

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

**CRA-D-125-2020 (O&M)
Reserved on:09.05.2024
Pronounced on: 15.05.2024**

Hardeep Singh @ Gogdi

... Appellant

Vs.

State of Haryana

... Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR.
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. Gautam Bhardwaj, Advocate for the appellant.

Mr. P.P. Chahar, Sr. DAG, Haryana.

...

SUKHVINDER KAUR, J.

1. The present appeal has been filed by the sole accused/appellant – Hardeep Singh @ Gogdi against his verdict of conviction and order of sentence dated 19.07.2019/22.07.2019 passed by the Additional, Sessions Judge, Sirsa, whereby the appellant had been convicted under Section 302 IPC and had been sentenced to undergo RI for life and to pay fine of Rs.50,000/- and in default of payment of fine to further undergo SI for one year.

2. The factual scenario as unfolded by the prosecution in the final report under Section 173 Cr.P.C. is that this case was registered on the statement of Jagdish Parsad S/o Devi Lal R/o village Sahuwala, who stated that he was working as Labour. Her maternal aunt, namely, Jetti w/o Banwari Lal R/o Kandhu Khera had expired about four years back. About two years back, her son Sonu s/o Banwari Lal was brought to village Sahuwala

and he had been living with them since two years. Sonu used to work as a labour and had intimate friendship with Hardeep Singh @ Gogdi s/o Lillu Ram R/o Village Sahuwala. On 01.08.2017 at about 1:00 P.M., the complainant Jagdish Parsad along with his cousin, namely, Suresh Kumar s/o Dungar Ram R/o village Sahuwala were going to their house from the house of their uncle, namely, Ram Partap. When they reached near corner of temple Baba Ramdev, they heard the noise '*mar diya—mar diya*' and cries from *chaubara* of the house of Lillu Ram. They rushed to the house of Lillu Ram and saw that Hardeep Singh @ Gogdi was hitting his cousin Sonu on his head with a sharp edged weapon again and again. Sonu was lying in a pool of blood in the *chaubara*. On seeing them, Hardeep Singh @ Gogdi immediately ran down stairs and went to the courtyard and then hit his elder sister/victim i.e. daughter of Lillu Ram with the same sharp edged weapon ruthlessly on her head and hands. When they rushed towards the victim and tried to save her, he fled away from the spot along with sharp edged weapon '*kappa*'. Victim died at the spot. They arranged a vehicle and were bringing his cousin Sonu to Sirsa for treatment but he breathed his last on the way. The reason behind the occurrence was that Hardeep Singh @ Gogdi suspected illicit relations between his sister/victim and Sonu, though, there was no such thing. But only on the basis of suspicion, he had murdered both of them with said sharp edged weapon. Dead body of Sonu was kept at General Hospital, Sirsa by the complainant – Jagdish Parsad and Suresh Kumar and then they came back to village Sahuwala and thereafter statement of the complainant was recorded by the police.

3. On the basis of aforesaid statement of complainant, formal FIR Ex.P65 was registered. Investigation in the case was conducted by SI Kanwar Singh. During the investigation, accused was arrested. Disclosure statement of accused Ex.P17 was recorded vide which he got demarcated the places of occurrence vide memos Ex.P18 and Ex.P19. Rough site plan of the place of occurrence Ex.P52 was prepared. The statements of the prosecution witnesses under Section 161 Cr.P.C. were recorded. The weapon of offence i.e. *kappa* which was got recovered by the accused on the basis of his disclosure statement was also taken into possession vide recovery memo Ex.P21. Rough site plan of the place of recovery Ex.P22 was prepared. The inquest proceedings Ex.P51 were conducted. Photographs Ex.P1 to Ex.P3 and Ex.P33 to P50 were taken. Post Mortem examination of dead bodies of both the deceased was conducted. After completion of all other formalities of investigation, challan under Section 173 Cr.P.C. was prepared and was presented in the Court.

4. The case was committed to the Court of Sessions, Sirsa by the JMIC, Sirsa vide order dated 04.10.2017. Copies of challan were supplied to the accused free of cost as per provisions of Section 207 Cr.P.C. On finding a prima facie case, the accused was charged sheeted by the Additional Sessions Judge, Sirsa under Section 302 IPC to which the accused pleaded not guilty and claimed trial.

