

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

CRA-D-53-DB-2004 (O&M)

Date of Decision:- 01.05.2025

Nihal Singh Appellant

Versus

State of Punjab Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**Present:- Mr. D.S.Virk. Advocate,
Amicus Curiae, for the appellant.

Mr. Siddharth Attri, AAG, Punjab.

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GURVINDER SINGH GILL, J.

1. Appellant-Nihal Singh assails judgment dated 05.11.2003 and order dated 07.11.2003 passed by learned Sessions Judge, Sangrur vide which he has been held guilty of having committed offence under Section 302 IPC and has been sentenced to undergo rigorous imprisonment for life.
2. The matter arises out of FIR No. 93, dated 17.09.2002, Police Station Longowal, District Sangrur, under Sections 302 IPC, lodged at the instance of Harpal Singh, aged 20 years. The translated gist of the statement (Ex.PA) leading to FIR reads as under:

“I am a resident of Village Munder Kalan and pursuing computer course at Sangrur. Today (17.9.2002) at about 8:00 AM, I went to take a round of my poultry farm which is situated near the village. When I reached at the farm, I saw Nihal Singh giving beatings to my servant



Sita Ram with the help of a 'spade'. He gave 2/3 blows with the same on the head of Sita Ram. When I raised alarm, Nihal Singh fled away while leaving 'spade' at the spot. I checked Sita Ram who had fallen on the ground, but on account of excessive bleeding from the injuries received by him he expired while lying there in a pool of blood. The motive for murdering Sita Ram is that Nihal Singh suspected that Sita Ram was having illicit relations with his wife Lajo who used to do menial work at my farm. In the meantime Harvinder Singh also came at the spot and after leaving him there I proceeded to lodge information at the police station, but you met me on the way. I have got my statement recorded which is correct. Action be taken.

Signed
Harpal Singh"

3. The aforesaid statement Ex.PA was recorded by SI Jaspal Singh, SHO Police Station Longowal (PW-7) who after recording the same sent it to the police station for lodging the formal FIR and himself proceeded to the spot and conducted inquest proceedings. A rough site plan of the place of occurrence was prepared. Blood stained soil was lifted from the spot and prepared into a parcel. The '*Kahi*' (spade) found lying at the spot was also taken into possession. The dead body was sent for post mortem examination. SI Jaspal Singh recorded statement of witnesses in terms of Section 161 Cr.P.C. Accused Nihal Singh was arrested on 20.9.2002 having been produced before SI Jaspal Singh by Chanan Singh. Upon completion of investigation the police presented a challan against the accused in the Court of learned Additional Chief Judicial Magistrate, Sangrur, on 06.11.2002, who committed the case to the Court of Sessions vide order of even date. Learned Sessions Judge framed charges against the accused for offence punishable



under Section 302 IPC on 20.11.2002 to which the accused pleaded not guilty and claimed trial.

4. The prosecution in order to substantiate its case examined as many as 10 PWs. The gist of their testimonies is referred to herein under:-

PW-1 Harpal Singh (complainant) stated in tune with his statement (Ex.PA) which he had got recorded to the police on the day of occurrence on the basis of which formal FIR came to be lodged.

PW-2 Chanan Singh stated that he is an ex Municipal Commissioner of Municipal Committee, Sunami Patti, Longowal and that he knew Nihal Singh. He stated that about 4 months back i.e. on 20.9.2002 Nihal Singh came to his house and confessed before him that he had killed Sita Ram because Sita Ram used to live with his (accused) wife. PW-2 further stated that Nihal Singh requested him to be produced before the police and he accordingly produced the accused before police.

PW-3 Niab Singh stated that on 17.9.2002 he was posted as MHC at Police Station Longowal. He tendered his affidavit as Ex.PE in evidence wherein he deposed that on 17.9.2002 SI Jasbir Singh had deposited the case property i.e. a parcel containing blood and a parcel containing 'spade'. He further stated that another parcel containing clothes of the deceased was also deposited with him and that the said parcels were sent to the Office of FSL, Chandigarh on 30.9.2002 through Constable Chaju Ram and since some objections came to be raised on 30.9.2002 and the case property was deposited back with him and was ultimately deposited with FSL on



03.10.2002. He further stated that as long as the said parcels remained in his custody, the same were not tampered with.

PW-4 Harvinder Singh who had come to the spot immediately after the occurrence had taken place having been attracted by the alarm raised by the complainant, did not support the case of prosecution and was declared as hostile.

