



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

**CRA-D-710-DB of 2003 (O&M)
Date of Decision: 20.05.2024**

Chanan Singh ...Appellant
Vs.
State of Punjab ...Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE N.S.SHEKHAWAT**

Present: Mr. Varun Mittal, Advocate with
Mr. Anshul Sharma, Advocate for the appellant.

Mr. Gauravdeep Singh Dhaliwal, AAG, Punjab.

N.S.SHEKHAWAT, J.(Oral)

1. The appellant has challenged the correctness and legality of the judgment dated 05.05.2003 and the order dated 07.05.2003 passed by the Additional Sessions Judge, Barnala, whereby, he was convicted for the offence punishable under Section 302 IPC and was sentenced to undergo imprisonment for life and to pay a fine of Rs. 1000/- alongwith default stipulation in a case arising out of FIR No. 54 dated 10.08.2000 under Section 302 IPC, Police Station Sehna.
2. The story of the prosecution, as it emerges from the report under Section 173 Cr.P.C. is that the FIR was registered on the



basis of the statement made by Harbans Singh, complainant. As per the complainant, he was resident of village Chhiniwal Kalan. He had three sons. His third son, namely, Daljit Singh @ Kaka was still unmarried and was serving as driver with certain truck operators for the last 7/8 years. However, at that time, he was serving as a driver on the truck of Subedar Hardev Singh. He came to know that some days prior to the occurrence, his son Daljit Singh had developed illicit relations with Gurjit Kaur daughter of Charan Singh but he and his family members did not like it. At that time, their family members had decided that they should advise their son Daljit Singh to desist from this and he and his son Paramjit Singh went to the house of Subedar Hardev Singh at village Chananwal. They came to know that Charan Singh, accused had called his son Daljit Singh at his house. At about 08.30 p.m., he and his son Paramjit Singh entered in the house of Charan Singh after parking the scooter in the street. They saw in the light of electric bulb that his daughter Gurjit Kaur was lying on the ground in the courtyard and Charan Singh accused was armed with a gadasa. In their presence, he gave a gadasa blow on the forehead of his son Daljit Singh and Daljit Singh fell down on the ground. Charan Singh gave one more gadasa blow which hit upon his neck, while he was lying on the ground. They raised alarm “killed, killed” and being an unknown village and under the fear they fled from the spot on their scooter. They were going to the police and on



the way Palwinder Singh ASI met them and they reported the matter to him. As per the complainant, Charan Singh, accused had suspicion that his daughter Gurjit Kaur was having illicit relations with his son Daljit Singh. He prayed for action against Charan Singh, appellant/accused in the present case.

3. After recording the statement Ex.PF of Harbans Singh, complainant, the police registered FIR Ex.PF/2. Palwinder Singh ASI alongwith Harbans Singh and Paramjit Singh went to the house of Bhola Singh brother of Charan Singh and the spot was inspected. The site plan was prepared and the photographs were taken through Harvinder Singh, Panch. The blood stained earth was lifted near the dead body of Daljit Singh and Gurjit Kaur. After the recovery of the dead bodies, inquest reports were prepared by Palwinder Singh ASI and the postmortem examination was got conducted from Civil Hospital, Barnala. The statements of the witnesses were recorded in the present case. On 12.08.2000, Charan Singh accused was arrested by the police and on interrogation by the police, he disclosed that he had concealed a gandas in a room containing chaff in the house of his brother Bhola Singh and Bhola Singh could get the same recovered. After recording his disclosure statement, the accused was taken to the house of Bhola Singh and gandas was recovered from there. The handle and blade of gandas were stained with blood and it was taken into possession by the police. After completion of the



investigation, the final report under Section 173 Cr.P.C. was presented against the present appellant.

4. After committal of the case, charge under Section 302 IPC was framed against the appellant for committing the murder of two persons, namely, Daljit Singh and Gurjit Kaur by the trial Court and the appellant pleaded not guilty and claimed trial by the Court.

