

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-981-DB-2004
Decided on:- February 20, 2024

Suba SinghAppellant

Versus

State of Punjab ...Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. K.B.S. Mann, Advocate
for the appellant.

Mr. Sandeep Vermani, Additional A.G. Punjab.

AMARJOT BHATTI, J.

1. Appellant/convict Suba Singh has filed appeal against judgment of conviction and order of sentence dated 24.11.2004 passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Muktsar in Sessions Case bearing No. 124-A dated 24.11.2002, titled as "State Vs. Suba Singh and others" in FIR No. 147 dated 19.08.2002 under Section 302/34 of Indian Penal Code, 1860 (for short 'IPC') and Section 27 of Arms Act, Police Station Lambi, vide which he was sentenced as under : -

Offence U/s	Sentence	Fine	In default of fine (Rigorous Imprisonment)
302 IPC	Life imprisonment	Rs. 1000/-	Two months
27 of Arms Act	Rigorous imprisonment for One year	-	-

Co-accused namely Amarjit Kaur and Parampal Singh were acquitted of the charge framed against them.

2. Brief facts of the case are that present FIR was lodged on the statement of Karnail Singh father of deceased victim Ranjit Singh. Complainant stated that about six months prior to the occurrence, his son Ranjit Singh had purchased two and half kilas of land from Nishan Singh and Mehal Singh, residents of village Bajewala. The said land was situated in front of farm house of Suba Singh. A passage was provided to the land purchased by Ranjit Singh. Suba Singh raised construction of a room by encroaching upon a part of passage. Ranjit Singh wanted demarcation of the land. During this period, Suba Singh obtained stay order from the Court of Gidderbaha and as such demarcation could not be carried out and said case was fixed for 18.09.2002.

On the day of occurrence i.e. on 19.08.2002, Ranjit Singh was watering his narma (cotton plant) crop with electric motor. At about 12:00 noon, Karnail Singh went to the fields to give tea to Ranjit Singh. He saw Suba Singh armed with 12 bore double barrel gun, his wife Amarjit Kaur armed with *gandasa* and his son Parampal Singh, who were quarreling with his son Ranjit Singh and they forcibly diverted the course of water channel towards their fields. Harjinder Singh was also working in the adjoining fields.

On hearing the commotion, he also reached there. Amarjit Kaur and Parampal Singh raised *lalkara*, calling upon Suba Singh not to spare Ranjit Singh and he should be finished as he tried to demolish the room on demarcation of land. Suba Singh fired from his double barrel gun towards Ranjit Singh with the intention to kill him. Ranjit Singh started running and fire shot hit on his buttocks and he fell down. Suba Singh fired another shot towards the left ear. He reloaded his weapon and fired another shot towards left jaw and the last shot towards left side of Ranjit Singh's shoulder. Ranjit Singh died on the spot due to fire arm injuries. Harjinder Singh raised alarm. All the aforesaid accused persons ran away from the spot with their respective weapons. They did not go near Suba Singh. Kikkar Singh and Jaswant Singh also reached on the spot. The complainant went to lodge the report by leaving them near the body of his son. The complainant met SI Nazar Singh and police party present at the bridge of canal in the area of village Panjawa. His statement was recorded and after making endorsement, *ruka* was sent for registration of formal FIR.

Supplementary statement of Karnail Singh was also recorded wherein he stated that when his statement Ex.PA was recorded, he was under shock due to which certain facts could not be recorded. He also stated that Suba Singh used a 12 bore single barrel gun instead of double barrel gun. Investigation was started. Photographs of the dead body were clicked. Dead body was sent for postmortem examination through LC Harjit Singh and C. Harjinder Singh. From the spot, one dolli (container) and two steel glasses were taken into police possession. A pair of chappal was also lifted and taken in police possession. From the spot, four empty cartridges of 12 bore and one

live cartridge were lifted and sealed in parcel and taken in police possession. Blood stained soil and simple earth was also lifted and taken in police possession. Rough site plan of place of occurrence was prepared. Suba Singh was arrested on 22.08.2002. During the course of interrogation, he suffered disclosure statement on 24.08.2002 and as per his statement, one licensed single barrel 12 bore gun, license and two cartridges of 12 bore were handed over and were taken into police possession. After completion of investigation, challan was presented against accused Suba Singh in the Court of learned Sub Divisional Judicial Magistrate, Gidderbaha.

