



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

1

CRA-D-336-DB-2004

KESAR SINGH AND OTHERS

... Appellants

VERSUS

STATE OF PUNJAB

... Respondent

A N D

2

CRA-S-729-SB-2004

Judgment reserved on: 08.09.2025

Judgment Pronounced on: 16.09.2025

JARNAIL SINGH AND OTHERS

... Appellants

VERSUS

STATE OF PUNJAB

... Respondent

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

Present: Mr. G.S. Punia, Sr. Advocate with
Mr. Harveen Kaur, Advocate
for the appellant in CRA-D-336-DB-2004.

Mr. S.S. Rangi and Mr. Fateh Sahota, Advocates
for the appellant in CRA-S-729-SB-2004 and
for the complainant in CRA-D-336-DB-2004.

CRA-D-336-DB-2004 stands abated qua appellant
Rattan Singh, since he is reported to have died.

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

H.S. GREWAL, J.

By virtue of this common order, we shall decide both the abovementioned appeals since the same have arisen out of the version (FIR No.20 dated 01.04.1999) and the cross-version (FIR No.15 dated 22.2.2000) of the parties. For the sake of brevity and convenience, the facts are, however, extracted from CRA-D-336-DB-2004.

The said appeal is preferred by the appellants (Kesar Singh and others) against the judgment dated 09.03.2004 passed by the then Sessions Judge, Fatehgarh Sahib in Sessions Case No.28-T of 24.07.1999/01.06.2001 titled as State Versus Ujaggar Singh and others arising out of FIR No.20 dated 01.04.1999 under Sections 302, 307, 323, 324, 148 and 149 of IPC registered at Police Station Khamanon, District Fatehgarh Sahib, whereby the appellants have been convicted and sentenced as under:

Sr. No.	Name of accused	Under Sections	Sentence.
1.	Kesar Singh	148 IPC	RI for six months.
		302 IPC	Life Imprisonment with fine Rs.500/-. I/d six months.
		326/149 IPC	Three years plus fine Rs.300/-., I/d 6 months.
		324 IPC	One year RI plus fine Rs.100/-, I/d one month.
2.	Rattan Singh	148 IPC	RI for six months.
	<i>(Note: Appeal stands abated qua this appellant, since he has died).</i>	302 IPC	Life Imprisonment with fine Rs.500/-. I/d RI six months.
		326/149 IPC	RI for three years plus fine Rs.300/-., I/d 6 months.

		324 IPC	RI one year plus fine Rs.100/-, I/d RI one month.
3.	Harbhajan Singh	148 IPC	RI for six months.
		302/149 IPC	Life Imprisonment with fine Rs.500/-. I/d RI six months.
		324 IPC	RI for one year plus fine Rs.100/, I/d RI one month.
		326 IPC	RI for three years plus fine Rs.300/-., I/d 6 months.
4.	Kulwinder Singh	148 IPC	RI for six months.
		302 IPC	Life Imprisonment with fine Rs.500/-. I/d RI six months.
		326/149 IPC	RI for three years plus fine Rs.300/-., I/d 6 months.
		324 IPC	RI one year plus fine Rs.100/-, I/d RI one month.

All sentences were ordered to run concurrently.

2. The case of the prosecution is that on 01.04.1999 at 03:20 PM one wireless message was received by Sub-Inspector Paramjit Singh in Police Station from PGI, Chandigarh regarding death of Nachhattar Singh, whereupon, the police party reached PGI, Chandigarh where Jarnail Singh was present and he made a statement before the police that he was an agriculturist. They were five brothers. On 31.03.1999, he alongwith his brother Surmukh Singh was coming to their house after finishing work in the fields. At about 08:00 PM, when they reached near the street of house of Ujaggar Singh, they found the said Ujaggar Singh armed with *Sotta*, his sons Kesar Singh armed with *Gandasi*, Rattan Singh @ Bhola armed with *Kirpan*, Bhajan Singh armed with

