



CRA-D-258-DB-2004

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

CRA-D-258-DB-2004

Date of Decision : 09.05.2025

PARTAP SINGH

.... Appellant

VERSUS

THE STATE OF PUNJAB

...Respondent

CRR-948-2004

JAGIR SINGH

.... Petitioner

VERSUS

STATE OF PUNJAB & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. H.S. Randhawa, Advocate (Amicus Curiae)
for the appellant in CRA-D-258-DB-2004.

Mr. Tarun Singla, Advocate for
Mr. R.K. Singla, Advocate for the complainant
in CRA-D-258-DB-2004 and
in CRR-948-2004 for the petitioner.

Mr. Sidharth Attri, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

This judgment shall dispose of criminal appeal **CRA-D-258-DB-2004** preferred by the accused-appellant, namely, Partap Singh against the judgment of conviction and order of sentence dated 16.01.2004 passed by the Addl. Sessions Judge (Adhoc) Amritsar and **CRR-948-2004** preferred by Jagir Singh seeking conviction of one accused/Gurbax Singh and enhancement of sentence of the other accused/Partap Singh.

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2. The FIR in the present case (CRA-D-258-2004) came to be registered on 14.11.2000. The judgment of conviction and order of sentence was passed on 16.01.2004 by the Sessions Judge (Adhoc), Amritsar. The Appeal dated 09.03.2005 preferred against the aforesaid judgment of conviction and order of sentence has come up for final hearing now i.e. after a period of more than 24 years from the date of registration of the FIR.

3. For the sake of convenience, the facts are being taken from CRA-D-258-DB-2004.

4. The instant case was registered on 14-11-2000 in P.S. Khemkaran on the statement of Jagir Singh s/o Bahal Singh, resident of V. Manawan, Distt. Amritsar recorded by SHO Narinder Singh Malhi. Briefly stated the allegations of the prosecution are that the said Jagir Singh and Gurbax Singh were real brothers, and their houses were in their fields. They had an old water course alongwith the common boundary line of their fields which prior to the occurrence was being used to distribute their tubewell water. It is alleged that this water course was filled with earth by Partap Singh, accused before the occurrence while sowing wheat crop. At the time of the occurrence, the wheat crop sown in the field by Jagir Singh had since sprouted, which was to be irrigated with the tubewell water. Therefore, in the morning of 14-11-2000, Paramjit Singh S/o Jagir Singh in order to make the water course usable was removing earth from it and was placing the same on the boundary line on the side of the field of the accused. Jagir Singh and his other son, Lakhwant Singh were sitting at that time outside their Behak (residence), when in the meanwhile Rasal Singh grandson of Jagir Singh

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went to the place where Paramjit Singh was working. At 10.30 A.M. Partap Singh, accused having a single barrel gun of his father, Gurbax Singh accused, while shouting rushed to that place followed by Gurbax Singh accused, who was empty handed. Gurbax Singh exhorted Partap Singh by saying that they (complainant side) should not be allowed to go alive and to finish this problem. Then Partap Singh fired his gun hitting at the stomach of Rasal Singh who fell down. In the meantime, Jagir Singh and Lakhwant Singh also reached there. Partap Singh fired a second shot towards Lakhwant Singh which hit on his chest and he too fell to the ground. Jagir Singh raised a hue and cry. Partap Singh, accused reloaded his gun and fired a third shot towards Paramjit Singh which hit on his right upper arms. Many persons were attracted to the spot. Partap Singh and Gurbax Singh fled away from there. Rasal Singh, Lakhwant Singh and Paramjit Singh were taken to Civil Hospital, Patti in the jeep of Mehal Singh. Lakhwant Singh succumbed to the injuries on the way. Rasal Singh and Paramjit Singh were referred to Civil Hospital, Amritsar. They were taken to Amritsar by Jagir Singh and were got admitted in Guru Nanak Dev Hospital, Amritsar. Thereafter, Jagir Singh was going to the PS to lodge the report and on the way at bus Adda of V. Shira Kona, SHO Narinder Singh Malhi and other police Officials met him. His statement Ex-PE was recorded by SHO, who sent the same to the PS with his endst. Ex.PE/1 where F.I.R. Ex.PE/2 was registered, by Addl. MHC Surinder Kumar. The SHO accompanied by Jagir Singh went to CH Patti where he conducted inquest proceedings on the dead body of Lakhwant Singh, prepared report Ex.PD and injury statement Ex.PC and made a