5. In order to prove its case, prosecution has examined PW1 EHC Inder Singh No.771, Police Station Baragudha. He is a formal witness, who has deposed regarding delivering of copies of the special report to the Area

Magistrate and to the other higher police officers at about 9:40 PM on 01.08.2017.

6. PW2 ASI Om Parkash has deposed that he had taken the photographs of dead bodies of victim - daughter of Lillu Ram and dead body of Sonu S/o Banwari Lal with digital camera. He also conducted videography regarding post mortem of the dead bodies. He has proved on record the photographs Ex.P1 to P3 and CDs Ex.P4 and Ex.P5.

7. PW3 ASI Mohan Lal prepared the scaled site plan Ex.P6 regarding the place of occurrence on the demarcation of Investigating Officer with correct marginal notes.

8. PW4 Ram Partap identified dead body of Sonu S/o Banwari Lal and has stated that after the post mortem, dead body of Sonu was handed over to him and Suresh Kumar for cremation.

9. PW5 Jagdish Parsad S/o Devi Lal is a material witness of the prosecution, who is complainant in the present case and is an eye witness to the occurrence. He has deposed that Sonu was son of her maternal aunt and came to their house two years ago after death of her maternal aunt Jetty w/o Banwari Lal. Sonu used to reside with them. On 01.08.2017 at about 1:00 PM, he along with his cousin Suresh Kumar was going towards shop of Ram Saroop which was situated near Ramdev Mandir. When they reached near the corner of the said temple, they heard noise of crying from the room of first floor (*chaubara*) of house of Lillu Ram - '**Maar Diya... Mar Diya** and '*Chudha Do... Chudha Do*'. They rushed to the house of Lillu Ram and saw that accused Hardeep Singh @ Gogdi was inflicting injuries upon Sonu with

sharp edged weapon i.e. *Kappa*. After inflicting injuries upon Sonu, accused came down stairs and inflicted injuries upon his sister/victim with *kappa* 5/7 times and fled from there. He tried to call ambulance but inadvertently dialed number 100. He informed the police official about the occurrence by saying that he did not know whether quarrel had taken place. Accused had murdered one person and one person was breathing after the injuries. They arranged a private vehicle. When they were bringing Sonu to the hospital, he died on the way near '*ghaghar*' bridge. The dead body was taken to Government Hospital, Sirsa for post mortem. Thereafter, they returned to their village. Police had reached at the place of occurrence and his statement Ex.P8 was recorded by the police near place of occurrence and Ex.P8 bears his signatures at point 'A'.

10. PW6 Suresh Kumar is also a material of the prosecution, who is also an eye witness to the occurrence. He has deposed on the similar lines as PW5 Jagdish Parsad.

11. PW7 Dr. Ajmer Singh, Senior Scientific Officer, Incharge Scene of Crime, Sirsa has stated that on 01.08.2017, on request of SI Kanwar Singh, he visited the place of occurrence in village Sahuwala i.e. house of accused Hardeep Singh @ Gogdi. He found that in the open area, the dead body stated to be deceased (female) was lying on the ground. The clothes were stained with blood. The body was having injuries on the head, left arm, fingers of left hand, right arm and on the right scapula. A pool of blood was present under and near the head on the floor. Few hair were also smudged in the blood. A pair of blood stained *chappals* was there near the legs of the

dead body. A hair rubber band was also lying near the head. The blood smears were observed on the outer side of the wall of the bathroom near the dead body.

In the room of first floor, there was a pool of blood on the floor near the entry door. The splash of blood of dead body was also observed on the wall near the door and hair were also adhered to the site. Stains of blood were also observed on the bedsheet of *charpai*. A pair of blood stained *chappal* was also lying there. The drops of blood were observed in the open area in front of the door of room of first floor and continuously on the stairs and upto the courtyard of the ground floor.

