



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

1. CRA-D No.140-DB of 2008 (O&M)
RAJINDER PAL ANAND
.....Appellant

VERSUS
CBI (STATE)
.....Respondent

2. CRA-D No.137-DB of 2008 (O&M)
VINOD KUMAR
.....Appellant

VERSUS
CENTRAL BUREAU OF INVESTIGATION
.....Respondent

3. CRA-S No.107-SB of 2008 (O&M)
JASDEV SINGH
.....Appellant

VERSUS
STATE OF PUNJAB
.....Respondent

4. CRA-D No.132-DB of 2008 (O&M)
CONSTABLE MOHINDER SINGH
.....Appellant

VERSUS
CBI (STATE)
.....Respondent

5. CRA-D No.87-DB of 2008 (O&M)
DARSHAN SINGH
.....Appellant

VERSUS
CBI (STATE)
.....Respondent

Reserved on: August 5th, 2025.
Pronounced on: September 15, 2025.

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL
HON'BLE MR. JUSTICE H.S. GREWAL**

Argued by: Mr. Vinod Ghai, Senior Advocate
with Arnav Ghai and Mr. Dhruv Trehan, Advocates
for the appellant (in CRA-D-140-DB-2008).

Mr. Naresh Gopal Sharma, Advocate
for the appellant
(in CRA-D-107 and 137-DB-2008).

Mr. Ghulam Nabi Malik, Advocate
for the appellant (in CRA-132-DB-2008).

Mr. Randeep Singh Waraich, Advocate
with Ms. Pawandeep Kaur, Advocate
for the appellant (in CRA-D-87-DB-2008).

Mr. Prateek Gupta, Advocate
for CBI.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

H.S. GREWAL, J.

By this judgment, we dispose of the above-mentioned appeals as they arise out of a common judgment of conviction dated 06.12.2007 and order of sentence dated 07.12.2007 passed by learned Additional Sessions Judge, Patiala, whereby the appellants have been convicted and sentenced as follows:

Offence under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
302/34 of the IPC	Imprisonment for life, each.	₹25,000/- each	R.I. for three years each.
120-B of the IPC	R.I. for two years, each.	-	-
218 r/w 120-B of the IPC	R.I. for two years, each.	₹1,000/- each	R.I. for six months each.
331/34 of the IPC	R.I. for five years, each.	₹5,000/- each	R.I. for one year each.
342/34 of the IPC	R.I. for six months, each.	-	-
364/34 of the IPC	R.I. for ten years, each.	₹10,000/-	R.I. for two years

		each	each.
201/34 of the IPC	R.I. for three years, each.	₹5,000/- each	R.I. for one year each.

CASE OF THE PROSECUTION:

2. As per the case of the prosecution, Balbir Singh son of Modan Singh, resident of Village Shahpur, Police Station Bhawanigarh, District Sangrur (hereinafter referred to as 'deceased') died during police custody. The case of the prosecution was initiated pursuant to an FIR registered by the CBI on the basis of an order passed by this Court in CRM-M-15496 of 1996, filed under section 482 of the Cr.P.C. by father of the deceased. By the said order, the investigation was entrusted to the CBI, which registered FIR No. RC-12(S)/97/SIU-XV/CHG dated 13.06.1997 under Sections 302/34 of the IPC and undertook an extensive investigation.

3. During the course of its investigation, the CBI claimed to have seized fabricated police records, medico-legal documents, photographs of the recovery site (Exhibits PW-22/11 to PW-22/19), and statements recorded by the Sub Divisional Magistrate (SDM).

4. According to the prosecution, on 27.07.1996, deceased was illegally taken into custody by Inspector Rajinder Pal Anand (since expired), then posted as Incharge, CIA Staff, Nabha. This detention was allegedly in connection with an investigation into the theft of utensils and other articles from Gurdwara Tibbi Sahib, Nabha, based on a complaint filed by Gurmel Singh alias Panchi. It was alleged that during this illegal detention, deceased was subjected to brutal physical torture by the police officials, including ASI Rajpal Singh, Constables Darshan Singh, Mohinder Singh, and Vinod Kumar, under the direction of Inspector

Rajinder Pal Anand.

