IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Reserved on: 07.12.2022
Pronounced on: 12.12.2022

1. ***CRA-D-666-DB-2014***

PARVINDER SINGH @ SIDHU .....Appellant

Versus

STATE OF PUNJAB .....Respondent

2. ***CRA-D-966-DB-2017 (O & M)***

CHARANJIT SINGH @ CHANNA .....Appellant

Versus

STATE OF PUNJAB .....Respondent

3. ***CRA-S-682-SB-2014***

SONIA .....Appellant

Versus

STATE OF PUNJAB .....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI

Argued by: Mr. P.P.Chahar, Advocate
for the appellants
in CRA-D-966-DB-2017 and CRA-S-682-SB-2014.

Mr. Ashwani Bhardwaj, Advocate
for the appellant in CRA-D-666-DB-2014
(legal aid counsel).

Mr. Arun Gupta, AAG, Punjab.

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SURESHWAR THAKUR, J.

1. Since all the afore criminal appeals arise from a common judgment, therefore, all are amenable for a common verdict becoming recorded thereons.

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2. All the criminal appeals are directed by the convicts concerned, against the verdict of conviction made on 22.01.2014 by the learned Additional Sessions Judge, Jalandhar, upon, Sessions Case No.8/13. Through the above drawn verdict, the learned trial Judge, recorded qua accused Parvinder Singh @ Sidhu and Charanjit Singh @ Channa, a finding of conviction in respect of charges qua offences punishable under Section 302/364 read with Section 120-B and 201 of the IPC, but in respect of charges drawn for offences (supra), against accused Balwant Singh @ Bablu and Avtar Singh @ Laddi, , he made a finding of acquittal.

3. Moreover, through the verdict (supra), the learned trial Judge recorded a finding of conviction against co-accused Sonia qua an offence punishable under Section 201 of the IPC.

4. Moreover, through a separate sentencing order drawn on 22.01.2014, the learned Additional Sessions Judge, Jalandhar imposed upon the convicts (supra), both sentence(s) of imprisonment as well as of fine but in the hereinafter extracted manner :-

Convict Palwinder Singh @ Sidhu is sentenced as under :-

Under Section 302 r/w 120-B IPC	To undergo imprisonment for life and to pay a fine of Rs. 10,000/-. In default of payment of fine, he shall further undergo rigorous imprisonment for a period of six months.
Under Section 364 read with 120-B IPC	To undergo rigorous imprisonment for a period of eight years and to pay a fine of Rs. 5,000/-. In default of payment of fine, he shall further undergo rigorous imprisonment for a period of three months.
Under Section 201 IPC	To undergo rigorous imprisonment for a period of five years and to pay a fine of Rs. 2,000/-. In default of payment of fine, he shall further undergo rigorous imprisonment for a period of one month.

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Convict Charanjit Singh @ Channa is sentenced as under :-

Under Section 302 r/w 120-B IPC	To undergo imprisonment for life and to pay a fine of Rs. 10,000/-. In default of payment of fine, he shall further undergo rigorous imprisonment for a period of six months.
Under Section 364 read with 120-B IPC	To undergo rigorous imprisonment for a period of eight years and to pay a fine of Rs. 5,000/-. In default of payment of fine, he shall further undergo rigorous imprisonment for a period of three months.
Under Section 201 IPC	To undergo rigorous imprisonment for a period of five years and to pay a fine of Rs. 2,000/-. In default of payment of fine, he shall further undergo rigorous imprisonment for a period of one month.

Convict Sonia is sentenced as under :-

Under Section 201 IPC	To undergo rigorous imprisonment for a period of five years and to pay a fine of Rs. 2,000/-. In default of payment of fine, he shall further undergo rigorous imprisonment for a period of one month.

5. All the sentence(s) were ordered to run concurrently, but the period spent in custody by the convicts during the pendency of investigation and trial of the case, was, ordered to be set off against the above imposed substantive sentence(s) of imprisonment, upon, the convicts.

6. Since, there is no material on the record suggestive that, from the verdict of acquittal, as made by the learned trial Judge concerned, qua Balwant Singh @ Bablu and Avtar Singh @ Laddi, the aggrieved concerned, have preferred any appeal against the same, before this Court. Therefore, the above verdict of acquittal acquires conclusive and binding effect.