5. In support of the case of the prosecution, the prosecution had relied upon 11 witnesses. The prosecution examined PW1 Dr. Subhash Singla, who conducted the postmortem examination on the dead body of Daljit Singh @ Kaka on 10.08.2000. He stated as under:-

“Body of well built well nourished, male, eyes and mouth were closed, black scalp hair and beard and moustaches, public and axillary hair. Postmortem staining was present at the back. Rigormortis was present in all the four limbs. Scalp hair were short. Belongings of the deceased:-1. white kurta, 2. white pajama, biscuit colour banian, navy blue colour underwear, wrist watch, golden colour ring from left hand ring finger, two silver colour rings from left little finger. Length of the body was 5'-10".

I found the following injuries on the dead body:-

1. Incised wound, 6 cm. x 2 cm present on the fore-head



on left side, extend to right side, above the root of the nose. It was bone deep. Underlying frontal bone was fractured. Wound was spindle shape with smooth edges. On dissection of skull, blood was found extra-vasted into soft tissue layers, underlying frontal bone were fractured. Underlying memberance and brain tissue were contused. Blood was present in the anterior cranial fossa.

2. Lacerated wound 2 cms x 0.5 cm in the middle 1.5 cms posterior to anterior hair line, soft tissue deep. Blood was extra vasted in soft tissue layer on dissection.

3. Incised wound 8 cms x 0.2 cms on the right side of the neck, extending to mid line on right aide, above thyroid cartilage. On dissection, it was soft tissue deep.

4. Incised wound 13 cms x 1 cm, 0.2 cm below injury No.3, on right side of neck, extend to mid line then to left side of the neck, underlying soft tissue were cut. Thyroid cartilage on the right side was fractured on dissection.

5. Incised wound 6.5 cm x 0.2 cm. 1.05 cm below the injury No.4 in the middle and in front neck. On dissection, it was soft tissue deep.

6. Reddish contusion, 5 cms x 01 cm front of chest 2.5 cms below the upper border of sternum.



7. *Incised wound 3 cms x 1 cm, 2 cms anterior to the root of penis, on the dorsal surface of penis, sub-cutaneous tissue deep.*

8. *Reddish abraded contusion, 6 cms x 4 cms on the lower part of the chest, on the back and upper abdomen on the right side.*

9. *Reddish abraded contusion 5 cms x 2 cms on the back of abdomen, in its lateral part on the left side.*

10. *Reddish abraded contusion in front of right shoulder joint, it was 7 cm x 2cm in size.*

On dissection of injuries No.6, 8, 9 & 10, was found extra wasted into sub the cutaneous blood tissue. All the incised wounds were of spindle size with clean cut edges. All the other organs were found healthy. Stomach was healthy and contained about 140 mls. of gastric secretions. Liver spleen was pale and healthy.

The cause of death in my opinion, in this case was shock and haemorrhage, as a result of injury to the vital organs, brain, due to injury No.1, which was sufficient to cause death in the normal course of nature. Al the injuries were antemortem in nature.

Handed over to police:- Well stitched dead body after postmortem exam. Sealed bundle of belongings of the



deceased copy of the post mortem exam., sample of seal used, bearing impression "SC", 5 police papers duly signed by me numbering 1 to 22.

The probable time that elapsed between injuries and death immediate to many hours, between death and postmortem more than 2 hours and less than 36 hours.

I have brought the original post mortem register containing the postmortem report of Daljit Singh deceased, which is in my handwriting, bears my signatures and is correct. Ex.PA is the carbon copy which was prepared in the process of original. Ex.PA/1 and Ex. PA/2 are the pictorial diagrams showing the seat of injuries on the dead body of Daljit Singh. Ex.PB is the inquest report which bear my initials. I conducted the postmortem exam. on the basis of police request Ex.PC which was marked to me vide endorsement Ex.PC/1 by Sh. S.S. Toor, the then S.M.O.C. Barnala”.

6. The prosecution further examined Dr. Neera, Medical Officer, Civil Hospital, Barnala, who had conducted the postmortem on the dead body of Gurjit Kaur and stated as under:-

“She was about young, adult, healthy female, about 5’ in height, wearing brown colour printed salwar kameej,



cream colour Dupatta, golden nose-pin and one silver colour payal in right foot. Postmortem staining was present, rigour mortis absent.