5. The deceased reportedly sustained multiple injuries, including bruises, fractures, and burn marks. When his condition deteriorated severely, the police personnel allegedly attempted to obtain medical assistance. He was first taken to a private nursing home, which refused admission due to his critical condition. He was then briefly taken to Civil Hospital, Nabha, where the medical staff declined treatment in the absence of proper medico-legal formalities. Thereafter, in an alleged attempt to erase evidence of custodial torture, the police took deceased in an official Allwyn Nissan vehicle to the Thuhi canal bridge. At approximately 4:30 pm on 28.07.1996, he was thrown alive into the canal while in a grievously injured and incapacitated state.

6. Several persons engaged in *kar sewa* at an adjacent religious site witnessed the incident and raised an alarm in an attempt to save the victim/deceased. Despite their efforts, deceased-Balbir Singh succumbed to his injuries and drowned. His body was recovered by local villagers on 29.07.1996.

7. A post-mortem examination was conducted at Civil Hospital, Nabha, by a Medical Board comprising Dr. Paramvir Singh (PW-14), Dr. Rajesh Goel (PW-15), and Dr. Raminder Kaur Bedi (PW-20). The Post-Mortem Report (Exhibit PA/15) noted multiple antemortem injuries, including:

- (i) extensive bruising on the hips and scapular region,
- (ii) a burn mark on the right wrist,
- (iii) bruises around the neck, axillae, and groin,
- (iv) bruising on the left pinna, and
- (v) fractures of multiple cervical vertebrae accompanied by

haemorrhage.

8. The cause of death was opined to be asphyxia due to drowning, complicated by cervical spine injury and haemorrhagic shock. Internal organs like the lungs, liver and spleen were found pale, indicating internal bleeding. The stomach contained muddy water and sand particles, confirming that the deceased was alive when thrown into the canal and had drowned antemortem.

9. The Medical Board categorically opined that the injuries could not have been self-inflicted or the result of an accidental fall, and that the cervical injuries would have rendered the deceased incapable of movement or escape. The presence of a burn mark was consistent with the application of a heated object. These observations collectively led to the medical conclusion that deceased had been tortured while in police custody and later disposed of in a manner intended to obliterate evidence of custodial abuse.

10. In response to medico-legal queries posed by the CBI (Exhibit PA/16 and PA/17), the Medical Board affirmed that voluntary jumping into the canal was medically implausible in light of the injury pattern. It was also brought on record that Inspector Rajinder Pal Anand was present during the post-mortem and allegedly attempted to influence the doctors to modify their findings.

11. A magisterial inquiry was conducted by the then SDM, Nabha, Kulbir Singh (PW-21), on the direction of the District Magistrate. On 30.07.1996, he recorded the statements of ASI Rajpal Singh and Constables Darshan Singh, Mohinder Singh, and Vinod Kumar. These statements, marked as Exhibit PW22-X series, were written in their own writing and bore their signatures. Although the statements did not

explicitly admit to causing deceased-Balbir Singh's injuries, the police officials acknowledged that they had taken him to the canal for recovery, during which he allegedly jumped into the water.

12. To conceal the true circumstances of the death of the deceased, the police allegedly concocted a false narrative. FIR No.65 dated 28.07.1996 under Section 380 of the IPC was registered at Police Station Kotwali, Nabha, on the complaint of Gurmel Singh, falsely implicating Balbir Singh (deceased) in a theft case. The investigation of this FIR was entrusted to ASI Rajpal Singh, and it was shown that Balbir Singh escaped during a recovery visit.

13. Simultaneously, FIR No.63 dated 28.07.1996 under Section 224 of the IPC was registered at Police Station Sadar, Nabha by ASI Jasdev Singh, one of the appellants before this Court, alleging that the deceased escaped from custody.

14. During its investigation, the CBI seized several entries from the Daily Diary Register of Police Station Kotwali, Nabha. These entries were alleged to be forged to falsely reflect the events surrounding the custody of Balbir Singh and disappearance. Specifically:

- DDR No. 21 dated 28.07.1996 (Exhibit PA/11), recorded at 3:15 pm, noted receipt of the complaint by Gurmel Singh.
- DDR No.22 dated 28.07.1996 at 3:40 pm recorded the registration of FIR No.65 and the assignment of the case to ASI Rajpal Singh.
- DDRs No.23 to 28 dated 28.07.1996 showed the arrest of deceased at 4:15 pm, interrogation, recovery attempts, and escape at 5:00 pm by jumping into the canal. Pursuant to the order of this Court, dated 02.08.1996, in CRM-M-15496 of

1996, the CBI formally registered RC-12(S)/97/SIU-XV/CHG dated 13.06.1997 (Exhibit PW-33/1).