7. All the convicts(supra) become aggrieved from the verdict of conviction (supra), and, also become aggrieved from the consequential therewith sentence(s) (supra), as became imposed upon

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them by the learned Convicting Court, and, have chosen to assail them, through theirs' constituting the instant appeals before this Court.

Factual background

8. The genesis of the prosecution case becomes encapsulated in the appeal FIR to which Exhibit PW19/B is assigned. The present FIR is lodged at the instance of Lehmber Singh, grandfather of the deceased child Gurjit Singh. The complainant Lehmber Singh, on 19.04.2010, has made narrations thereins that he is an agriculturist and was residing at village Rahimpur. He had one son and a daughter. His son Sarabjit Singh was having a male child, namely, Gurjit Singh aged about 8 years. On that day, his grandson Gurjit Singh alighted from the school bus of Navjeevan Public School, Rahimpur, where he was studying alongwith his younger sister aged about 6 years. Other children who were the grandson and grand daughter of his (complainant) brother Joginder Singh also were with Gurjit Singh as they were all studying in the same school. They hardly had covered a little distance after getting down from the school bus, then at about 1.45 P.M., he (complainant) alongwith his son Sarabjit Singh and nephew Jaswant Singh moved ahead to pick up their children. In the meanwhile, a white coloured Indica Car occupied by four youth suddenly came there and they forcibly abducted his grandson Gurjit Singh after opening the door of the car within their sight. At this, they raised hue and cry shouting at them but the said persons fled in the car taking away his grandson. The complainant had a strong suspicion that his grandson was kidnapped by Sukhwinder Singh son of Fateh Singh, who had been his employee and worked as a driver but had left the job for

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the last about six months. The said Sukhwinder Singh earlier also threatened him on the phone that he would kidnap his grand children from school. On the basis of the statement suffered by the complainant, the present case was got registered and the investigations ensued. The said Sukhwinder Singh was also interrogated but no proof of his involvement in the commission of crime was found.

Investigation proceedings

9. On 25.06.2010, SHO Inderjit Singh was carrying checking of the vehicles and other suspected persons alongwith his other police officials by holding a naka. A motorcycle bearing No.PB08-BB-1726 driven by two youth came from the side of village Cheema. They were signalled to stop but they instead started firing at the police party. The police party returned the fire in self defence. After a brief exchange of firing, both the said youth surrendered raising their hands. They were apprehended and were enquired about their names and other particulars. One of them revealed his name as Parvinder Singh son of Darshan Singh resident of village Chak Giddar, P.S.Dharamkot, District Moga. From his personal search, a pistol 12 bore alongwith cartridges was recovered. The other youth on asking revealed his name as Charanjit Singh @ Channa son of Gurpal Shah, resident of Nawa Pind Akalia, P.S.Shahkot, District Jalandhar. From his possession also, a country-made pistol alongwith live cartridges was recovered. Accordingly a case was registered against them under sections 307,34 IPC read with section 25 of Arms Act in P.S.Kartarpur vide FIR No.72 dated 25.6.2010. During investigation of this case, they both made a disclosure statement to the effect that they alongwith one driver Avtar

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Singh @ Laddi son of Des Raj, Gurpreet Singh @ Gogi son of Jassa Singh and Sonia wife af Balwant Singh in connivance of each other had kidnapped the grandson of complainant Lehmber Singh in their Indica car on 19.4.2010 for ransom. The said child was later murdered due to non-payment of ransom money demanded. After that they dug a pit to bury the deadbody of the child in the fields in village Nawa Pind Akalia.

10. During further interrogation all these accused disclosed that accused Parvinder Singh had very intimate relations with accused Sonia. The said Sonia was already known to complainant Lehmber Singh who was engaged in the profession of property business and used to lend money to the people on interest. She had even taken a loan of Rs.1,30,000/-from the complainant, which amount slowly became Rs.2,00,000/- after addition of interest therewith. Hence accused Sonia and Parvinder Singh @ Sidhu made a plan realizing that they would not be able to since return the loan amount to complainant. They both then visited complainant at his residence in order to get the time for repayment of loan extended. At that time, when they were discussing the matter, complainant's grandson was playing in the Verandah in front of them who was introduced as his grandson by complainant. They were also told that he was studying in a third standard in an English school. On coming to know these facts, both accused Sonia and Parvinder Singh planned to kidnap said Gurjit Singh for ransom so that they could make a huge money, out of which they would repay the loan as well. As a part of plan, accused Sonia suggested that for carrying out kidnapping, they would be needing one vehicle and some more men.

