



CRM-A-440-2021 (O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRM-A-440-2021 (O&M)  
Date of decision:18.09.2024

Sukhraj Kaur ... Appellant

Vs.

State of Punjab & others ... Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL.  
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Atul Lakhanpal, Sr. Advocate with  
Mr. Arvindpal Singh, Advocate for the appellant.

...

**SUKHVINDER KAUR, J.**

1. Applicant/appellant, Sukhraj Kaur has preferred the instant application under Section 378(4) Cr.P.C. seeking leave to appeal against judgment dated 10.03.2021 passed by learned Additional Sessions Judge, Tarn Taran, vide which respondents No.2 to 4 have been acquitted of offences punishable under Sections 302/201/34 IPC and Section 27 of the Arms Act.

2. Brief facts as per the prosecution case are that present FIR was registered on the basis of statement of Sukhraj Kaur wd/o Bachan Singh, who stated that she was married with Bachan Singh since last 30-35 years. No issue was born out of their wedlock. So they adopted Manpreet Singh S/o Surjit Singh resident of village Fatehgarh Sabra, who



is grandson of her sister-in-law, in the year 2005-06. Her husband had retired as Junior Engineer from Punjab State Power Corporation Limited (for short 'PSPCL'). Sometimes, he used to consume liquor. Bachan Singh used to quarrel with her and their adopted son in connection with property. Beant Singh brother of her husband and his wife Simarjit Kaur used to provoke her husband that due to this adoption, he had created a dispute within the family. Due to their instigation, her husband Bachan Singh used to quarrel with her and their adopted son Manpreet Singh and he started residing outside the house. On the instigation of his brother Beant Singh, he also filed a divorce case against her, which was dismissed by the Court. After their patch up, they started residing in a house at Master Colony near Aulakh Hospital, Tarn Taran. On asking of Beant Singh and his wife Simarjit Kaur, Bachan Singh transferred 4-5 killas of land of his share in their name. Due to this, there used to remain quarrel in their house. Her husband also used to give cash amount to Beant Singh. After the matter was settled between her and Bachan Singh, Bachan Singh started demanding his half share from the house and was also asking them to return the land which he had transferred in their name, to which Beant Singh and his family did not agree and rather threatened to eliminate Bachan Singh. On 21.07.2016, she along with her husband Bachan Singh went to village Warrian in the evening, to negotiate regarding this land dispute. Due to late hours, they stayed at their house at village Warrian. During this period, an altercation took place between Bachan Singh and



Beant Singh and then it was cooled down with intervention of others. At about 11/12 A.M. during the midnight, when she came outside the room for urinating, she found that Beant Singh, his wife Simarjit Kaur, his son Sarabjit Singh and his daughter-in-law Raminder Kaur @ Rimmi wife of Sarabjit Singh were loudly abusing and quarreling with Bachan Singh. Beant Singh was repeatedly saying that he be caught hold and taught a lesson for demanding back his land. In the meantime, Simarjit Kaur wife of Beant Singh brought DBBL gun from inside and handed it over to Beant Singh. Raminder Kaur @ Rimmi daughter-in-law of Beant Singh brought 32 bore revolver from inside and handed it over to Sarabjit Singh. On seeing these weapons in their hands, her husband started running to save his life and went on the roof where the 'chaff'/fodder had been stored. Beant Singh and his son Sarabjit Singh also reached there. Beant Singh fired a shot with his DBBL gun which hit Bachan Singh in his testicles. Then in order to create panic, they fired more shots with DBBL gun and 32 bore revolver. She saw the entire occurrence in the light of the bulb glowing in the courtyard and the light coming from the nearby Gurudwara Sahib. Out of fear, she ran outside the house and sat in the street along with wall and afterwards, she left for Tarn Taran. In the morning, she apprised his relatives about this occurrence. She also noticed that the accused had changed the clothes of her husband which he was wearing at the time of occurrence, in order to destroy the proof. She left her brother Madan Gopal near the dead body of her husband and along with nephew

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of his husband Surjit Singh, she reported the matter to the police. Upon her this statement, FIR No.42, dated 22.07.2016, under Sections 302/201/34 IPC and Sections 25 and 27 of the Arms Act was registered at Police Station Chohla Sahib, District Tarn Taran.