1. 2 cm below the chin, one horizontal incision about 3 cms. In length, extending deep into muscles and cartilage.

2. Another deep wound 3 cms. below injury No.1, about 1 cm x 0.5 cm extending into thyroid cartilage, after cutting the muscles.

Both the wounds were caused by sharp edged weapon, like gadasa.

3. A dark black contused area on left side of neck of 5 cms. X 3 cms in size, extending on both sides, till back in a papery fashion.

This injury was caused by blunt weapon.

4. On the right leg, a superficial abrasion, 15 cms in length.

5. On left leg, a deep stab injury about 03 cms. in length with fracture both tibia and fibula.

All other organs were healthy. Stomach was empty. Large, intestines and bladder were also empty. Heart was healthy and filled with blood.

Cause of death in this case due to bleeding and



asphyxia caused by incised wound on the neck.

All the injuries were antemortem in nature.

After post mortem exam. I handed to the police:-

Well stitched dead body, belongs of the deceased in a sealed packet, two sample seal with impression “n”, copy of the post mortem report and police papers duly signed by me No. 1 to 10.

Probable time that elapsed between injuries and death was less than one hour and between death and postmortem examination was more than two hours and less than 36 hours.

I have brought the original post mortem register, including the P.M.R. of Gurjit Kaur, which is in my hand and is signed by me. Ex.PD is the carbon copy of the post mortem report which was prepared in the process of original. Ex.PD/1 is the pictorial diagrams showing the seat of injuries. Ex.PD/2 is also pictorial diagrams showing the seal of injury. Inquest report Ex.PE bears my initial. I conducted the postmortem examination on the police request Ex.PC, which was marked to me vide endorsement Ex.PC/2, by Dr. S.S. Toor the then SMO/CH Barnala”.



7. The prosecution further examined PW3 Harbans Singh, complainant, who was father of Daljit Singh. He reiterated the averments, which were made by him in the FIR. He stated that the murder of Daljit Singh was committed in the house of Bhola Singh and not in the house of Charan Singh, accused. On the date of occurrence, he had gone to the house of Charan Singh accused and when they reached the house of Charan Singh in their presence, he caused the injuries with gandasa on the person of Daljit Singh. In their presence, no injury was caused on the person of Gurjit Kaur. The testimony of PW3 Harbans Singh is supported by PW4 Paramjit Singh, his son. He was also an eye witness to the occurrence and had deposed on similar lines. PW5 Dev Raj Draftsman had prepared the scaled map of the place of occurrence at the instance of Harbans Singh. The testimonies of PW6 Tarsem Singh and PW7 Jagrup Singh were formal in nature. PW8 Harvinder Singh had taken the photographs Ex.P15 to Ex.P20 at the spot. PW9 Major Singh turned hostile and stated that at about 1 1/2 years ago, he alongwith Bhola Singh and Shimla Singh were roaming in the village. They heard a noise and went towards that place. About 25/30 persons were causing injuries on the person of Daljit Singh and Rani Kaur by means of dangs and gandasas. Gurjit Kaur was daughter of Charan Singh accused. He did not see Charan Singh accused causing injuries on the person of Gurjit Kaur and Charan Singh was not present at that place.



In his cross-examination, he resiled from the statement made by him to ASI Palwinder Singh in the present case. Further, PW10 ASI Palwinder Singh was examined by the prosecution, who had initially conducted the investigation in the present case. He had also prepared the inquest report on both the dead bodies and got the postmortem conducted from the hospital. Still further, Balbir Singh, DSP, who was working as SHO at the relevant time was examined as PW11.