He has further deposed that dead body of deceased Sonu S/o Banwari Lal was also observed in the mortuary of General Hospital, Sirsa on 02.08.2017. The clothes were stained with blood. Hair were sticking to the clothes. The body was having the injuries on the head, left ear and near the left side of the neck. He deposed that he has advised the Investigating Officer to take samples of blood from the spot and send them to the FSL, Madhuban for grouping and origin; to take the clothes of both the deceased in possession during post mortem and send the same to FSL, Madhuban for grouping and origin; to take the hair from the spot and also to collect hair sticking to the clothes of deceased Sonu during post mortem examination and send them to FSL, Madhuban for matching; to take the standard hair from the body of both the deceased during post mortem examination and send them to FSL, Mahduban for matching with the hair found on the spot. On 25.09.2017, he prepared report Ex.P9 and handed over the same to HC

Jagpal, who was sent by the Investigating Officer.

12. PW8 Deepak Kumar, Medical Officer, CHC Nathusari Chopta has proved the post mortem report pertaining to victim - daughter of Lillu Ram as Ex.P11 and copy of post mortem report pertaining to Sonu S/o Banwari Lal as Ex.P12.

He has also deposed that on 09.08.2017, the police had made an application Ex.P13 along with sealed parcel containing metallic iron weapon (*kappa*) regarding the injuries upon both the deceased. He along with Dr. Rishad and Dr. Babita opened the sealed parcel and perused post mortem reports and said weapon. They had opined vide report Ex.P14 that the possibility of injuries mentioned in the said post mortem report due to this weapon cannot be ruled out. The measurement of the weapon and their observation regarding the said weapon was mentioned in Ex.P14. The report bears his signatures and signatures of Dr. Rishad and Dr. Babita and he had identified their signatures as he had worked with them.

13. HC Jagpal Singh had accompanied SI Kanwar Singh on 01.08.2017 when on receiving the information that a quarrel had taken place in village Sahuwala, SI Kanwar Singh along with him and other police officials had reached at the place of occurrence. Complainant Jagdish Parsad met them and his statement Ex.P8 was recorded by SI Kanwar Singh. Kanwar Singh also conducted police proceedings Ex.P15. He has also deposed regarding conducting of post mortem on 02.08.2017 upon dead bodies of both the deceased. He has further deposed that when on 03.08.2017, accused was interrogated, he made a disclosure statement

admitting his involvement in the crime and he got recovered the *kappa* with which he had killed both the deceased, from the bushes near Karamgarh road, where he had concealed the same. He has also deposed regarding other proceedings, which were conducted by the Investigating Officer – SI Kanwar Singh.

He has also stated that on 17.08.2017, he had deposited the sealed parcels that had been taken into possession vide memo Ex.P23, with FSL, Madhuban, Karnal and tendered into evidence his duly sworn affidavit Ex.P24 to be read as part of his examination-in-chief.

14. PW10 Amar Singh did not support the prosecution version and was declared hostile in his examination-in-chief. He has stated that at the time of occurrence, accused Hardeep Singh @ Gogdi was present with him in the agricultural fields/tubewell of Gamdoor Singh S/o Gurnam Singh and they were repairing the transformer of the tubewell. He had received the dead body of deceased Sonu after post mortem vide receipt Ex.P25.

15. PW11 HC Radhey Shyam No.228/Jind, had also accompanied SI/SHO Kanwar Singh on 01.08.2017, when on receiving information regarding the quarrel having taken place at village Sahuwala, he along with him and other police officials had reached there. He has deposed regarding the proceedings which were conducted by SI Kanwar Singh.

He has also stated that on 04.09.2017, the sealed parcel containing viscera of deceased pertaining to her post mortem along with sample seal and sealed envelop were handed over to him by MHC Sushil Kumar and he had deposited the same at MAMC, Agroha on same day and

had handed over the receipt to MHC Sushil Kumar.

16. PW12 Priya Chaudhary, Senior Scientific Officer, (Biology Division), FSL Madhuban, Karnal has stated that she had carried out laboratory examination to determine of species of origin and comparison of semen Ex.P17 and had performed chemical test and microscopy and prepared the report Ex.P29 bearing her signatures on 13.03.2018.

