

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

**Criminal Appeal No. D-512-DB of 2018
Date of Decision: 02.05.2022**

Inderjit Singh @ Sunny

... Appellant

versus

State of Punjab

...Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. K.S. Dhillon, Legal Aid Counsel
for the appellant.

Mr. H.S. Grewal, Addl. A.G, Punjab.

RITU BAHRI, J.

This appeal is against the judgment and order dated 13.03.2018 passed by the learned Addl. Sessions Judge, Ludhiana (herein after to be referred as 'the trial Court'), whereby appellant, Inderjit Singh @ Sunny, was convicted under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.20,000/- and in default of payment of fine, the appellant shall further undergo imprisonment for a period of six months.

Brief facts of the case as recorded by the trial Court reads as under:-

“On 17.4.2014 PW1 Inspector Sarabjit Singh alongwith other police officials were going towards Isher Nagar on Govt.,vehicle Scorpio bearing No.PB-10CB-0404. When the police party reached near Simran Palace, Lohara canal then Satwinder Singh complainant met the police party and he got recorded his statement, that on 17.4.2014 at about 6 P.M.,after completing his duty at the police station he was going to his house. When he

reached at Lohara Bridge then an unknown person told him that one dead body of a person aged about 30-32 years who was wearing black clothes in pool of blood, is lying in an unoccupied house in the opposite direction. On this he went to that place and saw the dead body of a person aged about 30-32 years lying in the pool of blood. There were injuries on his head and on left arm of sharp edged and blunt weapons. He was going to inform police. SHO Sarabjit Singh of P.S.Daba met him near Simran Palace where he recorded his statement Ex.PA. IO sent ruqa to the police station through HC Manohar Lal for the registration of FIR on the basis of which FIR Ex.PB was recorded by SI Kamal Dutt. Thereafter IO alongwith police party and complainant reached at the spot where IO inspected the spot and prepared rough site plan Ex.PC. IO prepared inquest report Ex.PD of the dead body of unknown person and recorded statements of witnesses. IO lifted blood stained earth from the spot and put the same into a plastic box and prepared a parcel. The parcel was sealed by IO with his seal bearing impression SS and IO took the parcel into police possession vide memo Ex.PE. One blood stained brick was recovered from the spot near the dead body. IO prepared a parcel of the brick and sealed the parcel with his seal bearing impression SS. The parcel was taken into police possession vide memo Ex.PF. IO took photographs Ex.P1 to P6 of the dead body with his personal camera. The dead body was sent to civil hospital, Ludhiana for keeping the same in mortuary and get the same identified vide his request Ex.PG through ASI Gurjit Singh and HC Pardeep Singh. IO got the photographs developed from the laboratory. On 19.4.2014 the photographs were taken into police possession vide memo Ex.PI. On 21.4.2014 IO deputed ASI Gurjit Singh to get conducted postmortem on the dead body. On that day the postmortem was conducted. After postmortem examination ASI Gurjit Singh handed over to IO clothes of deceased. IO prepared a parcel of the clothes and got the same deposited with MHC. On 23.4.2014, Banke Lal father of deceased and Parmod Kumar brother of deceased came to police station to get the report lodged regarding missing of deceased Manoj Kumar. The photographs of deceased were shown to them and they identified the deceased from the photographs. IO had recorded statement of the official who took viscera to chemical examiner, Kharar. IO had also recorded statement of MHC. The brick and blood stained earth were sent to chemical examiner for test report and the same has not been received from chemical examiner office. On 20.6.2014 file of this case was entrusted to PW3 Inspector Ashok Kumar for further investigation. On that day Parmod Kumar brother of deceased was joined into investigation. His statement was recorded that deceased Manoj