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Accused Parvinder Singh assured her to arrange for that. He then discussed his plan with his friend Charanjit Singh @Channa on the phone, who approved the planning and undertook to bring vehicle with the driver and one other person for the job and told that he would meet them on 16.4.2010. Accordingly Charanjit Singh made Avtar Singh @ Laddi, a driver and one Gurpreet Singh @ Gogi also join the conspiracy and they all kidnapped the child i.e. grandson of complainant when he was returning from school. After that he was brought to Sonia at her residence in Baba Colony, where she changed the clothes worn by the child by taking off his uniform. They then left the child under the care of Sonia and her husband Balwant Singh. Accused Parvinder Singh and Charanjit Singh then made a telephone call to Lehmber Singh demanding a ransom of Rs.30 lacs from him. On 22.4.2010 accused Parvinder Singh and Charanjit Singh @ Channa alongwith kidnapped child started towards Charanjit Singh's village on their motorcycle while accused Sonia and her husband came back to Baba Colony, Kapurthala. Then Charanjit Singh and Parvinder Singh killed the kidnapped child after strangulating him and buried him in the maize fields of his village. Both the said accused Parvinder Singh and Charanjit Singh were arrested in an FIR No.92 under section 307 IPC and under Section 25/54/59 Arms Act. During their interrogation, they confessed having committed the crime and suffered disclosure statements. Accordingly in pursuance of their disclosure statements, they got recovered buried remains that included skull and some bones. A video CD was prepared of the entire process of recovery of the remains of the child at the pointing of accused. On 27.6.2010 again

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both these accused got recovered a school bag of murdered child Gurjit Singh. Other accused namely Avtar Singh @ Laddi, Balwant Singh and Sonia were arrested in the case on 29.6.2010. The recovered remains/bones of child were sent to Central Forensic Science Laboratory, Hyderabad for DNA test report. The Car used in the crime bearing No.PB- 10-CB-1269 was recovered and taken into police possession.

11. 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

12. Finding the offences under Sections 302, 364, 201 IPC to be exclusively triable by the Court of Session, thus the learned committal Court vide order dated 06.12.2010, committed the case for trial to the Court of the learned Additional Sessions Judge, Jalandhar.

Trial Court Proceedings

13. On finding a prima facie case, charges under Sections 302, 364, 201/120-B of the IPC became framed, against the accused, to which they pleaded not guilty, and, claimed trial.

14. In support of the prosecution case, the prosecution examined nineteen 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 thereins, the accused claimed false implication, and, pleaded innocence. In their defence, the accused examined two

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witnesses Kewal Singh as DW-1 and Satpal, Halqa Patwari as DW-2, and, also tendered in evidence documents Ex. D1 to Ex. D2 alongwith written arguments.

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

Submissions of the learned counsel for the convicts-appellants.

16. The learned counsel appearing for the convicts-appellants has submitted with much force before this Court, that the impugned judgment suffers from a gross vice of gross mis-appreciation, and, non appreciation of evidence germane to the charge. Therefore, he prays that the instant appeals be allowed and the accused be acquitted of the charges as became framed against each of them.

Submissions of the learned State Counsel

17. On the other hand, the learned State counsel has argued that the appreciation of evidence as made by the learned Convicting Court, is merit-worthy, and, that it does not require any interference being made by this Court.

Circumstantial based evidence case.

Deposition of PW-1

18. The prosecution case has been strived to be proven, through the deposition, made before the learned trial Judge by PW-1. PW-1 in his examination-in-chief has proven his recording his previous statement before the police, to which Ex. PA is assigned. A close reading of his examination-in-chief, unfolds, that he has therein

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assigned an incriminatory role to the accused in respect of the charges, as became drawn against them. Moreover, though he claims himself to be an ocular witnesses to the occurrence, but yet in his examination-in-chief, he has not mentioned the names of the accused. However, he has assigned an incriminatory role to the accused, only on the ground, that he was having some money dealings with Parvinder Singh Sidhu, Sonia, Balwant Singh, husband of Sonia and that on the intervention of one Reeta, he had given Rs.30,000/- to the said persons. Moreover, Parvinder Singh Sidhu has been spoken by him to visiting his house to get money, and, at that time his grand daughter Mandeep Kaur and his grand son were playing. He further testifies that at that time his grand son Gurjit Singh offered tea to him. Moreover, he testifies that Parvinder Singh Sidhu, had enquired about the names of his grand children, and, had also made an enquiry about the school where they were studying, leading him to disclose that Gurjit Singh was studying in Navjiwan Public School. Balwant Singh @ Bablu has been spoken by him to sell his three marlas plot to him for a sum of Rs. 1 lakh, whereas, he had given him Rs.70,000/- in excess of the agreed sale consideration. He also testifies that he was on visiting terms with accused Sonia and Parvinder Singh, and that when he had visited the house of Sonia, she enquired from him about the arms he was having, and, also enquired from him about the cash which he was possessing, leading him to reveal to them, that he was having Rs. 25-30 lakhs. On a further enquiry from him, by the above, about the area of the land held by him, led him to disclose to them that he was the owner of 22 acres of land. He thereafter speaks that he was having money dealings with

