



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

676

CRA-D-235-DB-2008
Date of Decision: 29.08.2025

MADHUBAN

... Petitioner

VERSUS

STATE OF HARYANA

... Respondent

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

Present: Mr. Bijender Dhankar, Advocate
for the appellant.

Mr. Shiva Khurmi, DAG, Haryana.

Mr. R.S. Rai, Sr. Advocate with
Mr. Gautam Dutt, Mr. Anurag Arora,
Mr. Arshdeep Cheema and Ms. Radhika
Mehta, Advocates for the complainant.

H.S. GREWAL, J.

This appeal has been filed by the appellant against the judgment of conviction dated 03.03.2008 and order of sentence dated 05.03.2008 passed by the then Addl. Sessions Judge, Gurgaon (now Gurugram), vide which the appellant has been convicted in case FIR No.331 dated 14.05.2006, under Sections 302, 201 and 404 of IPC. Police Station Sadar Gurgaon and has been sentenced as under:

Under Section	Sentence	Fine	In default of payment of fine
302 IPC	Imprisonment for life	Rs.1,000/-	SI for one month
404 IPC	Rigorous Imprisonment for two years	Rs.500/-	SI for 15 days.

The case of the prosecution is that an application/complaint was moved before police by Sanjay Thakran, wherein he had stated that they have a farmhouse, where his father Jagmal Singh Thakran used to go for farming at about 08.00/09.00 A.M. and used to return home at about 06.00 P.M. On 13.05.2006, as usual, his father left home for the farmhouse at about 09.00 A.M. in a Gypsy vehicle bearing registration No.HR-55C-0748. The complainant further disclosed in his application that his father alongwith his newly employed servant (name not known) had left the farmhouse at about 01.00 P.M. for his home, but he never returned home. When the servant gave a call from his mobile phone to the mobile phone of his father, the bell rang for ten seconds and thereafter, the phone was switched off. It was 10.57 P.M. It was further contended that the servant was not found available at the farmhouse.

On the basis of this complaint, FIR was registered on 13.05.2006. Investigation swung into motion. Rough site plan was prepared. Statements of witnesses were recorded. Case property and other material evidence were collected. Accused was arrested from Rajasthan. After completion of formal investigation, challan was presented before the Court under Sections 302, 201 and 404 of IPC for commencement of trial.

To substantiate its case, prosecution examined Doctor Subhash Sindhu as PW-1. Sarwan Kumar, Draftsman as PW2, Constable Pardeep Kumar as PW3, Constable Kanwar Singh as PW4, Kartar Singh as PW5, Head Constable Satya Narain as PW6, Yogesh Kumar, Registration Clerk in the Office of DTO Gurgaon as PW7, Vibhor Rastogi as PW8, Bodu Ram Meena LDC Distt. Transport Office, Bharatpur as PW9, Inspector Satpal Singh as PW10, Constable Huner Singh as PW-11, ASI Sukhpal Singh as PW12, ASI

Tejbir as PW13, complainant Sanjay Thakran as PW14, Arjun Singh Thakran as PW15, Major Rajender Singh Rana as PW16, Bhoop Singh Jakhar son of Ram Kishan as PW17 and Inspector Rajesh Kumar as PW18; and the prosecution proved the documents Ex.PA FSL report, Ex.PB police request, Ex.PB/1 inquest proceedings, Ex.PB/2 post mortem report, Ex.PB/3 diagram, Ex.PC application seeking opinion of doctor, Ex.PD scaled site plan, Ex.PE disclosure statement of accused Madhuban, Ex.PF affidavit of Head Constable Satya Narain, Ex.PG Registration Certificate, Ex.PH original licence, Ex PJ recovery memo, Ex.PK rough site plan, Ex PL recovery memo, Ex.PL/1 rough site plan, Ex.PM recovery memo, Ex.PM/1 rough site plan, Ex.PN affidavit of Constable Huner Singh, Ex.PO application moved by complainant Sanjay Thakran, Ex.PO/I formal FIR, Ex PO/2 endorsement on application Ex.PO. Thereafter, statement of appellant under Section 313 of Cr.P.C. was also recorded, wherein he pleaded false implication.