Kumar was his brother. He was driver with Cheema Councilor. His brother Manoj Kumar was mechanic of power press. His brother Manoj Kumar used to led money to the people and used to run committee. On 10th of April his brother Manoj Kumar left him at Railway Station as he was to go to his village. After leaving him at railway station his brother Manoj Kumar return back to our rented accommodation at Kabir Nagar. On 18th April he got a phone call from Rajdev who used to reside as a neighbourer adjoining his rented accommodation. On the phone he was intimated that his brother was not traceable for the last 3 days and he has not returned home at Ludhiana. Thereafter he called his father Banke Lal who resides at village and told him that Manoj Kumar has not returned at home for the last 3 days. Thereafter his father also gave him calls 3-4 times due to which he got perturbed. On 23rd April, he came back at Ludhiana and started inquiring about his brother Manoj Kumar. He alongwith his father also reported the matter with the police. Police showed us the clothes drenched with blood alongwith photographs of his brother and asked us to identify him. He identified his brother from the clothes he was wearing and his wrist as from the face he could not be identified. He again inquiring about the death of his brother. He came to know that on 16th April accused Inderjit Singh had called his brother and told him to come to Nirmal Palace but his brother asked him to come to his house at Kabir Nagar. Upon which accused Inderjit Singh again told his brother to come at Nirmal Palace and refused to come at his house at Kabir Nagar. Thereupon his brother Manoj Kumar had gone to Nirmal Palace on asking of accused. Accused made his brother sit in Auto and took him to Ishwar Nagar and murdered him brutally inside the shop. The accused had started committee of one lac with his brother and accused had taken the committee as such his brother asked for the money due to which accused murdered his brother. The dispute with regard to the committee money was going on between his brother and accused. His statement u/s 175 Cr.P.C., was also recorded by the police which is Ex.PW8/A. After that IO conducted raids in order to arrest Inderjit Singh but he could not be arrested. On 26.6.2014 PW3 recorded the statement of Bachittar Singh numberdar regarding extra judicial confession of accused that in the month of June 2014 accused Inderjit Singh son of Balwinder Singh who was earlier known to him who used to ply auto came to meet him at his house who was in perplexed condition. He stated that he wants to discuss some urgent matter with him. At that time he was sitting alone. Then he disclosed to him that he was having a dispute with Manoj Kumar regarding some money transaction. He further disclosed that on 16.4.2014 at about 10 P.M., he took Manoj Kumar in a three

wheeler in the area of canal bridge, Lohara and he gave brick bat blow on the body of Manoj Kumar and gave knife blow on his arm and committed the murder of Manoj Kumar and the dead body was thrown in an abandoned shop. He further confessed that some cash amount, mobile phone and wallet of Manoj Kumar were taken by him. He further stated that now the police is searching for him and requested him to produce him before the police. On 30.6.2014 PW3 Inspector Ashok Kumar arrested accused Inderjit Singh from Sherpur Chowk vide arrest memo Ex.PW3/A. Intimation of his arrest was given to Balwinder Singh vide intimation memo Ex.PW3/B. His personal search memo Ex.PW3/C was prepared. One three wheeler No.PB-10(Temp) 8000 was recovered from the possession of accused. He could not produce any document about the ownership of three wheeler which was taken into possession vide memo Ex.PW3/D. IO inspected the place of arrest and prepared rough site plan Ex.PW3/E. The accused was interrogated. During interrogation he suffered disclosure statement that during the night of 16.4.2014 he took Manoj Kumar deceased on his three wheeler No.PB-10 (Temp) 8000 from near Nirmal Palace, Daba towards Lohara canal bridge and whey they were going they were quarreling and the fight between them escalated. Then he parked his three wheeler on the side of road where there was an abandoned shop without shutter, during the scuffle he hit Manoj Kumar with a brick on his face and he fell down inside the shop and while Manoj Kumar was lying down he gave blows of bricks to Manoj Kumar and he died at the spot. Accused further disclosed that the blood had fallen on his shoes, on the left arm of T-shirt which he was wearing at that time and some blood had also fallen on his arm. He further disclosed that after the murder of Manoj Kumar he took out purse from the rear pocket of the pent of Manoj Kumar which was containing Rs.2460/- and his Aadhar card and there was a mobile Samsung make having two sims in the pocket of shirt of Manoj Kumar. He further disclosed that he broke the sims and threw the same near Jain Da Theka. Accused further disclosed that he had washed his blood stained shoes, T-shirt in Kawality Chowk, Shimlapuri at a tap and that shoes, T-shirt and pent have been kept concealed by him in his house in bedroom under the bed after putting the same in a polythene and the mobile of deceased in which he had put his two sim cards bearing No.9915533108 and 9779325278 is lying concealed in his bedroom in the drawer of the back of the bed. He further disclosed that he had taken out Rs.2460/- from the purse of deceased and had spent the same but had threw the purse and Aadhar card in a vacant plot near the place where he murdered Manoj Kumar and had concealed the same under the bricks. Accused further disclosed that he can