3. Post mortem upon the dead body of deceased Beant Singh was conducted. After inspecting the place of occurrence from roof of the fodder room one empty cartridge of 12 bore gun, one pouch of revolver 32 bore along with 6 live cartridges were taken in police possession. Blood stained earth was also lifted from the spot which was converted into sealed parcel. Site plan of place of occurrence was prepared. Statements of witnesses were recorded. Accused were arrested. After completion of investigation, challan against accused was presented in the Court of the learned Illaqa Magistrate, who committed the case to the Court of Sessions.

4. Finding a prima facie case, charges for offences punishable under Sections 302/201/34 IPC and Section 27 of the Arms Act were framed against the accused to which they pleaded not guilty and claimed trial.

5. As many as 14 witnesses were examined by the prosecution to prove its case. Statements of accused under Section 313 Cr.P.C. were recorded while putting all incriminating evidence to them. They claimed innocence and false implication. In defence, accused examined DW1 Harpal Singh, DW2 Davinder Singh, DW3 Harpal Singh, Arms Clerk,

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DC Office, Tarn Taran, DW4 Sh. Deepak Piplani, Advocate, DW5 ASI Amrik Singh, DW6 HC Dilbag Singh and DW7 Simranjit Singh LDC, PSPCL, Patti.

6. After considering the evidence on record, learned trial Court vide judgment dated 10.03.2021 convicted accused Beant Singh and acquitted accused Simarjit Kaur, Sarabjit Singh and Raminder Kaur @ Rimmi.

7. Aggrieved of the said decision, complainant Sukhraj Kaur wd/o Bachan Singh has preferred the present appeal along with application seeking leave to appeal against acquittal of respondents Nos.2 to 4.

8. Learned counsel for the appellant vehemently contended that learned trial Court has rightly convicted co-accused Beant Singh but has wrongly acquitted respondents No.2 to 4 by misreading and misinterpreting the evidence on record and has not read the evidence in its entirety. He further contended that complainant Sukhraj Kaur was an eye witness to the occurrence and during her deposition, she has assigned specific role to respondents No.2 to 4, who were also named in the initial complaint as well as in the FIR. Learned trial Court has also lost sight of the fact that as per the disclosure statement of respondent No.2 Ex.PW3/N, clothes of deceased Bachan Singh were recovered. He has urged that learned trial Court has rightly invoked provisions of Section 106 of the Indian Evidence Act against co-accused Beant Singh but has



erred gravely by completely ignoring the fact that respondents No.2 to 4 were also inhabitants of the same premises and were present at the spot. He submitted that prosecution has succeeded in proving its case beyond reasonable doubt against respondents No.2 to 4 for the offences for which they have been charged with and prayed that this appeal be accepted and judgment dated 10.03.2021 be modified and respondents No.2 to 4 be also convicted for the offences charged with and be punished accordingly.

9. At this stage, it would be appropriate to have a brief overview of the prosecution evidence.

PW1 Dr. Sarabjit Singh conducted post mortem on dead body of deceased Beant Singh being member of Board consisting of himself, Dr. Saurabh Arora and Dr. Samriti Ahuja. He proved on record post mortem report of deceased Bachan Singh as Ex.P2. He deposed that cause of death in this case in their opinion was heamorrhage and shock as a result of injury No.1, which is reproduced as under:

*“There is 7 CM X 9 CM irregular shaped lacerated wound present in the pubic area exposing the underlying structure penile and scrotal area. Ventral side of the penile skin and scrotal cavity open. On dissection dark infiltrations present in the track extending from pubic symphysis towards left side upto the neck of the femure. Intervening muscles nerves and blood vessels lacertaed. Fracture of the left neck of the femur present. foreign body circular in shape removed from the fractured site and handed over to the police. Clotted blood approximately of the 1280 GMS is present at fracture site and in the surrounding muscles.”*



PW2 Sukhraj Kaur complainant in the present case, is a material witness of the prosecution. While appearing as PW2 she has reiterated the entire prosecution story.

PW3 Inspector Nirmal Singh partly investigated the case and deposed about investigation proceedings conducted by him.

PW4 Surjit Singh has supported the prosecution version and has deposed that on 21.07.2016 he was present in his house, his maternal aunt Sukhraj Kaur came there at night, at 2:30 A.M. and apprised him regarding the entire occurrence and in the morning alongwith Sukhraj Kaur they informed the police and Madan Gopal was left near the dead body.

