



In the High Court for the States of Punjab and Haryana
At Chandigarh

CRA-D-375-DB-2004 (O&M)
Date of Decision:-9.4.2025

Vinod Kumar ... Appellant

Versus

State of Haryana ... Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. K.S. Nalwa, Advocate as Amicus Curiae,
assisted by Ms. Ashima Attri, Advocate for the appellant.

Mr. Ranvir Singh Aryra, Addl.A.G., Haryana.

GURVINDER SINGH GILL, J.

1. The appellant – Vinod Kumar assails judgment dated 1.4.2004 and order of sentence dated 2.4.2004 passed by learned Sessions Judge, Bhiwani, whereby he has been held guilty and sentenced as under:

Offences	Imprisonment	Fine	In default of payment of fine
302 IPC	Life Imprisonment	Rs.1,000/-	R.I for 3 months
323 IPC	R.I. for Six Months	Rs.200/-	R.I. for 1 month
324 IPC	R.I. for One Year	Rs.300/-	R.I. for 1 month
25 of Arms Act	R.I. for One Year	Rs.1,000/-	R.I. for 3 months



2. The matter arises out of FIR No.435 dated 20.12.2001 registered at Police Station City Bhiwani, under Sections 302, 324 and 323 read with Section 34 of Indian Penal Code (Ex.PB/2) at the instance of Gulshan Kumar (PW-3), who in his statement (Ex.PB) recorded by Sub Inspector Harbans Lal (PW-8) stated as under:

“I am a resident of Shanti Nagar, Bhiwani and assist my father, who is an agent of L.I.C. Today (20.12.2001), at about 07:30 P.M. when I returned home, my father, my mother Lilawati and my uncle Raj Kumar were sitting in the office situated inside our house and were talking. Vinod son of Balbir, who resides in neighbourhood called me and I went out. Vinod slapped me and gave a fist blow on the left side of my face. Upon hearing noise commotion my father, my mother and uncle stepped out in the street. Vinod took out a knife from his pocket and inflicted a blow with the same on the right side of chest of my father and inflicted another blow with knife on his right shoulder as a result of which my father fell down and became unconscious. Vinod gave another blow on the left side of waist of my father and thereafter fled away from the spot with his knife. I and my uncle arranged for a conveyance and took my father to Government Hospital, Bhiwani for treatment, where he was declared death. The cause of grudge is a quarrel, which had taken place with Vinod about 5-7 days back on account of which Vinod had murdered my father. My uncle and mother have witnessed the occurrence. I have got recorded my statement. Action be taken.”

3. The aforesaid statement was recorded by SI Harbans Lal when he went to hospital pursuant to receipt of telephonic information from the hospital regarding death of Prem Chand. The aforesaid statement (Ex.PB) was sent to the police station on the basis of which formal FIR Ex.PB/2 was lodged. Inquest proceedings were conducted by SI Harbans Lal (PW-8). The Post-



mortem examination was got conducted on the dead-body. PW-8 SI Harbans Lal visited the place of occurrence on the next day i.e. on 21.12.2001 and prepared a rough site plan Ex.PH. Blood stained soil lifted from the place of occurrence was taken into possession vide recovery memo Ex.PG. Statements of witnesses were recorded in terms of provisions of Section 161 Cr.P.C. The accused was arrested on 23.12.2001. It is the case of prosecution that upon interrogation Vinod Kumar disclosed that he had kept knife concealed and could get the same recovered and that pursuant to the said disclosure statement (Ex.PK), the accused led the police party to the nominated place and got the knife recovered, which was taken into possession vide recovery memo Ex.PL.

4. Upon conclusion of investigation, a challan was presented against the appellant Vinod Kumar as well as against Bhim Singh in the Court of learned Chief Judicial Magistrate, Bhiwani on 13.2.2002 who committed the case to the Court of Sessions vide commitment order dated 21.2.2002. Learned Sessions Judge, Bhiwani framed charges against the accused for offences under Section 302/323/324/34 of Indian Penal Code and Section 25 of Arms Act on 7.3.2002 to which the accused pleaded not guilty and claimed trial.
5. The prosecution, in order to establish its case, examined as many as 13 PWs. The gist of their testimonies is being briefly referred to herein under:-

PW-1 Amir Chand Taneja, Draftsman stated that he had prepared the scaled site plan of the place of occurrence and proved the same as 'Ex.PA'.