get recover mobile phone, aadhar card, purse, shoes, T-shirt pent from the places disclosed by him. PW3 recorded his disclosure statement Ex.PW3/F. Firstly accused was taken to his house from where he got recovered his pent, T-shirt and shoes which were lying in a polythene under the bed and also got recovered mobile phone alongwith sim cards from the drawer. PW3 prepared a parcel of clothes and shoes and sealed the parcel with seal bearing impression AK. The recovered mobile and sim cards were put into plastic box and parcel was prepared. PW3 sealed the parcel with his seal bearing impression AK. The parcels were taken into possession vide recovery memo Ex.PW3/G. 7 IO inspected the spot and prepared rough site plan Ex.PW3/H. Thereafter accused was taken to the place disclosed by him from where he got recovered purse and Aadhar card of deceased Manoj Kumar. The recovered purse and Aadhar card were put into a plastic box and a parcel was prepared. IO sealed the parcel with his seal bearing impression AK and took the parcel into police possession vide memo Ex.PW3/I. IO inspected the spot and prepared rough site plan Ex.PW3/J. IO recorded the statement of witnesses. On return to police station case property was deposited with MHC and accused was put behind the bars. On the next day accused was produced before the Ld.Magistrate and his police remand was obtained. On 1.7.2014 during interrogation he suffered disclosure statement during the night of 16.4.2014 he took Manoj Kumar deceased on his three wheeler No.PB-10 (Temp) 8000 from near Nirmal Palace, Daba towards Lohara canal bridge and while they were going they were quarreling and the fight between them escalated. Then he parked his three wheeler on the side of road where there was an abundant shop without shutter. He further disclosed that then he took out a knife from the dashboard of his three wheeler and hit Manoj Kumar with knife on his left arm and during the scuffle when Manoj Kumar fell down then he gave blows of brick to Manoj Kumar and murdered him. He further disclosed that he had thrown the knife and the cloth with which he cleaned his blood stained hands in a vacant plot in the bushes near the place of occurrence which are in his exclusive possession and knowledge and can get the same recovered. IO recorded disclosure statement of accused Ex.PW3/K. Thereafter accused was taken to the place disclosed by him on 8 4.7.2014 and he got recovered knife from that place. IO prepared rough sketch Ex.PW3/L of the recovered knife and converted the same into a parcel. IO sealed the parcel with his seal bearing impression AK and took the same into possession vide memo Ex.PW3/M. IO inspected the spot and prepared rough site plan Ex.PW3/N. IO recorded the statement of witnesses. ON return to the police station case property was deposited with MHC. Case property

i.e., three wheeler Ex.MO-1, Pent Ex.MO-2, TShirt Ex.MO-3, shoes Ex.MO-4, Chura Ex.MO-6, two sim cards Ex.MO5, Purse Ex.MO-7 and Aadhar card Ex.MO-8. After completion of the investigation and other necessary formalities, challan against the above named accused was prepared and presented in this Court.”

Copies of challan were supplied to the appellant free of cost as required under Section 207 Cr.P.C. by the learned Illaqa Magistrate.

Since the offence under Section 302 of Indian Penal Code is exclusively triable by the Court of Sessions, so the learned Illaqa Magistrate, vide his order dated 24.9.2014, committed the instant case to the court of Sessions.