PW5 HC Sukhwant Singh has also deposed on similar lines as PW3 Inspector Nirmal Singh.

PW6 Harbhajan Singh did not support the prosecution version and was declared hostile on request of learned Additional PP for the State.

PW7 Rishi Ram, Draftsman prepared the site plan Ex.PW6/A of the place of occurrence, at the spot, at the instance of complainant Sukhraj Kaur.

PW8 Davinderpal Singh, Data Entry Operator SDM, Office brought the record pertaining to registration of motorcycle Hero Honda No.PB-46-G9121 which was registered in the name of Harbhajan Singh S/o Jiwan Singh.

PW9 ASI Sawinder Singh accompanied PW3 Inspector

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Nirmal Singh during the investigation and has deposed regarding investigation proceedings conducted during the investigation.

PW10 ASI Rasal Singh deposed regarding taking the sealed parcel containing blood stained earth and blood stained clothes and another sealed parcel of clothes of Bachan Singh along with sample seal 'NS' for depositing the same in the FSL, Mohali. The aforesaid parcels were deposited in intact condition by him on the same day and he handed over the receipt to MHC Joginderpal Singh. He further deposed that on 19.10.2016, MHC Joginderpal Singh handed over to him another sealed parcel for depositing in the office of FSL Mohali, which was deposited there in intact condition on the same day and he handed over the receipt to MHC Joginderpal Singh.

PW11 C Prabhpreet Singh No.37/TT deposed regarding depositing of sealed parcel of rifle 12 bore and one sealed parcel of revolver 32 bore, one sealed parcel of empty cartridge of 12 bore, two loose parcels of 10 test fire cartridges of 12 bore and 5 test fire cartridges of 32 bore along with sample seal impression in the office of FSL, Mohali in intact condition and handing over the receipt regarding the same to MHC Jaswant Singh.

PW12 HC Joginderpal Singh deposed regarding depositing of case property with him when he was posted as MHC at PS Chohla Sahib and then handing over these sealed parcels to HC Rasal Singh for depositing the same at FSL, Punjab, SAS Nagar, which were kept by him



in intact condition.

PW13 SI Sukhraj Singh No.534/TT also partly investigated this case and deposed about investigation proceedings conducted by him during the course of investigation.

PW14 Harinderpal Singh did not support the prosecution case and was declared hostile at request of Additional PP for the State.

10. Learned trial Court held that prosecution was able to connect accused Beant Singh for the commission of offence punishable under Section 302 IPC and Section 27 of the Arms Act for causing death of Bachan Singh his real brother. Accused/respondents No.2 to 4 Simarjit Kaur, Sarabjit Singh and Raminder Kaur @ Rimmi have been acquitted of the charges framed against them by the learned trial Court by giving benefit of doubt.

11. After having heard learned counsel for the appellant at length and having perused the impugned judgment as well as other relevant record, we are of the considered opinion that prosecution in the instant matter was indeed unable to prove its case against respondents No.2 to 4 beyond reasonable doubt.

12. Star witness of the prosecution is PW2 Sukhraj Kaur, who claims to be an eye witness to the occurrence. As per her deposition, co-accused Simarjit Kaur brought DBBL gun and Raminder Kaur @ Rimmi brought 32 bore revolver from inside and these were handed over by them to Beant Singh and Sarbajit Singh respectively. On seeing these weapons



in the hands of accused Beant Singh, Bachan Singh climbed on the roof of the fodder room. Beant Singh and Sarabjit Singh chased Bachan Singh and also climbed on to the roof of said room. Then Beant Singh fired a shot with his DBBL gun towards Bachan Singh which hit on his testicles and near the private part. Sarabjit Singh also fired with his 32 bore revolver in the air to terrorize him. In her cross-examination, she has stated that she was standing in the courtyard of the house when alleged incident took place on the roof of the fodder room. She also stated that the accused might have fired 6-7 shots with their weapons.

