

CRA-D-220-DB-2004 (O&M)
CRR-1174-2004

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2025:PHHC:007881



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

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Date of Reserve: 28.07.2025
Date of Pronouncement: 01.08.2025

CRA-D-220-DB-2004 (O&M)

Balwinder Singh and another

....Appellants

V/s

State of Punjab

....Respondent

CRR-1174-2004

Resham Singh

....Petitioner

V/s

Balwinder Singh and others

....Respondents

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

Present: Mr.H.S.Dhandi, Advocate, for the appellants.

Mr.Anmol Partap Singh Mann, Advocate
for the petitioner in CRR-1174-2004.

Mr.H.S.Deol, Senior DAG, Punjab.

H.S.GREWAL, J.

1. This judgment shall dispose of two petitions i.e. CRA-D-220-DB-2004 and CRR-1174-2004 as both have arisen from the same FIR. For the sake of brevity, the facts are being taken from CRA-D-220-DB-2004.



2. This appeal has been filed by the appellants-Balwinder Singh & Jasbir Singh against the judgment dated 17.01.2004 passed by the learned Additional Sessions Judge, Moga, against their conviction under Section 302/34 IPC and 27 of the Arms Act, 1959. Accused Balwinder Singh and Jasbir Singh were sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.5,000/- under Sections 302/34 IPC and accused Balwinder Singh sentenced to undergo further rigorous imprisonment for 03 years and to pay a fine of Rs.1,000/- under Section 27 of the Arms Act, in default of payment of fine to further undergo rigorous imprisonment for a period of three months. However, all the substantive sentences shall run concurrently. Balwinder Singh along with his sons Jasbir Singh and Surinder Singh were chargesheeted but Surinder Singh had been acquitted of the charges framed against him by the learned trial Court. Therefore, the present appeal has been preferred by the remaining two accused.

3. The case of the prosecution is that the complainant-Resham Singh had stated in his complaint that he was running a photography shop next to his house. He was sitting inside the shop and his father was standing outside the house in village Lohara. Accused-Balwinder Singh along with his son Jasbir Singh came in a white car bearing registration No.CHK-8805 and Balwinder Singh was armed with .12 bore DBBL gun and Jasbir Singh was armed with kirpan. Surinder Singh was driving the car and passed slowly in front of their house and shop. After about ten minutes, they came back and passed in front of their house and shop. He thought that they were going for some work while his father was standing outside the house at that time and he stayed inside the shop.

The said car was stopped in front of their gate and Surinder Singh-accused raised



lalkara that the complainant party should not go unescaped. His father Jaswant Singh turned and tried to enter the house but Balwinder Singh came out of the car and fired a shot with his gun on his father which hit him on his right ear as a result of which he fell down. On hearing the noise of the shot, his sister-in-law Paramjit Kaur came outside but in the meanwhile Jasbir Singh, who was armed with kirpan, also came towards the complainant and while running he entered the house through the back door of the shop. His sister-in-law ran to close the door and Jasbir Singh gave a blow with kirpan which hit the gate of the house. The Complainant then took out licensed gun of his brother and went on the rooftop and fired two shots in the air. Thereafter, all the three persons ran towards their car along with their respective weapons and fled from the spot. When he came down from the roof of the house, he saw that his father had succumbed to his injuries. The sheath of the kirpan of Jasbir Singh was also lying near his dead body. Thereafter, FIR No.03 dated 17.01.2002 was registered under Sections 302/34 of the IPC, 27 of the Arms Act, 1959, registered at Police Station Kot Ise Khan. The motive behind the occurrence is stated to be that about one and a half year ago, Inderjit Kaur daughter of accused Balwinder Singh had performed Court marriage with the complainant and on this account the whole family was annoyed with the complainant and his family.

4. Learned counsel for the appellants submits that there are material inconsistencies in the prosecution case qua the involvement of the appellants. The trial Court had given the benefit of doubt to co-accused Surinder Singh while the appellants are also entitled for the same and the judgment of conviction is liable to be set aside.



5. On the other hand, learned State counsel has categorically stated that the trial Court, after examining all the material witnesses and the documents produced before it, had rightly convicted the appellants as there was sufficient material led by the prosecution in its right perspective. Moreover, the evidence led by the prosecution, including the statements of the eyewitnesses clearly establishes the guilt of the appellants beyond reasonable doubt.