8. After the evidence by the prosecution was concluded the statement of Charan Singh appellant was recorded under Section 313 Cr.P.C. and he had taken the following defence:-

“On 9.8.2000, when Major Singh and Harminder Singh, PW-2, alongwith Shimla Singh were present in the locality (Vehra) of Majbi then about 20/25 Majbies, with Dangs and Gangasa caused injuries on the person of Gurjit Kaur @ Rani and Daljit Singh. Gurjit Kaur @ Rani and Daljit Singh, died on account of those injuries at the spot. Harwinder Singh PW took Sarpanch Jaspal Singh alongwith him and Harwinder Singh then rang up Pakho Crossing and told that two persons had been murdered in village Chanewal. At this, Palwinder Singh, ASI, PW, of Pakho Crossing, alongwith police party reached village Chanarwal in a police vehicle. ASI Kalwinder Singh then alongwith Harwinder Singh PW,



went to village Chhiniwal Kalan, in the police vehicle and brought Harbans Singh and Paramjit Singh both PWs from that village to the spot in village Chananwal. Paramjit Singh and Harbans Singh aforesaid PWs, were not present at the time, when the injuries were caused by 20/25 Majbi Sikhs on the person of Gurjit Kaur and Daljit Singh. This entire aforesaid narration was narrated to me by Major Singh and Harwinder Singh both PW in the present case, because I was not present at the time of the occurrence. I came to know about this occurrence after being told by Major Singh and Harwinder Singh both PW. They told me that this occurrence took place in village Chhanwal Majbi Sikh Vehra. I am not a resident of Majbi Sikh Vehra of village Chananwal. I am residing in my own constructed house, at distance of about 1 KM from the Majbi Sikh Vehra of village Chananwal which is the place of occurrence, as told to me by Major Singh and Harwinder Singh, PW. Even at the time of occurrence I was residing in my constructed house, at a distance of 1 km from the place of occurrence I have been falsely implicated in the present case simply for being father of Gurjit Kaur Rani deceased I am innocent”.



However, in spite of taking a detailed plea of defence, the appellant opted not to lead any defence evidence in the present case and closed the same.

9. Learned counsel for the appellant vehemently argued that in the present case, the trial Court had placed reliance on the two alleged eye witnesses, i.e., PW3 Harbans Singh and PW4 Paramjit Singh. However, from the bare perusal of their testimonies, it is apparent that the said eye witnesses were not present at the place of the alleged occurrence. In fact, both the witnesses categorically stated that two blows were dealt on the person of Daljit Singh by the present appellant whereas the postmortem showed that as many as 10 injuries were suffered by Daljit Singh. Still further, after suffering injury No. 1 on the forehead, Daljit Singh could not have survived in the present case and there was no reason for the appellant to cause injuries any further. In fact, from the evidence, it could be easily inferred that both the witnesses had reached at the place of occurrence, after number of injuries had already been caused to Daljit Singh and Gurjit Kaur by several unknown persons. Learned counsel further submitted that even otherwise, both the witnesses, i.e. PW3 Harbans Singh and PW4 Paramjit Singh were closely related to Daljit Singh, since deceased and had deposed falsely, to ensure success of the case of the prosecution. Learned counsel for the appellant further stated that even the prosecution had miserably failed to establish the



place of alleged occurrence. As per Hasbans Singh PW3, the occurrence had taken place in the house of appellant whereas the dead bodies of Gurjit Kaur and Daljit Singh were recovered from the house of Balbir Singh, brother of the appellant. Even, Paramjit Singh PW4 had already visited the house of the appellant on 6/7 occasions and he also admitted that the dead body was found in the house of Bhola Singh and not in the house of the present appellant. Learned counsel further submitted that even, the conduct of both the witnesses, i.e., PW3 Harbans Singh and PW4 Paramjit Singh was highly unnatural. It has been alleged that the appellant had allegedly caused injuries to Daljit Singh and Gurjit Kaur in the presence of Paramjit Singh and Harbans Singh. However, neither they tried to save Daljit Singh from the appellant nor made any effort to arrest him at the spot. Thus, the story put forth by the prosecution was totally concocted and there was no independent corroboration to their submissions.

10. On the other hand, learned State counsel vehemently argued that the presence of PW3 Harbans Singh and PW4 Paramjit Singh was natural at the place of the occurrence and both the witnesses had deposed on similar lines, without any contradiction. Even, the appellant could not lead any evidence in support of plea taken by him, which could probablise the defence version in the present case. Still further, the conduct of PW3 Harbans Singh and PW4 Paramjit Singh was natural and their testimonies could not have



been brushed aside only on the ground that they were closely related to Daljit Singh, since deceased. Even otherwise, being close relatives, they had no reason to spare the real assailants and to involve unknown person falsely. Furthermore, even both the witnesses were cross-examined at length but nothing material could be elicited from their statement, which could help the defence version in any manner. Thus, it was prayed that the impugned judgment may be upheld.