The case of the prosecution is that the appellant, after committing murder of deceased Jagmal Singh Thakran, put his dead body into an iron box and misappropriated the mobile phone, wrist watch and Gypsy vehicle belonging to the deceased. The said mobile phone, wrist watch and Gypsy vehicle were recovered from the possession of the appellant. Thereafter, clothes worn by the accused were also taken into possession of police and as per the FSL report, Blood Group B-ve was detected on the clothes of the appellant, which was the blood group of the deceased. The pillow cover and the iron rod (weapon of offence) were also recovered at the instance of the appellant.

Learned counsel for the appellant argued that the alleged recovery of mobile phone, gypsy and wristwatch have been planted and the clothes etc.

could not be established to be that of the appellant. Therefore, the prosecution has planted these evidences in order to prove their case; whereas the appellant is innocent.

We have examined the record with the assistance of learned counsel for the parties.

PW1-Dr. Subhash Sindhu has deposed that following injuries were present on the dead body of deceased: -

1. Lacerated wound on left pinna upper part 3 cm X 0.5 cm with clotted blood.
2. Lacerated wound on the left pinna lower part just below tragus 2 cm X 0.5 cm. Both the wounds were transversely placed.
3. Abrasion on the left side of the lower abdomen 3 X 2 cm.
4. Abrasion 2 X 1.5 cm on the front of left knee.

In his opinion, the death was due to injury to brain and the possibility of injury by iron rod cannot be ruled out.

PW2- Sarwan Kumar, Draftsman had prepared the site plan Ex.PD.

PW3- Constable Pardeep Kumar, who had submitted the special report.

PW4- Constable Kanwar Singh has proved the negative and positive prints of the snaps taken by him at the place of occurrence.

PW5- Kartar Singh had assisted the Inspector Satpal Singh, SHO, Police Station Sadar Gurgaon and the appellant had made disclosure statement Ex.PE regarding the concealed iron, which was recovered at the instance of the appellant from the fields near the farmhouse and he also got recovered the wrist

watch and a Nokia Mobile Phone, which belonged to the deceased, from the house of his maternal uncle Narain Singh at village Bhumri, Rajasthan.

PW6-HC Satya Narain deposed that SHO, Police Station Sadar Gurgaon had deposited the case property with him, which he kept in his safe custody and the same remained intact till the same remained in his possession.

PW7- Yogesh Kumar, Registration Clerk is a formal witness and he proved the Registration Certificate of Vehicle No.HR-55C-8472 to be in the name of deceased Jagmal Singh.

PW8- Vibhor Rastogi was the employee of Hutch Mobile Company, who has proved that on 14.05.2006 at about 2.05 P.M., a mobile phone call was received from mobile SIM No.9911293211 on mobile SIM No.9828096506, which was operating at the area of District Bharatpur.

PW9 – Bodu Ram Meena LDC District Transport Office, Bharatpur proved the Driving Licence of appellant Madhuban, which was issued by their office.

PW10- Inspector Satpal Singh, SHO is the relevant witness as he was the Investigating Officer of the case. He deposed that on 14.5.2006 while posted as Station House Officer, Police Station Sadar Gurgaon, he received telephonic information from ASI Sujan Singh that the dead body of Jagmal Singh was found in a farmhouse, whereupon he reached there and took over the investigation from ASI Sujan Singh. The dog squad, photographer and FSL expert were called and the Fingerprint Expert also took the finger prints and then he inspected the spot and dead body was found lying in an iron box over a Gadda. He removed a piece of gadda and took it into police possession. He again claimed that he removed cover of the pillow which was having blood

stains and the same was taken into police possession and a piece of gadda lying inside the iron box was also taken into police possession vide recovery memo Ex.PJ and all these articles were sealed with the seal bearing impression 'SP' in the presence of Sanjay (the complainant). Rough site plan Ex.PK was prepared and inquest proceedings Ex.PB/1 were completed and application Ex.PB for post mortem was scribed and dead body was handed over to Constables Lokesh and Rohtash for post mortem. Thereafter, he deposed regarding the recoveries made from or at the instance of appellant.

