



**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRA-D-768-DBA-2002 (O&M)
Date of Decision:-27.5.2024

State of Punjab ... Appellant

Versus

Labh Singh and others ... Respondents

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

Present:- Mr. I.P.S. Sabharwal, DAG, Punjab.

Mr. K.D.S. Hooda, Advocate,
Amicus Curiae for respondents No.1 and 2.

GURVINDER SINGH GILL, J.

1. Aggrieved by acquittal of respondents - Labh Singh, Bhajan Kaur and Avtar Singh in a trial arising out of FIR No.175, dated 16.9.1997 registered Police Station Sadar, Rajpura, under Sections 302, 201 and 34 of Indian Penal Code, State of Punjab has preferred this appeal challenging judgment dated 26.2.2002 passed by learned Additional Sessions Judge, Patiala vide which the respondents/accused namely Labh Singh, Bhajan Kaur and Avtar Singh have been acquitted of the charges framed against them.
2. Mr. Rakesh Gupta, Advocate has put in appearance on behalf of respondent No.3. and has filed *Vakalatnama*, which is taken on record.



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3. The FIR (Ex.PP/1) was lodged at the instance of Gurjit Singh @ Gurchet Singh, wherein it is alleged that he is an agriculturist and since he does not have any child, therefore, his nephew Amarjit Singh had been residing with him and had been looking after him. Amarjit Singh was married to Sukhwinder Kaur. On 12.9.1997, he (Amarjit Singh) had gone to see fair of 'Guga Mari' held in their village, but did not return home and upon which he and other members of his family searched for him and checked up with their relatives and also nearby villages, but his whereabouts could not be traced. On 16.9.1997, he (Amarjit Singh) had been seen at the fair alongwith Labh Singh and Tara Singh in the evening. The complainant strongly believed that his nephew Amarjit Singh had been killed by the said two persons. The complainant alleged that about 3/4 years back Amarjit Singh had visited the hosue of Labh Singh in his absence when his wife was present there after having consumed liquor on account of the said grudge they had killed him. The dead-body was recovered from sugarcane fields of Labh Singh, which was buried in a pit. It was thereafter that the complainant got the FIR recorded.
4. The dead body of Amarjit Singh was recovered from fields on 16.9.1997. Inquest proceedings were conducted by the police and thereafter the dead-body was got subjected to post-mortem examination. Accused Labh Singh and Bhajan Kaur were arrested on 20.9.1997. It is the case of prosecution that Labh Singh suffered a disclosure statement before Inspector Sukhdev Singh to the effect that he had kept concealed one hammer, one 'kassi', one rope and a 'palli' in the 'Gohara' and could get the same recovered and that



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pursuant to the said statement he led the police party to the nominated place and got the aforesaid articles recovered. It is further the case of prosecution that even Bhajan Kaur suffered a disclosure statement to the effect that she had kept concealed a '*kurta pajama*', parna and a pair of shoes in the cattle shed and that pursuant to the said statement, she had got the same recovered. It is further the case of prosecution that on 23.9.1997, Harchand Singh Sarpanch produced accused Avtar Singh before police, who suffered a disclosure statement to the effect that he had kept concealed a gold ring in the store of his house. Avtar Singh is stated to have got the said ring recovered by leading the police party to the disclosed place. Upon completion of investigation challan was presented in the Court of learned Sub Divisional Judicial Magistrate, Rajpura, who committed the case to the Court of Sessions vide commitment order dated 18.11.1997. Learned Additional Sessions Judge, Patiala, to whom the matter was entrusted, framed charges against the accused for offences under Sections 302 and 201 IPC on 19.12.1997.

5. The prosecution examined as many as 19 witnesses. A gist of statements of the witnesses is reproduced hereinunder:

PW-1 Dr. I.C. Taneja, Medical Officer, A.P. Jaib, Civil Hospital, Rajpura, who had conducted post-mortem examination on the dead body of Amarjit Singh proved the post-mortem report as 'Ex.PB/1'. He recorded the following injuries, which were found on the dead-body:

“1. There was no visible mark of ligature present around the neck but there was a depressed area of the size of 8 cm. X 5 cm. present on the left side of temporal, frontal and parietal region of the scalp.”



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PW-1 opined that in his opinion the cause of death was shock due to injury No.1 i.e. the head injury.