11. We have considered the detailed submissions made by learned counsel for the parties and have carefully perused the trial Court record as well as detailed findings recorded by the trial Court, while discussing the evidence in detail. In the present case, the prosecution case was unfolded by the testimony of PW3 Harbans Singh, who had gone to village Chananwal with his son Paramjit Singh PW4. They first went to the house of Hardev Singh Subedar and came to know that Charan Singh appellant had called Daljit Singh at his house and at about 08.30 p.m., they reached the house of Charan Singh appellant. They found that Gurjit Kaur was already lying on the ground after suffering injuries and Charan Singh was having a gandasa in his hand. In the presence of Harbans Singh and Paramjit Singh, the appellant gave gandasa blow on the forehead of Daljit Singh and as a result of the said blow, he also fell down on the ground. While he had fallen on the ground, he was caused another injury with the gandasa on the neck. It is a case, in which, the injuries



were being caused in a barbaric manner by the appellant and both the witnesses raised the alarm “killed, killed” and both of them ran away from the house of Charan Singh as they were strangers in the village and were terrorized. In fact, the manner in which the injuries have been caused to Daljit Singh and Gurjit Kaur would clearly indicate that the conduct of both the witnesses, i.e. PW3 Harbans Singh and PW4 Paramjit Singh was quite natural. Immediately, after noticing the incidence, they both rushed to the police station and statement of Harbans Singh was recorded and police proceedings were conducted at 11.20 p.m. and the FIR was registered at 12.12 a.m. in the night on 10.08.2000. This clearly shows that in the present case, the FIR was got registered by PW3 Harbans Singh with promptitude and the trial Court was correct in observing that such prompt lodging of FIR clearly rules out the possibility of false implication of the accused, the concoction of story and introduction of false witnesses. Learned counsel for the appellant had assailed the testimonies of PW3 Harbans Singh and PW4 Paramjit Singh on the ground that they were closely related to Daljit Singh, since deceased. In fact, while discussing the difference between independent and related or interested witnesses, the Hon’ble Supreme Court in the matter of **Periyasamy Vs. The State of Rep. By the Inspector of Police, 2024(2) R.C.R. (Criminal) 456, 2024 AIR (Supreme Court) 1667,** has held as follows:-

**Independent and Related or Interested Witnesses**

*"21. It is a well-recognised principle in law that the non-examination of independent witnesses would not be fatal to a case set up by the prosecution. The difference between a witness who is "interested" and one who is "related" stand explained by a Bench of three learned Judges in **State of Rajasthan v. Kalki (1981) 2 SCC 752***

:-

"7. ..."Related" is not equivalent to "interested". A witness may be called "interested" only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eyewitness in the circumstances of a case cannot be said to be "interested."

*We may refer to the observation in **Sarwan Singh v. State of Punjab (1976) 4 SCC 369 (3J)** as under to appreciate the evidentiary value of such testimonies: -*

"...Moreover, it is not the law that the evidence of an interested witness should be equated with that of a tainted evidence or that of an approver so as to require corroboration as a matter of necessity. The evidence of an interested witness does not suffer from any infirmity



as such, but the courts require as a rule of prudence, not as a rule of law, that the evidence of such witnesses should be scrutinised with a little care. Once that approach is made and the court is satisfied that the evidence of interested witnesses have a ring of truth such evidence could be relied upon even without corroboration. Indeed there may be circumstances where only interested evidence may be available and no other, e.g. when an occurrence takes place at midnight in the house when the only witnesses who could see the occurrence may be the family members. In such cases it would not be proper to insist that the evidence of the family members should be disbelieved merely because of their interestedness..."

In other words, if witnesses examined are found to be 'interested' then, the examination of independent witnesses would assume importance".