Tangli, Kulwinder Singh @ Bagga son of Rattan Singh armed with Sua. All of them raised *lalkara* and opened attacked upon them while shouting and saying that they be taught a lesson for purchasing '*Dher*' of Gurdev Singh, who is the brother of Ujaggar Singh. The accused persons inflicted severe injuries on their person and when they raised hue and cry, Nachhattar Singh came to rescue them. At the instigation of Ujaggar Singh, Kesar Singh gave a *gandasi* blow on the head of Nachhattar Singh; Rattan Singh hit Nachhattar Singh with *kirpan* on his head and Kulwinder Singh @ Bagga hit the *sua* on the head and neck of Nachhattar Singh. As a result of which, Nachhattar Singh fell down on the ground but still the accused persons (appellants) continued to inflict injuries upon him. After hearing the noise, other members of their family came and upon seeing them, the accused-appellants fled away from the spot with their weapons. The injured were rushed to Civil Hospital, Fatehgarh Sahib, from where they were referred to PGI Chandigarh. During treatment in PGI, Chandigarh, injured Nachhattar Singh succumbed to the injuries. The sole bone of contention was that Gurdev Singh, who is the brother of Ujaggar Singh, had sold his land to the complainant party.

3. On the basis of the above, an FIR was registered and the investigation swung into motion. The Investigating Officer visited the spot, inspected the same and recorded the statements of witnesses. He prepared the inquest report also. He prepared rough site plan with correct marginal notes. He recorded the statements of accused also. Accused were arrested and produced before the Court. After completion of investigation, challan was prepared and presented in the Court and upon finding *prima facie* case against the accused

persons, charges under Sections 148, 302/149, 326, 326/149, 324, 324/149 of IPC were framed against the accused persons, to which they pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined as many as 18 witnesses. PW1 Dr. Jaspal Singh conducted X-ray examination of Jarnail Singh and Surmukh Singh and proved the injuries, X-ray reports and skiagrams of both injures as Ex.P1 to P10.

5. PW2- Doctor Vivek Sharma conducted postmortem on the dead body of Nachhattar Singh and observed the following injuries:

1. A stitched wound 9 cm long with 5 stitches present over left parietal area. It is anterior extremity lying 8 cm above tip of left ear pinna and posterior 9 cm behind this as described.
2. A stitched wound 17 cm in length with 12 stitches present involving left frontal area, parietal area, just laternal and above proceeding injury. Its anterior extremity situated 4 cm above medial one third of left eyebrow and posterior extremity post to it as described at point 4 cm left to vertex.
3. A stitched wound 6 cm in length with 3 stitches present in a curved fashion with convexity upwards involving left parietal area in front of vertex. It is anterior extremity, joins injury No.2 10 cm posterior to anterior end.
4. Two stitched wounds lying close to each other measuring 5 cm with one stitch and 7 cm with 2 stitches involving central portion in front of proceeding injury.
5. A stitched wound 5 cm long with 4 stitches lying horizontally in right frontal area 7 cm above lateral canthus right eye.
6. A stitched wound 5 cm long with one stitch in front of right parietal eminence placed obliquely.

7. A curved abrasion with reddish brown scab 6 cm in length and 0.75 cm in breadth in posterior one-third, tapering on the both sides present upon top aspect of right shoulder.
8. Two stitched wounds 4 cm with two stitches and 3 cm with two stitches present just under chin on right side.
9. A laceration 1.5 cm x 0.5 cm on lower lip closed to right angle of mouth.
10. An abraded area with reddish brown scalp 0.5 cm x 1 cm on back of left shoulder 7 cm posterior to acromian process.
11. An abraded contused area 6 cm x 2 cm placed obliquely on right side of neck, anterior extremity placed just lateral to thyroid eminence going laterally towards right with reddish brown scab appreciable.
12. A curved abrasion with convexity towards wrist 6 cm in length present 5 cm above left wrist joint on dorsal aspect of fore-arm extending on to anterior aspect by crossing radial border, where it is widest measuring 0.5 cm. Another horizontally placed linear abrasion with reddish brown scab 2.5 cm in length just below the above-mentioned curved abrasion.
13. An incised wound 2 cm x .5 cm on left ring finger on dorsal aspect over middle phalangeal area.
14. An abrasion with reddish brown scab over left middle finger, 2 cm x .5 cm on dorsal aspect over mid phalangeal area.
15. An abrasion with red brown scab 1.5 cm x 1.00 cm, against right anterior superior iliac spine.
16. Two horizontally placed contused lines reddish blue in appearance at varying distance apart present in front of chest below mammary regions with some normal area appreciable over xiphisternum area.