PW-2 Om Parkash, Photographer proved the photographs taken by him as Exs.P-4 to P-6 and their negatives as Exs.P-1 to P-3.



PW-3 Gulshan Kumar, who is the complainant, narrated the occurrence while stating that on 20.12.2001 when he was present in his house, then Vinod called for him from outside and when he went out, Vinod slapped him and gave fist blows upon which his parents and uncle came out and thereafter Vinod took out a knife from his pocket and inflicted blows with the same to his father on the right side of his chest and another on his shoulder and on his back. He further stated that Bhim Singh was also present there and he had caught hold of his father while co-accused was giving blows. He (complainant) further stated that when his brother Anil Kumar tried to rescue his father, then Vinod inflicted a knife blow on the right hand of his brother Anil and thereafter both the accused fled away from the spot with the knife.

PW-4 Dr. (Mrs.) Vasudha Gupta, Medical Officer, General Hospital, Bhiwani stated that on 20.12.2001 at about 10:40 P.M., she had medico legally examined Gulshan son of Prem Chand and had found the following injuries on his person:

- “1. Abrasion of 1.5 cms. x 1 cm over the left temporal region of fore-head lateral to the angle of left eye with diffuse swelling around the wound.
2. Complaining of body-ache over the chest, back and abdomen but no external mark of injuries was seen.

PW -4 further stated that the injuries were simple in nature and had been caused by some blunt edged weapon.

PW-5 Dr. Naresh Garg, Medical Officer, General Hospital, Bhiwani, who had conducted post-mortem examination on the dead body of Prem



Chand described the 3 injuries found on the dead-body and proved the post-mortem report as Ex.PE. PW-5 opined that the cause of death was shock and hemorrhage as a result of the injuries sustained by the deceased.

PW-6 Smt. Lilawati wife of deceased Prem Chand who is an eye-witness, described the occurrence in the same manner as described by PW-3 Gulshan Kumar. She also categorically stated that Vinod had inflicted a blow with knife on the right side of chest of her husband, on his left shoulder and on his back and that the accused also inflicted an injury to Anil with a knife when Anil had tried to rescue her husband.

PW-7 Anil Kumar stated that on 20.12.2001 at about 07:30 P.M. when he reached home after playing outside, he saw that Bhim Singh had caught hold of his father while Vinod was inflicting blows with a knife to his father and when he tried to rescue his father the accused Vinod inflicted injuries to him on his right hand with a knife. He further stated that at that time his mother, his uncle Raj Kumar and his brother Gulshan Kumar were also present at the spot.

PW-8 Sub Inspector Harbans Lal, C.I.D., Rohtak, who is the Investigating Officer, stated with regard to the investigation conducted by him. He specifically stated as regards recording of statement (Ex.PB) of Gulshan Kumar, complainant (PW-3) and as regards conducting inquest proceedings and getting the post-mortem examination conducted. He further stated with regard to his visit to the place of occurrence and having prepared a scaled site plan (Ex.PH) and lifting blood stained soil from the spot.



PW-9 Mahender Singh, Welfare Inspector, Fatehabad stated that on 23.12.2001 he was posted as Station House Officer (SHO) at Police Station City Bhiwani and had taken up investigation of the case from Sub Inspector Harbans Lal (PW-8). He stated that he had recorded supplementary statement of complainant Gulshan Kumar and had also recorded statement of Anil Kumar. He stated that he had effected arrest of both the accused namely Vinod and Bhim on 23.12.2001 at about 06:30 P.M. He stated that during the course of interrogation of accused Vinod he suffered a disclosure statement 'Ex.PK' as regards concealment of a knife, which he got recovered by leading the police party to the disclosed place.