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Sonia, Parvinder Singh Sidhu and Balwant Singh. He subsequently speaks about his being waylaid by the accused persons and resulting in the accused looting Rs. Two lakhs, whereafter theirs escaping towards Kartarpur side. A day after the kidnapping of his grandson, he speaks that he received a call at 6.30 P.M., wherein a demand of ransom of Rupees 30 lakhs was raised, besides therein it was spoken that if the said demand is accepted, it would result in getting his kidnapped grand son released from the custody of accused. The said fact is stated by him to be disclosed to the police officer.

19. Though the above last stated factum, has been spoken by PW-1, only in his examination-in-chief, and, was not spoken by him, earlier in his previously recorded statement in writing. Thus, the above fact spoken by PW-1, only in his examination-in-chief, rather makes the same, to be a gross improvement and embellishment vis-a-vis his previously recorded statement in writing. The above thus causes a further inference, that the exchange of cell phone conversations amongst the accused, and, PW-1, and also the CDRs tendered in respect of the above, do not become the prime incriminatory links, in the chain of circumstances as erected by the prosecution against the accused.

20. Be that as it may, nonetheless, yet PW-1 has proven that there were money dealings inter-se him and the accused. Moreover, he has also proven that the accused were on visiting terms with him. However, the provings of the above facts by PW-1, cannot yet coax this court, to firmly conclude that the charge drawn against the accused becomes proven.

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Deposition of PW-2

21. PW-2, Sarbjit Singh, the father of the deceased child, has also only proven the factum of occurrence of kidnapping of the deceased child, by unnamed persons in the vicinity of the school premises. He has spoken in his examination-in-chief, that the deceased Gurjit Singh was put inside a white colour Indica Car. Significantly, he alike PW-1, has not named thereins the accused, nor has assigned any incriminatory role to them in respect of theirs kidnapping deceased Gurjit Singh.

Disclosure Statement of the accused-convicts and consequent therewith recoveries.

22. During the course of investigations being made into the appeal FIR, the investigating officer subjected accused Parvinder Singh to police remand. During the course of the police remand, convict Parvinder Singh made a disclosure statement to which Exhibit PB is assigned. The contents of Exhibit PB are ad-verbatim extracted hereinafter.

> *" In the presence of the following witnesses, accused Parwinder Singh son of Darshan Singh, Caste Jat, resident of Chak Jinder, P.S.Dharamkot, District Moga, while in police custody on further interrogation made by me disclosed." On dated 19.4.10. I in the company of Charanjit Singh @ Chnna, Avtar Singh @ Laddi and Gurpreet Singh @ Gogi kidnapped child Gurjit Singh from village Rahimpur in a car and took him to Kapurthala to the Kothi of Sonia wife of Balwant Singh, resident of Kapurthala. The school dress of the child was taken off and handed over to Sonia and after riding on motor cycle bearing registration No.PB-08-BB-1726, I and Charanjit*

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both took the school bag along with note-books and books and threw in the Ganda Nalah from the bridge on Kapurthala to Nakodar road towards west side near Tahli Sahib Gurudwara Baler, Khanpur about which only I and Charanjit know and can get the same recovered by pointing out. The disclosure statement has been drawn upon which the accused Parwinder Singh appended his signatures in English and the witnesses put their respective attestation.

Parwinder Singh above said. Sd/- (In English)"

Disclosure Statement of accused Charanjit Singh.

23. During the course of investigations being made into the appeal FIR, the investigating officer subjected accused Charanjit Singh @ Channa to police remand. During the course of the police remand, convict Charanjit Singh @ Channa made a disclosure statement to which Exhibit PC is assigned. The contents of Exhibit PC are ad-verbatim extracted hereinafter.