13. It is an admitted fact that accused Simarjit Kaur is wife of accused Beant Singh, accused Sarabjit Singh is son of Beant Singh and Raminder Kaur @ Rimmi is daughter-in-law of Beant Singh and wife of accused Sarabjit Singh. As per testimony of PW2 complainant Sukhraj Kaur, gun shot fired by Beant Singh with DBBL gun hit deceased Bachan Singh. She did not depose regarding causing of any injury by respondents No.2 to 4 on the person of Bachan Singh. As per post mortem report of deceased Bachan Singh Ex.P2, only one injury was found on his body. It further emerges from the evidence on record that weapon(s) of offence were recovered at instance of accused Beant Singh from the gun house in pursuance to his disclosure statement. PW13 SI Sukhraj Singh testified that on 16.08.2017, accused Beant Singh during interrogation suffered a statement that he had deposited the DBBL gun used during the occurrence in Chardikala Gun House at Naushehra Panua and had deposited the



revolver 32 bore used during the commission of offence at Baba Deep Singh Shaheed Gun House, after cleaning the same and had kept concealed an empty cartridge of DBBL gun in his residential house and in pursuance thereof got these recovered from the disclosed places. Thus from the aforesaid evidence, it transpires that weapons used in offence were not recovered from the possession of respondents No.2 to 4.

14. Though as per testimony of PW2 Sukhraj Kaur, the other real brother of accused Beant Singh and his family members resided in the adjoining house of Beant Singh, but neither they came forward to depose in favour of the prosecution nor any complaint regarding the present occurrence was made by them. No other villager was examined to reveal the truth regarding the present occurrence. No specific role has been attributed to respondents No.2 to 4. Though PW2 Sukhraj Kaur claimed in her deposition that 6-7 shots were fired with the DBBL gun and revolver and accused Sarabjit Singh also fired a shot in air with his revolver to create panic, yet this is not supported by the evidence on record. PW3 Inspector Nirmal Singh categorically stated that from the spot one pouch of 32 bore revolver along with six live cartridges and one empty cartridge of 12 bore had been recovered. Statement on similar lines has been made by PW9 ASI Sawinder Singh. So if Sarabjit Singh had also fired a shot with 32 bore revolver as alleged by PW2 Sukhraj Kaur, then the empty cartridge of 32 bore revolver should also have been recovered from the spot. So when only empty cartridge of 12 bore DBBL gun was



recovered from the spot then it falsifies PW2 Sukhraj Kaur to the extent that Sarabjit Singh had also fired shot with 32 bore revolver.

15. As already observed, only one gun shot injury was found on the person of deceased Bachan Singh as per post mortem report Ex.P2. As per FSL report Ex.P3, the black colour plastic material contained in parcel 'A' was portion of wad of 12 bore cartridge. So it is proved that no injury had been caused with 32 bore revolver.

16. Learned trial Court has thus rightly reached the conclusion that prosecution has not been able to connect accused/respondents No.2 to 4 Simarjit Kaur, Sarabjit Singh and Raminder Kaur @ Rimmi with the crime in the present case. They have been rightly acquitted of the charges framed against them. Merely because Beant Singh has been convicted, cannot be a ground to convict the abovesaid accused as well, in the absence of clear and cogent evidence against them.

17. It is a settled position that an order of acquittal is not to be interfered with lightly because presumption of innocence of the accused is further strengthened by acquittal. Interference is called for only under compelling circumstances, where impugned findings are perverse, unreasonable and convincing material on record is ignored unjustifiably by the trial Court. Reference in this regard can be made to judgment of Hon'ble the Supreme Court in **Mahamadkhan Nathekhan Vs. State of Gujrat, 2014 (14) SCC 589**. Learned counsel for the appellant was unable to point out any illegality, infirmity or perversity in the impugned



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decision dated 10.03.2021 which calls for interference.

18. No other argument was addressed.
19. In view of the above, no ground is made out for grant of leave to appeal against acquittal of respondents No.2 to 4. Application seeking leave to appeal is declined.
20. However, it is clarified that this order will not have any bearing on **CRA-D-244-2021 (Beant Singh Vs. State of Punjab)**, which would be decided on its own merits.
21. Pending application(s), if any, shall also stand disposed of.

( LISA GILL )  
JUDGE

( SUKHVINDER KAUR )  
JUDGE

17.09.2024  
*harjeet*

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|----------------------------|--------|
| Whether speaking/reasoned? | Yes/No |
| Whether reportable?        | Yes/No |