



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

CRA-D-528-DB-2004 (O&M)
Date of Decision:-21.7.2025

Hira Singh ... Appellant

Versus

State of Punjab ... Respondent

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

Present:- Mr. Gurvinder Singh Dhillon, Advocate as Amicus Curiae,
for the appellant.

Mr. Siddharth Attri, AAG, Punjab.

Ms. Alisha Arora, Advocate with
Ms. Anjur Arora, Advocate for the complainant.

GURVINDER SINGH GILL, J.

1. The appellant – Hira Singh assails judgment dated 3.4.2004 passed by learned Additional Sessions Judge, Muktsar vide which he has been held guilty of having committed offence punishable under Section 302 of Indian Penal Code and Section 27 of Arms Act and has been sentenced to undergo rigorous imprisonment for life and to pay a fine amounting to Rs.5,000/-.
2. The matter arises out of FIR No.164 dated 7.10.2001 registered at Police Station Sadar Malout, under Section 302 of Indian Penal Code and Section 27 of Arms Act (Ex.PD/2) at the instance of Tara Singh (PW-2). The translated gist of his statement (Ex.PD/1) leading to FIR, is reproduced herein-under:



“I am a resident of Village Dabwali Dhab and am an agriculturist. I have two sons namely Sukhwinder Singh and Surjit Singh. While Sukhwinder Singh is married, the younger son Surjit Singh aged 25 years is unmarried. One of my cousin, namely Hira Singh has constructed a house in the fields where he is residing. My land adjoins Hira Singh’s house on two sides. A passage leads in front of the house of Hira Singh. Today, my elder son Sukhwinder Singh was working in the fields. At about 10:30 A.M. I and my son Surjit Singh went to the fields while taking meals for my elder son Sukhwinder Singh. When we reached near the house of Hira Singh, we heard alarm being raised by Manjit Kaur wife of Hira Singh, who was crying ‘*martee-martee*’ (killed-killed). When my son Surjit Singh went forward to save Manjit Kaur, then in the meantime my elder son Sukhwinder Singh upon hearing alarm also reached near the passage. In our presence, Hira Singh said that he will teach a lesson for helping Manjit Kaur and fired from his licensed .12 bore double barrel gun at Surjit Singh hitting him on the right side of his abdomen. Hira Singh fired another shot hitting forehead of Surjit Singh. I and my son Sukhwinder Singh raised alarm ‘*na maar, na maar*’ (don’t kill – don’t kill) upon which Hira Singh ran away from the spot alongwith his licensed weapon. We saw that Surjit Singh had died on account of gun shots. The motive is that Hira Singh suspected that his wife had illicit relations with Surjit Singh. After leaving Sukhwinder Singh near the dead-body of Surjit Singh, I proceeded towards police station for lodging report. I made the aforesaid statement, which is correct. Action be taken.

Sd/-
Tara Singh”

3. The aforesaid statement Ex.PD/1 was recorded by Sub Inspector Atma Singh (PW-10) pursuant to which formal FIR (Ex.PD/2) was lodged. Sub Inspector Atma Singh immediately proceeded to the spot where the dead-body was lying and conducted inquest proceedings in respect of the dead-body. Rough site plan of the place of occurrence was prepared. The police took into



possession two empty cartridges of .12 bore, which were found lying near the dead-body. Blood stained soil was also lifted from the spot and prepared into a parcel. The dead-body was sent for post-mortem examination. The statement of witnesses were recorded in terms of provisions of Section 161 Cr.P.C. The accused was arrested on 12.10.2001. During the course of his interrogation on 14.10.2001, the accused suffered a disclosure statement (Ex.PO) that he had dismantled his .12 bore gun and had kept the same in a plastic bag alongwith 3 live cartridges in a heap of cotton sticks in his land by the side of seepage drain (same *nala*). Pursuant to the aforesaid disclosure statement, the accused led the police party to the nominated place and got the gun and 3 live cartridges recovered, which were taken into possession by the police. The cartridges were sent for ballistic examination.