17. PW13 HC Sushil Kumar is a formal witness, who tendered into his evidence his duly sworn affidavit Ex.P30.

18. PW14 Dr. Devender Kumar, Senior Scientific Officer (Serology), FSL, Madhuban has stated that the sealed parcel as mentioned in FSL report Ex.P31 was received in their division on 17.08.2017 vide RC No.162 as the same had been brought to FSL, Madhuban by HC Jai Pal. He examined and conducted serological test to determine its species of origin and group. He produced on record report pertaining to blood group Ex.P32 which bears his signatures.

19. PW15 SI Kanwar Singh is the Investigating Officer of this case. He has deposed in detail regarding all the investigation proceedings conducted in this case. He has deposed that on 01.08.2017, on receiving the information regarding having a quarrel taken place at village Sahuwala, along with HC Jagpal Singh, ASI Kamal Singh, HC Radhey Shyam and other police officials reached at the place of occurrence. Complainant met them and his statement Ex.P8 was recorded. He conducted the police proceedings Ex.P15. He inspected the place of occurrence and Scene of Crime team was called at the spot and Dr. Ajmer Singh had given some

directions. He had also inspected place of occurrence at *chaubara* of the house of the accused where he committed murder of his sister and Sonu. Photographs of both the places were clicked. Blood was also present there and same was collected and converted into sealed parcels. Blood stained bed sheet was also converted into sealed parcel. The blood stained pair of slippers of Sonu were also converted into sealed parcel. At the place from where the dead body of deceased sister of accused was lying, blood was collected and converted into sealed parcel. Hair were also collected and converted into sealed parcel. Pair of blood stained slippers of deceased sister of accused were also converted into sealed parcel and the aforesaid sealed parcels were taken into possession vide memo Ex.P28. Inquest proceedings Ex.P51 pertaining to dead body of deceased sister of the accused were conducted. Rough site plan of place of occurrence Ex.P52 was prepared in the presence of the complainant. He recorded statements of witnesses. Dead body of the victim/deceased daughter of Lillu Ram was brought at Civil Hospital, Sirsa. Dead body of the other victim Sonu S/o Banwari Lal was already in the hospital. Photographs were clicked at the hospital. Inquest proceedings Ex.P64 pertaining to dead body of Sonu were conducted.

On 02.08.2017, post mortem of dead bodies was conducted and videography of post mortem was also done.

Accused Hardeep Singh @ Gogdi was arrested and one blood stained pant and T-shirt which was worn by him was converted into sealed parcel and was taken into possession vide memo Ex.P16. On 03.08.2017, on interrogation, accused made disclosure statement and admitted his

involvement in the crime and disclosed about the manner in which the crime was committed. On the basis of disclosure statement, he got recovered '*kappa*' with which he had killed both the deceased, from the bushes near Karamgarh road where he had concealed the same. His disclosure statement Ex.P17 was recorded. Accused led the police party and demarcated the place of occurrence vide memo Ex.P19 where he had killed deceased daughter of Lillu Ram. Sketch of '*kappa*' Ex.P21 was prepared and the same was converted into sealed parcel and taken into possession vide memo Ex.P21.

On 08.08.2017, the Medical Officer handed over to him the sealed parcel containing blood samples of deceased, blood stained clothes of deceased, and hair of deceased Sonu.

On 09.08.2017, after moving an application Ex.P13, he produced sealed parcel containing *kappa* before Dr. Deepak Kumar, Dr. Rishad and Dr. Babita and the said doctors have given opinion vide Ex.P14 that possibility of injuries mentioned in the said post mortem report due to said weapon, cannot be ruled out.

20. PW16 ASI Babloo Singh has stated that on 01.08.2017, he had registered FIR Ex.P65 and made endorsement Ex.P66 bearing his signatures. Copies of special reports were sent to the Area Magistrate and other higher police officials through EHC Inder Singh.

21. After closure of evidence of the prosecution, statement of accused under Section 313 Cr.P.C. was recorded wherein he had pleaded his innocence and false implication in the present case. On 01.08.2017, he was present with Amar Singh from 12.00 PM to 2:15 PM in the fields of

Gamdoor Singh S/o Gurnam Singh R/o Village Sahuwala. Thereafter he reached at his house at about 2:30 PM on the motorcycle and police apprehended him and falsely implicated him in this case. He was not present at the time of alleged occurrence, false recovery has been planted upon him and disclosure statements, recovery memo, demarcation memo etc. are false and fabricated documents.