3. The accused was supplied complete set of copies of challan report as provided under Section 207 of Cr.P.C. Since the offence under Section 302 of IPC is exclusively triable by the Court of Sessions, therefore, learned Sub Divisional Judicial Magistrate, Gidderbaha committed the case to the Court of learned Sessions Judge, Muktsar for trial vide commitment order dated 09.11.2002.

4. Learned Additional Sessions Judge, Muktsar, after hearing arguments, framed charge-sheet against accused Suba Singh under Section 302 of IPC. Later on, vide order dated 17.09.2004, application under Section 319 of Cr.P.C. to summon Amarjit Kaur and Parampal Singh who were shown in column no. 2 of the challan report, was allowed and they were summoned as accused in this case.

Thereafter, amended charge-sheet dated 23.09.2004 was framed against accused Suba Singh and other co-accused Amarjit Kaur and Parampal Singh under Section 302/34 of IPC and under Section 27 of Arms Act, which was read over and explained to them in simple language to which they

pleaded not guilty and claimed trial.

5. In order to prove the facts of case, prosecution examined Dr. Sunil Bansal as PW1, complainant Karnail Singh as PW2, Harjinder Singh eye witness as PW3, SI Nazar Singh, Investigating Officer as PW4, Jagtar Singh, Licensing Clerk as PW5, LC Harjit Singh as PW6, ASI Satpal Singh as PW7, ASI Baljinder Singh as PW8, Ct. Sarwan Singh as PW9, MHC Pritam Singh as PW10, AMHC Malkiat Singh as PW11, MHC Major Singh as PW12, LC Lachhman Singh as PW13, Baljit Singh as PW14.

6. Statements of accused Suba Singh and other co-accused were recorded under Section 313 Cr.P.C. They denied the incriminating evidence put to them and pleaded innocence and false implication.

7. In defence, accused examined Jasvir Singh, Patwari as DW1 and Parmeshwar Dutt, Private Secretary, Punjab and Haryana High Court, Chandigarh as DW2 and thereafter, closed defence evidence.

8. After hearing arguments advanced by learned Additional Public Prosecutor for State and learned counsel representing accused, accused Suba Singh was held guilty and convicted under Section 302 of IPC and Section 27 of Arms Act, as referred above, whereas, co-accused namely Amarjit Kaur and Parampal Singh were acquitted of the charges framed against them. Feeling aggrieved of this judgment of conviction and order of sentence, present appeal has been filed by convict Suba Singh.

9. We heard arguments advanced by learned counsel for the appellant/convict and learned counsel representing the State and have gone through the record carefully with their able assistance.

10. Learned counsel for appellant/convict argued that judgment of

conviction and order of sentence passed by learned trial Court is not sustainable in the eyes of law. Sufficient evidence is not available on record to prove the guilt of appellant/convict. Facts of the case and evidence on record was not correctly appreciated in the right perspective and evidence adduced by appellant/convict in defence was totally ignored. Learned counsel for appellant/convict firstly raised the issue that motive for causing death of Ranjit Singh was not proved on record. It was the case of prosecution that on the day of occurrence deceased was irrigating his fields from the electric motor and it was appellant/convict Suba Singh who diverted the water towards his fields. In-fact, there is nothing on record to establish the existence of electric motor on the spot. Learned counsel for appellant/convict referred to statement of Jasvir Singh, Patwari examined as DW1 who prepared the scaled site plan Ex.DD at the instance of ASI Baljinder Singh and identification of spot by Karnail Singh and Harjinder Singh. As per jamabandi, kila No. 22 of Rectangle No. 25 was owned by Ranjit Singh son of Sh. Karnail Singh and narma crop was sown in the said land. There was no electric motor installed in the said khasra number as per revenue record. Therefore, the reason alleged by prosecution for the said occurrence has been belied from the testimony of Jasvir Singh, Patwari DW1. In-fact Suba Singh had filed a suit for permanent injunction against Ranjit Singh and learned Additional Civil Judge (Senior Division), Gidderbaha vide order dated 09.08.2002 had directed the parties to maintain status quo regarding possession over suit property, which is Ex.DI. There was no reason for Suba Singh to murder Ranjit Singh.

