity of gross mis-appreciation, and, non-appreciation of the evidence on record. In consequence, there is no merit in the appeal, and, the same is dismissed. If the accused are on bail, thereupon the sentences, as imposed upon each of them be ensured to be executed by the learned trial Judge concerned, through his forthwith drawing committal warrants qua them. Case property, if any, be dealt with in accordance with law, but only after the expiry of the period of limitation for the filing of an appeal.

- 30. Records be sent down forthwith.
- 31. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

26.09.2022
Ithlesh

(N.S. SHEKHAWAT)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No