PW14- Sanjay Thakran is the complainant, who reiterated the contents recorded in the FIR as well as regarding missing of his father and his suspicion. Since his father was not responding, he visited the farmhouse and he took the mobile phone of his servant and gave a call from mobile SIM No.9911018318 to mobile SIM No.9810593231 belonging to his father. The ring passed on the mobile and thereafter it was switched off after ten seconds. He further deposed that on 14.05.2006, he again visited the farmhouse in search of his father, where he noticed some blood stains on the mattress and pillow of the bed sheet where his father used to rest and a big iron box was kept in the room of his father and when the said box was opened, dead body of his father was found in the box who had injuries on his head. He further stated that in the meanwhile, Inspector/SHO Satpal Singh reached the spot and started investigating to that effect.

PW15-Arjun Singh Thakran son of the deceased, deposed that on 13/14.05.2006, he had joined investigation with S.I. Rajesh of Special Staff, Gurugram. They had gone to Bharatpur (Rajasthan) and they reached Police Station Vair (Rajasthan) at about 06.00 A.M. He further stated that on

14.05.2006, at about 11.00 A.M., they spotted white gypsy on Luhasa road at a distance of 2 kms. from the village and the gypsy was stopped by putting their vehicle in front of the same. The gypsy was being driven by appellant Madhuban and the Registration Number of the same was HR-55C-8472. The gypsy was taken into police possession vide recovery memo Ex.PQ. Appellant Madhuban was found wearing pant-shirt, on which there were blood stains. Alongwith the same, a currency note of Rs.50/- was also found. The pant-shirt and the currency note of Rs.50/- were taken into police possession. Besides the above articles, the Driving Licence of Madhuban and Registration Certificate of the gypsy were also taken into police possession vide recovery memo Ex.PR.

PW16 – Major Rajender Singh Rana is another material witness, who deposed that he has family relations with deceased Jagmal Singh. He further deposed that on 13.05.2006, he was going to Jhajjar from Gugaon and at about 01.00 P.M., when he was passing through village Harsaru, he noticed a young boy coming from the side of farmhouse driving a white colour gypsy, which he identified to be of deceased Jagmal Singh. This witness had last seen the appellant-accused driving the gypsy from the farmhouse.

PW17-Bhoop Singh Jakhar was employed as driver with the family of Jagmal Singh. The weapon of offence i.e. the iron rod was recovered by the police in the presence of this witness.

PW18 – SHO Rajesh Kumar had also investigated the matter initially. He deposed that on 13/14.05.2006, he received information that Jagmal Singh Thakran had been kidnapped. Thereupon, he contacted the Nodal Officer of Airtel and got information regarding location of mobile of Jagmal Singh Thakran, which was found operated within the jurisdiction of ESSAR

Rajasthan. They arranged for a private vehicle and alongwith Arjun Thakran, son of the deceased, had gone to the said location in Rajasthan. There they identified the gypsy belonging to the deceased and the appellant was also arrested there. Thereafter the gypsy vehicle and the clothes worn by the appellant were also recovered vide separate recovery memo.

After exhausting the entire list of witnesses, the evidence of prosecution was closed by the Public Prosecutor.

Thereafter, statement of appellant under Section 313 of Cr.P.C. was recorded, wherein all the incriminating material was put to him, to which he pleaded his innocence and false implication. He stated that nothing was recovered from him.