Learned counsel for appellant/convict further raised the issue that

there was delay in lodging FIR and sending special report to Illaqua Magistrate. It is pointed out that statement of complainant was allegedly recorded at 03:30 pm, FIR was recorded at 04:20 pm and special report reached the Illaqua Magistrate at 10:30 pm. The aforesaid delay has not been explained by prosecution and there was ample time with police to fill up lacunae in the case and falsely implicate appellant/convict. In-fact, FIR was ante-timed and same cannot be relied upon. To support this argument, learned counsel for appellant/convict has relied upon a decision of Hon'ble the Supreme Court the authority of Apex Court in ***Criminal Appeal No. 117 of 2003, decided on 05.05.2009***, titled "**Motilal and Anr. Versus State Of Rajasthan**", 2009(8) SCR 303.

Learned counsel for appellant/convict further raised the issue that there is no independent corroboration to the statement of Karnail Singh recorded as PW2 and alleged eye witness Harjinder Singh PW3. There are several contradictions in their statements which have been ignored. Karnail Singh, PW2, failed to explain the manner in which appellant/convict was allegedly holding the weapon. It was the case of complainant that appellant/convict fired shots towards Ranjit Singh with his 12 bore double barrel gun, whereas the police had recovered 12 bore single barrel gun on the basis of alleged disclosure statement of appellant/convict. The appellant/convict was thus falsely implicated in this case. Actually, he was in illegal custody of police and for this reason a criminal writ petition under Article 226/227 of the Constitution of India in the nature of Habeas Corpus was filed by one Harpal Singh Sandhu, Advocate, Civil Courts, Malout.

Certified copy of writ petition No. 1058 of 2002 is Ex.DE. Warrant officer was appointed by the order of Hon'ble High Court dated 22.08.2002, which is Ex.DF. As per his report dated 23.08.2002, present appellant/convict Suba Singh was found in custody of police and it was confirmed by HC Major Singh that there was no entry in daily diary register showing the arrest of Suba Singh. Learned counsel for appellant/convict had examined Parmeshwar Dutt, the said Warrant Officer as DW2 to confirm the aforesaid facts. Moreover, learned Additional Sessions Judge (Adhoc), Fast Track Court, Muktsar by passing impugned judgment dated 24.11.2004 acquitted the other co-accused namely Amarjit Kaur wife of Suba Singh and Parampal Singh son of Suba Singh, by appreciating the same set of evidence on record. Without appreciating the aforesaid facts and evidence on record, present appellant/convict was wrongly held guilty and convicted by learned trial Court.

Lastly and in the alternate, learned counsel for appellant/convict raised the issue that in case the Court comes to the conclusion that said occurrence took place then it was due to sudden and grave provocation therefore offence punishable under Section 302 of IPC is not made out in any case. In support of aforesaid plea, learned counsel for appellant/convict has relied upon judgment of Hon'ble the Supreme Court titled "**Moti Singh Versus State Of Maharashtra**" (2002) 9 SCC 494, where in para No. 10, it was observed as under :-

"10.If the evidence adduced by the prosecution would indicate that the accused were put under a situation where they could reasonably have apprehended grievous hurt even to one of them, it would be inequitable to deny the right of private defence

to the accused merely on the ground that he has adopted a different plea during the trial. The crucial factor is not what the accused pleaded, but whether the accused had the cause to reasonably apprehend such danger. A different plea adopted by the accused would not foreclose the judicial consideration on the existence of such a situation.”

No other point was raised by learned counsel for appellant/convict. It was thus submitted that conviction of appellant/convict is not on sound footing and appellant/convict deserves acquittal by accepting the present appeal.