4. Upon conclusion of investigation, challan was presented against accused Hira Singh in the Court of learned Sub Divisional Judicial Magistrate, Malout on 4.1.2002, who committed the case to the Court of Sessions vide commitment order dated 18.1.2002. Learned Additional Sessions Judge, Muktsar to whom the case was entrusted framed charges against the accused for offence under Section 302 of Indian Penal Code and Section 27 of Arms Act on 9.2.2002 to which the accused pleaded not guilty and claimed trial.
5. The prosecution, in order to substantiate the charges framed against the accused, examined as many as 11 PWs. The gist of their testimonies is being briefly referred to herein under:-

PW-1 Dr. Sunil Bansal, Medical Officer, Civil Hospital, Muktsar stated that on 7.10.2001 he had conducted post-mortem examination on the dead-body of Surjit Singh. He described the injuries found on



the dead-body and while proving the post-mortem report as Ex.PA he opined that the cause of death was on account of injury No.1 i.e. a brain injury, which was sufficient to cause death. He further opined that the injury could have been caused with firearm.

PW-2 Tara Singh, who is the complainant, stated in tune with his statement made to the police on the basis of which FIR came to be lodged. He specifically stated that on 7.10.2001 when he and his son Surjit Singh were taking meals for his elder son Sukhwinder Singh to the fields, they heard noises of alarm and when they were near the house of Hira Singh they found that Hira Singh was quarreling with his wife Manjit Kaur and Manjit Kaur was raising alarm that she be rescued upon which his son Surjit Singh went to her rescue. He further stated that his elder son Sukhwinder Singh was also attracted to the spot. Hira Singh said to Surjit Singh that he will teach him a lesson for coming to the rescue of Manjit Kaur and fired twice at him with his double barrel gun hitting him on the right side of his abdomen and on his forehead leading to his death. He further stated that Hira Singh suspected that Surjit Singh was having illicit relations with his wife and on account of the same had killed him.

PW-3 Sukhwinder Singh son of the complainant, who is also an eye-witness, stated identically as stated by PW-2 as regards the accused having fired twice at the deceased with his double barrel gun.

PW-4 Gursewak Singh, Patwari Halqa Burj Sidhwan stated that on 18.12.2001 he was posted as Patwari Halqa Burj Sidhwan, Village



Dabwali Dhab and had prepared site plan of the place of occurrence and proved the same as Ex.PG.

PW-5 Head Constable Sham Sunder, who is a formal witness, stated that on 7.10.2001 he was posted at Police Station Sadar Malout and was associated with the investigation of the case and that on the said day Sub Inspector Atma Singh had handed over the dead-body of Surjit Singh for getting the post-mortem examination conducted and that he accordingly got the same conducted from Civil Hospital Malout.

PW-6 Jagtar Singh, Arms Clerk proved the arms licence as Ex.PJ issued to the accused.

PW-7 Constable Kulwant Singh tendered into evidence his affidavit Ex.PK, wherein he deposed that on 7.10.2001 ASI Swaran Singh, Police Station Malout had prepared special report and handed over the same to him. He further deposed that on the said day he had delivered special reports of this case to the Illaqa Magistrate and to higher police officials.

PW-8 Head Constable Sukhdev Singh tendered into evidence his affidavit Ex.PL, wherein he deposed that on 7.10.2001 Sub Inspector Atma Singh had handed over the case property i.e. four sealed parcels containing two empty cartridges of .12 bore, blood stained floor tiles, other floor tiles, one vial containing wad, 22 pellets with seal 'SB', blood stained *kamij* (shirt) & *payjama* to him. PW-8 further deposed that he had handed over one parcel containing 2 empty cartridges of .12 bore gun to Constable Shavinder Singh for



depositing the same in the office of Director Forensic Science Laboratory, Chandigarh. PW-8 further stated that on 5.11.2001, three sealed parcels were handed over to Constable Kulwant Singh for the getting the same deposited in the office of Forensic Science Laboratory, Chandigarh. He further stated that due to some objections the parcels could not be deposited on the said day and that it was on 6.11.2001, after removing objections, the parcels were deposited in the office of FSL, Chandigarh. PW-8 further deposed that as long as the case property remained in his possession, the same was not tampered with.