15. After completing its investigation, the CBI filed a charge sheet against Inspector Rajinder Pal Anand, ASI Rajpal Singh, ASI Jasdev Singh and Constables Darshan Singh, Mohinder Singh and Vinod Kumar and the accused were formally charged and committed to stand trial under Section 302, 364, 331, 342, 201, 218 read with 120-B of the IPC.

16. The prosecution examined 34 witnesses in support of its case, including:

- PW-14 Dr. Paramvir Singh, PW-15 Dr. Rajesh Goel, and PW-20 Dr. Raminder Kaur Bedi-members of the Medical Board,
- PW-21 Kulbir Singh, SDM, who conducted the magisterial inquiry and proved the statements of the accused (Exhibit PW-22/X-Series),
- PW-28 Inspector Krishan Lal, CBI, who investigated the case and proved the documentary evidence,
- PW-33 Advocate Ranjan Lakhanpal, who had filed CRM-M No.15496 of 1996 and proved the order of the High Court (Exhibit PW-28/3).

17. The prosecution also relied on extensive documentary evidence, including FIRs (Exhibit PA/12 and Exhibit PA/13), DDRs (Exhibit PA/11 to PA/20), Post-Mortem Report (Exhibit PA/15), Medico-Legal Reports (Exhibit PA/16 and PA/17), photographs (Exhibit PW-22/11 to PW-22/19) and magisterial inquiry documents (Exhibit PW-22/X-Series).

18. In their statements, recorded under Section 313 of the

Cr.P.C., all accused denied the allegations. Inspector Rajinder Pal Anand claimed he merely assigned the case to ASI Rajpal Singh and had no role in the custody or alleged torture of deceased. ASI Rajpal Singh contended that deceased had voluntarily accompanied him and escaped during the process of recovery. Accused-Constables Darshan Singh, Mohinder Singh and Vinod Kumar maintained that deceased jumped into the canal during their lawful custody. Accused ASI Jasdev Singh stated that he registered FIR No.63 dated 28.07.1996 under Section 224 of the IPC based on information from his superiors, without any intention to mislead or fabricate records.

19. None of the accused explained the injuries observed in the Post-Mortem Report or the signed statements recorded by the SDM, which stood proved by PW-21 Kulbir Singh.

20. In defence, the following five witnesses were examined:

(i) DW-1 Jarnail Singh, cart driver, testified that he saw deceased jump into the canal while in police custody.

(ii) DW-2 Harpal Singh, former Sarpanch, deposed that he was informed of the incident by Jarnal Singh and took part in the search and recovery of the body.

(iii) DW-5 Dr Harish Tuli, a private medical practitioner, opined that the cervical fracture could have resulted from a fall and that drowning could not be ruled out as the sole cause of death.

21. On a comprehensive appraisal of the evidence, the learned trial Court held that the prosecution had succeeded in proving its case beyond reasonable doubt. It held that the deceased had been illegally detained and subjected to severe custodial torture from 27.07.1996, resulting in grave injuries, including cervical fractures. He was thrown

into the canal in a critically injured and helpless state, leading to his homicidal death.

22. The learned trial Court rejected the narrative of the defence of escape and accidental drowning as false and unsubstantiated. The post-mortem findings by a Government Medical Board ruled out accident or suicide, confirming antemortem injuries consistent with custodial violence.

23. DW-5 Dr. Harish Tuli's testimony was found speculative and inconsistent with the conclusions of the Medical Board.

24. Further, the trial Court held that the subsequent FIRs, DDR entries, and recovery memos were fabricated in a concerted effort to create a false exculpatory narrative. The *post facto* registration of FIRs under Sections 223 and 224 of the IPC and the manipulated police records were viewed by the trial Court as deliberate attempts to conceal the truth.