PW-2 Head Constable Jangir Singh is a formal witness, who tendered his affidavit 'Ex.PF' in evidence. **PW-3** Surinder Singh, Patwari, who had prepared the site plan of the place of occurrence proved the same as 'Ex.PG'.

PW-4 Anoop Kumar, Photographer stated that he had clicked photographs Exs.P-1 to P-6 of the dead-body. **PW-5** M.H.C. Satnam Singh is another formal witness who tendered his affidavit 'Ex.PG'. **PW-6** Head Constable Jagir Singh is a formal witness, who tendered his affidavit 'Ex.PH' in evidence.

PW-7 Gursewak Singh stated that he was Sarpanch of the village during the years 1997-1998 and had joined investigation of the present case. He stated that Amarjit Singh, nephew of Gurchet Singh @ Gurjit Singh went missing and in respect of which FIR was lodged. He further stated that there was suspicion on Labh Singh and others. He stated that ASI Amrik Singh had found the dead-body of Amarjit Singh lying in a pit near sugarcane fields.

PW-8 Constable Gurmail Singh is a formal witness, who tendered his affidavit 'Ex.PK' in evidence. **PW-9** Amarjit Singh son of Hazura Singh stated that on 12.9.1997 at about 09:00 P.M., he had seen Labh Singh, Avtar Singh and Amarjit Singh going towards Village Sanolia and that he knew all the said three persons and could identify them.

PW-10 Inderjit Singh stated that in September, 1997 a fair was held in their village and he had gone to see wrestling at the said fair. He stated that at



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about 07:00 P.M. he had seen Amarjit Singh, Labh Singh and Avtar Singh, who were having '*jalebies*' and that Amarjit Singh had offered a piece of '*jalebi*' to his son, who was accompanying him (PW-10).

PW-11 Constable Gurmail Singh is a formal witness, who tendered his affidavit 'Ex.PL' in evidence. **PW-12** Ram Singh stated that on 12.9.1997 Amarjit Singh had gone to see the fair of '*Guga Mari*' in their village, but did not return home and later his dead-body was recovered from sugarcane fields of Labh Singh, which had been buried in a pit and that he had identified the dead-body of Amarjit Singh.

PW-13 Avtar Singh son of Gurbax Singh stated that about 2¾ years back when he had gone to the police station, Avtar Singh accused was called, who was sitting in the police station and was interrogated by the SHO and Avtar Singh disclosed that he had kept a ring concealed in a room of his house, which he had kept in an iron box and that the said ring had been removed by him from the hand of Amarjit Singh. He further stated that pursuant to the said statement, Avtar Singh led the police party to the disclosed place and got the gold ring recovered.

PW-14 Bakshish Singh stated that on 22.9.1997 when he was present in police station, Labh Singh, upon interrogation by the police, disclosed about the weapons used by him for killing Amarjit Singh and pursuant to his statement got one hammer, one spade, rope and a '*palli*' recovered, which he had kept concealed in a heap of dung cakes in his house. He further stated that even Bhajan Kaur was interrogated and who also suffered a disclosure



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statement pursuant to which she got recovered a shirt, trouser, one '*parna*' and shoes from the cattle shed in her house.

PW-15 Bhagwan Singh stated that about 3 years back at about 06:30 P.M., when he was present at Bus Stand of Rajpura Town, he saw Labh Singh and Avtar Singh, who were under the influence of intoxicants and were talking amongst each other and were saying that they had murdered Amarjit Singh and had kept his body in a field and that they should dispose of the same. He further stated that Avtar Singh had also mentioned that Bhajan Kaur was also present at the time of murder of Amarjit Singh and had held his head.

PW-16 Harchand Singh stated that he is an Ex. Sarpanch of the village and he knew Avtar Singh and that on the morning of 23.9.1997 Avtar Singh came to his residence. He stated that Avtar Singh is also known as Tara and he disclosed that on 12.9.1997 he had gone to the '*dera*' of Labh Singh from where he and Labh Singh went to the fair of '*Guga Mari*', where they met Amarjit Singh, who had consumed liquor and all three of them went to have more liquor. PW-16 Harchand Singh further stated that Avtar Singh disclosed that at about 09:00 P.M. when Amarjit Singh was about to go home, then Labh Singh said that he was not allowed to go home and was to be taken to '*dera*' in order to take revenge as he had earlier tried to molest his wife about 3/4 years ago. He further stated that after they reached '*dera*' they consumed more liquor and Amarjit Singh was made "drunk" and thereafter Avtar Singh, Bhajan Kaur and Labh Singh conspired to kill him and Bhajan Kaur brought a rope and gave the same to Labh Singh, who put the said rope around the neck of Amarjit Singh and strangulated him by twisting rope again and again