Learned counsel for the appellant argued that no offence is made out against the appellant and the appellant has been wrongly convicted and sentenced. The learned trial Court has adopted a wrong approach to determine the material questions of law and facts in the present case. He further argued that conviction and sentence of the appellant is completely based on circumstantial evidence, which is required to be proved by the prosecution beyond shadow of all reasonable doubts, so as to complete and link the entire chain of evidence against the appellant. However, in the present case, the prosecution could not prove the case beyond shadow of all reasonable doubts. He further argued that the suspicions, may be grave in nature, cannot be substituted as proof to bring home the guilt of an accused and thus it cannot lay foundation for conviction. Although in the present case, the prosecution has failed to establish the link between the appellant and the commission of offence and the appellant has been falsely implicated in the present case. All the alleged

recoveries have been planted upon the appellant. No independent witness has been joined by the prosecution at the time of alleged recoveries, which casts a strong suspicion on the mode and manner of conducting investigation. Moreover, deposition of PW16 – Major Rajender Singh Rana is in no manner creditworthy since the same is highly improbable. He further argued that the blood stains on the alleged clothes cannot be a decisive factor as Blood Group B is not an uncommon group. It is further submitted that the link evidence in the present case is totally missing and the prosecution has miserably failed to bring home the guilt of the appellant beyond shadow of all reasonable doubts. The impugned judgment suffers from surmises and conjectures. The trial Court has gravely erred in holding the appellant guilty and passing the impugned judgment of conviction dated 03.03.2008 and order of sentence dated 05.03.2008. Hence, the same is liable to be set aside and the appellant deserves to be acquitted.

Learned State Counsel, on the other hand, vehemently argued that the impugned judgment passed by the trial Court is well reasoned, justified and based on correct appreciation of evidence and proposition of law. All material evidences have been duly produced and proved before the trial Court. The prosecution witnesses have duly proved and supported the case of prosecution. There is nothing wrong in the manner of conducting investigation. The circumstantial evidence, as produced and proved before the trial Court, certainly completes the chain and thus case of prosecution stands duly proved beyond shadow of all reasonable doubts. There is no error of law or fact whatsoever in the impugned judgment and the same is liable to be upheld and the appeal deserves dismissal.

We have heard both sides at length and have also gone through the record of lower Court and the material available on the case file, with their able assistance.

Although the case in hand is a blind murder, yet the circumstantial evidence points towards the appellant since he was last seen by PW16, Major Rajender Singh Rana driving the gypsy vehicle at the relevant point of time and the appellant was arrested in Rajasthan alongwith white colour gypsy on the basis of tower location of mobile phone of the deceased. The blood stains which were found on the clothes worn by appellant were of the same blood group which the deceased Jagmal Singh Thakran had and also the recovery of mobile phone, wrist watch and weapon of offence i.e. the iron rod were made from or at the instance of appellant. The blood stains found on the iron rod (weapon of offence) were of the same blood group, which were found on the belongings of the deceased. All these circumstantial evidences clearly point out that the appellant indeed carried out the crime and committed murder of Jagmal Singh Thakran. Moreover, his attempt to disappear immediately after the occurrence strengthens the case of prosecution and clearly indicates that he had direct involvement in the commission of offence. Counsel for the appellant utterly failed to dent the prosecution version and could not bring any cogent and convincing material on record or point out any lacuna in the case of prosecution, which was otherwise well established on record beyond shadow of all reasonable doubts.

In view of the above, we are of the view that there is no illegality, infirmity or perversity in the impugned judgment of conviction dated

03.03.2008 and order of sentence dated 05.03.2008 and the same are hereby upheld.

Appeal stands dismissed accordingly.

The Chief Judicial Magistrate, Gurugram is directed to take necessary steps to ensure that the appellant Madhuban is taken into custody and made to undergo the remaining sentence in accordance with law.

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

(MANJARI NEHRU KAUL)
JUDGE

AUGUST 29, 2025.
Rajender

(H.S. GREWAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No