11. On the other hand, learned State counsel argued that facts of the case and evidence on record were rightly appreciated by learned trial Court holding the appellant guilty of offences punishable under Section 302 of IPC and Section 27 of Arms Act and he was rightly convicted thereunder. Facts of case were duly proved on record by examining two eye witnesses i.e. Karnail Singh complainant and father of deceased victim as PW2 and his version was fully supported by another independent eye witness namely Harjinder Singh PW3 who was working in the nearby fields. In this case, there was prompt lodging of FIR. Postmortem Report Ex.P2 and pictorial diagram Ex.P3 is duly proved on record by Dr. Soni Bansal examined as PW1. As per Postmortem Report, cause of death in this case was due to injuries No. 1 and 2 which both together or with combination with other injuries were sufficient to cause death in ordinary course of nature. The investigation carried out by police is proved on record by examining SI Nazar Singh, Investigating Officer as PW4. On the arrest of accused Suba Singh, he was interrogated and he suffered disclosure statement dated 24.08.2002 Ex.P13. He led the police party and got recovered

12 bore single barrel gun along with cartridges and arms license which were taken in police possession vide recovery memo Ex.P14. ASI Satpal Singh PW7 and ASI Baljinder Singh PW8 have proved the aforesaid facts and weapon of offence and parcel containing cartridges were produced in the Court during course of evidence as MO15 and MO16 respectively. It was licensed weapon in the name of appellant Suba Singh and this fact was proved by examining Jagtar Singh, Licensing Clerk as PW5. Link evidence was proved by examining all the relevant witnesses. Report of Forensic Science Laboratory (FSL) Ex.P20 confirms that empty cartridges recovered from spot were fired from 12 bore single barrel gun recovered from the possession of appellant/convict. Defence raised by appellant/convict, it is submitted is without any basis. The facts and evidence on record were rightly considered, therefore, appeal preferred by appellant/convict deserves dismissal.

12. We have considered the arguments advanced before us and carefully scrutinized the evidence on record. FIR was registered on the basis of statement (Ex.PA) of Karnail Singh father of deceased victim who narrated the incident and also explained the reason as to why the occurrence took place. Complainant revealed that his son had purchased two and a half killas (acres) of land and there was a farm house belonging to Suba Singh opposite to their land across the passage. Suba Singh constructed a room encroaching upon part of passage and for this reason, Ranjit Singh moved revenue agency for demarcation of land. In the meantime, Suba Singh obtained status quo from Civil Court, therefore, demarcation could not be done. On the day of occurrence i.e. on 19.08.2002, Ranjit Singh was watering his Narma crop and at about 12:00 noon, the complainant had gone to fields to give tea to his son

Ranjit Singh. Suba Singh armed with 12 bore double barrel gun, his wife Amarjit Kaur armed with *gandasa* and his son Parampal Singh were quarreling with his son. They were forcibly diverting the direction of water channel. Amarjit Kaur and Parampal Singh were attributed with lalkara not to spare Ranjit Singh as he wanted to demolish their room. Suba Singh fired from his gun towards Ranjit Singh who tried to run away and as a result, the fire shot hit on his buttocks and he fell down. Suba Singh was attributed another fire shot towards his left ear. He reloaded his gun and fired another shot towards the left jaw of Ranjit Singh and another shot towards left side of his shoulder. Due to these injuries, Ranjit Singh died on the spot. It was claimed that Harjinder Singh who was working in the nearby field had raised alarm for help. All the accused ran away from the spot with their weapons.

To prove this occurrence, prosecution has examined Karnail Singh, complainant as PW2 and Harjinder Singh eye witness as PW3. Statements of both the witnesses have remained consistent on all the material points. Learned counsel for appellant/convict referred to discrepancy where complainant Karnail Singh stated that Suba Singh fired shots with his 12 bore double barrel gun, whereas during investigation the Investigating Officer had recovered 12 bore single barrel gun. We have considered stand taken by learned counsel for appellant. Perusal of file shows that on the same day, Karnail Singh gave supplementary statement where he clarified that due to confusion he had referred about Suba Singh holding a double barrel gun. In fact Suba Singh was holding 12 bore single barrel gun. This fact is further supported by recovery of 12 bore single barrel gun having No. 3583-94 on the basis of his disclosure statement dated 24.08.2002 Ex.P13 and recovery

memo of same day is Ex.P14. Thus so called discrepancy stands explained.