"In the presence of the following witnesses, accused Charanjit Channa son of Gurpal Shah, Caste Balmik, resident of Nawan Pind Akalian while on police remand in police custody on further interrogation made by me disclosed," On dated 19.4.10, I, Parwinder Singh, in the company of Avtar Singh @ Laddi and Gurpreet Singh @ Gogi kidnapped child Gurjit Singh, aged 8 years, from village Rahimpur in a car and took him to Kapurthala to the Kothi of Sonia wife of Balwant Singh, resident of Sant Nagar, Kapurthala. We took off the school dress of the child and had put on to him the clothes of the son of Sonia, pent jean and shirt and handing over the school dress to Sonia and I and Parminder both took away the school bag along with note-books and books by riding on motor-cycle

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No.PB-08-BB-1726 and threw in the Ganda Nalah from the bridge on Kapurthala to Nakodar road towards west side near Tahli Sahib Gurudwara Baler, Khanpur about which only I and Parminder know and can get the same recovered by pointing out." After writing the disclosure statement was read over who admitting the same as to be correct appended his signatures in Punjabi and the witnesses put their respective attestation.

Witness:

Charanjit above said. Sd/- (In Punjabi)"

24. A perusal of the contents of Exhibits PB and PC which have been respectively signatured in English and Punjabi by both the convicts Parvinder Singh, and, Charanjit Singh @ Channa, unfolds, that thereins they have not only confessed their guilt in committing the kidnapping of child Gurjit Singh, but have also expressed their willingness to cause recovery of the school bag hence containing the books of the child.

25. Pursuant to the above signatured disclosure statements, both the convicts Parvinder Singh, and, Charanjit Singh @ Channa, led the police party to the bridge of Ganda Nalah, where the accused threw the school bag of the child hence containing the notebooks. The school bag was taken into possession by the police through recovery memo Ex.PD, and, the same was identified by Sarabjit Singh, father of the deceased child Gurjit Singh.

Re-Disclosure Statement of Convict Parvinder Singh @ Sidhu.

26. Moreover, through Exhibit PE contents whereof are extracted hereinafter, Exhibit whereof too, has been signatured by the convict, Parvinder Singh, the latter made another disclosure statement, whereins he narrated the reasons for committing the kidnapping of the

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child alongwith his co-accused, and, as become echoed by PW-1, in his examination-in-chief. The accused also confessed his guilt in the commission of murder of the child alongwith co-accused Charanjit Singh @ Channa, through, theirs' strangulating him, and, thereafter theirs' burying him at the place exclusively known to the accused.

> *"In the presence of the following witnesses, accused Parwinder Singh @ Sidhu son of Late Darshan Singh. Caste Jat. resident of village Chak Jinder, P.S.Dharamkot, District Moga while on police remand in police custody on my interrogation disclosed, "I came into contact with Sonia, resident of Chandan Nagar, Kartarpur about 1.1/2 year ago from today upon which I developed very close relations with Sonia wife of Balwant Singh above said. At my instance they sold their house in Chandan Nagar and then purchased one in Baba Colony, Mohalla Sangatpura, Kapurthala where they asked me to live with them. I also started living at times in the house of Sonia at Kapurthala. Then due to over expenditure and there being no means of income, we went short of money. Then we came to know that Lehmber Singh, resident of Rahimpur works as property dealer by coming to Kapurthala and also lends money on interest. We contacted Lehmber Singh and lent Rs.1 lac 30 thousand from him on interest. We could not pay interest for 3-4 months and Lehmber Singh above said started visiting us time and again for payment. Then we (I and Sonia) reached the house of Lehmber Singh in village Rahimpur one day on a motor cycle and besought him regarding money. When we were talking to him regarding money at his house then one child came to us while playing and Lehmber Singh said. He is my grand-son Gurjit Singh who reads in IInd Class in English Medium School at Rahimpur." Then we straightway came to Kapurthala from the house of Lehmber Singh in Rahimpur*