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and that during the said period Avtar Singh had pressed the mouth of Amarjit Singh with his hands. PW-16 further stated that Avtar Singh disclosed that Bhajan Kaur brought one hammer and gave it to Labh Singh and who struck the hammer with the other hand on the chest of Amarjit Singh while Bhajan Kaur had pressed the head of Amarjit Singh, who died at the spot and that thereafter they put the dead-body in a '*palli*' and kept the same in the adjoining sugarcane field of Bhagwant Singh. PW-16 stated that since Avtar Singh requested to be produced before the police, therefore, he produced Avtar Singh before the police and the police arrested him.

PW-17 Kehar Singh Lambardar of the village stated that about 3 years and 4 months ago Labh Singh and Bhajan Kaur came at his residence and confessed their guilt of having murdered Amarjit Singh and that he had produced the said two accused before the police.

PW-18 Gurjit Singh (complainant) stated that about 4 years ago there was a fair of '*Guga Mari*' in his village and Labh Singh had come to his house and taken his son Amarjit Singh alongwith him and that he does not know where his son had been taken and later his dead-body was taken out by accused Labh Singh from his house in the fields and that other accused were also with him.

PW-19 Inspector Sukhdev Singh, who is the Investigating Officer in the present case, stated in detail with respect to the investigation conducted by him in the matter and proved various documents, which had been prepared during the course of investigation.



6. Upon conclusion of prosecution evidence, statements of the accused were recorded in terms of provisions of Section 313 Cr.P.C., wherein they pleaded innocence and false implication. The accused in their defence examined DW-1 Harmesh Chand, who stated that he is Member Panchayat of the Village Sanolia and that on 13.9.1997 at about 4-5 P.M., when he alongwith Devi Dayal, Mamber Panchayat and 4-5 other persons was present near 'dharmshala' of their village, then Amarjit Singh came there, who was accompanied by Inderjit Singh, Ram Singh Granthi, Gursewak Singh Sarpanch and Bhagwan Singh apart from another 4-5 persons, who all belong to Village Harpalpur and that they inquired about the whereabouts of Amra son of Ram Singh. He further stated that on 17.9.1997 Piara Ram met him and told him that his son Avtar Singh was in the custody of police and that they went to the police station, where Avtar Singh was in custody and they were assured by the police that Avtar Singh would be released after interrogation.
7. Learned Trial Court, upon appraisal of the evidence on record, returned findings to the effect that the police had been unable to establish the charges framed against the accused beyond reasonable doubt and consequently acquitted all the accused.
8. Learned State counsel, while assailing the impugned judgment, submitted that the Trial Court fell in error in placing undue reliance upon minor discrepancies and that in the present case circumstantial evidence led by the prosecution in the shape of "last seen" evidence and extra judicial confession made by the accused and also the recovery of dead-body clearly points

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towards the guilt of the accused and, as such, the impugned judgment deserves to be set aside and the accused ought to be convicted for having committed the murder of Amarjit Singh.

9. On the other hand, learned counsel representing the respondents submitted that the impugned judgment is a well reasoned judgment based upon proper appreciation of facts and does not merit any interference.
10. This Court has considered rival submissions addressed before this Court.
11. In the present case, while the accused Avtar Singh is alleged to have made extra judicial confession before PW-16 Harchand Singh to the effect that Amarjit Singh was murdered by all the accused and had been strangled to death with a rope tied around his neck and that an injury was also inflicted with a hammer on his chest, but the medical evidence is absolutely in contradiction inasmuch as no ligature mark was found around the neck. Still further, no such injury was found on the chest and rather the cause of death is attributed to an injury on the head. In other words, the medical evidence is absolutely in contradiction with the case being projected by the prosecution.
12. Still further, the extra judicial confession is also rendered suspect on account of the fact that the same had been made before a Sarpanch of another village inasmuch PW-16 Harchand Singh is a resident of Village Mandiana, whereas Avtar Singh is a resident of Village Sanolia. Coming to the testimony of PW-17 Kehar Singh, who also stated that the accused Labh Singh and Bhajan Kaur had confessed their guilt before him, during the course of cross-examination he stated that his statement was recorded on 20.9.1997 at about



10:30 A.M. and he had produced the accused Labh Singh and Bhajan Kaur before the police on 20.9.1997, whereas cross-examination of PW-12 Ram Singh complainant shows that Avtar Singh and Labh Singh were arrested by the police after 3 days of recovery of dead-body of Amarjit Singh.