It is further a matter of record that on the arrest of Suba Singh, he was interrogated by ASI Baljinder Singh PW8 and on the basis of his disclosure statement dated 24.08.2002 Ex.P13, one 12 bore licensed gun single barrel having No. 3583-94, two live cartridges of 12 bore mark EXPRESS-12-SHAKTIMAN and one license bearing No. 1238/DM/Mks were recovered and taken into police possession vide recovery memo Ex.P14. The aforesaid articles were sealed in a parcel with seal bearing impression 'BS'. ASI Baljinder Singh PW8 and ASI Satpal Singh recovery witness as PW7 have confirmed these facts. Jagtar Singh PW5, licensing Clerk has proved the license of aforesaid weapon No. 3583-94 standing in the name of Suba Singh. SI Nazar Singh PW4 the Investigating Officer had recovered four empty cartridges of 12 bore on the top of which EXPRESS-12-SHAKTIMAN was written and one live cartridge of the same bore with same expression from the place of occurrence and same were sealed in parcels and were taken into police possession vide recovery memo Ex.P7. As per FSL report dated 11.09.2002 Ex.P20 the aforesaid case property, sealed in parcels was received and tested in the laboratory and four 12 bore Shaktiman Express cartridge cases marked C/1 to C/4 contained in parcels A to D were found to be fired from 12 bore single barrel gun No. 3583. Therefore, aforesaid evidence adduced by prosecution corroborates the prosecution story that it was Suba Singh who murdered Ranjit Singh by firing shots with his licensed 12 bore single barrel gun. Succinct, clear and cogent eye witness account of the incident as it unfolded by both eye witnesses i.e. Karnail Singh PW2 and Harjinder Singh PW3, who was working in the adjoining field, cannot be

ignored. Learned counsel for appellant was unable to point out anything on record which impinges upon credibility of these witnesses or casts a cloud thereon. Therefore, arguments raised by learned counsel for appellant/convict on this point are devoid of any merit, hence rejected.

13. Learned counsel for appellant/convict has claimed delay in lodging of FIR with further argument that it was ante-timed. In the case in hand, occurrence took place on 19.08.2002 at about 12:00 noon. After the occurrence, complainant left Harjinder Singh, Kikkar Singh and Jaswant Singh near the dead body and went to lodge the report. Police party met the complainant at the bridge of canal in the area of Panjawa where his statement Ex.P4 was recorded and ruka/information sent to police station at 03:30 pm for registration of formal FIR. The police party reached the spot and started with investigation of case. Special report was sent to Illaqa Magistrate at about 10:30 pm on the same day. Investigating Officer prepared inquest report and dead body was sent for postmortem examination and investigation on the spot was completed. Therefore, mere fact that report was sent to Illqaa Magistrate with a gap of seven hours from the sending of ruka by itself in the absence of any evidence to said effect cannot lead to an assumption that FIR is ante-timed or there is manipulation in the statement of complainant recorded by police. Facts and circumstances of each case have to be evaluated. Sequence of events in the present case clearly indicate that there was no delay on the part of police in conducting the investigation on spot. Therefore, alleged delay of seven hours in sending special report to Illaqua Magistrate will not affect veracity of prosecution case.