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request in writing Ex.PB to the doctor for the purpose of postmortem. The dead body was entrusted to HC Balwinder Singh and C. Baljit Singh. The SHO went to the place of the occurrence, from where he recovered two empty cartridges of .12 bore and the same were sealed in a parcel with his seal NS" and were seized vide memo Ex. PF in the presence of ASI Balwant Singh, Jagir Singh and Lakhwinder Singh. Bloodstained earth was also collected from there and was sealed in another parcel with the same seal and was taken into possession vide memo Ex.PG. Rough site plan of the place of occurrence was prepared by him. From the place of the occurrence, he proceeded to Guru Nanak Dev Hospital, Amritsar and deputed ASI Balwant Singh for conducting inquest proceedings on the dead body of Rasal Singh who had died in the meanwhile. On 15-11-2000, he took into possession the clothes of Lakhwant Singh, deceased which were sealed in a parcel with the seal of NS. Clothes of Rasal Singh were also taken into possession on that day, which were produced before him by ASI Balwant Singh. ASI Balwant Singh also produced a parcel contained pellets. Ex.PJ is the inquest report of the dead body of Rasal Singh which was prepared by ASI Balwant Singh on 15.11.2000 at Shri Guru Tej Bahadur Hospital, Amritsar. Injury statement which was prepared by him is Ex.PK. Postmortem on the dead body was got conducted by him by making application Ex.PL. Application Ex.PM was presented by him to the doctor concerned for his opinion if Paramjit Singh was fit to make a statement. Paramjit Singh was declared fit to give a statement. He recorded statement of Paramjit Singh on that day at 3.00 P.M. Medico legal examination of Paramjit Singh was got conducted by the ASI

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on 16-11-2000. Partap Singh, accused was arrested on 23-11-2000. While the accused was in the custody, he was interrogated by the SHO and he suffered a disclosure statement that he had kept concealed one .12 bore SBBL gun and belt of cartridges underneath the stack of paddy straw in his field and offered to get them recovered. His statement Ex.PH was recorded which was signed by him and attested by ASI Piara Singh and Kirpal Singh. The accused got recovered a .12 bore SBBL gun No.1308-76 and one belt containing 7 cartridges of .12 bore. On unloading one empty of 12 bore was recovered from the gun. Sketch Ex.PS/1 of the gun was prepared. The gun and the empty were sealed in separate parcels with the seal of NS and alongwith the belt and live cartridges were taken into possession vide memo Ex.PS/2. Rough site plan of the place of the recovery Ex.PS/3 was also prepared. Investigation of this case was also conducted by the DSP. Gurbax Singh, accused was found innocent. After the completion of the investigation, challan was presented in the court of Ilaqa Magistrate.

5. Partap Singh was chargesheeted u/s 302 IPC, 307 IPC and 25 Arms Act. He pleaded not guilty. The prosecution examined Jagir Singh as PW/1 and at that stage, preferred an application u/s 319 Cr.P.C. to proceed against Gurbax Singh, accused as well. After notice to the accused the application was allowed and Gurbax Singh was summoned to face trial in this case. On appearance of Gurbax Singh charge was amended. Partap Singh accused was chargesheeted u/s 302 IPC for the murder of Lakhwant Singh, Gurbax Singh was charge-sheeted u/s 302/34 IPC for his murder, Partap Singh was also chargesheeted u/s 302 IPC for the murder of Rasal

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Singh and Gurbax Singh was chargesheeted u/s 302/34 IPC, Partap Singh was chargesheeted u/s 307 IPC for the murderous assault committed by him on Paramjit Singh and Gurbax Singh was also chargesheeted u/s 307/34 IPC, Partap Singh was also chargesheeted u/s 25 of Arms Act. They pleaded not guilty. The case u/s 29 Arms Act against Gurbax Singh was also consolidated in the main case vide order dated 12-12-01, in which he was chargesheeted u/s 29 of Arms Act, and he too pleaded not guilty.