PW-9 Constable Shavinder Singh tendered into evidence his affidavit Ex.PM, wherein he deposed that he was posted on general duty at Police Station, Sadar Malout. He deposed that on 8.10.2001 MHC Sukhdev Singh had handed over the case property to him for depositing the same in the office of Director Forensic Science Laboratory, Punjab, Chandigarh, which he accordingly deposited. PW-9 deposed that as long as the case property remained in his possession, the same was not tampered with.

PW-10 Sub Inspector Atma Singh, who is the Investigating Officer in the present case, stated in detail with regard to the entire investigation conducted by him right from lodging of FIR upto the filing of challan. He proved various documents and memos prepared during the course of investigation and also stated with regard to the statements of the witnesses recorded by him during the course of investigation and as regards the arrest of accused on 12.10.2001



and as regards his disclosure statement on 14.10.2001 leading to recovery of the gun.

PW-11 Assistant Sub Inspector Makhan Singh stated that on 7.10.2001 he was posted at Police Station Sadar Malout and was part of police party headed by Sub Inspector Atma Singh when Tara Singh had got recorded his statement before Sub Inspector Atma Singh. He stated that he accompanied Sub Inspector Atma Singh from the place of occurrence where the dead-body of Surjit Singh was lying and from where Sub Inspector Atma Singh took into possession two empty cartridges of .12 bore gun and had conducted other requisite proceedings before sending the dead-body for post-mortem examination. He stated with regard to arrest of the accused on 12.10.2001 and also as regards the interrogation of accused on 14.10.2001 by Sub Inspector Atma Singh. PW-11 also stated with regard to the disclosure statement made by the accused leading to recovery of double barrel gun.

6. Upon closure of the prosecution evidence, statement of the accused was recorded in terms of provisions of Section 313 Cr.P.C., wherein he denied the case of the prosecution in *toto* and pleaded false implication. The accused further raised a plea that infact Surjit Singh had come to his house and attempted to commit rape upon his wife and that it was in order to save honour of his wife that he fired at Surjit Singh.
7. The accused in his defence examined **DW-1** Dr. Jasjiwan Kaur, who stated that on 13.10.2001 at 03:00 P.M. she had medico-legally examined Hira Singh and proved the MLR as Ex.DA. The accused also examined **DW-2**



Manjit Kaur wife of accused Hira Singh, who stated that about 2 years and 4 months ago when she was sitting in the 'baithak' (drawing room) of her house, then at about 09:00-10:00 P.M. the accused Surjit Singh came there and grappled with her in order to commit rape and tore her clothes and that she also tore his shirt and had raised alarm and that her husband, who was carrying a gun, was attracted to the spot whereupon the accused tried to to snatch gun from her husband during the course of which her husband also sustained injuries in the scuffle and that her husband fired two shots hitting the deceased. DW-2 further stated that on the next morning her husband himself had gone to the police station alongwith his gun where he was made to sit by the police.

8. Learned Trial Court upon examining and appreciating the evidence brought on record held the accused guilty of having committed offence punishable under Section 302 of Indian Penal Code and Section 27 of Arms Act vide impugned judgment and sentenced him accordingly.
9. Learned counsel representing the appellant submitted that it is infact a case where tables have been turned on the accused inasmuch as it is the deceased himself who had entered the house of the accused and had attempted to commit rape upon his wife whereupon the appellant in order to save the honour of his wife had fired from his gun when the accused grappled with him and during the course of which the appellant had also sustained minor injuries. Learned counsel submitted that the story of the prosecution that the accused had fired at the deceased simply on account of the fact that the deceased had tried to intervene when the accused was allegedly giving beatings to his wife does sound very convincing inasmuch as no person



would take the life of another person merely for such a reason. Learned counsel submitted that the very fact that the occurrence took place in the house of the accused would lend authenticity to the stand taken by the accused, which is also brought about by the statement of wife of accused when she stepped into the witness-box.