14. It is pertinent to note that ocular version of prosecution witnesses

is fully supported by medical record proved on file. Dr. Sunil Bansal of Civil Hospital, Malout examined as PW1 has proved postmortem report conducted by him and Dr. M.S. Kingra, which is Ex.P2 and pictorial diagram Ex.P3. As per Postmortem report, Ranjit Singh had suffered following injuries :-

- “1. Lacerated wound with inverted margins present over the middle of left ear of size 4 cm X 3 cm going inward into cranial cavity. On dissection, it was going deep into cranial cavity with temporal bone badly fractured into pieces. - and meninges and brain matter badly lacerated. Large quantity of dark colour blood was present.
 2. Lacerated wound with inverted margins 4 cm X 3 cm just below and anterior to lobule of left ear. On dissection, the injury was directed towards the Nasa Pharynx which communicated with injury No. 1. Underlying bone was badly fractured. On further dissection, 1 rounded card, 1 wad and 5 distorted metallic pieces of different size were recovered from area of injury No. 1 and 2. Dark coloured blood was present.
 3. Lacerated wound with blackened margins 8 cm X 6 cm over the antero lateral aspect of left shoulder underlying muscle and tissues were torn and blackened. Clotted blood present.
 4. Lacerated wound with inverted margins 3.5 cm X 2 cm over the left buttock 15 cm from midline. On dissection, injury was going pelvis with badly fracture of bones of pelvis, with severe laceration of soft tissue. Dark clotted blood was present. On further dissection, 1 wad and 4 distorted metallic pieces were recovered from the injury.
- All other organs were healthy.”

As per opinion of Board of Doctors, death was due to injuries No. 1 and 2 which both together or/and with combination with other injuries, were sufficient to cause death in ordinary course of nature. All the injuries were ante mortem in nature and could be caused by a fire arm. Probable time between injuries and death was immediate and that between death and post mortem within 24 hours. Therefore, injuries depicted in postmortem are fully corroborated from oral testimony of prosecution witnesses.

15. Learned counsel for appellant/convict vehemently argued that

motive behind the occurrence is not proved from the evidence on record thus falsifying the entire prosecution version. It was further argued that prosecution wrongly claimed that before the said occurrence Ranjit Singh was watering his Narma (cotton) crops with electric motor and it was Suba Singh who diverted the course of water towards his fields. In this regard, learned counsel referred to testimony of Jasvir Singh, Patwari DW1 who claimed that there was no electric motor in kila no. 22. It is to be noted that in-fact Karnail Singh complainant in his statement before the police (Ex.P4) and while testifying as PW2 clearly explained regarding the dispute about the passage (pahi) leading to the land of Suba Singh and Ranjit Singh, who had purchased the land about six months prior to the occurrence from Nishan Singh and Mehal Singh. Ranjit Singh wanted to get the passage demarcated but Suba Singh was opposed thereto as he had constructed a room thereon by encroaching upon the area. Ranjit Singh wanted demarcation of land upon which Suba Singh obtained stay order from the Court of Gidderbaha. Copy of order dated 09.08.2022 in civil suit for permanent injunction titled "Suba Singh versus Ranjit Singh" passed by the Court of learned Additional Civil Judge (Senior Division), Gidderbaha wherein status quo was directed to be maintained Ex.DI which clearly indicates that there was a dispute between Suba Singh and Ranjit Singh regarding their respective properties which were adjoining each other. Site plan of place of occurrence Ex.P11 is proved on record by SI Nazar Singh PW4. In this site plan, electric motor of Ranjit Singh deceased is duly reflected at point Q. Water channel is also shown with dotted lines. Point X is the spot where Suba Singh accused diverted the water towards water channel leading to his fields. Spot where the quarrel took place

i.e. point A and the spot where Ranjit Singh ultimately fell down on receiving fire shot injury are also duly depicted in the site plan. Therefore, the argument that prosecution case is falsified due to absence of electric motor in view of statement of DW1 is also devoid of any merit, hence rejected. Occurrence in question is duly established by evidence on record.

16. Learned counsel for appellant/convict referred to acquittal of co-accused namely Amarjit Kaur wife of Suba Singh and Parampal Singh son of Suba Singh to submit that conviction of appellant on the basis of same evidence is unjustified. However, we do not find any merit in this argument. It is matter of record that present appellant along with aforesaid accused were charge-sheeted under Section 302/34 of IPC and under Section 27 of Arms Act. After appreciating the facts and evidence on record, Amarjit Kaur and Parampal Singh were acquitted of the charge framed against them, whereas the present appellant was held guilty under Section 302 of IPC and Section 27 of Arms Act. As per evidence on record as discussed above, there is direct evidence against appellant/convict that he murdered Ranjit Singh by firing shots by using his licensed 12 bore single barrel gun. Therefore, the case of appellant/convict is on different footing and he cannot drive any benefit from acquittal of other co-accused.