17. Obliquely placed reddish blue contused lines (4 in number) with some intervening normal area present on the front of abdomen 8 cm above umbilicus. The upper pair is crossing midline going towards left with length of limbs 9 cm and 8 cm. While lower pair situated towards right of midline (with limbs measuring 7cm x 6 cm)
18. An abrasion with reddish brown scab 1.5 cm x .5 cm on back of chest against nape of neck.

The doctor opined that the cause of death in this case was due to shock and haemorrhage on account of the injuries which were ante-mortem in nature. Probable time that passed between injuries and death was between 6 to 18 hours and between death and postmortem was 34 to 36 hours. This witness has proved the postmortem report Ex.P11. Doctor Ramandeep Singh has proved the factum of Nachhattar Singh and Sarmukh Singh having admitted in PGI Chandigarh about which he sent intimation to the police. Nachhattar Singh had expired on 01.05.1999 at about 5.30 AM.

6. PW-4 Doctor Ramesh Chand Gupta had medico legally examined Nachhattar Singh on 31.03.1999 prior to his death. This witness has examined Jarnail Singh also at 09:45 PM on the same day and found the following injuries on his person: -

1. Incised wound 7" x 1 1/2" bone deep obliquely running from front of head of midline of back side of head on right side, bleeding was present-Advised x-ray.
2. Incised wound 1" x 1/4" x 1/4" on the left side of head on the front part, bleeding was present. Advised x-ray.
3. Incised wound 2" x 1 1/2" x bone deep on the left side of the head running anteropostly, bleeding was present. Advised x-ray skull.

4. 3" x 3" contusion over the left shoulder, tenderness present, movements painful, advised x-ray.
5. 2" x 2" swelling on the left side of face in front of the pinna.

This Doctor had further medico-legally examined Surmukh Singh on the same day and had found the following injuries: -

1. Incised wound 2-1/2" x 1/2" bone deep on the left side of the front of head. Bleeding was present. Advised x-ray.
2. Incised wound 2" x 1/2" bone deep on the top of head in about a middle - Bleeding was present. Advised x-ray.
3. Incised wound 2 1/2" x 1/2" bone deep on the left side of the top of the head in posterior part. Bleeding was present. Advised x-ray.
4. Incised wound 2 cm x 1/2 cm x 1/2 cm on the dorsem of left thumb at IP Joint, Bleeding was present. Pulse 60 per minute.

On the same day at 10:20 PM PW-4 Doctor Ramesh Chand conducted medico-legal examination of Randhir Singh and observed the following: -

1. Incised wound on the left side of upper lip measuring 2 cm x 1/2 cm x 1/2 cm, bleeding was present.
2. Incised wound 3 cm x 1/2 cm x 1/2 cm on the left side of the nose, bleeding was present, Advised x-ray, tenderness was also present.

Medico-legal examination of Amrik Singh shows the following injury: -

1. Incised wound 2" x 1/2" x 1/2" on the right side of head- Bleeding was present, tenderness was present, Advised x-ray.

Injuries on the person of Gurmeet Kaur were given as under: -

1. 3" x 3" contusion over the right side of back of head, tenderness was present. Advised x-ray.
2. Swelling over the left kneecap, tenderness was present. Movements painful.

Reports about the aforesaid injuries were duly proved by doctor(s).

In his cross examination, the doctor proved the injuries on the person appellants also.

7. PW-5 Jarnail Singh is the complainant/injured who narrated the evidence preceding and succeeding the occurrence and disclosed about complete picture of the incident.

8. PW6 Randhir Singh and PW7 Amrik Singh were the injured eye witnesses and they both corroborated the prosecution story including injuries on their persons.

