

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

CRA-D-122-DB-2004  
Reserved on : 18.07.2019  
Date of decision : 22.07.2019

Mohan Singh

... Appellant

Versus

The State of Punjab

... Respondent

**CORAM:** *HON'BLE MR. JUSTICE RAJIV SHARMA*  
*HON'BLE MR. JUSTICE HARINDER SINGH SIDHU*

Present: Mr. Vinod Ghai, Senior Advocate  
with Ms. Kanika Ahuja, Advocate  
for the appellant.

Mr. Suveer Sheokand, Addl. A.G. Punjab.

**RAJIV SHARMA, J.**

This appeal is instituted against the judgment dated 09.12.2003 and order dated 10.12.2003 rendered by the learned Additional Sessions Judge (Adhoc), Fast Track Court, Patiala, in Sessions Case no.28 dated 03.10.2001/ 134T/26.08.2003 whereby the appellant along with co-accused Joginder Singh and Bimaljit Kaur, was charged with and tried for offences punishable under Sections 302/34 of the Indian Penal Code (in short 'IPC'). The appellant has been convicted thereunder and sentenced to undergo imprisonment for life and to pay fine of Rs.5000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of two years. Co-accused Joginder Singh and Bimaljit Kaur alias Bimla Rani were acquitted of the charges. However, co-accused Karnail Singh and Mahinder Singh were declared proclaimed offenders.

2. The case of the prosecution, in a nutshell, is that on 25.04.2001, SI Amarjit Singh Incharge Police Post Division no.4 Patiala was discharging the duties of SHO, Police Station Kotwali Patiala. Niranjn Singh son of Bhajan Singh along with Sagar Singh son of Kishan Singh made statement inter alia that he was working as lineman in North Sub Division Punjab State Electricity Board. They were eight brothers and sisters. Jang Singh was the youngest. Jang Singh was employed with Mohan Singh alias Pulli as driver. On 24.04.2001, Mohan Singh alias Pulli took his brother Jang Singh from his house. In the morning, Mohan Singh alias Pulli came to their house at about 8.30 A.M. He told him that Jang Singh was lying in Peer Baba Samadh, Turri Bazar, Nabha Gate, Patiala. They had taken liquor together. They should go to see Jang Singh. He sent his brother Bhola Singh and son Rajesh Singh with Mohan Singh to see Jang Singh. At about 9.00 A.M. his brother and son told him that Jang Singh was lying dead in the Samadh of Peer Baba. He along with his brother Bhola, son Rajesh Singh and Sagar Singh went to Samadh of Peer Baba Turri Bazar, Patiala. When they saw the dead body of Jang Singh, they did not notice any injury on his person but his forehead was somewhat smeared with blood and froth was coming out from the left side of his mouth. FIR Ex.PW11/A was registered. Body was sent for post-mortem examination. One maruti car was taken into possession. On 06.05.2001 Mohan Singh was produced in the Court. His police remand was obtained. He made disclosure statement that he had kept concealed one stick behind the wall of Peer Baba Shah underneath the earth. The case property was deposited with MHC Police Station Kotwali, Patiala. Investigation was completed. Challan was put up after completing all the codal formalities.

3. Prosecution examined a number of witnesses. The statements of accused were also recorded under Section 313 Cr.P.C. They have denied the case of the prosecution. The appellant was convicted and sentenced as noticed hereinabove. Hence this appeal.

4. Learned counsel appearing for the appellant has vehemently argued that the prosecution has failed to prove the case against the appellant.

5. Learned counsel appearing on behalf of the State has supported the judgment and order dated 09.12.2003 and 10.12.2003.

6. We have heard learned counsel for the parties and have gone through the judgment and record very carefully.

7. PW-1 Indresh Khanna had prepared site plan Ex.PA.

8. PW-3 Niranjan Singh deposed that Jang Singh was working with Mohan Singh accused as driver. On 24.04.2001 Mohan Singh accused came to their house at about 9.00 A.M. to call his brother Jang Singh. On the following day on 25.04.2001 Mohan Singh came to their house to apprise them that Jang Singh was lying drunk at the Peer Dargah in the area of Turri Bazar, Nabha Gate, Patiala. His brother Bhola Singh and his son Rajesh Singh were sent by him to enquire about Jang Singh. On return, Bhola Singh and Rajesh Singh told him that Jang Singh was lying dead in the Peer Dargah. Sagar Singh was also present when they informed him about the death of Jang Singh. They went to the Police Station Kotwali Patiala. He made statement Ex.PW3/A. Police reached the spot. There were injuries in the nature of abrasions on the dead body including head and forehead. Blood was also noticed on the forehead. One maruti car was lying

parked outside the Peer Baba Samadh. He was cross-examined. In his cross-examination, he deposed that he had not reported the matter to the police on 24.04.2001 that his brother Jang Singh was taken away by Mohan Singh. He had also not reported the matter to the police even on the morning of 25.04.2001. Sagar Singh was younger brother of his father.

9. PW-4 Sagar Singh deposed that he was running a sanitary articles shop at Badungar. Jang Singh was working as driver. He identified Mohan Singh in Court. On 24.04.2001 Mohan Singh accused came to the house of Jang Singh at about 12.45 noon on a motor cycle. Mohan Singh took Jang Singh with him. He was present at his shop when Jang Singh was taken by Mohan Singh. On 25.04.2001 Mohan Singh came to their house and told that Jang Singh was lying drunk in the Peer Dargarh at Turri Bazar. They went to the spot. The car was lying parked near the dead body.