17. Learned counsel for appellant/convict also raised an argument regarding false implication of appellant while submitting that Suba Singh was already in illegal custody of police and for this reason they filed writ petition in the nature of Habeas Corpus. Copy of Criminal Writ Petition in the nature of Habeas Corpus No. 1058 of 2002 is Ex.DE. Content of this petition indicates that it was filed pertaining to detenues namely Gurtar Singh s/o Sh.

Kundan Singh, Bindar Singh and Sarabjit Singh sons of Didar Singh. Suba Singh is not stated to be in illegal detention. In para No. 3 of this writ petition, it is mentioned that Suba Singh had surrendered before police on 20.08.2002 in presence of residents of the area. Aforesaid criminal writ petition was clearly not pertaining to illegal custody of Suba Singh appellant/convict. Parmeshwar Dutt Sharma who was appointed as Warrant Officer was examined in defence as DW2. He proved on record his detailed report Ex.DG where it is stated that Suba Singh who was not the alleged detenue was found outside residence of SHO being guarded and taken away by three persons, two in police uniform and one in civil. None of alleged detenues were found and it was informed by HC Major Singh that Suba Singh alongwith Amarjit Kaur and Parampal Singh were wanted in FIR No. 147 dated 19.08.2022. Arrest of Suba Singh was not yet entered at that time. In the given factual matrix argument as raised by learned counsel for appellant/convict does not hold any ground. For the sake of arguments, even if it is considered that there was some lapse on the part of Investigating Officer regarding the arrest of Suba Singh that will not come to the aid of appellant/convict so as to absolve him of the commission of offence in question which is duly proved by clear, cogent and unimpeachable evidence on record.

18. During the course of arguments, learned counsel for appellant/convict has also taken the defence of sudden and grave provocation. The aforesaid stand taken by appellant/convict is contradictory to his previous stand that no such occurrence took place or he was falsely implicated in this case. This plea has been taken for the first time during the course of arguments, whereas no such plea has been raised when statement of appellant

was recorded under Section 313 of Cr.P.C. nor is there any witness examined in defence to this effect. In the case in hand, nothing has come on record to show that there was any sudden and grave provocation on the part of deceased victim. Facts of the case narrated by prosecution witnesses indicate that Ranjit Singh tried to save himself by running away from the spot and when Suba Singh fired first gun shot, it hit on his buttock, as a result of which he fell down. Thereafter, Suba Singh again fired shots which hit on his left ear, left jaw and left side of shoulder. On the other hand, neither Suba Singh nor any of his family member suffered any injury. In-fact, Ranjit Singh or his father Karnail Singh who had brought tea for his son, were not armed with any weapon. Therefore, by no stretch of imagination it can be said that Suba Singh acted on sudden and grave provocation. Appellant infact again fired upon deceased, even as he lay fallen on the ground. Therefore, this argument is clearly misconceived, hence rejected.

19. Therefore, considering the facts of case and evidence on record, it is clear that Suba Singh murdered Ranjit Singh while he was working in his fields, by firing gun shots from his 12 bore single barrel gun. The learned Additional Sessions Judge (Adhoc), Fast Track Court, Muktsar rightly came to conclusion that charge-sheet framed against the appellant/convict Suba Singh under Section 302 of IPC and Section 27 of the Arms Act was duly proved on record and he was rightly held guilty thereunder. Considering the gravity of offence and brazen manner in which he had murdered Ranjit Singh, judgment of conviction and order of sentence passed by the learned trial Court does not require any interference as has been urged.

20. Resultantly, we do not find any reason to interfere in the judgment of conviction and order of sentence dated 24.11.2004 passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Muktsar. Same is upheld.

Appeal preferred by appellant/convict Suba Singh is accordingly, dismissed.

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

(AMARJOT BHATTI)
JUDGE

(LISA GILL)
JUDGE

February 20, 2024
lalit

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