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CRA-D-567-DB-2004 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-D-567-DB-2004 (O & M)

Reserved on: 27.05.2025

Date of Pronouncement:29.05.2025

Laxmi Chand and ors.

.... Appellants

V/s

State of Haryana

...Respondent

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

Present: Mr. H.S. Randhawa, Advocate as Amicus Curiae
for the appellant.

Mr. Munish Sharma, DAG, Haryana.

JASJIT SINGH BEDI, J.

The present appeal has been filed against the judgment of conviction and order of sentence dated 09/15.06.2004 passed by the Sessions Judge, Yamunanagar.

2. The instant FIR came to be registered on 08.01.2002. The accused-appellants came to be convicted vide judgment of conviction and order of sentence dated 09/15.06.2004. The present appeal against the judgment of conviction and order of sentence was filed on 26.06.2004. The matter has come up for final hearing now after almost 23 years of the registration of the FIR.



3. The brief facts of the case are that On 07.01.2002, a telephonic message was received in the Police Station Jathlana that a quarrel had taken place in village Rajheri and that the injured had been removed to Civil Hospital Radaur. On receiving this information Amar Nath SI/SHO along with Madan Lal ASI, Mohinder Singh ASI, HC Randhir Singh, Constable Karan Singh and Constable Inderjit Singh reached Civil Hospital Radaur where complainant Dharam Singh made a statement to the effect that he had three brothers. He was the eldest and younger to him was Karan Singh and younger to Karan Singh was Udhey Singh and the youngest was his brother Krishan Kumar (deceased). The accused persons were known to him because Laxmi Chand accused was an agriculturist and had a *karyana* shop in the village which was situated at a distance of about 30/40 paces from his house. Kuldeep Singh accused was the son of Laxmi Chand and he also used to sit at the shop. On 07.01.2002 at about 7.00 p.m., he (complainant) alongwith his brother Krishan Kumar were going to their house from the side of their poultry farm. The deceased was 20-25 paces ahead of him. When they reached on the road, he told his brother to purchase ground-nut from the shop of Narender Kumar and then reach the house. When his brother Krishan Kumar reached in front of the shop of Laxmi Chand and when he (complainant) was about 10-15 paces from that shop at that time accused Kuldeep Singh abused the deceased and accused Laxmi Chand and Chinto Devi came out from the shop and caught hold of the deceased. Accused Kuldeep Singh after raising a *lalkara* that the deceased be taught a



lesson for buying goods from the other shop gave a knife blow on his abdomen. He (complainant) raised a noise which attracted his father Jai Singh. When Jai Singh reached the spot he asked the accused as to why knife blows had been given to his son Krishan Kumar. The accused Kuldeep Singh and Chinto Devi caught hold of his father and accused Laxmi Chand after taking the knife from the hand of Kuldeep Singh gave knife blows in the left side of the abdomen near chest and on the right arm of his father. On hearing the noise raised by him (complainant) and his father, his uncle Ajmer Singh son of Des Raj, Raj Kumar son of Prem Chand and his brother Karam Singh were attracted to the spot and on seeing them all the accused ran away from the spot. The injured were removed to Civil Hospital, Radaur and when they reached near Civil Hospital, Radaur, Krishan Kumar died. After recording statement Ex.PH, the same was endorsed by Amar Nath SI/SHO and was sent to the police station for the registration of the case through constable Karan Singh, on the basis of which formal FIR Ex.PH/1 was recorded by Mohinder Singh MHC.

4. After the registration of the case, the investigation began. Amar Nath SI prepared the report of Krishan Kumar under Section 174 Cr.P.C. Ex.PC. He also recorded the statements of Ajmer Singh and Ranbir Singh under Section 161 Cr.P.C. He deputed ASI Mohinder Singh and Randhir Singh HC to get the post mortem examination conducted from Civil Hospital, Yamunanagar alongwith application Ex.PA.