25. Accordingly, the learned trial Court convicted accused Inspector Rajendra Pal Anand, ASI Rajpal Singh, Constables Darshan Singh, Mohinder Singh and Vinod Kumar as detailed in the earlier part of the judgment.

26. The defence plea for benefit of doubt was rejected, and the Court held that the evidence of the prosecution, particularly the medical and documentary evidence, was cogent, credible and unimpeached.

SUBMISSIONS ON BEHALF OF THE APPELLANT:

27. Learned senior counsel appearing for the appellants has assailed their conviction under Section 302 of the IPC, contending that it is legally unsustainable, being premised on presumptions, misreading of

medical evidence, and an erroneous appreciation of circumstantial facts. The primary thrust of the submissions is being delineated under the following heads:

(i) Entire case based on circumstantial evidence-no overt act attributed.

Learned senior counsel submits that the case of the prosecution is entirely predicated on a theory of custodial death, which lacks any direct evidence. No witness has deposed to having seen the accused assaulting, pushing or throwing the deceased into the canal. There is neither recovery nor any confessional statement nor any forensic link connecting the appellants to an act of commission leading to death. The conviction of the appellants rests solely upon the presumption arising from the “last seen theory”-i.e., that the deceased was last seen in police custody. However, learned senior counsel submits that this presumption stands completely rebutted by the medical evidence, the Post-Mortem Report (Exhibit PA/15), entries in the Daily Diary Registers (DDR), and the absence of motive or causative nexus. The reliance by the trial Court on the “last seen” theory without any corroboration is, thus, speculative and untenable.

(ii) Medical evidence misappreciated-supports accidental drowning, not homicide.

It is submitted that the entire edifice of the case of the prosecution collapses upon a correct appreciation of the medical evidence, which, rather than supporting a case of custodial drowning, torture, aligns with the defence version of accidental death due to drowning.

The post-mortem was conducted on 29.07.1996 by a Board comprising PW-14 Dr. Paramvir Singh, PW-15 Dr. Rajesh Goel, and PW-

18 Dr. Raminder Kaur. The unanimous conclusion of the Medical Board was that the cause of death was asphyxia due to drowning, coupled with injury to the cervical spine.

The presence of muddy water in the stomach and froth at the nostrils was indicative of the deceased being alive at the time of entering the canal.

In cross-examination, the doctors opined that injury No.6-a fracture of the cervical vertebra-could have been sustained by falling from a height of 18 to 23 feet onto a hard concrete surface, such as the canal bed.

The wrist injury (injury No.2), according to the doctors, could have resulted from routine activities such as cooking or handling utensils, and was not suggestive of custodial violence or restraint.

PW-14 Dr. Paramvir Singh specifically affirmed that death due to drowning following a fall into the canal was a distinct possibility. PW-15 Dr. Rajesh Goel while referring to the authoritative medical literature of Modi's Medical Jurisprudence reiterated that drowning is not possible post-mortem.

PW-18 Dr. Raminder Kaur also confirmed that the deceased was alive when he entered and could have died due to drowning after sustaining the cervical injury.

28. It was further argued that even after seeking clarifications from the Medical Board, the CBI did not receive any opinion attributing the injuries to custodial torture. The defence also examined DW-5 Dr. Harish Tuli, an independent forensic expert, who corroborated the findings of the Post-Mortem Report and categorically ruled out torture or homicidal violence. His opinion-that drowning, coupled with a cervical

fracture caused by impact during a fall, was the most plausible explanation-remained unshaken in cross-examination.

29. Learned senior counsel accordingly contended that the medical evidence, being a precise and scientific source of proof, overrode speculative inferences, especially in a case lacking direct evidence. The conviction for murder, in the face of overwhelming medical consensus pointing to accidental death, was, therefore, manifestly erroneous.

Inquiry report of SDM-not proof of guilt:

30. Learned senior counsel argued that the inquiry conducted by the SDM under Section 176 of the Cr.P.C. could not be relied upon to prove criminal culpability. It was contended that such inquiries are administrative in nature, conducted without administering oaths or affording parties the right to cross-examination. Their purpose was limited to ascertaining circumstances surrounding a custodial death and recommending further inquiry, and certainly not to determine criminal liability.