6. To prove its case after the amendment of the charge, the prosecution examined, Dr. Sukhwinder Singh Sandhu PW/1, Jagir Singh PW/2, Paramjit Singh PW/3, HC Balwinder Singh PW/4, ASI Balwant Singh PW/5, Dr. Surinder Arora PW/6, Baljinder Singh PW/7, ASI Piara Singh Gill PW/8, Sushma Rani Ahlmad, PW/9, HC Lakhwinder Singh PW/10, C. Joginder Singh PW/11, HC Sawinder Singh PW/12, HC Harbhajan Singh PW/13, Narinder Singh Malli PW/14, Dr. Guriqbal Singh PW/15, and also tendered into evidence report of Chemical Examiner, Ex.PEE, report of Serologist, Ex.PFF and report of Forensic Science Lab. Ex.PGG.

7. PW1-Dr. Sukhwinder Singh stated that the postmortem on the dead body of Lakhwant Singh was conducted by him on 15-11-2000 which was brought by C. Balwinder Singh and Daljit Singh and was identified by Virsa Singh and Balwant Singh. He had found one lacerated punctured wound with inverted margins .4 x .3 cm numbering 25 on front of left side of chest and upper part of abdomen on the left side, and another lacerated punctured wound about .4 x .3 cm numbering six on front and lateral side of

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left upper arm. Both these injuries were ante-mortem in nature. In his opinion, the cause of death was shock and haemorrhage due to injury No.1 which was sufficient for causing death in the ordinary course of nature. Copy of PMR is Ex.PA. Postmortem examination as conducted on the application Ex.PB with which injury statement Ex.PC and inquest report Ex.PD were also received.

Jagir Singh appearing as PW/2 narrated the detailed version of the occurrence. He further stated that his statement Ex.PE PW/2 was correctly recorded by the SHO, which was thumb marked by him in token of correctness. Two empties were recovered from the place of occurrence by the SHO in his presence which were sealed in a parcel and bloodstained earth was also collected from there and same was sealed in another parcel. Recovery memo Ex.PF, and PG were also prepared.

Paramjit Singh (PW3) who is an injured witness also supported the entire version of the occurrence.

HC Balwinder Singh, HC Lakhwinder Singh, HC Sawinder Singh and HC Harbhajan Singh tendered into evidence their affidavits Ex.PH, PV, PY and PX respectively. PW4-ASI Balwant Singh has made statement that the case was partly investigated by him.

Dr. Surinder Arora PW6 stated that on 14-11-2000, he had declared Rasal Singh dead and Ex.PQ is the photocopy of the certificate given by him, and bed head ticket was Ex.PQ/1.

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Baljinder Singh PW-7 is the Revenue Patwari and according to him site plan Ex.PB of the place of the occurrence was got prepared from him by the police.

ASI Piara Singh PW8 has made statement about the recoveries of the gun and belt containing cartridges which was got effected by Partap Singh after making a disclosure statement. He also stated that one empty was recovered from the barrel of the gun which was sealed and seized.

Sushma Rani PW9 is Ahlmad of office of D.C., Amritsar. She identified the signatures of Shri Narinder Jit Singh, the then D.M., Amritsar on Sanction Ex.PU which was accorded by him for the prosecution of the accused. She further stated that licence Ex.P5 was also issued by D.M., Amritsar.

Narinder Singh Malli (PW14) has made a detailed statement about the investigation which was conducted by him.

Dr. Guriqbal Singh (PW15) stated that the postmortem on the dead body of Rasal Singh was conducted by him on 15-11-2000 which was brought by LC Shital Singh and C. Avtar Singh was identified by Mehal Singh and Milkha Singh. 7 lacerated wounds, besides one stitched wound were found suffered by the deceased. A drain was found to be on the right side of the abdomen. All the injuries were ante-mortem in nature. Cause of death was haemorrhage and shock due to laceration of liver, right kidney and right lung as a result of gunshot injury which was sufficient for causing death, in the ordinary course of nature. Ex.PBB is the copy of PMR. Postmortem was conducted by him on the police request Ex.PL, with which

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inquest report and injury statement were also received. He further stated that medico legal examination of Paramjit Singh was conducted by him on 14-11-02 at 5.00 P.M. and one lacerated wound 19 x 10.5 cm was found in the upper 1/3 of right upper arm and blackening was found thereon. Ex.PCC is the carbon copy of M.L.R. X-ray of this injury was got conducted. X-ray report is Ex.PDD/1 which was made by Dr. Rahul Chopra and skiagram is Ex.PDD/2. On the basis of the X-ray report and skiagrams, injury was found simple in nature caused by firearm and opinion Ex.PDD/3 was given by the doctor in this respect. Bed head ticket is Ex.PDD/4.

