

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CRA-D-375-DB-2010
Reserved on: 31.08.2022
Pronounced on: 05.09.2022

BAKSHISH SINGH AND ANR.Appellants

Versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Argued by: Ms. Sumanjit Kaur, Advocate (Amicus Curiae)
for the appellants.

Mr. Aman Dhir, DAG, Punjab.

SURESHWAR THAKUR, J.

1. The learned Additional Sessions Judge, Amritsar through a verdict drawn on 05.10.2009, upon case SC No. 8 of 10.10.2008 proceeded to, in respect of charges drawn against, both the accused, for offences punishable under Sections 302, 307, read with Section 34 of the IPC, hence made a verdict of conviction, upon, the convicts. Moreover, through a separate sentencing order drawn on 06.10.2009, the learned trial Judge concerned, proceeded to make the hereinafter extracted sentence(s) upon the convicts.

Name of the convict	Section	Sentence
Bakshish Singh	302 IPC	To undergo life imprisonment and to pay a fine of Rs. 3000/- and in default of payment of fine to further undergo R.I. for two months.

Bikramjit Singh	302/34 IPC	To undergo life imprisonment and to pay a fine of Rs. 3000/- and in default of payment of fine to further undergo R.I. for two months.
Bikramjit Singh	307 IPC	To undergo R.I. for ten years and to pay a fine of Rs. 3000/- and in default of payment of fine to further undergo R.I. for two months.
Bakhshish Singh	307/34 IPC	To undergo R.I. for ten years and to pay a fine of Rs. 3000/- and in default of payment of fine to further undergo R.I. for two months.

2. The convicts become aggrieved from the verdict of conviction (supra), and, also become aggrieved from the consequential therewith sentence(s) (supra), as became imposed upon them by the learned Convicting Court, and, have chosen to assail them, through theirs' constituting the instant appeal before this Court.

FACTUAL BACKGROUND

3. The prosecution case is rested upon the appeal FIR, to which Exhibit PW-PE/2 is assigned. The informant Kajalpreet Singh son of Sawinder Singh has made narrations therein that, on 15.07.2008, when he alongwith his grandfather Narinder Singh were sitting in their house, then at about 9.30 PM, his uncle Bakhshish Singh, and, his son Bikramjit Singh came infront of the house, and, they by taking the name of his grandfather Narinder Singh, started abusing him, upon which his grandfather Narinder Singh, and, his father Sawinder Singh, besides the informant all come out of the house. As soon as they came out of the house, Bakhshish Singh gave knife injuries to his grandfather Narinder Singh on left side of the chest,

abdomen, and, on his back side, and, Bikramjit Singh son of Bakhshish

Singh resident of the village Deh is alleged to deliver knife injuries below the left copper vessels (under arms), and, on the left side of the abdomen of the informant, with intention to kill them. The intestines of his father are narrated to come out of the abdomen. The informant fled on account of fear from the crime site, and, also raised cries 'Mar Ditta, Mar Ditta'. The assailants fled away from the spot with their respective weapons. The motive of the revenge, is that, Bakhshish Singh is habitual in drinking, and, his grandfather stopped him from consuming liquor, as, Bakhshish Singh used to often abuse his grandfather in a drunken condition. The informant got admitted his father Sawinder Singh, and, grandfather Narinder Singh, in Janta Hospital, Amritsar for their respective treatments.

INVESTIGATION PROCEEDINGS

4. On the basis of aforesaid statement of the complainant, case under Sections 324, 307 IPC was registered. Thereafter, Narinder Singh succumbed to his injuries, and as such, Section 302 of the IPC was added. The investigations were done, and, the accused were arrested.

5. After completion of investigations by the investigating officer concerned, into the FIR (supra), he instituted an affirmative report under Section 173 Cr.P.C., before the learned Committal Judge concerned, against both the accused.

COMMITTAL PROCEEDINGS

6. Finding the offences under Sections 302, 307 IPC to be exclusively triable by the Court of Session, the learned committing Court vide order dated 27.09.2008, committed the case to the Court of

the learned Sessions Judge, Amritsar.

TRIAL COURT PROCEEDINGS

7. On finding a prima facie case, charges under Sections 302, 307 read with Section 34 of the IPC became framed, against both the accused, to which they pleaded not guilty, and, claimed trial.

8. In support of the prosecution case, the prosecution examined sixteen witnesses. After completion of recording of the depositions of the prosecution witnesses, the learned Additional Sessions Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused claimed false implication, and, pleaded innocence.