31. Learned senior counsel contended that in the present case, the report of the SDM merely noted that Balbir Singh died in custody and that the fracture of the cervical vertebra warranted further investigation. The SDM did not fix responsibility on the appellants or attribute any specific act of assault. In fact, the doctors examined by the SDM stated that a fall into deep water could also cause such injuries. Thus, reliance on the findings of the SDM, in absence of corroborative evidence, was wholly misplaced.

Hostile witnesses-collapse of the prosecution case:

32. Learned senior counsel still further submitted that a

significant number of witnesses, including all material witnesses, PW-6 to PW-11 namely Nazir Singh, Mewa Singh, Jagjit Singh, Jagtar Singh, Gian Singh and Amritpal Singh respectively, PW-13 - Vijay Kumar Trikha, PW-17 - Amarjit Singh Sidhuv, PW-19 – Harbans Singh and PW21- Gulzar Singh respectively turned hostile during trial, and did not support the version of the prosecution. Not a single one of them deposed to any act of assault, coercion or violence by the police personnel. There was no ocular testimony supporting the theory that the deceased was thrown into the canal. In a case of alleged custodial torture, absence of independent and credible public testimony as per the learned senior counsel was fatal to the case of the prosecution.

Proven and corroborated DDRs-support the version of the defence:

33. The sequence of events, as recorded in the DDRs, was submitted to have been duly proved and consistent with the defence version. Learned counsel submitted that these entries included a written complaint received from Gurmel Singh, Granthi of Gurdwara Tibbi Sahib, on 28.07.1996, alleging theft of utensils by Balbir Singh (deceased);

DDR No. 21 recorded at 3:15 pm, and DDR No.22 at 3:40 pm, noting registration of FIR No.65 under Section 380 of the IPC.

DDR No.23 recorded at 3:45 pm regarding the departure of ASI Rajpal with constables Darshan Singh and the appellants and Mohinder Singh to the Gurdwara for investigation.

DDR No.25 at 4:15 pm, recorded the arrest of Balbir Singh from the Gurdwara and his return to the Police Station. It noted that Balbir Singh was handcuffed, and the handcuff was attached to the belt of appellant Mohinder Singh-standard custody protocol.

DDR No.27 at 4:35 pm recorded departure for recovery of stolen items pursuant to the disclosure statement made by Balbir Singh.

34. The DDRs were proved through PW-12 Nirmal Singh, who confirmed the entries and authenticated the handwriting. It was argued by the learned senior counsel that the trial Court erroneously rejected the DDRs citing overwriting in DDR No. 24 regarding timing (changed from 4:45 pm to 3:55 pm). However, this correction was minor, routine, and did not affect the integrity of the sequence or the version of the defence. No motive or benefit was attributed to the said correction.

35. It was also submitted that the appellant and others were earlier prosecuted under Section 223 of the IPC for negligence in allowing the accused to escape from custody, and were acquitted by the competent Court vide judgment dated 04.05.1999. The said Court found that Balbir Singh had escaped custody by slipping out of his handcuffs while the vehicle was slowing down near a bullock cart on a narrow bridge, and that the police had exercised due care.

Absence of motive:

36. Learned senior counsel argued that, in a case founded solely on circumstantial evidence, motive assumes crucial importance. No motive was suggested or established as to why the appellants, who are trained police officers, would murder an accused in broad daylight, particularly when the charge was of petty theft under Section 380 of the IPC.

37. There was no allegation of enmity, prior conflict, or extraneous influence, making the prosecution narrative highly improbable.

Presumption of custodial guilt rebutted:

38. Learned senior counsel lastly submitted that while the law

permits a presumption in cases of custodial death, such a presumption arises only where the chain of circumstances is complete and unbroken.

39. In the present case, as per the learned senior counsel, the chain is fractured at multiple points. The defence version, as per the learned senior counsel, was medically supported and consistently explained-that Balbir Singh, while attempting escape after the humiliation, he would have suffered on account of the theft committed in the Gurdwara, jumped into the canal, struck a pillar or structure during descent, fractured his neck, and subsequently drowned. Learned senior counsel asserted that this theory found support in the DDRs, the site plan, medical evidence, and expert opinion.

40. A prayer was, therefore, made by the learned senior counsel that since the burden of proof in a criminal case, lies with the prosecution and must be discharged beyond reasonable doubt, the said burden had not been met in the present case, entitling the appellants to be acquitted of the charges framed against them.