22. In his defence, the accused has examined DW1 Gamdoor Singh, who has stated that on 01.08.2017 at about 12:00 noon, he went to Patwar Bhawan, where Amar Singh, ALM had met him and he requested him to repair his transformer at his tubewell in his agricultural fields. Amar Singh told him that he would reach at his tubewell with a helper. Thereafter, he went to his agricultural fields. At about 12:15 noon, Amar Singh and Hardeep Singh @ Gogdi reached there. They repaired his transformer etc. and remained there for about two hours i.e. from 12:00 to 2:15 PM. Then a phone call was received by Amar Singh and he along with accused Hardeep Singh @ Gogdi left his agricultural fields.

23. DW2 Sonu S/o Gopi Ram has stated that on 01.08.2017 he was at his shop. Shop of his father and shop of Lillu Ram are adjoining. At about 12:00 noon, accused Hardeep Singh @ Gogdi and Lillu Ram were doing work at his shop of tyre repairing etc. Amar Singh reached there on a motorcycle and took accused Hardeep Singh @ Gogdi with him on motorcycle. He was going to his house and saw that sister of the accused was lying in the courtyard in the injured condition and gate was open. He made a phone call to Amar Singh and told him about the condition of sister

of the accused and also told him that nobody was present at the house of the accused Hardeep Singh @ Gogdi. He went to the shop of Lillu Ram and informed him about the said fact. He along with Lillu Ram reached at the house of the accused. After 15-20 minutes, Hardeep Singh @ Gogdi also reached there and at about 3:00 PM, police also reached there. Police conducted proceedings there and apprehended accused Hardeep Singh @ Gogdi and his father Lillu Ram. At about 7:00 PM, police took accused Hardeep Singh and his father with them. He did not know that who had killed the sister of the accused.

24. Learned counsel for the accused/appellant has contended that the accused has been falsely implicated in this case and at the time of murder of both the deceased persons, the accused was not present at the scene of occurrence, as he was in the fields of Gamdoor Singh from 12.05 PM to 2:00 PM. Only after receiving the information regarding murder of his sister and one Sonu, he came at the spot on motorcycle of Amar Singh at about 2:30 PM but police apprehended him on the same day and falsely implicated him in this case. He has also contended that it is a blind murder case and PW5 Jagdish Parsad and PW6 Suresh Kumar have not witnessed the alleged occurrence and no independent witness has been examined by the prosecution. No finger prints of the accused were sent for examination and no DNA profile was conducted. He has further contended that as PW5 and PW6 are the procured witnesses, so the present case is based upon the circumstantial evidence and chain of circumstances is not complete so as to connect the accused with the offence in the present case. He has argued that

the disclosure statement, if any, made by the accused during the investigation before the police cannot be used against him. He has further argued that judgment of conviction passed by the trial Court is totally illegal, unjustified and deserves to be reversed and accused person deserves to be acquitted as per law.

25. On the other hand, learned State counsel has contended that the prosecution has proved sufficient evidence on record to establish the guilt of the accused beyond the reasonable doubt. The motive is also well established in the case as the accused murdered his sister/victim and Sonu S/o Banwari Lal on the basis of suspicion that both of them were having illicit relations. He has further contended that there is an eye version account of PW5 Jagdish Parsad and PW6 Suresh Kumar regarding committing of murder of deceased Sonu and victim/daughter of Lillu Ram by the accused fully in their view and statements of the aforesaid witnesses inspire confidence and the accused have been rightly convicted by the trial Court on the basis of this overwhelming evidence.

26. We have heard learned counsel for the appellant as well as learned State counsel and have perused the record of the case.

27. The FIR in the instant case was registered on the basis of statement of complainant – Jagdish Parsad Ex.P8. He has specifically stated therein that accused was having doubt that there were illicit relations between his sister and deceased Sonu. So he killed both of them with sharp edged weapon. While appearing as PW6 Suresh Kumar has also categorically stated in his examination-in-chief that the injuries upon Sonu

and the victim were inflicted by the accused Hardeep Singh @ Gogdi as he was having suspicion that Sonu and victim were having illicit relations. When no cross-examination on this point has been conducted, then it is proved that it was a strong motive with the accused to kill both the deceased.