12. In the present case also, no doubt, PW3 Harbans Singh and PW4 Paramjit Singh were related to Daljit Singh, deceased, but they had no reason to spare the real assailants, who had brutally killed their own family member. Even, no suggestion has been made to the said witnesses regarding false involvement of the present appellant by



them. Even otherwise, the appellant could not lead any evidence to show that the main witnesses of the prosecution were inimical towards the appellant or the police officials had any other reason to falsely involve him in a double murder case. In fact, the statements of both the witnesses of the prosecution had a natural flow while appearing in the witness box and their testimonies inspire confidence. Still further, the prosecution had been able to lead sufficient evidence to show a strong motive on the part of the present appellant to commit the murder of Gurjit Kaur, his daughter and Daljit Singh. From the statements of Harbans Singh PW3 and Paramjit Singh PW4, it is apparent that Daljit Singh was having illicit relations with Gurjit Kaur, daughter of the appellant. The appellant could not tolerate the illicit relations of his daughter with Daljit Singh and on account of this reason, he had caused injuries to Daljit Singh and Gurjit Kaur, who ultimately succumbed to the serious injuries caused by the present appellant. Still further, learned counsel for the appellant made a futile attempt to convince this Court that the presence of PW3 Harbans Singh and PW4 Paramjit Singh was highly doubtful at the place of occurrence. To support his contentions, learned counsel for the appellant had submitted that even they were not sure about the place of occurrence as the alleged occurrence had taken place in the house of Bhola Singh and not in the house of the present appellant. In fact, in the present case, the case was promptly reported by Harbans



Singh and the police also reached at the place of the occurrence without any delay and the dead bodies of Gurjit Kaur and Daljit Singh were recovered from the house of Bhola Singh, brother of the appellant. Even, both the witnesses belong to a different village and the house also belonged to the brother of the appellant. Consequently, the argument raised by learned counsel for the appellant was meritless and was correctly rejected by the trial Court. In fact, such minor discrepancies can never be a ground for rejecting the testimonies of the two eye witnesses, who have been otherwise found to be truthful witnesses by this Court as well as by the trial Court.

13. In the present case, in a statement under Section 313 Cr.P.C., the appellant had raised an argument that 20/25 Majhbi Sikhs had caused injuries on the person of Daljit Singh and Gurjit Kaur and the appellant was not even present at the place of the occurrence. It was further stated that he came to know about Major Singh and Harvinder Singh from prosecution witnesses and he had not committed the murder of Daljit Singh and Gurjit Kaur. No doubt PW8 Harvinder Singh turned hostile and tried to support the said plea and Major Singh also made a similar statement, however, the testimonies of the said two witnesses was of no help to the present appellant. First of all, the appellant could not lead any evidence to prove the said plea before the Court of law. Still further, it has been stated that 20/25 Majhbi Sikhs came with gandasies and dandas and caused injuries on



the person of Daljit Singh and Gurjit Kaur. However, the said stand was taken for the first time, during the course of evidence before the trial Court. There is nothing on record to suggest that the appellant had moved any application in support of the said plea before any higher police officers during the course of investigation. Rather, it appears that PW8 Harvinder Singh and PW9 Major Singh were won over by the appellant during the course of trial and they also deposed falsely, to help the appellant. In the present case, the independent of the testimonies of the said two testimonies, there was sufficient evidence on record, which clearly proved the involvement of appellant in the present case.

14. In view of the aforesaid discussion, we are of the considered opinion that findings recorded by the trial Court are based on correct appreciation of facts, evidence on record and the settled canons of law.

15. In fact, the findings recorded by the trial Court do not suffer from any material irregularity, illegality or perversity and the impugned dated 05.05.2003 and the order dated 07.05.2003 passed by the Additional Sessions Judge, Barnala, are ordered to be upheld. The appeal is accordingly dismissed.

16. A copy of this judgment may be sent to the concerned CJM, who shall commit the appellant to custody, if on bail, to serve the remaining part of the sentence.

2024.PHHC.073527-DB



- 17. All pending applications, if any, are disposed off, accordingly.
- 18. Trial Court record be sent back to the trial Court.

(GURVINDER SINGH GILL)
JUDGE

(N.S.SHEKHAWAT)
JUDGE

20.05.2024
amit rana

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