SUBMISSIONS ON BEHALF OF THE RESPONDENT-CBI:

41. Learned standing counsel for the CBI supported the impugned judgment of conviction, by submitting that it was based on a thorough and meticulous appreciation of evidence on record, both oral and documentary, and, therefore, warranted no interference in appeal. It was submitted that the case was a clear instance of custodial death, and the conviction under Section 302 of the IPC stood firmly proved on the following grounds:

Custodial death clearly proven-presumption arose:

42. Learned counsel contended that it was an admitted position that the deceased, Balbir Singh, was last seen alive in the exclusive custody of the appellants and other police personnel. He had been arrested in connection with a theft case and was taken for a purported recovery of stolen items when he allegedly “escaped” and was later found dead in the canal.

43. It was argued that the defence version that the deceased jumped into the canal and drowned was wholly speculative and unsupported by contemporaneous official records. No DDR or FIR was immediately registered recording the escape. The FIR concerning the escape was registered only after the body was recovered, indicating *post-facto* attempts at justification rather than genuine, preventive or responsive action. The delay in recording such critical information created a serious dent in the credibility of the narrative set out by the defence and pointed to concealment.

44. It was argued that in such cases, where a person dies while in the exclusive custody of police, and where the explanation offered is neither immediate nor satisfactory, the law permits a presumption of culpability, shifting the onus on to the custodial authorities to provide a plausible explanation. It was submitted that in the present case, no such explanation had been credibly or timely furnished.

Antemortem injuries consistent with custodial torture:

45. Learned counsel further contended that the medical evidence does not exonerate the accused but, on the contrary, supports the case of the prosecution. The Post-Mortem Report proved as (Exhibit PA/15) recorded the following antemortem injuries on the person of the deceased, including bruising and, notably, a fracture of the cervical vertebra (injury

No.6):

46. While the medical cause of death was stated to be asphyxia due to drowning, learned counsel submitted that this did not negate the occurrence of physical assault preceding the drowning. The presence of significant injury to the cervical region raised the possibility that the deceased was subjected to custodial torture prior to his death.

47. It was submitted that in cases of custodial violence, the occurrence of injuries-especially unexplained injuries to vital parts-is a critical factor. In the present case, the prosecution had shown that the deceased was alive in custody and died under suspicious circumstances soon thereafter. The burden to explain the cause of such injuries lay on the accused; however, no plausible or medically consistent explanation was forthcoming.

SDM inquiry-independent fact-finding supporting the case of the prosecution:

48. Learned standing counsel submitted that the inquiry by the SDM, conducted promptly under Section 176 of the Cr.P.C., constituted an important piece of contemporaneous and independent fact-finding. The said report, dated 08.08.1996 and proved through PW-22 ____, recorded statements of various persons including local villagers, Panchayat members, and police officials.

49. The report of the SDM clearly established the fact that the deceased was in police custody at the time of the alleged incident. Notably, it was recorded that Balbir Singh was handcuffed and attached by chain to appellant Constable Mohinder Singh-thereby rendering the

theory of escape implausible. Furthermore, the report found glaring inconsistencies in the version given by the police and noted that no injuries were found on the wrists of the deceased-a circumstance incompatible with the alleged handcuffing.

50. The SDM also noted that certain members of the police team, including MHC Jaspal Singh, were not named in the departure register, indicating manipulation and attempts to conceal the actual events. Statements recorded in the inquiry also revealed that Balbir Singh was forcibly lifted and thrown into the canal by police personnel. While the report of the SDM may not, by itself constitute proof of guilt, learned counsel contended that it corroborated the version of the prosecution and provided valuable insight into the immediate aftermath and official response to the incident.

Unbroken chain of circumstantial evidence establishing guilt:

51. It was still further submitted that the learned trial Court rightly found that the prosecution had succeeded in establishing a continuous and unbroken chain of circumstances pointing unmistakably to the guilt of the accused. These circumstances included:

- (i) The deceased was last seen alive in the exclusive custody of the accused;
- (ii) He was taken for recovery and never returned;
- (iii) No contemporaneous DDR or FIR recorded the alleged escape;
- (iv) The recovery of the dead body from the canal occurred the following morning, pursuant to information by local

villagers;

- (v) Antemortem injuries were found on the body, for which no adequate explanation was offered;
- (vi) The entire sequence of post-incident police conduct clearly appeared to be contrived and oriented toward fabricating a cover-up, rather than reflecting genuine official action.