A prima facie case punishable under Sections 302 of Indian Penal Code was found to be made out against the appellant and charges were accordingly framed on 20.10.2014 which were read over and explained to the appellant, to the contents of which appellant pleaded not guilty and claimed trial.

To prove its case prosecution examined Inspector Sarabjit Singh as PW1, Satwinder Singh as PW2, Inspector Ashok Kumar as PW3, Sanjay as PW4, Banke Lal as PW5, Bachittar Singh as PW6, Kuldeep Singh as PW7, Parmod Kumar as PW8, Dr.Minisha as PW9, ASI Sukhpal Singh as PW10, ASI Gurjit Singh as PW11, HC Sarabjit Singh as PW12, ASI Dalip Singh as PW13, and Ld.Addl.PP closed the prosecution evidence.

After closure of prosecution evidence, statement of appellant as required under Section 313 Cr.P.C. was recorded in which all the incriminating circumstances appearing against the appellant were put to him, to which he denied the same and reaffirmed his innocence by taking categorical plea that he has been falsely implicated in this case. Appellant

did not led any evidence in defence.

The trial Court after going through the entire evidence led by the parties, came to a conclusion that prosecution has fully proved its case beyond all reasonable shadow of doubt against the appellant as alleged in the report u/s 173 Cr.P.C., as well as in the charge sheet dated 20.10.2014 u/s 302 IPC for murdering Manoj Kumar and thus, convicted and sentenced the appellant as mentioned above.

Learned counsel for the appellant has argued that the present is a case of blind murder and there is no evidence on record to show that Manoj Kumar (since deceased) was last seen in the company of the appellant. There is no eye witness to the occurrence who saw that the appellant has committed the murder of Manoj Kumar. The entire case is based on circumstantial evidence and extra judicial confession made by the appellant before Bachittar Singh Lambardar (P.W.6) admitting the manner of committing the murder of Manoj Kumar with motive and got effected the recovery of weapon of offence i.e.,knife by appellant and also recovered blood stained brick from the spot by the police near the dead body of deceased Manoj Kumar and recovered three wheeler in which deceased Manoj Kumar was taken and other circumstantial evidence. This evidence cannot be made basis for convicting the appellant.

Learned counsel for the appellant has further argued that blood stained brick with which head injury was caused to the deceased was not sent for chemical examination and clothes of appellant allegedly stained with blood were not sent for chemical examination to show that the same were stained with blood of the deceased.

Learned counsel for the appellant has further argued that

Lambardar Bachittar Singh-P.W.6 allegedly with whom extra judicial confession was made by the appellant is a stock witness of the police and procured by the police in connivance with the complainant party to solve the blind murder case by falsely implicating the appellant and Bachittar Singh Lambardar never informed the family members of the deceased regarding the extra judicial confession made by the appellant regarding the murder of Manoj Kumar and moreover there is long delay for giving information to the police regarding the extra judicial confession made before him by the appellant regarding murder of Manoj Kumar and evidence of Bachittar Singh Lambardar cannot be relied upon solely for convicting the appellant in this case as his deposition is doubtful one and is without any force and substance and is thus liable to be rejected.

Heard learned counsel for the parties at length.

Reference at this stage can be made to statement of P.W.2-Satwinder Singh who has proved his statement Ex.PA on the basis of which FIR Ex.PB was registered against unknown person in which later on appellant was nominated. PW2 complainant proved the fact that on 17.4.2014 one unknown person told him about the lying of dead body of deceased at abandoned place and on reaching by complainant, a dead body of 30/32 years old man having head and arm injury was found lying in pool of blood

PW8 Parmod Kumar brother of the deceased Manoj Kumar proved that on 10.4.2014 he went for his village and on 18.4.2014 one Raj Dev neighbourer of Parmod Kumar, where they were living on rented accommodation telephonically informed regarding missing of Manoj Kumar since last 3 days and then PW8 alongwith his father PW5 Banke Lal on