9. After conclusion of the trial, as, entered upon the FIR (supra), by the learned Additional Sessions Judge, Amritsar, the latter proceeded to make the afore verdict of conviction, and, also made the consequent therewith sentences (supra), upon, the present appellants.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE APPELLANTS

10. The learned counsel for the aggrieved convict-appellants herein, has vigorously argued before this Court, that the impugned verdict of conviction, and consequent therewith sentence (supra), as imposed, upon the convict-appellant, both become ridden with a gross infirmity of gross misappreciation, and non-appreciation of the evidence, existing on record. Therefore, he has argued that the appeal be accepted, and, the verdict, as challenged before this Court, be quashed, and set aside.

SUBMISSIONS OF THE LEARNED STATE COUNSEL

11. On the other hand, the learned State counsel has argued

before this Court, that the judgment, as challenged before this Court, is well merited, and does not warrant any interference.

CASE DEPENDENT UPON THE TESTIMONIES OF EYE WITNESSES PW-1, PW-2 and PW-5.

12. For proving the charges (supra) drawn against the convicts, the prosecution made reliance upon the depositions of ocular witnesses to the occurrence, who respectively stepped into the witness box, as PW-1, PW-2, and PW-5. Moreover, the injured victim (supra), in his examination-in-chief, has also made echoings, that on the fateful day, when he alongwith his father Narinder Singh, his son Kajalpreet Singh were sitting in their house, and, talking with each other, then Bakhshish Singh, and, his son Bikramjit Singh, came outside the house, and, Bakhshish Singh started hurling abuses to his father, to which his father Narinder Singh became led to come out of the house, and, also PW-1, besides his son Kajalpreet Singh, became led to come out of the house, and, then Bakhshish Singh, is echoed, to deliver a knife blow on the left side of the chest abdomen, and, backside of his father Narinder Singh. PW-1 Sawinder Singh is also the injured victim, and, he testifies in his examination-in-chief, that co-convict Bikramjit Singh delivering a knife blow on the left hand, abdomen, and on his chest, which resulted in the emergence(s) of his abdominal veins. Though the son of PW-1, one Kajalpreet Singh, is also articulated in his examination-in-chief, to be available at the crime site but on account of fear he is stated to retreat.

13. Nonetheless, he testifies that after commission of the above crime incident(s), the accused fled away from the site of occurrence.

The father of PW1, Narinder Singh is stated to succumb in hospital to

the injuries delivered, upon his person by co-convict Bakhshish Singh, whereas, in respect of his receiving treatment qua the injuries suffered by him, in sequel to the assault made, upon his person, by co-convict Bikramjit Singh, he deposes that he too became hospitalized. He was inmated in the ICU unit of Janta Hospital. In his examination-in-chief, he has proven his previous statement recorded in writing. PW-1 also suffered the ordeal of an exacting cross examination, and, yet during the course thereof, the defence counsel failed to elicit from him, any echoing qua the deposition(s) (supra), as, comprised in his examination-in-chief rather being engineered, false, or, contrived. Therefore, credence is to be assigned to the deposition of PW-1.

14. Since PW-1 in his examination-in-chief, has deposed that at the crime site alongwith him one Ranjit Kaur, and, his son Kajalpreet Singh were also available, and, when both the above, upon their respectively entering into the witness box as PW-2, and, PW-5, have in their respectively rendered examinations-in-chief, completely corroborated the deposition(s) (supra), as made by PW-1. Resultantly when therethrough corroboration, is meted to the deposition of the injured victim, as such, credence, is to be assigned to the depositions' of the ocular witnesses to the occurrence. The further predominant reason for assigning credence to the depositions of the ocular witnesses to the occurrence, becomes grooved in the factum, that each of the witnesses have deposed with utmost consistency, and, also bereft of any strain, or, any blemish of each grossly improving, or, embellishing upon their respectively made previous statements in writing. Further, rather when they also deposed bereft of any inter-se, or, intra-se contradictions,

resultantly this Court becomes completely convinced, that utmost evidentiary sanctity is to be assigned to their respectively made testifications.

MEDICAL EVIDENCE

15. Though primacy is to be assigned to credible ocular account rendered by the prosecution witnesses, hence in support of the genesis of the prosecution witnesses, but yet as an abundant safeguard corroboration thereto is also required to be meted by medical evidence. As above stated, Narinder Singh succumbed to fatal injuries (supra), as became entailed upon his person by Bakhshish Singh, through his delivering knife blows, on the left side of the chest abdomen, and, on his back side. The deceased Narinder Singh initially became meted treatment by PW-4. PW-4 has in his examination-in-chief made revelations, that upon his making medical examination, of Narinder Singh, his observing upon his body, the hereinafter extracted injuries.

- “1. Incised wound on left shoulder 3 inches in length actively bleeding.
2. Incised wound on left lower chest extending to the upper abdomen on the same side, 3 inches in length.
3. Deep incised wound, in inches in length, on the right gluteal (back), bleeding profusely.”

16. PW-4 in his examination-in-chief, has specifically echoed that the cause of death of the deceased Narinder Singh, in all probability arose from massive bleeding occurring from the above referred wounds.