5. On 08.01.2002, post mortem examination on the dead body of Krishan Kumar was conducted by Dr. Rajiv Arron and Dr. Sandeep Gupta and after examination, the doctor hand over to Mohinder Singh ASI, shirt Ex P-2, Pant Ex.P-3, cotton *baniyan* Ex.P-4 and cotton *kachha* Ex.P-5 and one sample seal which were taken into possession vide Memo Ex.P-R. On the same day, Amar Nath SI alongwith other police officials reached village Rajheri and prepared the site-plan of the place of occurrence Ex.PS at the instance of Karam Singh son of Jai Singh. He also removed blood stained earth from the place of occurrence which was taken into possession vide memo Ex.P-O after sealing the same in a sealed parcel. Amar Nath SI recorded the statements of witnesses and after that he alongwith other police officials proceeded in the search of the accused. They were arrested from Bus Stand Radaur on the pointing out of Ranjit son of Jai Pal and Rameshwar Dass son of Des Raj. The accused were interrogated by the SI after obtaining police remand. During interrogation, Kuldeep Singh disclosed that he had kept concealed a knife in a heap of garbage belonging to Jai Pal son of Sada Ram situated near their shop and that he could get the same recovered. The disclosure statement Ex-PM was reduced into writing which was signed by the accused and ASI Madan Lal and Ranjit PW. Amar Nath SI also interrogated accused Laxmi Chand who also suffered disclosure statement Ex.PN.



6. On 08.01.2002, Amar Nath SI moved an application Ex.PF in Gaba Hospital and obtained the opinion of the doctor about the injured Jai Singh, who was declared unfit to make the statement.

7. On 09.01.2002, Amar Nath SI brought the accused Kuldeep Singh and Laxmi Chand to village Rajheri. He also joined PWs Rameshwar Dass and Karan Singh from the village in the investigation. Then both the accused led the police party to the disclosed place and got recovered a knife Ex.P.1 from the heap of garbage of Jai Pal. He prepared the sketch of knife Ex.PT which was signed by PW-Rameshwar Dass and ASI Madan Lal. The knife was made into a parcel and was taken into possession vide memo Ex. PQ which was signed by Rameshwar Dass, Karan Singh and Madan Lal ASI. He also prepared the site-plan of the place of recovery Ex.PU.

8. On 16.01.2002, Amar Nath SI again visited Gaba Hospital and moved an application for obtaining opinion regarding the injured to make a statement but he was informed that the injured had already been discharged on 13.01.2002. Thereafter, he went to Village Rajheri and recorded the statement of Jai Singh-injured.

9. On 28.01.2002 the case property i.e one sealed parcel with sample seal of RA, one sealed parcel containing a knife with the seal of MS and one sealed parcel containing blood stained earth which was deposited with MHC was sent to FSL through constable Gurcharan Singh.

10. As per the FSL report, the blood was detected on shirt Ex.P-2, pant Ex.P-3 and blood was also detected on knife Ex.P-1.



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11. On commitment, the accused were charged under Sections 302/307 read with Section 34 of Indian Penal Code to which they pleaded not guilty and claimed trial.

12. In order to substantiate its case, the prosecution examined 13 witnesses. The gist of their statements is as under:-

Dr. Rajiv Arron was examined as PW-1. He stated that on 08.01.2002, he alongwith Dr. Sandeep Gupta conducted the post mortem examination on the dead body of Krishan Kumar vide PMR Ex.PB. They found the following injuries on the deceased:-

There was incised wound of size 3cm x 1.5cm elliptical in shape in the left infra-axillary region, involving the 6th inter-costal space going deep to muscular plane. Old blood was coming out of wound.

In their opinion the cause of death was shock due to massive haemorrhage in the left plural cavity which was sufficient to cause death in normal circumstances.