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without taking tea. Then on reaching home I consulted Sonia and her husband Balwant Singh that I have a plan with which we will get a lot of money. We will spend more money on the Kothi and make a descent Kothi and also return the money of Lehmber Singh. The grand-son of Lehmber Singh will be kidnapped while coming back from the School and after demanding the ransom of our own choice we will become very rich. Sonia said, "Men and a vehicle is required for doing such work." Then I consulted Charanjit Singh @ Channa, resident of Nawan Pind Akalian to arrange for the men and the vehicle. He came to me along with man and Indica Car No.PB 10-CB-1269 of white colour at Kaputhala. We reached Rahimpur on 16.4.010 but nothing was achieved. Then I consulted with driver Avtar Singh @ Laddi son of Des Raj, Rio Fazalwal, Gurpreet @ Gogi. R/o Nawan Pind Akalian to kidnap a child on dated 19.4.010. Then we kidnapped child Gurjit Singh while coming to the house from the school and took him to Kapurthala where his clothes were changed by Sonia. Exactly after two days on dated 22.4.010 I and Channa killed the child by strangulation and buried him because Lehmber Singh did not fulfill our demand."

Sd-In English (Parminder Singh) ”

<u>Re-Disclosure Statement of Convict Charanjit Singh @ Channa.</u>

27. Moreover, through Exhibit PF contents whereof are extracted hereinafter, Exhibit whereof too, has been signatured by the convict, Charanjit Singh @ Channa, the latter made another disclosure statement, whereins he also confessed his guilt, that owing to non-receipt of money, the child was murdered by strangulation on 22.04.2010, and, his body was buried in the fields near his house, burial site whereof, has been disclosed to be known only to him, and, he also evinced his willingness to get the burial site identified, besides, evinced

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his willingness to cause the discovery/recovery of the body of the deceased Gurjit Singh from the apposite burial site.

> *" In the presence of the following witnesses, accused Charanjit Singh @ Channa son of Gurpal Shah, Caste Balmik, resident of village Nawan Pind, Akalian, P.S.Shahkot, District Jalandhar, while on police remand in police custody on my interrogation disclosed. On dated 19.4.010, Avtar Singh @ Laddi son of Des Raj, Caste Waterman, resident of Fazalwal, P.S.Shahkot, District Jalandhar, brought his Indica car bearing registration No.AB 10-1269 of white colour to my house at village Nawan Pind Akalian in the morning at my instance where I and Gurpreet @ Gogi son of Jassa, resident of Nawan Pind Akalian, who belongs to my village, were waiting for him. We all the three by occupying the above number car started towards Kapurthala as per the settled plan because the master mind of our plan, namely, Parwinder Singh @ Sidhu son of Darshan Singh, Caste Jat. resident of Chak Jinder, P.S.Dharamkot, District Moga has been residing at Kapurthala at present and on reaching Kapurthala after consulting Parwinder Singh @ Sidhu above said started towards Rahimpur for getting ransom after kidnapping child Gurjit Singh son of Sarbjit Singh, Jat, resident of Rahimpur, aged about 8 years. On reaching Rahimpur in the area of Kartarpur we chalked out a plan for kidnapping a child and a School Bus came at about 12.30 to 1.00 PM and stopped in front of the house of the child and children descended from the Bus and when child Gurjit Singh came down from the bus then Parwinder Singh @Sidhu above said after identifying the child signaled me to pick him up and I after catching hold the child from his arm threw him in the car and all of us along with the child sped the car through Kartarpur and on reaching Kapurthala kept the child for one night with Sonia wife of Balwant Singh, resident of Kapurthala and there after kept him in the area of Chogitti Bye Pass for two days and went on demanding money from Lehmber Singh. But due to non-receipt of money the child was killed by strangulation on Thursday, dated 22.4.10 and buried in the fields near my house about which only I know.*
>
> *Sd-In Punjabi (Charan Jit)"*

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28. Pursuant to the above respectively made signatured disclosure statements, to which Ex.PE and Ex.PF, becomes assigned, the convicts led the police party to the site/remote desolate place, where they after murdering him, rather had buried the dead body of deceased child Gurjit Singh. Since the body was decomposed, therefore, only the skull and some bones of the child were excavated, and, the same were taken into possession by the police through recovery memo(s) Ex. PE and Ex.PE/1.

29. Since in pursuance to the respectively made disclosure statements by both the accused-convicts, led to the consequent therewith recovery of the school bag of the deceased child hence becoming effected, besides, when the recovery of the skull bones of the deceased child also became effected from a remote desolate place, rather at the instance of the accused, respectively through recovery memo(s) Ex.PD, Ex.PE and Ex.PE/1. Thus evidentiary vigor is to be assigned to the above memos, as the accused have not been able to either ably deny their signatures, as occur on the memo(s) (supra), nor have been able to prove the apposite denial. Moreover, since they have also not been able to bring forth tangible evidence to suggest that the recoveries are either contrived or invented. Thus, evidentiary sanctity is to be assigned to the above drawn memos. Resultantly, corroboration therethroughs is acquired to those proven incriminatory links *qua* the crime event, as become spoken by PW-1.