8. Statements of the accused were recorded u/s 313 Cr.P.C., who denied the prosecution case. Their version is that they were innocent. The written plea in the form of his statement given by Partap Singh, accused is that on 14-04-2000 he was watering his field from the pre-night and he had taken along the SBBL gun of his father for self protection from animals. His father had been admitted in the hospital. In the morning, Rasal Singh armed with Datar, Lakhwant Singh having Kahi (spade) came there where he was working in the fields and they raised a lalkara from a distance of 2 yards from him. He started running but the aforesaid persons tried to chase him. Paramjit Singh also followed him who was having gun. In his self defence, he had to fire his gun. The prosecution version that Paramjit Singh was digging earth from the water course was false. In their defence, the accused examined DSP Shamsheer Singh, DW/1, Dr. R.P. Singh DW/2 and Dr. Shiv Charan DW/3. The DSP stated that on 14-11-2002 he was posted at Bhikhiwind and PS Khemkaran was under his supervision. On that day he

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went to the place of the occurrence and found Narinder Singh SHO already there. He checked up the investigation. Balkar Singh, Ajaib Singh, Milkha Singh, Mehal Singh and Mangal Singh were there at that time, and he conducted enquiry from them. At that time all these persons named Gurbax Singh as accused. Later on, on 08-12-2000, when he further looked into the matter, he found Gurbax Singh innocent. Dr. R.P. Singh stated that on 13-11-2000 he was posted as M.O. at CHC, Sur Singh and Gurbax Singh accused was admitted in hospital on that day at 6.15. P.M. who had complaint of severe chest pain and entry No.60 in the admission register was made. Entry in indoor register was also recorded at Sr.No.254 dt. 13-11- 2000. Gurbax Singh was discharged on 22-11-2000 and he was referred to Guru Nanak Hospital, Amritsar. Indoor entry was made by Avtar Singh, Pharmacist. The photo copy of the entry No.52 to 69 of emergency outdoor register is Ex.PA and photostat copy of the entry in the indoor register is Ex.DB. Dr. Shiv Charan DW/3 has stated that as per record pertaining to the Ward of Medicine Unit No.6, of Guru Nanak Dev Hospital, Amritsar, Gurbax Singh accused was referred from Sur Singh CHC for investigation and management. He was admitted in Guru Nanak Dev Hospital on 22-11-2000 vide OPD No.28781, by Dr. Multani. Dr. Multani was Incharge of Medicine Unit No.6 at that time. Ex.PC is the copy of the OPD file. The bed head ticket of Gurbax Singh was also maintained. As per diagnosis, he was suffering from hypertension and IAD and he remained admitted in the ward upto 6-12-2000 and then he was discharged from the hospital.



9. Based on the evidence led, while Gurbax Singh was acquitted the accused/appellant came to be convicted and sentenced by the Addl. Sessions Judge (Adhoc), Amritsar vide judgment and order of sentence dated 16.01.2004 as under:-

Convicts	Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
Partap Singh	302 IPC	Imprisonment for life	Rs.5000/-	RI for 06 months
	302 IPC	Imprisonment for life	Rs.5000/-	RI for 06 months
	307 IPC	RI for 03 years	Rs.1000/-	RI for 01 month
	25 Arms Act	RI for 06 months	Rs.500/-	RI for 01 month

10. It is the aforementioned judgment, which is under challenge, in the present appeal.

11. The learned Amicus Curiae for the accused/appellant contends that the accused Partap Singh had fired the shots in his self-defence. The occurrence took place at 10.30 AM on 14.11.2000 but the statement of the complainant was recorded on 05.30 PM. This delay of 07 hours has been used to set up a false version and is fatal to the prosecution case. He, thus, contends that the impugned judgment ought to be set aside and the appellant be acquitted of the charges framed against him.