10. On the other hand, learned State counsel submitted that having regard to the consistent statements of PW-2 – Tara Singh and PW-3 - Sukhwinder Singh regarding the manner of occurrence which is fully corroborated from the medical evidence as well as scientific evidence, there is no room to doubt the case of the prosecution on any count and consequently, the appeal deserves to be dismissed.
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. Although the cause of death of deceased is not in dispute, but it is apposite to briefly refer to the evidence led by the prosecution in this regard. The prosecution examined PW-1 - Dr. Sunil Bansal, who had conducted post-mortem examination on the dead-body of Surjit Singh and who in the post-mortem examination report (Ex.PA) described the injuries as under:

“1. L.W.U. shaped with open end superiority 2.5 cms. diameter in size with inverted blacked margins. Present over the base of left eye socket going upward and right side in a wound of 20 cms. X 10 cms. size over the forehead, top and right side of vertex with everted reggared margins. Brain matter from anterior half of skull cavity is blown outside alongwith right eye ball. Clotted blood mixed with brain matter present. A wad alongwith 19 distorted materllic pallets recovered from cavity and sent to police in a sealed bottles.



2. L.W. with inverted margins of size 6 cms. in diameter with multiple small punctured wound present in the area 1.5 cms. in size around the injury present over the right side of upper abdomen 18 cms. below the right nipple and 14 cms. from midline. Coils of small intestine coming out from wound. On dissection underlying coils of small and large gut with right lobe of liver badly lacerated with abdominal cavity full of dark colour present. One was along with three distorted metallic pellets recovered from abdominal cavity and given to police in a sealed bottle.”
13. PW-1 - Dr. Sunil Bansal opined that the cause of death was on account of injury No.1 i.e. a brain injury, which was sufficient to cause death. He further opined that the injury could have been caused with firearm.
14. A perusal of the description of injuries clearly shows that pellets were recovered from the body. As such, this Court has no hesitation in affirming that it is a case where the deceased died on account of having received gun shot injuries. It is also not in dispute that the gun shots had been fired at by the accused from his licensed double barrel gun. The accused in his statement recorded in terms of provisions of Section 313 Cr.P.C. has not disputed the said fact, but has taken a plea that infact the said shots were fired to save the honour of his wife. The relevant extract from his statement recorded in terms of provisions of Section 313 Cr.P.C. is reproduced herein-under:

“Q. No.20. What else have you to say?

A. I am innocent. On 6.10.2001 I was out of station along with my licenced gun and cartridges. When I reached near my farm house on 6.10.2001 at about 9/10 p.m. I heard the cries of my wife (Bachao-Bachao). I rushed to the *baithak* of my house where I saw Surjit Singh grappling with my wife in order to commit rape with her. I challenged Surjit Singh. He started grappling with me



in order to snatch my gun. During scuffle I sustained injuries. In order to save the honour of my wife and in the exercise of right of private defence of person and property. I fired two shots at Surjit Singh and Surjit Singh fell at the *Tharra* in front of the *baithak* of my house. On 7.10.2001 I went to the Police Station Sadar Malout alongwith my gun. I reported the matter to Atma Singh SHO who detained me in the police station alongwith my gun. He subsequently fired with my gun in the police station and padded two empties. My injuries were allowed to heel and then I was got medically examined by the police. My M.L.R. is Ex.DA.”