17. Further, in his examination-in-chief, has also made echoings, that upon his making clinical examination(s) of the injuries occurring on the body of injured victim Sawinder Singh, his making the

hereinafter extracted observations.

- “ 1. 6 inches incised wound on the left hand dorsum.
2. 4 inches incised wound left ulnar side forearm.
3. 3 inches incised wound left forearm, dorsal side.
4. 2 inches incised wound left elbow.
5. 2 inches incised left side of chest in middle lateral aspect.
6. 4 inches incised wound with fractures of ribs and penetrating wound 5 to 6 cms below the injury no. 6. ”

18. Moreover, during the course of his examination-in-chief, he has made a candid declaration, that the above extracted injuries were causable through user of sharp edged weapons' on the respective portions of the bodies of the above persons.

19. Therefore, the above extracted injuries, as become proven to be occurring on the respective bodies of the persons' examined, do unflinchingly not only prove the ocular version, but also candidly prove the users' thereons of the incriminatory weapons of offence by the convicts.

20. Moreover, PW-11 has also proven the MLR drawn with respect to injured victim Sawinder Singh, and, to which Exhibit PR is assigned, and, in his examination-in-chief, he has also echoed, that his observing, on the body of Sawinder Singh, the hereinafter extracted injuries.

- “ 1. A six inches stitched wound over the dorsum of left hand extending from the lateral aspect of left index finger to dorsum of hand.
2. A four inches stitched wound over the left side of forearm in the lower 1/3rd extending upto the anterior aspect.
3. A three inches stitched wound over the left forearm over the posterior aspect being 9 cms from the wrist joint.
4. A two inches stitched wound over the left olecranon process.
5. A two inches stitched wound over the left lateral aspect of the chest in the upper one.
6. A four inches stitched would 4 cms lateral and posterior

to injury no. 5.

7. A six inches stitched wound over the left iliac fossa.

8. A 17 cms stitched wound over the centre of lower abdomen.

9. Multiple bruises of reddish brown discolouration over the back of chest.”

21. Moreover, he also made a communication in his examination-in-chief, that injuries No. 1, 2, 3, 4 and 5 were simple whereas, injury No. 6 was dangerous to life, and, was caused by user of a sharp edged weapon, on the relevant portion of the body, besides, he has also pronounced, that even injury No. 7 was dangerous to life, and, that it was causable through users' of a sharp edged weapon, on the relevant portion of the body of the victim.

INFERENCES FROM MEDICAL EVIDENCE

22. A reading of the above depositions, as made by PW-4, and, PW-5, does arouse a formidable opinion on this Court, that indeed the deceased Narinder Singh suffered his demise in consequence to the deep incised wounds, as become extracted above, and, also this Court becomes formidably convinced, to conclude that they were causable thereons, through users of sharp edged weapon(s) on the respective portions of the body of the deceased. Resultantly, the above deposition as rendered by PW-4, in respect of the cause of demise of deceased Narinder Singh, stems a conclusion, that therethrough credible ocular account rendered by PW-5 hence acquires enhanced fortification.

23. Moreover, since as above stated with both PW-4, and, PW-11, proving the entailment of simple, as well as, grievous injuries, on the person of injured victim Sawinder Singh, and, also with both proving, that the entailments thereons, was through users of sharp

5 to be dangerous to life, therefore, the above assault injuries, as became sustained by injured victim Sawinder Singh, rather also become related to the crime event which occurred at the crime site, and, which has been deposed with utmost consistency by the ocular witnesses (supra), to the crime event.

POST MORTEM REPORT

24. The post mortem report, Exhibit PB, as became drawn in respect of the deceased carries, details qua ante mortem injuries, becoming found on the body of the deceased, injuries whereof are para materia with the injuries, as became testified by PW-4, vide original bed head ticket, to which Exhibit PC is assigned. Exhibit PB also carries therein an opinion, which becomes extracted hereinafter, qua theirs' becoming the cause of demise of the deceased. Significantly, when the ante mortem injuries (supra) are deposed, with utmost inter-se corroboration by PWs (supra), to become caused by the convicts', and, with their respective testifications also matching the hereinafter extracted opinion appertaining to theirs becoming sequelled by sharp edged weapon(s). Resultantly the prosecution has proven the users, of sharp edged weapon, by the convict(s) concerned, on the body of the deceased. Moreover, both the convicts' attract qua the above demise of deceased Narinder Singh, the principle of joint liability, as, carried in Section 34 of the IPC.

“ Injuries are of antemortem origin and are caused by sharp pointed weapon. In my opinion, cause of death in this case is hemorrhage and shock as a result of injury no. 2 which is sufficient in ordinary course of nature to cause death.”