PW-5 Constable Chaju Ram who is a formal witness tendered his affidavit Ex.PG in evidence wherein he deposed that MHC Niab Singh had entrusted the case property to him on 30.9.2002 for depositing the same to the office of FSL, Chandigarh but on account of certain objections, the same could not be deposited and the same was returned back to MHC and it was subsequently on 03.10.2002 that he deposited the case property in the office of FSL Chandigarh. He further stated that as long as the said parcels remained in his custody the same were not tampered with.

PW-6 Jarnail Singh stated that he had taken the photographs of the place of occurrence and proved the same as Ex.PH/1 to PH/5 and the negatives as Ex. PH/6 to PH-9.

PW-7 SI Jasbir Singh who is the Investigating Officer in the present case stated in detail with regard to the entire investigation conducted in the matter right from lodging of the FIR upto presentation of challan. He proved various memos and documents prepared during the course of investigation.

PW-8 Kuldeep Singh, Patwari stated that he had prepared the scaled site plan of the place of occurrence and proved the same as Ex.PP.



PW-9 Dr. Sohan Lal Dua, Medical officer, Civil Hospital, Sangrur who had conducted post mortem examination on the dead body of Sita Ram proved the post mortem report as Ex.PQ. He described in detail the injuries found on the dead body and opined that the cause of death was due to shock and haemorrhage as a result of injuries No.1, 2 and 5 which were sufficient to cause death in the ordinary course of nature.

PW-10 HC Kirpal Singh stated that on 17.09.2002 he was posted as Head Constable at Police Station Longowal and was associated with the investigation of the case and that he had got the post mortem examination on the dead body conducted from Civil Hospital, Sangrur.

5. The prosecution tendered into evidence a report of the chemical examiner (Ex.PS) and closed its evidence. Upon conclusion of prosecution evidence, the entire evidence was put to the accused in terms of Section 313 Cr.P.C. to enable him to explain the same, but the accused denied the entire prosecution case in toto and pleaded false implication. The accused in his defence examined DW-1 Jagtar Singh who stated that he knew Nihal Singh who had been arrested by the police on 20.09.2009 and had been taken away from his house by the police. He stated that he did not know Sita Ram deceased. He further stated that Chanan Singh was not known to Nihal Singh. He further stated that Balwant Singh, Sarpanch had received grant for *kucha* houses including the house of Nihal Singh, but he did not disburse the grant to Nihal Singh leading to an altercation between them and later on account of the same, Baldev Singh was removed as a Sarpanch. He further stated that



Baldev Singh was also prosecuted and sentenced in the said scam and that now Baldev Singh had got the accused falsely implicated in connivance with Harpal Singh.

6. Learned trial Court upon considering the evidence on record found the appellant guilty of having committed offence punishable under Section 302 IPC and sentenced him accordingly vide impugned judgment dated 05.11.2003.
7. Learned counsel for the appellant while assailing the conviction submitted that he has falsely been implicated in the present case and that apart from the statement of the complainant there is no other eye witness to corroborate his testimony and that the very fact that PW-4 Harvinder Singh had resiled from his statement creates a serious doubt in the case of prosecution. The learned counsel further submitted that the testimony of DW-1 Jagtar Singh also shows that there was an enmity between the accused and one Baldev Singh and since Baldev Singh was removed as Sarpanch on account of allegations of misappropriation levelled by accused and was also prosecuted on account of embezzlement of Panchayat funds, Baldev Singh had got the appellant falsely implicated with the help of complainant Harpal Singh. Learned counsel thus prayed for acceptance of the appeal and for setting aside the impugned judgment.
8. On the other hand learned State counsel submitted that having regard to the statement of the complainant whose testimony could not be shattered on any



count and which stands fully corroborated from the medical evidence, the findings of the trial Court do not call for any interference.

9. This Court has considered rival submissions addressed before this Court and has also perused the record of the case.
10. At the outset it is apposite to refer to the medical evidence as regards the homicidal death of Sita Ram. The prosecution has examined Dr. Sohan Lal Dua (PW-9) who had conducted the post mortem examination on the dead body of Sita Ram. Dr. Sohan Lal Dua (PW-9) while proving the post mortem report as Ex.PQ described the injuries found on the dead body of Sita Ram as under:

- “1. An incised wound measuring 13 cm x 4 cm over left and back of upper part of neck greater vessels were found injured, clotted blood present underlying skull bone found out and membranes and brain matter found injured.
2. An incised wound 9 cm x 4 cm on left temporal region 1.5 cm front of left ear. Underlying bone was found out. Brain matter was injured.
3. An incised wound 4 cm x 2 cm on left ear which was out.
4. Multiple laceration wounds measuring 3 cm x 4 cm 3.3 cm x 0.5 cm over the top and back of left shoulder were present, slight amount of blood was present.
5. An incised wound 9 cm x 1.5 cm over the left parietal region in its posterior part underlying bones were found cut, brain matter was found injured. Cranial cavity contained clotted blood.
6. An incised wound 3.5 cm x 1.75 cm over the right ear which was cut. Clotted blood was present.
7. An incised wound 12 cm x 1 cm present over the back and lateral aspect of lower side of left side of chest slight amount of clotted blood was present.



11. Dr. Sohan Lal Dua (PW-9) further stated that the cause of death was due to shock and haemorrhage as a result of injuries No.1, 2 and 5. PW-9 further stated that he had seen the 'spade' (Ex.P-1) and that the injuries found on the dead body could have been inflicted with the said 'spade'. Although, the 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 opinion or his veracity. Under these circumstances it stands duly established that it is a case of homicidal death of the deceased on account of receipt of multiple injuries with some sharp edged weapon.
12. The case of the prosecution mainly hinges around the testimony of PW-1 Harpal Singh who is the complainant in the present case. PW-1 Harpal Singh while in the witness box stated absolutely in tune with the version put forth by him at the time of recording FIR. He specifically stated that on 17.9.2002 when he went to have a round around his fields at around 8:00 AM, he saw Nihal Singh causing injuries to his servant Sita Ram with the help of '*kahi*' (spade) and that even in his presence the accused inflicted 2/3 blows on the head of Sita Ram, as a result of which he fell down. He further stated that the accused thereafter fled away from the spot. He stated that he had narrated the entire incident to the police and that the police had taken into possession the 'spade' lying at the spot which was stained with blood. The witness was cross-examined at length, but he remained firm on his statement and his testimony could not be dislodged on any count. Although, as per the case of prosecution one Harvinder Singh had also come at the spot immediately after the occurrence had taken place, but when he stepped into



the witness box, he absolutely resiled from his statement. In any case, said Harvinder Singh (PW-4) is not even an eye witness and as such the fact that he resiled would not cause any dent in the case of the prosecution particularly when the testimony of the complainant finds ample corroboration from the medical evidence as well. Still further, the report of FSL would also lend corroboration to the case of prosecution inasmuch as the '*kahi*' which had been recovered from the spot immediately after the occurrence was found to be stained with human blood.

13. Still further, it is the case of the prosecution that the accused had confessed his guilt before PW-2 Chanan Singh and had requested him to produce him (accused) before police. PW-2 Chanan Singh while in the witness box has specifically stated that on 20.9.2002 the accused had come to his house and confessed before him that he had killed Sita Ram because Sita Ram used to live with his (accused) wife.
14. No doubt, an extra judicial confession, on its own is a weak type of evidence but the same can be used for the purpose of corroboration. Since PW-2 Chanan Singh is a respectable person being an ex Municipal Commissioner, his statement does not deserve to be discarded and can safely be accepted for the purpose of corroborating the testimony of PW-1 (complainant).
15. As far as the evidence led by the accused is concerned i.e. DW-1 Jagtar Singh, it is worth mentioning that neither in the statement under Section 313 Cr.P.C. nor anywhere else the accused raised any plea that he had been falsely implicated by PW-1 Harpal Singh at the instance of Baldev Singh



former Sarpanch. Although, DW-1 Jagtar Singh stated that Baldev Singh who had earlier remained a Sarpanch had been removed as Sarpanch on account of embezzlement and was also prosecuted and convicted but apart from the oral statement, no document to substantiate the said embezzlement or conviction of said former Sarpanch Baldev Singh has been brought on record so as to substantiate the said statement. As such the bald statement of DW-1 Jagtar Singh would not help the accused in any manner.

16. In view of the discussion made above, we find that the testimony of PW-1 Harpal Singh is trustworthy and even though there is no other eye witness to corroborate his statement but having regard to the fact that his statement could not be shattered on any count and is absolutely consistent with the first version which was recorded immediately after the occurrence and is also corroborated from the medical evidence, we do not find any infirmity in the findings as recorded by the trial Court and the same are hereby affirmed.
17. Finding no merit in the appeal, the same is hereby dismissed.

(GURVINDER SINGH GILL)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

01.05.2025

Mohan

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No