28. Moreover, when PW5 and PW6 are eye witnesses to the occurrence in the present case, then the motive in such like cases become immaterial and even if the motive is not proved then it will not adversely effect the case of the prosecution.

29. The accused has taken the plea that he was not present at the spot and at the time of the alleged occurrence he was present in the fields of Gamdoor Singh and thus, accused had taken the plea of *alibi*. The Apex Court in **Binay Kumar Singh Vs. State of Bihar, 1997 (1) RCR (Criminal) 178** has held as under:

“The Latin word alibi means "elsewhere" and that word is used for convenience when an accused takes recourse to a defence line that when the occurrence took place he was so far away from the place of occurrence that it is extremely improbable that he would have participated in the crime. It is basic law that in a criminal case, in which the accused is alleged to have inflicted physical injury to another person, the burden is on the prosecution to prove that the accused was present at the scene and had participated in the crime. The burden would not be lessened by the mere fact that the accused has adopted the defence of alibi. The plea of the accused in such cases need to be considered only when the burden has been discharged by the prosecution satisfactorily. But once the prosecution succeeds in discharging the burden it is incumbent on the accused, who adopts the plea of alibi to prove it with absolute certainty so as

to exclude the possibility of his presence at the place of occurrence. When the presence of the accused at the scene of occurrence has been established satisfactorily by the prosecution through reliable evidence, normally the court would be slow to believe any counter evidence to the effect that he was elsewhere when the occurrence happened. But if the evidence adduced by the accused is of such a quality and of such a standard that the court may entertain some reasonable doubt regarding his presence at the scene when the occurrence took place, the accused would no doubt, be entitled to the benefit of that reasonable doubt. For that purpose, it would be a sound proposition to be laid down that in such circumstances, the burden on the accused is rather heavy. It follows, therefore, that strict proof is required for establishing the plea of alibi. ”

30. In the instant case also, when a plea of *alibi* has been taken by the accused, then burden is upon him to establish the same by positive evidence after onus regarding his presence has been established by the prosecution. The cumulative effect of evidence regarding presence of accused at the scene of occurrence cannot be disbelieved only on the bald utterance of DW1 and DW2.

31. It is also pertinent to note that prosecution has examined PW10 Amar Singh, who has been cited as a prosecution witness. But when he appeared before the Court, he did not support the story of the prosecution and rather stated that at the time of occurrence accused Hardeep Singh @ Gogdi was with him in agricultural fields/tubewell of Gamdoor Singh and they were repairing the transformer of the tubewell. It appears that only after the aforesaid statement of PW10, the plea of *alibi* was taken by the accused.

Earlier no question regarding his non presence at the spot was put by the

defence at the time of recording statements of PW5 Jagdish Parsad and PW6 Suresh Kumar. Moreover, the statements of witnesses examined in the defence does not inspire confidence. DW2 Sonu has stated in his examination-in-chief that at about 7:00 PM, police took accused Hardeep Singh @ Gogdi and his father with them, whereas in his statement recorded under Section 313 Cr.P.C., the accused has stated that he reached at his house at 2:30 PM on motorcycle and police apprehended him on the same day and falsely implicated in this case. No such material has been produced on record that accused was having any knowledge regarding repairing of the transformer. DW1 Gamdoor Singh has admitted in his cross-examination that Hardeep Singh @ Gogdi was not doing any job in the Electricity Department. He has further stated that he was not having any documentary proof regarding doing repair of such transformer on that day. He had not made any written representation to the Superintendent of Police, Sirsa, District Magistrate, Sirsa or the concerned SHO regarding presence of accused at his agricultural fields at the time when the alleged occurrence took place. It is also to be taken note of that accused was not stated to be so far away that his presence could not have been possible when the occurrence took place. The defence version is that the accused was present in the fields of Gamdoor Singh. So he was not at such far away place from where he could not have reached after committing the murder of both the deceased. So we are obliged to concur with the finding given by the trial Court that the accused has failed to prove the plea of *alibi* and the defence evidence led by the accused is not trustworthy, convincing and cogent.