52. In view of the above facts, learned counsel submitted that the circumstances unerringly pointed to custodial violence leading to the death of the deceased. The conviction under Section 302 of the IPC, therefore, was both legal and factually justified.

Hostility of witnesses would not undermine the case of the prosecution:

53. It was next contended that although several public witnesses turned hostile during trial, this did not *ipso facto* vitiate the prosecution case. The learned trial Court rightly appreciated that hostility in cases involving police officials is not unusual, owing to intimidation, fear or influence.

54. The conviction was based not merely on the testimony of witnesses but was reinforced by medical and forensic evidence, the inherent inconsistencies in the case of the defence, and the absence of any plausible alternative explanation from the accused. Learned counsel argued that it is well settled that a Court is entitled to rely upon credible portions of the testimony even of hostile witnesses and to assess the entire evidence in a holistic manner. In the present case, it was asserted that the trial Court had done so with due care.

Legal presumption in custodial death cases-accused failed

to rebut:

55. Learned counsel submitted that the law is well-settled that in cases of custodial death, where the deceased was last seen in the exclusive custody of the police and death subsequently occurred under suspicious circumstances, the burden shifts on to the accused to offer a satisfactory and credible explanation as to how the deceased had died while in police custody. More so, the deceased was to be chained with Constable Mahinder Singh with his belt. It has not been explained that at what time Constable Mahinder Singh opened his belt, released the chain and opened the handcuffs of the deceased, which could enable the deceased to jump out of the police vehicle, escape from the hands of four police officials and jump into the canal. This aspect has not been explained by the appellants.

56. The police officials had been influencing the trial as well, which can be presumed from the fact that the prosecution witnesses, who were stated to be the eyewitnesses, resiled from their statements before the Court and did not support the version of prosecution. Even the complainant, who had filed Criminal Misc. Petition and got the order of registration of the case was also won over by the appellants to the extent that he further moved an application before this Court through his counsel to withdraw the petition and also for seeking recall of the order for registration of the case against the appellants.

57. Now the fact which is to be determined by us is whether the deceased had been thrown into the canal or he escaped from custody of police and jumped into the canal. To examine this aspect, the injuries which were noticed on the dead body of deceased during postmortem are

again required to be looked into. The postmortem on the dead body of deceased was conducted by a Medical Board comprising of various doctors including Dr. Rajesh Goel, SMO/Incharge Civil Hospital, Nabha (PW15). The following injuries were noticed by the Medical Board:

1. An area of 6" x 8" of pinkish blue bruising were present over the anterior lateral aspect of x right hip.
2. A 1 cm. x .5 cm. burn mark was present over the dorso medial aspect of right wrist just over the lower end of ulna.
3. A pinkish blue bruising was present over the left pinna.
4. Multiple bruising of pinkish blue colour and different sizes and shape were present over the buttocks, back, left scapular region and knit back of neck.
5. Pinkish blue irregular shaped bruises were present in both the axillae and joints.
6. On dissection cranium meninges were found healthy on dissection of neck, multiple vertebrae were fractured and haematoma was seen in the facial compartment of the neck.

58. From a perusal of above injuries, a burn mark was found present over the dorso medial aspect of right wrist just over the lower end of ulna. The injuries were declared to be antemortem in nature. It is also opined that the cervical spine injury is possible even before or after jumping into the canal. Therefore, this injury could be possible before the deceased entering the water of the canal. The question is that could a person with such an injury escape from police custody and jump into the canal water. The case put up by the defence is that the injury has been

caused due to falling/landing on the bed of the bridge from where the deceased is stated to have jumped into the canal. It has come in the cross-examination of PW-15 that injury No.6 can be caused as a result of falling of the deceased from the top of the bridge and striking on the hard concrete surface neck-wise. PW15 further deposed that drowning can be the result of falling again from the hard concrete surface/bed of the bridge into the canal. He also deposed that injuries except injury No.2, could be result of falling if one jumps from the bridge on the hard bed/surface and buttocks part strikes on the hard surface/bed of the bridge.