Disclosure Statement of Convict Sonia

30. Further, during the course of investigations, being made into the appeal FIR, the convict Sonia made a disclosure statement to

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which Exhibit PG/1 is assigned. The contents of Exhibit PG/1 are ad-verbatim extracted hereinafter.

> *"In the presence of the following witnesses, accused Sonia wife of Balwant Singh. Caste Lohar, resident of Baba Colony. Sangatpur, District Kapurthala on interrogation made by me disclosed, Some time ago I had been living with my family by erecting a house at Kartarpur in Cholan Nagar where I came into contact with Parwinder Singh @ Sidhu son of Darshan Singh, Caste Jat, resident of Chak Jinder, P.S.Dharamkot, District Moga. I developed bodily relations with him. He started living with me frequently on nights and went on bearing the expenditure of my house and family. He started claiming right on me and I also started obeying him. Then I went short of money. At the instance of Parwinder Singh Sidhu we sold our house and purchased our house, under construction, at Kapurthala in which we the whole family along with Parwinder Singh Sidhu started living. After selling the house at Kartarpur we purchased a Kothi type house. That being cheap, the money left with us was spent away on eating and drinking by sitting idle. Then on the saying of some body we approached Lehmber Singh son of Bir Singh. Jat, resident of Rahimpur for lending money. We took Rs. I lac and 30 thousands on interest and said that after completing this Kothi, we would return you the entire money along with interest but we could not pay interest up to four months and Lehmber Singh started visit our house time and again. One day I accompanied by Parwinder Singh @ Sidhu went on a motor-cycle to the house of Lehmber Singh at Rahimpur where we sought some time more from him to return the money. His grand-son was playing in his house. Lehmber Singh said, "He is my only grand-son." Since that day we thought of a plan to grab sufficient amount as ransom by kidnapping his grand-son. Thereafter on*

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reaching home I consulted my husband Balwant Singh. Parwinder Singh @ Sidhu in connivance with his friends Charanjit Singh @ Channa. Avtar Singh @ Laddi. Gurpreet Singh @ Gogi, residents of Shahkot area, kidnapped the grand-son of Lehmber Singh from the School Bus and on dated 22.4.10, Sidhu, Channa and Gurpreet Gogi killed him by strangulation, I had taken off the School dress of the child and kept at my home and put on him the clothes of my son. Only I know about the school dress and can get the same recovered by pointing out.

Sd-In Hindi (Sonia)"

31. Pursuant to the above made signatured disclosure statements, accused Sonia, led the police party to the sold house in Baba Colony, wherefrom, hence from the trunk lying in the room adjacent to the gate of the house, she caused recovery of the school uniform of child Gurjit Singh i.e. of one shirt of white colour, of one pant of white colour, of a pair of socks, of one school belt, upon buckle whereof, Navjeevan Public School Rahimpur, Jalandhar became scribed, of one pair of shoes of white colour, and, of one school tie of blue and yellow colour, as attached with school badge. The afore said items were taken into possession by the police through recovery memo Ex.PG. The above said school uniform was identified by Sarabjit Singh, the father of the deceased child.

32. Further, through recovery memo Ex. PG/2, one mobile phone make Nokia and indian currency worth Rs. 100/- was recovered from convict Sonia.

<u>Conjoint analysis of the signatured disclosure statements and recovery memo(s).</u>

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33. A reading of the respectively made disclosure statements, by the accused-convicts (supra), not only does reveal, qua each of the accused, confessing their participation, in the crime event, but also reveals qua theirs' evincing their readiness to cause recoveries of the relevant incriminatory items, to the investigating officer concerned, besides also as revealed, by recovery memo(s) respectively comprised in Exhibit PD, Exhibit PE, Exhibit PE/1, Exhibit PG and, in Exhibit PG/2, qua theirs also respectively causing the relevant recoveries, to the investigating officer concerned. The above drawn disclosure statements, when evidently become signatured by each of the co-convicts, and, when they also led, to the making of the apposite recoveries at their respective instances, to the investigating officer concerned. Resultantly, the confession of guilt as made by the convicts, does not become a bald simpliciter confession of guilt nor is hit by the bar encapsulated in Section 25 of the Indian Evidence Act, 1872, rather it becomes both admissible and relevant. Importantly, when the site/place(s) wherefrom the accused hence caused the recovery of the skull and bones of the child, of the school bag, and of the uniform of the child, rather evidently were site/place(s) known exclusively to the accused. Moreover, when the said site/place(s) is/are not proven by any cogent evidence, to be previously known to the investigating officer concerned nor when it has been obviously proven, that the above incriminatory items, had been planted at the relevant place of their recovery rather by the investigating officer concerned. Therefore, the causing(s) of the apposite recoveries at the convicts' instance, to the investigating officer concerned, cannot be said to be either engineered