12. The learned counsel for the State, on the other hand, contends that it is a case of double murder. The statement of PW2-Jagir Singh (complainant) and injured Paramjit Singh (PW3) along with the medical evidence is sufficient to establish the case of the prosecution. There is

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absolutely nothing to substantiate the defence of the accused that he had fired in his self-defence. He, thus contends that the present appeal was liable to be dismissed.

13. We have heard the learned counsel for the parties and gone through the record.

14. It is the case of the prosecution that the deceased and injured in the first instance were rushed in the jeep to Civil Hospital, Patti and on the way Rasal Singh, succumbed to the injuries and the others were taken to Guru Nanak Dev Hospital, Amritsar by Jagir Singh, their father and after getting them admitted there, he was going to the police station, when on the way SHO, Narinder Malhi met him who recorded his statement. In the circumstances Jagir Singh could not be expected to leave the deceased and Paramjit Singh in an injured condition, and rush to the police station to report the matter. Admittedly, Civil Hospital, Patti is at the distance of about 30 KM from the place of the occurrence and Amritsar is far away from that place. Therefore, the delay of 7 hours is reasonable. Further, the delay itself cannot be sufficient to dislodge the prosecution version and all the Court is required to do is to assess the evidence with more care and caution.

15. When PW2/Jagir Singh appeared in the witness box, it was suggested to him that Partap Singh was watering his fields during the night and his sons and grandson i.e. sons and grandson of Jagir Singh attacked him while they were having a gun, spade and Datar and in self defence, he had fired his gun. Both the eye witnesses have consistently deposed that the Khal had become blocked as a result of the earth put therein by Partap Singh

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while ploughing his field. There is found absolutely no contradiction in the statements of PW2/Jagir Singh and PW3/Paramjit Singh. In his cross-examination, Jagir Singh stated that the water course had been filled 3/4 days prior to occurrence. He further stated that they were upset because of this. He stated that Paramjit Singh, Lakhwant Singh, Rasal Singh and he himself were unarmed. He denied that his sons and his grandson had attacked Partap Singh, while they were having a gun, spade and Datar with them. Same was suggested to Paramjit Singh which he denied. In case Paramjit Singh was armed with a gun and the deceased were armed with weapon such as datar and they were to attack Partap Singh, then it is not believable that he could escape without suffering even the slightest injury. Therefore, the plea taken by the accused of self defence has remained unsubstantiated and same does not find any support the prosecution case. On the other hand, once the plea of self-defence is raised, the occurrence stands admitted though the version of the prosecution and defence may be different.

16. Other evidence in the form of recovery of empties from the place of the occurrence and also the bloodstained earth, proves that the occurrence had taken place as is alleged by the prosecution. The prosecution has also relied upon the report of Forensic Science Lab, Ex.PGG to prove that three empties were found fired from the gun got recovered by the accused. The recovery of the gun from the possession of the accused is also proved on the basis of the statements of Narinder Singh Malhi and Jagir Singh. It is also proved on the basis of evidence of the official witnesses that parcels containing gun and empties were deposited with Forensic Science

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Lab. The report of Chemical Examiners is Ex.PFF, which proves that the earth recovered from the place of occurrence was stained with blood. PW3/ Paramjit Singh is an injured witness and his presence at the spot cannot be doubted.

17. The upshot of the aforementioned discussion is that the prosecution has established its case against the appellant beyond reasonable doubt. Therefore, we find no merit in the present appeal and the same stands dismissed.

18. **CRR-948-2005**

19. Against the acquittal of Gurbax Singh, the revision petition stood dismissed on 09.07.2004. As regards the prayer that the sentence awarded to appellant-Partap Singh be enhanced to the sentence of death instead of life imprisonment, we find that the present case is not in the category of 'rarest of rare cases' so as to enhance/modify the sentence to a sentence of death and therefore, the revision petition stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

(GURVINDER SINGH GILL)
JUDGE

09.05.2025

Jitesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No