59. If we try to picture the scenario, the injuries on the person of deceased are on the neck as well on the buttocks. In case he had jumped, he should have landed on his legs into the canal water, however, the injuries are not in consistence with jumping from bridge as there is no injury on his legs. Secondly, in case the deceased had dived into the water, then he could have injured his neck as made out in injury No.6, however, in that case, the injury on his buttocks would remain inexplicable. It is, therefore, more probable that deceased was thrown/tossed from the bridge.

60. Another fact which has come on record and as mentioned in the FIR is that on 22.07.1996, Rajender Pal Singh, Inspector had arrested the deceased. Thereafter, he was brutally tortured by the appellants, as a result of which, he suffered multiple fractures including fracture in his spine. Thereafter, the condition of Balbir Singh-deceased deteriorated and Rajender Pal Singh, Inspector alongwith his staff took him to a private nursing home, however, the doctor of the said nursing home refused to admit him. Thereafter, he was taken to Civil Hospital, where he was not admitted by the police party to avoid the proof of injuries. Thereafter, on 28.08.1996, since the deceased was tortured to certain extent that he could

not recover, the appellants decided to throw him into the canals and concoct a story of escaping from custody. The incident of the deceased falling/jumping into the canal is recorded as 5:00 PM on 28.07.1996 vide DDR No.28 (Ex.PA/7). Vide DDR No.29 dated 28.07.1996, the police party left for searching the deceased/accused at 5:10 PM. One police party left for search on a private motorcycle at 05:20 PM as is recorded in DDR No.29 dated 28.07.1996. Vide DDR No.49 dated 28.07.1996, Inspector Rajender Pal Singh returned to police station at 04:00 AM (Ex.PA/10). Vide DDR No.43 dated 28.07.1996 at 4:30 AM, the remaining police party also returned to police station (Ex.PA/11). Vide DDR No.15 dated 29.07.1996 at about 01:00 PM, DSP Nabha received a letter, as per which, ASI Raj Pal Singh, Constable Mahinder Singh and Constable Darshan Singh were suspended from service owing to negligence in their duties. Vide DDR No.6 dated 29.07.1996 (Ex.PA/13) at 08:30 A.M. Surjeet Singh ASI alongwith police party proceeded to search for the dead body of deceased. Inspector/SHO Rajender Pal Singh alongwith his staff also left searching for the dead body at 09:05 AM as is recorded in DDR No.8 dated 29.07.1996. As per the FIR, the deceased was arrested on 22.07.1996, whereas the FIR under Section 380 IPC against the deceased was registered on 28.07.1996 at Police Sation Kotwali, Nabha. The case regarding theft of utensils is registered at 03:15 PM; at 04:05 PM, the accused is shown arrested; at 04:30 PM they proceeded for effecting recovery and at 05:00 PM deceased jumped into the canal. DDR No.43 dated 28.07.1996 shows the time as 04:30 AM when the police officials returned back, who have been shown to have departed vide DDR No.27 dated 29.07.1996 for effecting recovery. The factum of jumping into the canal is recorded in DDR No.28 dated 28.07.1996 at 5:00 PM. All these

dates and times are incorrectly mentioned as coming back after recovery is shown at 4:30 AM on 28.07.1996. All these things show that false and fake entries have been made in the Daily Diary Register in order to cover the lapses and guilt of the appellants, which sufficiently proves that the deceased had neither escaped from custody nor had he jumped into the canal; rather he was thrown into the canal by the appellants.

61. In view of the facts and scenario as noticed and discussed above, we do not find any merits in the instant appeals and the same are accordingly dismissed. The judgment of conviction dated 06.12.2007 and order on quantum of sentence dated 07.12.2007 are hereby sustained and upheld.

62. The Chief Judicial Magistrate, Patiala is directed to take necessary steps to ensure that the appellants are taken into custody and made to undergo the remaining sentence in accordance with law.

63. All other misc. application(s), if any, also stand(s) disposed of accordingly.

(MANJARI NEHRU KAUL)
JUDGE

September 15, 2025.
Puneet/Rajender

(H.S. GREWAL)
JUDGE

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