PW-10 Dr. Rajender Gora, Medical Officer, General Hospital, Bhiwani stated that on 23.12.2001 Anil Kumar son of Prem Chand aged about 14 years had been brought to him by Sub Inspector Harbans Lal and he had medico legally examined him and had found the following injuries on his person:

- "1. A linear incision on the right index finger horizontal, in the upper part of middle phalanx of the index finger on the front. 2 cms. x 0.1 cm. depth nearly 0.1 cm. reddish blue in colour, with conical ends, regular and clean cut.
2. An incision 1 cm. linear on the right middle finger in the upper part of the middle phalanx on front, horizontal, nearly 0.05 cm deep. Bluish red in colour, regular, clean cut, with conical ends."

PW-10 stated that all the injuries were simple in nature and that injuries No.1 and 2 could have been caused with a sharp edged weapon.



PW-11 Ganga Ram Ex. UGC No.240 (retd.) tendered his affidavit Ex.PQ in evidence, wherein he deposed that on 3.11.2002 he was posted on general duty at Police Station City Bhiwani and on the said day MHC Ram Kishan had handed over to him 4 duly sealed parcels, which he deposited in the office of Forensic Science Laboratory, Madhuban on the same day itself and that as long as the case property remained in his possession, the same was not tampered with.

PW-12 EHC Ram Parkash stated that on 21.12.2001 he was posted at Police Station City Bhiwani and on the said day he had delivered special reports to the Illaqa Magistrate as well as to the higher police officers.

PW-13 MHC Ram Kishan tendered his affidavit Ex.PR in evidence, wherein he stated that on 20.12.2001 he was posted as MHC at Police Station City Bhiwani and that on 21.12.2001 Sub Inspector Harbans Lal had deposited case property with him, which he had handed over to UGC Ganga Ram on 2.1.2002 for the purpose of depositing the same in the office of Forensic Science Laboratory (FSL), Madhuban, which was accordingly deposited and the acknowledgment receipt with respect to the same was given to him on the next day by UGC Ganga Ram. He further stated that as long as the case property remained in his possession, the same was not tampered with.

6. The prosecution tendered into evidence a copy of report of Forensic Science Laboratory as Exs.PS & PS/1 and closed its evidence.



7. Upon closure of the prosecution evidence, statements of the accused were recorded in terms of provisions of Section 313 Cr.P.C., wherein they denied the entire case of prosecution and pleaded false implication on account of an earlier quarrel. The accused, however, did not lead evidence in their defence.
8. Learned Trial Court upon appraisal of the evidence on record returned its findings to the effect that the prosecution has fully established its case qua accused/appellant Vinod Kumar and accordingly held him guilty of having committed offences punishable under Sections 302, 323, 324 of Indian Penal Code and Section 25 of Arms Act while the accused Bhim Singh was acquitted vide impugned judgment dated 1.4.2004 passed by learned Sessions Judge, Bhiwani.
9. Learned counsel representing the appellant submitted that the appellant has falsely been implicated in the present case and that no reliance can be placed upon the testimony of the complainant, who has not been found to be truthful inasmuch while at the time of lodging of FIR, he did not state anything to the effect that there were 2 assailants, but when he stepped into the witness box, he introduced one Bhim Singh to be a co-accused of the present appellant, which is an improvement too conspicuous to be overlooked. It has been submitted that once the Trial Court had disbelieved the case of the prosecution qua Bhim Singh, it necessarily implies that the witnesses had stated falsely, and thus the appellant could not have been convicted on the basis of testimony of such witnesses.
10. Learned State counsel, on the other hand, submitted that while it is correct that the name of co-accused Bhim Singh (since acquitted) does not find mentioned in the FIR, but shortly thereafter the complainant Gulshan Kumar



(PW-3) had got his supplementary statement recorded, wherein he specifically named Bhim Singh to be a co-accused and that the complainant, who was aged barely about 17 years would have apparently been shaken after having seen his father being murdered and could have missed making a mention of Bhim Singh on account of inadvertence and on account of the shock which he was undergoing. It has further been submitted that, in any case, the testimonies of all the 3 eye-witnesses are consistent as far as the case against the appellant is concerned and, under these circumstances, the impugned judgment does not warrant any interference.