DISCLOSURE STATEMENTS AND RECOVERY MEMO(S)

appeal offences by the investigating officer concerned, he recorded the signed disclosure statement of co-convict Bakhshish Singh, to which Exhibit PGG is assigned, and, also recorded the signed disclosure statement of co-convict Bikramjit Singh, to which Exhibit PHH is assigned. A reading of their respectively made disclosure statements, does reveal, that not only both confessing their participation, in the crime event, but also reveals theirs' evincing their readiness to cause recoveries of the relevant incriminatory items, to the investigating officer concerned, and, also as revealed, through recovery memo(s) respectively comprised in Exhibit PJJ, and, in Exhibit PLL, qua theirs also respectively causing the relevant recoveries, to the investigating officer concerned. The above drawn disclosure statements when become signed by each of the co-convicts, and, also when they led to the making of apposite recoveries at their respective instances, to the investigating officer concerned. In consequence, sanctity is to be meted to the above drawn memo(s). Though the assigning of sanctity thereto would become waned only, when they had ably denied, the existence of their respective signatures thereons, and or, had efficaciously proven that the relevant recoveries, were engineered, or, contrived through a clever strategem being deployed by the investigating officer concerned, but yet a reading of the deposition of PWs concerned, does not reveal, that the above possible exculpatory pleas, hence for negating the evidentiary worth of the above drawn memo(s), becoming efficaciously proven.

26. In sequel, both the above drawn memo(s) acquire tenacious evidently worth. Resultantly they also corroborate the above credible

ocular account rendered qua the prosecution case, and, also corroborate the medical account rendered in respect thereof.

FSL REPORT

27. The weapons' of offence, as became recovered through the recovery memo comprised in Exhibit PJJ, and, Exhibit PLL, and, preceding wherewiths, the signed disclosure statements' of the convicts' were drawn, and, as become respectively embodied in Exhibit PGG, and, in Exhibit PHH, did become subsequently sent to the serologist working at the FSL concerned, for his making an opinion whether the blood stains' carried on the relevant items, rather belonging to the blood group of the deceased, and, or to the blood group of the injured.

28. A perusal of the report of the FSL, report whereof becomes extracted hereinafter, and, to which Exhibit PPP is assigned, does unfold, that the serologist working there, on making an examination of the blood stains' carried on the relevant weapons' of offence, has in Exhibit PPP relented from making an affirmative opinion thereon, qua the stains' of blood, if any, carried thereons belonging to the blood group of the deceased, and or, to the blood group of the victim-injured, and, has only opined that the relevant incriminatory items sent are stained with human blood. Consequently, there is an opinion by the FSL concerned, appertaining to the blood stains' carried on the weapons' concerned, rather not belonging to the blood group of the deceased, and or, to the blood group of the injured.

“ The exhibits contained in the parcels A, B and C are stained with human blood.”

CONCLUSION

29. Nonetheless, the above inconclusivity of opinion, does not yet foster any conclusion from this Court, that the convicts' deserve a finding of acquittal becoming recorded. The above inference becomes grooved in the trite factum, that it is only attributable to a deep fault, on the part of the investigating officer concerned, to ensure the makings of appropriate inter-se matchings inter-se the blood stains', as carried on the incriminatory weapons' of offence, with the blood group of the deceased Narinder Singh, and or, with the blood group of the injured- Sawinder Singh. The reason being that, he failed to collect from the family members of the deceased, and or, from the family members of the injured, their respective FTM Cards, revealing therein the blood group of the deceased, and or, of the injured. Only, if the above had been done, and, was thereafter purveyed to the serologist concerned, to ensure qua his becoming ably facilitated to make the best inter-se comparison(s), or, inter-se matchings, and, only if then the serologist concerned, had opined that there is lack of complete inter-se matchings, rather than a verdict of acquittal was amenable to become recorded by this Court, otherwise not.

30. Reiteratedly, since the FTM Card depicting the blood group of the deceased, and or, of the injured, never became collected by the investigating officer concerned, rather from the family members of the deceased, and or, from the family members of the injured, and, also when it did not become sent to the FSL concerned, alongwith the other relevant incriminatory items. Therefore, the Serologist concerned, became unable to make the best appropriate inter-se matchings.

Consequently, also any inconclusivity of opinion in respect of the blood stains' carried thereons, belonging to the blood group of the deceased, and or, to the blood group of the injured, does not at all, yet lean this Court to draw a verdict of acquittal qua the convicts'.

FINAL ORDER

31. In consequence, there is no merit in the appeal, and, it is dismissed. The impugned verdict(s), and, consequent therewith sentence(s) (supra) are affirmed and maintained.

32. The case property, if any, be dealt with in accordance with law after the expiry of period of limitation for the filing of an appeal. The records be forthwith sent down.

(SURESHWAR THAKUR)
JUDGE

(N.S. SHEKHAWAT)
JUDGE

05.09.2022

kavneet singh

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