15. The material question before this Court is as to whether it is the version put forth by the complainant and his son Sukhwinder Singh, which merits acceptance or as to whether there is any element of truth in the plea of the accused which he is seeking to substantiate from the testimony of DW-2 i.e. Harjit Kaur wife of Hira Singh. While the complainant says that it was when his son had entered the house of the accused to rescue the wife of accused, who was being given beatings by the accused that the accused got enraged at his son Surjit Singh for having come to rescue to his wife and he (Hira Singh) fired at Surjit Singh, the accused on the other hand has taken a stand that the deceased had entered his house in order to commit rape upon his wife and it was in self-defence in order to save the honour of his wife that he had fired at the deceased.
16. Before proceeding to assess the plausibility of contradictory stands, it is apposite to refer to the cross-examination of PW-2 – Tara Singh as per which Hira Singh was suspecting that Surjit Singh was having illicit relations with his wife. The relevant extract from his cross-examination is reproduced herein-under:



“.....Hira Singh had made complaint to me about 2 years earlier that Surjit Singh was having illicit relation with his wife.

Q. Did you restrain your son Surjit Singh from visiting the house of accused?

A. I had enquired from Surjit Singh he told me that the accused was making a false allegation against him.

I strictly told my son not to visit the house of the accused again at that time. To my knowledge Surjit Singh did not visit the house of the accused again.....”

17. The aforesaid statement indicates that Hira Singh indeed was carrying some impression that Surjit Singh was having illicit relations with his wife and had infact even lodged complaint with Surjit Singh's father i.e. PW-2 – Tara Singh, complainant and upon which Tara Singh had told his son not to visit the house of the accused. Under such circumstances, when the accused had allegedly raised such serious allegations against the deceased, it certainly remains unexplained as to why the deceased would have chosen to interfere into the personal matters of the accused and his wife if they were quarreling or even if the accused was giving beatings to his wife. It will not be out of place to mention that although it is the specific case of the complainant and of his elder son Sukhwinder Singh that the accused was beating his wife, but there is no such evidence as regards the wife of accused having sustained any injury. A person is normally not expected to interfere in the personal matters between husband and wife though of course if there is any apprehension of grave danger to someone's life, a third person may intervene.
18. In the present case, in case the accused was indeed beating his wife, which prompted Surjit Singh to intervene, there could have been some evidence



regarding injuries on the person of wife of the accused, but there is no such evidence in this regard nor has any witness stated to the effect that the wife of the accused had sustained any injury. Under these circumstances, the story put forth by the prosecution doesn't seem very convincing.

19. On the other hand, the stand taken by the accused that it was in his self-defence that the shots were fired as the deceased was trying to assault his wife seems more plausible inasmuch as the occurrence had taken place in the house of the accused, where the deceased had entered. Further, as per the plea of the accused, the deceased had grappled with the accused in an attempt to snatch gun from him during the course of which the accused had sustained minor injuries.
20. A perusal of the MLR (Ex.DA) in respect of medical examination of the accused on 13.10.2001 by DW-1 – Dr. Jasjiwan Kaur, ESI Dispensary-I, Malout, shows that the following injuries were found on his person:
 - “1. There was scab brownish dark abrasion 3 X 3.5 cms. on the upper part of left leg, near knee joint.
 2. There was a scab brownish abrasion 2 X 7.5 cms. on antero medial aspect of left leg in its middle.”
21. DW-1 opined that the aforesaid injuries were 5-7 days old and had been caused with blunt edged weapon. The occurrence had taken place on 7.10.2001 and, as such, the aforesaid existence of injuries even though simple in nature would lend some credibility to the stand of the accused and does create a dent in the case of the prosecution inasmuch as the version put forth by the accused seems doubtful. It does appear to be a case where the accused



had fired at the deceased in order to save the honour of his wife, when the accused entered his house and attempted to commit rape upon his wife.

22. As a sequel to the discussion made above, the impugned judgment, wherein the accused has been held guilty, cannot sustain and is liable to be set aside. The instant appeal, as such, is allowed and impugned judgment dated 3.4.2004 passed by learned Additional Sessions Judge, Muktsar is hereby set aside. The appellant is acquitted of all the charges framed against him. His bail bonds/surety bonds shall stand discharged.
23. A copy of this judgment be sent to the quarters concerned. Case property be dealt with under rules upon expiry of limitation for filing appeal.

(GURVINDER SINGH GILL)
JUDGE

21.7.2025
Pankaj

(JASJIT SINGH BEDI)
JUDGE

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