11. We have considered rival submissions addressed before this Court and with the assistance of learned counsel have also perused the record of the case.
12. It is a case where the deceased is alleged to have been stabbed to death by the accused. The prosecution examined PW-5 Dr. Naresh Garg, Medical Officer, General Hospital, Bhiwani, who had conducted post-mortem examination on the dead body of Prem Chand. PW-5 and who has described the injuries found on the dead-body as under:

- “1. 5 cms. x 2 cms. incised penetrated wound was present on the right side of chest. On probing, 8 cms. inside towards medial side, on further dissection of chest wall, mediastinum right plural cavity was full of blood. Arch of aorta was ruptured cut. Sub clavion artery was also cut. Large amount of blood came out and filled the cavity (about 1.5 to 2 linters).
2. 5 cms. x 2 cms. incised wound on the right arm, upper 1/3rd extended towards shoulder joint. Artery cut.
3. 4 cms. x 2 cms. incised penetrated wound on the left side back, 10th to 12th ribs area. Probing done. 8 cms. inside abdomen. No viscera was ruptured. Peritoneum was cut. No blood was in the per-itonium cavity.”



PW-5 opined that the cause of death was on account of shock and hemorrhage as a result of the injuries sustained by the deceased. The said witness was cross-examined on behalf of the accused, but nothing substantial could be elicited during the course of his cross-examination so as to either doubt his veracity or his opinion. As such, the factum of the homicidal death of Prem Chand stands duly established.

13. While the occurrence is stated to have taken place on 20.12.2001 at about 07:30 P.M., the statement of PW-3 complainant Gulshan Kumar son of Prem Chand (deceased) came to be recorded at 10:00 P.M. on the same day, wherein he had specifically stated that the accused Vinod Kumar had come to their house and had called for him and when he went outside in the street, Vinod Kumar slapped him and gave fist blows and when his father, mother and uncle stepped outside hearing the commotion, then Vinod Kumar inflicted three blows with his knife to his father on right side of his chest and on the left side of his shoulder and also on his left side of his waist.
14. This Court does find that a reference to Bhim Singh is conspicuously missing in the said statement 'Ex.PB' recorded by Inspector Harbans Lal (PW-8). The complainant while in the witness-box specifically stated that Bhim Singh was also present and that while Bhim Singh had held his father, the co-accused Vinod Kumar had stabbed his father. PW-6 Smt. Lilawati and PW-7 Anil Kumar i.e. mother and brother of the complainant have also stated identically. The Trial Court extended benefit of doubt to Bhim Singh as he had not been named in the FIR and acquitted him of all the charges framed against him vide impugned judgment. In any case, acquittal of Bhim Singh while giving



benefit of doubt as evidence regarding his presence was found doubtful cannot be interpreted to mean that entire evidence is to be treated as doubtful.

15. Learned counsel for the appellant, however, vehemently argued that while a doubt having been created as regards presence of Bhim Singh, the case of the prosecution could not survive and the co-accused i.e. appellant – Vinod Kumar was also entitled to be acquitted. However, this Court is unable to agree with the aforesaid contention inasmuch as it is the duty of the Court to sift grain from chaff and that any piece of evidence, which is found to be doubtful may not be relied upon while the remaining can safely be relied upon particularly if there is other corroborative evidence. The testimonies of the three eye-witnesses, whose presence would be natural inasmuch they are members of the same family, is also borne out from medical evidence i.e. the post mortem Ex.PE of the deceased indicating that the deceased had sustained 3 injuries on chest, right arm and left side back. Further, the fact that even PW-3 complainant Gulshan Kumar and PW-7 Anil Kumar had been medically examined and were found to be having some simple injuries would also lend corroboration to the prosecution version. Still further the factum of recovery of a knife at the instance of the accused, which had been found to be blood stained upon its chemical examination, is also in tune with the case of the prosecution. There is nothing on record to impeach the credibility of any of the witnesses or to doubt the case of the prosecution on any count.
16. Under these circumstances, the findings of guilt as recorded by learned Trial Court do not suffer from any infirmity and are hereby affirmed. Finding no merit in the instant appeal, the same is hereby dismissed.



17. Intimation be sent to quarters concerned for effecting arrest of the appellant – Vinod Kumar so as to undergo remaining part of his sentence. Case property be dealt with under rules upon expiry of limitation for filing appeal.

(GURVINDER SINGH GILL)
JUDGE

9.4.2025
Pankaj

(JASJIT SINGH BEDI)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No