9. PW8- Amrit Lal Verma proved the scaled site plan.

10. PW9- Kultar Singh was witness to the recovery, in whose presence, the blood stained earth was lifted from 15 places.

11. PW10- SI Tara Singh had interrogated accused Ujaggar Singh, on whose behalf the weapon of offence i.e. *Khunda* was recovered.

12. PW11- Sher Singh has recorded the statements of Kultar Singh. Then the investigation of the case was transferred to Paramjit Singh.

13. PW12- Inderjit Singh, MHC was a formal witness.

14. PW13 HC Harbhajan Singh was a witness to the recovery of kirpan at the instance of accused/appellant Rattan Singh, recovery of Sua at the

instance of Kulwinder Singh, recovery of Tangli at the instance of Harbhajan Singh.

15. PW14- ASI Rama Kumar proved certain endorsements and also witnessed the recovery of Gandasi at the instance of accused/appellant Kesar Singh.

16. PW15- Inspector Paramjit Singh was the Investigating Officer who proved certain formalities observed by him and also proved the statement of complainant which was recorded by him at PGI Chandigarh.

17. PW16- HC Kulwant Singh is formal official witness.

18. PW17- Rajnish, Clerk proved the sale-deed No.1951 dated 22.03.1999 Ex.P84.

19. PW18- Dr. M.K. Tiwari deposed that injured Jarnail Singh and Surmukh Singh were brought in the Emergency Ward with injuries. He further proved the Bed Head Tickets of the injured.

20. Thereafter, learned Public Prosecutor closed the evidence on 03.03.2004. Accused/appellant Ujaggar Singh had unfortunately died during the trial on 02.03.2004, whereupon proceedings against him stood abated.

21. Thereafter, statements of accused/appellants were recorded under Section 313 of Cr.P.C., wherein the entire evidence and incriminating material, which were led and brought on record, were put to them, which were denied by them and they pleaded false implication.

22. Leaned senior counsel for the appellants vehemently argued that the judgment under challenge is against the law and facts and as such the same is liable to be set aside on this score alone. He further argued that the learned

trial Court has erred in finding that as to who was the aggressor party and passed the impugned judgment by merely observing that it was a free fight. He further argued that the trial Court overlooked the fact that there was sufficient material on record to show that infact the complainant party had attacked the appellants with an intention to cause severe injuries and the action on the part of appellants was in exercise of their right of self defence only. It is further argued that accused/appellant Kulwinder Singh had been stated to be armed with a Sua, however, no punctured wound or stab wound was found on the body/person of the deceased or any of the other injured persons. He further argued that a cross-case was also registered against the complainant party at the instance of appellants upon which they were also tried by the trial Court and have been convicted and sentenced also; but still the plea of self defence of the appellants has not been considered by the trial Court. The trial Court has committed a manifest and grave error while holding the appellants guilty. The impugned judgment is based on surmises and conjectures. It suffers from grave illegality, perversity and impropriety; whereas the judgment of conviction and sentence passed against the complainant party is well reasoned and justified. The guilt of the complainant party stood duly proved on record which strengthens the version of appellants regarding self defence. Hence, the impugned judgment of conviction and order of sentence dated 09.03.2004 passed against the appellants is liable to be set aside and the judgment of conviction and order of sentence of even date passed against the complainant party is liable to be affirmed/upheld. He thus prayed accordingly.

23. Further, the learned arguing counsel for the appellants in CRA-S-729-SB-2004 (complainant in connected case) has strongly opposed the contentions raised by learned senior counsel for the appellants in CRA-D-336-DB-2004 while submitting that in fact they had been attacked by Kesar Singh and others with a strong motive of eliminating them. He further argued that the cross-case lodged by the other side is a false one and had been got registered as a counter-blast in order to save them from legal repercussions. Moreover, there is a delay of 11 months in registering the cross-case, which in itself is sufficient proof of the same being false, concocted and an afterthought. He thus prays that the judgment of conviction and order of sentence dated 09.03.2004 passed against Jarnail Singh etc. may be upheld and that one passed against appellants in CRA-D-336-DB-2004 may please be set aside.

23. On the other hand, learned State Counsel has opposed the arguments of learned counsel for the appellants in respective appeals while arguing that the prosecution has proved its cases beyond reasonable doubt as the incident was a result of free fight, in which both the parties have inflicted injuries to each other. He thus prays for upholding both the judgments of the court below.