32. On the other hand, testimonies of PW5 Jagdish Parsad and PW6 Suresh Kumar inspire confidence. The testimonies could not be shattered even during their cross-examination and no glaring discrepancy/contradiction has been pointed out in their statements.

33. Besides that there is chain of other necessary circumstances which connect the accused with the commission of offence in the present case. It has been proved on record that dead bodies of both the deceased were found in the house of the accused. PW5 SI Kanwar Singh has categorically stated in his evidence that he had inspected the place of occurrence and dead body of victim - daughter of Lillu Ram was lying in the courtyard of Hardeep Singh @ Gogdi and blood was present there. He had also inspected place of occurrence i.e. *chaubara* where murder of Sonu was committed. Photographs of both the places were clicked. Blood was also present there which was collected and converted into sealed parcels. Hair were also collected and were converted into sealed parcel. The blood stained bed sheet, blood stained slippers of Sonu, blood stained slippers of sister of the accused were also collected and converted into sealed parcels.

34. The Investigating Officer has also deposed that Scene of crime team was also called at the spot and PW7 Dr. Ajmer Singh had also deposed in detail regarding the same. From the aforesaid evidence, coupled with the site plan Ex.P6, it stands duly proved that both the deceased were killed in the hosue of the accused.

35. Moreover, from the testimony of the Investigating Officer and PW9 HC Jagpal, it has been proved that accused had suffered disclosure

statement Ex.P17 on 03.08.2017 and in furtherance of his disclosure statement, he got recovered *kappa* with which he had killed both the deceased, which he had concealed under shadow of bushes near Karamgarh road. Thus, the weapon of offence i.e. *kappa* was got recovered at the instance of the accused.

36. Now while assessing admissibility and evidentiary value of disclosure statement Ex.P17 under Sections 25 and 26 of the Indian Evidence Act, confession of the accused person is not admissible in evidence, but Section 27 is an exception by way of proviso to these sections and a statement even by way of confession which distinctly related to the fact discovered is admissible as evidence against the accused in circumstances as stated in Section 27 of the Indian Evidence Act. Thus, Section 27 makes that part of statement which is distinctly related to the discovery admissible as whole, whether it is in nature of confession or not. So keeping in view the aforesaid law, the disclosure statement Ex.P17 made by the accused leading to recovery of *kappa* is fully admissible in evidence.

37. PW8 Dr. Deepak Kumar has deposed that on 09.08.2017, police made an application Ex.P13 along with sealed parcels containing metallic weapon i.e. *kappa* regarding injuries upon the deceased. He along with Dr. Rishad and Dr. Babita perused PMRs and the said weapon and had opined vide report Ex.P14 that possibility of injuries mentioned in the said PMRs due to this weapon cannot be ruled out. The articles recovered from the place of occurrence and accused were sent to FSL and report of FSL Ex.P9 (Scene of Crime), Ex.P29, Ex.P31 and results of serological analysis of

blood Ex.P31 have been proved on record. We do not agree with this contention of learned counsel for the appellant that when there was no blood on the *kappa*, it shows that the accused has been falsely implicated in this case. Rather the result of serological analysis of blood Ex.P32 shows that there was blood group 'O' on *kappa*. So from FSL reports Ex.P9, Ex.P29, Ex.P31, the results of serological analysis Ex.P32 also it is clearly established that the accused with *kappa* caused injuries to both the deceased with the intent to kill them. It is a case of honor killing where both the victims were brutally murdered by the accused, fully in view of PW5 and PW6, who are eye witnesses to the entire occurrence.

38. For the reasons recorded hereinabove, we find no merit in this appeal and thus, we dismiss the same by affirming the judgment and order, under challenge. In the present case, appellant is already in jail. He shall serve out the sentence, so awarded to him by the trial Court.

34. Let a copy of this judgment and order along with the LCR be transmitted to the Court with the direction to inform the appellant – Hardeep Singh @ Gogdi about the fate of his appeal.

35. Pending application(s), if any, shall also stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

15.05.2024
harjeet

1. Whether speaking/reasoned?	Yes/No
2. Whether reportable?	Yes/No