13. PW-17 Kehar Singh stated that the dead-body of Amarjit Singh was recovered on 16.9.1997 and thus going by his statement that the accused was arrested after 3 days, the accused would have been under arrest on 16.9.1997, whereas the extra judicial confession was made by Labh Singh and Bhajan Kaur before PW-17 Kehar Singh on 20.9.1997 and the accused Avtar Singh had made extra judicial confession before PW-16 Harchand Singh on 23.9.1997. If the accused were in custody on 19.9.1997, then there was no occasion for the accused to have made extra judicial confession before PW-17 Kehar Singh and PW-16 Harchand Singh on 20.9.1997 and 23.9.1997. The said inconsistency creates a serious doubt in the case of the prosecution and suggest that the said witnesses regarding extra judicial confession have been introduced falsely.
14. The testimony of PW-15 Bhagwan Singh, who claims to have overheard the accused admitting their guilt also does not inspire confidence inasmuch he had not disclosed about the facts, which had come to his knowledge upon overhearing the conversation of accused for a good 4-5 days. Had he actually overheard the accused confessing their guilt, he was expected to have reported the matter either to the police or would have at least informed the complainant. Not doing so is certainly an unnatural conduct on his part



particularly when he also is a resident of the same village i.e. Village Harpalpur.

15. The prosecution had also examined some witnesses, who had allegedly seen the deceased in the company of the accused at a fair. However, merely seeing the deceased in the company of accused at a fair is not a very strong piece of evidence inasmuch as people usually go to the fairs for the purpose of entertainment.
16. Still further, the statement of PW-18 Gurjit Singh (complainant) made in the witness-box cannot be said to be in tune with the version put forth in the FIR by him inasmuch as while in the witness-box he stated that Labh Singh accused had come to his house and taken his son Amarjit Singh alongwith him, whereas there is no such reference of anybody having taken his son from the house. Still further, while he stated that the dead-body was recovered at the instance Labh Singh from his house in the sugarcane fields, whereas Labh Singh was actually arrested on 20.9.1997 and, under these circumstances, he could not have possibly got the dead-body recovered, which was actually recovered on 16.9.1997. Rather it is also the case of prosecution that the dead-body was recovered by ASI Amrik Singh lying in a pit near sugarcane fields.
17. The instant case being a case based on circumstantial evidence, a burden lay heavy on the prosecution to have proved all the links in the chain of circumstantial evidence by leading cogent and convincing evidence without leaving any room for doubt. In this context, a reference may be made to a judgment of Hon'ble the Apex Court rendered in Dinesh Kumar Vs. State of



Haryana, 2023(3) R.C.R. (Criminal) 1, wherein Hon'ble the Apex Court, while discussing the quality of evidence required to establish a case on the basis of circumstantial evidence, held as under:-

“The factors which have to be taken into consideration by the Court in a case of circumstantial evidence, are too well settled to be stated but nevertheless these factors which are being reproduced from Anjan Kumar Sarma (supra) are as under:-

- (1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned “must” or “should” and not “may be” established;
- (2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty;
- (3) the circumstances should be of a conclusive nature and tendency;
- (4) they should exclude every possible hypothesis except the one to be proved; and
- (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”

18. In the instant case, the prosecution, as already discussed above, has not been able to establish all the links in the chain of evidence successfully. Rather, there are several chinks in the case of prosecution, which have remained unexplained.

There are inconsistencies on material aspects as noted above, which certainly



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would put the Court at caution particularly in a case based on circumstantial evidence. The Trial Court having noticed these facts and having acquitted the accused cannot be said to have committed any error.

19. This Court does not find any perversity in the findings as recorded by the Trial Court and the same are hereby affirmed. Finding no merit in the instant appeal and the same is hereby dismissed.

(GURVINDER SINGH GILL)
JUDGE

27.5.2024
Pankaj

(N. S. SHEKHAWAT)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No