24. We have heard the learned counsel for the respective parties and have gone through the documents and other material available on record with their able assistance.

25. From the deposition of Investigating Officer as well as perusal of the site plan, it is evident that the incident had taken place in the street situated outside the house of appellants- Ujagar Singh and others and not inside their

house. Therefore, it cannot be said that the appellants were in the courtyard of their house. Even the blood stained earth had been picked up from the street and not from the courtyard of the house of Ujaggar Singh. From the ocular version as well as the evidence led on record, it has come on record that 18 injuries had been suffered by deceased Nachhattar Singh, out of which four injuries were directly suffered by him on his head. By no stretch of imagination, it can be said that such injuries were inflicted by Ujaggar Singh and his associates in exercise of their right of self defence. It has further come on record that Surmukh Singh had also received three injuries on his head; PW-6 Randhir Singh, injured had also received one injury on his face i.e. left side of upper lip; Amrik Singh (PW7) had also received an injury on his head and Gurmeet Kaur had also received one injury on her head. Therefore, it can safely be presumed that the injuries were squarely given to the complainant party (Jarnail Singh and others) with an intention to take their lives as is evident from the weapons as well as seat of the injuries on the bodies of complainant party. On the other hand, complainant party has only been charge-sheeted under Section 326 IPC alongwith other sections. In that case, PW4 Dr. Ramesh Chand Gupta has found an injury on the head of Ujaggar Singh. On the person of Rattan Singh, one diffuse reddish blue coloured swelling was found on the shoulder. Over the swelling, a 3" long abrasion was present on the front part of the shoulder, and two small abrasions were present on the upper part of the shoulder. A small abrasion was also present on the knee front aspect 3" to 5" long with two bruises running parallel on the left side of scapular region on the person of Rattan Singh. Further, appellant Harbhajan Singh was also found to have

suffered an incised wound 3" x 1½" bone deep on the dorsum right hand at the level of index and middle finger. However, all the members of complainant party namely Jarnail Singh, Surmukh Singh, Jasbir Singh, Randhir Singh Hardial Singh, Jasbir Singh son of Bhajan Singh and Amrik Singh have been convicted for the commission of offences punishable under Section 326 of IPC alongwith other offences and have been substantially sentenced for two years.

26. One thing is very much clear in the present case that nobody has denied his presence at the place of occurrence. The motive is although an old one that the complainant party (Jarnail Singh and others) had purchased land from the brother of Ujaggar Singh. However, there is admitted enmity between both the parties. In light of the same, the plea of self defence would not be available to the appellants (Kesar Singh and others) as the nature of injuries shows that the same are much beyond the act of self defence since multiple injuries had been suffered by the deceased on his head. Therefore, the nature of injuries as well as number of injuries does not indicate the same having been caused in self defence.

27. We are, however, of the opinion that so far as the appellant Kulwinder Singh, who was stated to have been armed with *sua* (ice poker), is concerned, no punctured wound or stab injuries have been found on the persons of complainant party, which could be said to have been caused with such a weapon. Even otherwise, none of the injuries have been attributed to the appellant Kulwinder Singh. Therefore, his role, presence and intention can be doubted. Hence, we acquit the appellant Kulwinder Singh of the charges framed against him. Accused Ujaggar Singh had died during the trial, whereupon the

proceedings were dropped against him. Further, the appellant Rattan Singh had died during the pendency of the present appeal, hence, the appeal already stands abated qua him vide order dated 08.09.2025.

28. Therefore, in light of the above, we uphold the judgment of conviction and order of sentence dated 09.03.2004 passed by the then Sessions Judge, Fatehgarh Sahib against appellants Kesar Singh and Harbhajan Singh. The cross-appeal No.CRA-S-729-SB-2004 also stands dismissed and the judgment of conviction and order of sentence passed on even date against the appellants Jarnail Singh and others is also sustained and are accordingly upheld.

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

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

(MANJARI NEHRU KAUL)
JUDGE

SEPT. 16th, 2025.
Rajender

(H.S. GREWAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No