23.4.2014 came at Ludhiana for reporting the missing report of Manoj Kumar where police showed photographs of deceased Manoj Kumar and then Parmod Kumar PW8 and Banke Lal PW5 brother and father of the deceased respectively identified the dead body of Manoj Kumar being their brother and son respectively from the photographs Ex.P1 to P6 and they also proved their statements qua identification of the deceased by Banke Lal as Ex.PW5/A and by Parmod Kumar as Ex.PW8/A. PW8 further proved that appellant Inderjit Singh had started committee i.e., money transaction with his brother and appellant had taken the committee and there was dispute between Inderjit Singh and his brother of amount of Rs.1 lac and due to that reason, appellant committed the murder of Manoj Kumar and in this manner motive has been proved by PW8 for murdering Manoj Kumar by appellant. This above version of PW8 has been fully and duly corroborated by PW5 Banke Lal father of Manoj Kumar deceased.

Further PW6 Bachittar Singh Lambardar duly proved on record that he was a Lambardar of village Lohara and in the month of June 2014 appellant Inderjit Singh who was earlier known to him who used to ply auto came to meet him at his house in a perplexed condition and disclosed that he was having a dispute with Manoj Kumar regarding some money transaction (committee) and on 16.4.2014 at about 10 P.M., he took Manoj Kumar in his three wheeler in the area canal bridge Lohara where he gave brick blow on Manoj Kumar and knife blow on his arm and committed murder of Manoj Kumar and dead body was thrown in an abandoned shop. He further proved that appellant also confessed that some cash amount, mobile phone and wallet of deceased was also taken by him. During cross-examination it

has also been deposed by PW6 that deceased was residing at Kabir Nagar,

and was doing job in the factory and he was dealing in committee. He admitted that the deceased Manoj Kumar was known to him and witness Parmod Kumar personally prior to the occurrence and appellant was also known to Bachittar Singh.

The extra judicial confession can be accepted and can be made basis of conviction if it passes the test of credibility and if it is made in a fit state of mind. In the present case, the appellant has made the extra judicial confession before Lambardar Bachittar Singh-P.W.6 with his own free will and was not result of any compulsion, inducement, threat or harassment. In the present case, the circumstantial evidence is complete with its chain giving only one inference that the appellant has committed the murder of Manoj Kumar.

Further the argument of learned counsel for the appellant that the appellant can be given benefit of doubt as blood stained brick with which head injury was caused to the deceased, was not sent for chemical examination and clothes of appellant allegedly stained with blood were not sent for chemical examination, is liable to be rejected as during confessional statement made before the police, the appellant confessed that he had washed his shoes and T-shirt on which blood was stained. Thus, no purpose would be served by sending the shoe and t-shirt for chemical examination as the same were washed by the appellant with the water. This cannot be considered to the fatal of the case of prosecution, as there was sufficient material on record against the appellant, which is consistent and inspire confidence.

The next argument of learned counsel for the appellant that there was no eye witness to the occurrence and thus, this is a blind murder,

is also liable to be rejected, as the recovery of three wheeler and mobile phone have been proved to be recovered from the appellant. The appellant was not able to explain as to how he came into the possession of the same. The entire case is based on circumstantial evidence and the appellant made an extra judicial confession before Lambardar Bachittar Singh-P.W.6 that he committed the murder of Manoj Kumar with motive. From the statement made by the appellant, recovery of weapon i.e knife, blood stained brick and three wheeler were effected from the spot by the police.

It is not a case where accused-appellant has raised any plea of prosecution witnesses for falsely implicating him in a grave and heinous crime of murder. No defence witness was examined by the appellant to explain why the circumstantial evidence on record is against him. It has been duly proved on record by the prosecution that it is the appellant who committed the murder of Manoj Kumar. There is also nothing on record that the appellant was under threat, pressure etc for making confessional statement before Bachhitar Singh Lambardar-P.W.6 who is an independent witness.

In view of the above discussion, the appeal is dismissed being devoid of any merit.

(RITU BAHRI)
JUDGE

02.05.2022
G Arora

(ASHOK KUMAR VERMA)
JUDGE

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