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or concocted, especially when the signatures of each of the convicts on the respectively made disclosure statements, neither became ably denied nor the denial became efficaciously proven, rather when in consequence thereto valid recoveries became effected.

34. In consequence, sanctity is to be meted to the above drawn memo(s). Though, reiteratedly the assigning of sanctity thereto, would become waned only, when they had ably denied the existence of their respective signatures thereons, besides had also ably proven the said denial, and or, had efficaciously proven that the relevant recoveries, were engineered, or, contrived, through a clever strategem being deployed by the investigating officer concerned. However, yet a reading of the deposition of the PWs concerned, does not reveal, that the above possible exculpatory pleas, hence for negating the evidentiary worth of the above drawn memo(s), rather becoming efficaciously proven.

35. In sequel, the above drawn memo(s) acquire tenacious evidently worth. Resultantly they also corroborate the other proven incriminatory links, in the chain of circumstances, erected by the prosecution, and, also corroborate the deposition of PW-1.

DNA Report

36. PW-9 Dr. Gurmanjit Rai, examined the bones of victim child, and, took DNA samples from bones as well as from blood samples of the parents of the deceased child, and, all became sent for analysis to the DNA expert, for comparisons thereof, being made hence with the evident DNA profiles of the deceased child's parents. A perusal of the result of the examination(s), as made by the DNA Expert, on his

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making DNA profiling on the relevant sent items, resulted in an opinion, opinion whereof becomes extracted hereinafter.

Results of examination

> *" The source of exhibit A (bones said to be rib bones of the deceased) did not yield any DNA suitable for analysis. The source of exhibit B (bloodstained FTA card said to be of Smt. Anjandeep Kaur) and exhibit C (bloodstained FTA card said to be of Mr. Sarbjit Singh) yielded DNA profiles.*

Conclusion

> *" Since the DNA profile from the source of exhibit A (rib bones) is essential for comparison with the DNA profiles of the sources of exhibit B (Smt. Anjandeep Kaur) and exhibit C (Mr. Sarbjit Singh), therefore, no opinion is herewith furnished."*

CONCLUSIONS

37. Though a perusal of the above extracted opinion, does not suggest, that any firm conclusion, being made by the DNA specialist, after his making the DNA profiling of the items sent to him for examination, but yet does not lead to any further conclusion, that the instant case is a case of *corpus delicti.* The reason for forming the above inference, ensues from the factum that the other proven incriminatory links, as comprised, in the validly made disclosure statements by each of the accused-convicts concerned, besides comprised in the consequent therewith valid recoveries being effected at the instance of the accused concerned, do rather hold probative sway and clout.

38. Moreover, when the recovery of the body of the deceased was caused through a recovery memo, preceding wherewith each of the accused concerned made their signatured disclosure statements. Since there is neither any able denial of their signatures thereons by any of the

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accused, nor when the said denial has been ably proved. Thus, reiteratedly grave evidentiary solemnity is acquired by the memo(s) (supra). Most importantly when the body of the deceased was buried in a remote and desolate site. Therefore, when the said site was known only to the accused and to none else. As such, the discovery or recovery of the body of the deceased from a remote and desolate site, but evidently known only to the accused, does assign the firmest admissible evidentiary vigor qua the signatured confession of guilt, as made by each of the accused, qua theirs' murdering the deceased, therefore, but obviously the discovered dead body, does appertain, only to the identity of deceased Gurjit Singh and to none else.

FINAL ORDER

39. In consequence, there is no merit in the appeals, and, they are dismissed. The impugned verdict(s), and, consequent therewith sentence(s) (supra), as imposed upon the convicts, are affirmed and maintained.

40. 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 sent down forthwith.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

12.12.2022

kavneet singh

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

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