6. We have heard learned counsel for the parties and have carefully perused the material available on record.

7. To prove its case, the prosecution has examined as many as 11 witnesses. PW-1 Dr. Vijay Kumar Goyal, Medical Officer, Civil Hospital, Moga was examined. He conducted the post-mortem examination of Jaswant Singh on 18.01.2002 and found the following injuries on his person:-

- i. lacerated punctured wound with inverted margin measuring 2 cms x 2 cms from the back of neck on extreme left side. 5 cms from the top of chest and 6 cms from the posterior hair line. Wound was oval shaped and collar or abrasion contusion was present.
- ii. Lacerated wound with everted margin 6 cms x 5 cms x 4 cms on right cheek adjoining and covering the lower portion of ear. On dissection of wound, it was going forward and slightly upward after breaking the underlying bones and causing injuries. The brain matter emerged as injury No.2.

It was further opined that blackening was present on the saffa. Lacerated holes were also present on the blanket and he opined that the death was due to firearm injury.



8. Gursewak Singh, Draftsman was examined as PW-2. He prepared the scaled site plan Ex.PD of the spot. Kulwant Singh, Photographer was examined as PW-3 and Head Constable Amir Singh was examined as PW-4. Head Constable Parmatama Singh was examined as PW-6 and they gave their formal evidence. Mangat Singh, Reader of the Tehsildar, Moga was examined as PW-5.

9. The complainant Resham Singh had appeared as PW-7 and supported the case of the prosecution and reiterated the contents of the FIR. Although he was extensively cross-examined, however, nothing incriminating or contradictory to the examination-in-chief surfaced.

10. Paramjit Kaur was examined as PW-8 and has supported case of prosecution being an eye-witness and corroborated with the statement of PW-7 Resham Singh. Darshan Lal Bhandari was examined as PW-9 and had deposed that on 07.01.2002, he sold the maruti car bearing No.CHK-8803 to accused Balwinder Singh. Gurdeep Singh, Record Keeper, Judicial record room, was examined as PW-10.

11. Sub-Inspector Gurcharan Singh, In-charge, Anti-Fraud Squad, Fazilka, was the Investigating Officer at the relevant time and got examined as PW-11. He deposed regarding the investigation conducted and arrest of the accused and also regarding the recovery of .12 bore DBBL gun along with live cartridges from the possession of Balwinder Singh. He also recovered a kirpan without the sheath on the disclosure statement of Jasbir Singh-appellant.

12. After closing the prosecution evidence, the statement of the appellants under Section 313 Cr.P.C. was recorded wherein they have alleged false implication, pleaded not guilty and claimed trial.



13. The Court carefully reviewed the entire record including oral testimonies and documentary evidence. Special attention was given to the statements of the two eye-witnesses, namely, PW-7 Resham Singh (Complainant) and PW-8 Paramjit Kaur, who are the son and daughter-in-law of the deceased. Both were eyewitnesses to the murder and their statements remained consistent and credible throughout the trial and cross-examination. The Court found their version of events to be natural, coherent and trustworthy, which corroborated the FIR and other prosecution evidence.

14. The gun so recovered from the accused Balwinder Singh is stated to have been used in the firing as per the FSL Report Ex.PV. The motive too lies with the appellants as daughter of appellant No.1-Balwinder Singh had married the complainant against his wishes. Moreover, the *kirpan* of the appellant-Jasbir Singh was also recovered without its sheath, which had been found near the body of the deceased, further confirming his involvement in the assault.

15. PW-1 Dr. Vijay Kumar Goyal, who conducted the post-mortem, confirmed that the deceased (Jaswant Singh) had sustained fire-arm injuries, including a fatal injury to the head and cheek.

16. The prosecution has also succeeded to establish the motive as there was stated to be a family dispute between the parties as the complainant had married with the daughter of accused Balwinder Singh against his wishes which had led to tension and hostility. The Court accepted this motive as sufficient to incite violence and as supportive of the prosecution case.



17. Keeping in view the above facts which are on record, we find no infirmity with the order of conviction passed by the learned Additional Sessions Judge, Moga in his judgment dated 17.01.2004 whereby the accused/appellants Balwinder Singh and Jasbir Singh had been sentenced to undergo rigorous imprisonment for life and this Court upholds the same.

18. So far as, CRR-1174-2004 filed by Resham Singh (complainant in the CRA-D-220-DB-2004) is concerned, this Court finds no infirmity in the order passed by the learned Additional Sessions Judge, Moga in his judgment dated 17.01.2004 whereby Surinder Singh has been acquitted of the charges under Section 302/34 of the IPC and accused-Balwinder Singh and Jasbir Singh have been sentenced adequately and no enhancement of sentence is required as they have already been convicted and sentenced to undergo rigorous imprisonment for life.

19. Accordingly, the present appeal as well as criminal revision stand dismissed and the appellants are directed to surrender before the concerned jail authorities to undergo remaining part of their sentence.

20. Pending applications, if any, shall stand disposed of.

(MANJARI NEHRU KAUL)
JUDGE

(H.S.GREWAL)
JUDGE

August 01, 2025
poonam

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No