10. PW-7 Kuljeet Kaur is wife of the deceased Jang Singh. According to her, Mohan Singh came to their house on motor cycle on 24.04.2001. He took her husband on his motor cycle. On the following day, i.e. 25.04.2001 Mohan Singh accused came to their house. He told her that Jang Singh was lying unconscious in Turri Bazar, Nabha Gate, Patiala. Mohan Singh accused requested her to accompany her on the motor cycle. She called her *jeth* namely Niranjn Singh and Bhola Singh and also Rajesh son of Niranjn Singh. All the three left for the said place. On return, they disclosed her that Jang Singh was lying dead in the Peer Smadh Turri Bazar. In her cross-examination, she admitted that she did not ask her *jeth* or sons of her *jeth* to stop Jang Singh from going along with Mohan Singh on 24.04.2001. Even after the non-arrival of Jang Singh on 24.04.2001 during

the night she and her family members did not inform the police that Jang Singh had altercation with Mohan Singh or that he was taken away by Mohan Singh and had not returned back during the night. Even on 25.04.2001 in the morning they had not reported the matter to the police regarding altercation and regarding taking away of her husband by Mohan Singh.

11. PW-9 Dr.Harish Tulli along with Dr.S.S. Oberoi conducted the post-mortem examination. He noticed following injuries on the person of deceased:-

- “1. Bleeding from both nostrils was present.*
- 2. V shaped abraded contusion each arm measuring 3 cm x .5 cm on the centre of the forehead.*
- 3. Multiple small abrasions of varying sizes and shape were present on left side of forehead.*
- 4. 5 cm x 1 cm abrasion on bridge of the nose.*
- 5. 3 cm x 2 cm contusion in left malar region.*
- 6. 8 cm x 7 cm contusion involving the right cheek and the adjoining area.*
- 7. 6 cm x 4 cm hematoma was present in the middle of right parietal region of the head. On exploration underlying bone was fractured lacerating the corresponding part of brain. Extradural hematoma of the size 4 cm x 3 cm x 1 cm was present on the corresponding part of the brain.*
- 8. 7 cm x 3 cm abrasion was present on the posterior aspect of left fore arm in its upper parts.*
- 9. 2 abrasions each measuring 2 cm x 1 cm and 1 cm x .5 cm in front of left shoulder.*
- 10. Whole of the back was contused with sporadic abraded areas.*
- 11. 1 cm x .5 cm abrasion on the lateral aspect or*

*right knee joint.”*

The cause of death, in their opinion, was shock and haemorrhage due to injuries which were ante mortem and sufficient to cause death in routine course of nature. The probable duration between the injuries and death was 18 hours to 24 hours. In his cross-examination, he admitted that there was no sharp edged injury on the dead body. As per report of the Chemical Examiner, no poison or contents of alcohol was detected.

12. PW-11 Amarjit Singh deposed that FIR was registered. They went to the spot. Inquest report was prepared. Post-mortem was got conducted. He recorded statements of the witnesses. He produced Ex.P8 stick in the Court.

13. PW-14 Kala deposed that about 2 ½ years back, he was coming to Daru Kutia after finishing his work. It was about 6.00 P.M. When he reached Daru Kutia Chowk, one white colour Maruti car was seen standing there. Karnail Singh, Joginder Singh, Jang Singh and Manmohan Singh were seen sitting in that car. He identified Karnail Singh and Mohan Singh in Court. They were taking liquor in the car. On the next day, he came to know about the death of Jang Singh. In his cross-examination, he admitted that he did not tell Niranjana Singh that he had seen Jang Singh taking liquor in the car.

14. The case is based on circumstantial evidence. According to the statements of PW-3 Niranjana Singh, PW-4 Sagar Singh and PW-7 Kuljeet Kaur, appellant Mohan Singh came to their house. He had taken away Jang Singh on motor cycle. Thereafter he informed the family of Jang Singh that Jang Singh was lying drunk in Samadh. The police was informed. Police

reached the spot. The body was sent for post-mortem examination. Doctor had noticed 11 injuries. The cause of death was shock and haemorrhage due to injuries which were ante mortem and sufficient to cause death in routine course of nature. The weapon of offence, i.e. stick was recovered. Jang Singh was last seen by PW-3 Niranjana Singh, PW-4 Sagar Singh and PW-7 Kuljeet Kaur in the company of appellant Mohan Singh. According to the statement of PW-9 Dr. Harish Tuli, there was no sharp edged injury on the dead body. Abrasions on the dead body were superficial injuries. Injuries no. 2, 3, 4, 5, 6, 8, 9, 10 & 11 were simple in nature.

15. We are of the considered view that the appellant had knowledge that in case the injuries are inflicted on person it may cause the death, even though injuries were simple in nature and not given by sharp edged weapon but the cause of death as per doctor's opinion was shock and haemorrhage due to injuries which were ante mortem in nature. The probable duration between the injuries and death was 18 hours to 24 hours.

16. Thus the appeal is partly allowed. The conviction of the appellant is converted from Section 302 IPC to Section 304 Part II IPC. The appellant is on bail. The State is directed to produce the appellant/convict in Court on 31.07.2019 to hear him on quantum of sentence under Section 304 Part II IPC.

**(RAJIV SHARMA)**  
**JUDGE**

**(HARINDER SINGH SIDHU)**  
**JUDGE**

**July 22, 2019.**  
*Davinder Kumar*

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No