Dr. Seema was examined as PW-2. She stated that on 07.01.2002 at about 8.27 P.M., she while working as Medical Officer in Gaba Hospital examined Jai Singh son of Desh Raj vide MLR Ex.PD. She found the following injuries on his person:-

- 1. There was sharp wound of size 1½ x 1 inch on left side of chest.*
- 2. There was sharp wound of size 1" x 1/2" over abdomen.*



3. *There was another sharp-wound of size 1 x 1/2 inch on left arm.*

He was admitted in the hospital. He was also having complaint of pain in his teeth and some bleeding was also coming from the teeth. He was discharged from the hospital on 13.01.2002.

She gave an opinion on the application dated 05.03.2002 Ex.PG that in natural course of events, the possibility of injuries being dangerous to life was less likely. She also gave opinion Ex-PG/1 that the patient could die of the injuries received by him if no medical treatment would have been given to him and if there would have been profuse bleeding.

Mohinder Singh HC was examined as PW-3. He stated that on 08.01.2002 while he was posted as MHC in Police Station Jathlana, he recorded the formal FIR Ex.PH/1 after receipt of the *ruqa*. He also deposed that on the same day, the IO had deposited with him a sealed parcel containing the clothes of the deceased alongwith sample seal of MO. On 09.01.2002, Amar Nath SI had also deposited with him one sealed parcel containing a knife, another sealed parcel containing blood stained earth alongwith sample seal of MS and on 28.01.2002, he handed over those articles to constable Gurcharan Singh for their deposit with the FSL. On 29.01.2002, Constable Gurcharan Singh handed over to him a receipt issued by the FSL in token of the deposited articles as the same were returned on 28.01.2002 by the FSL because the sample seal did not contain the

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signatures of Amar Nath SI and after taking the signatures of said SI the same were deposited.

Gurcharan Singh was examined as PW-4. He tendered in evidence affidavit Ex.PJ and affirmed that on 28.01.2002 he deposited a sealed parcel handed over to him by Mohinder Singh MHC with the FSL and thereafter, handed over the receipt showing the deposit to MHC Mohinder Singh on 29.01.2002 after removing the objections.

Anirudh, Patwari Halqa was examined as PW-5. He stated that on 27.02.2002, he had visited the place of occurrence and prepared a scaled site plan Ex.PK on the pointing out of Jai Singh-injured and Dharam Singh in the presence of the IO.

HC Nurati Ram was examined as PW-6. He stated that on 08.01.2002, while he was posted at Police Station Jathlana, he delivered the special report of this case to the Magistrate, DSP and SP without any delay which was handed over to him by the MHC on that day.

Ranjit Singh was examined as PW-7. He stated that on 08.01.2002, the accused were arrested by the SHO from Bus Stand Radaur on his pointing out and on the pointing out of his cousin Raj Kumar and in his presence the accused Kuldeep Singh and Laxmi Chand were interrogated. During interrogation both the accused suffered disclosure statements Ex.PM and Ex.PN respectively and disclosed that accused Kuldeep Singh had kept concealed a knife in the *kurari* of Jai Pal Singh and



that he could get the same recovered. The disclosure statements were signed by him as well as the accused and ASI Madan Lal.

Dharam Singh-complainant was examined as PW-8 and supported the prosecution version.

Jai Singh-injured was examined as PW-9 and supported the prosecution case.

Karam Singh was examined as PW-10. He also supported the prosecution version as of PWs.8 and 9.

Mohinder Singh ASI was examined as PW- 11. He stated that on 07.01.2002, while he was posted at Police Station Jathlana, he accompanied the SHO to the Civil Hospital, Radaur and as per the direction of the SHO he got conducted the post mortem examination on the dead body of Krishan Kumar from Civil Hospital, Yamunanagar on 08.01.2002. After post mortem examination the doctor handed over to him a sealed parcel containing the clothes of the deceased and one sample seal and he handed over the same to the SHO which was taken into possession vide memo Ex.PR which was signed by him.

Amar Nath SI, the investigating officer of the case was examined as PW-12 and deposed regarding the investigation.

Dr. Vinod Kumar Kangra was examined as PW-13. He stated that on 07.01.2002 at about 8.00 P.M. while he was posted as Medical Officer in Civil Hospital Radaur, he sent a *ruqa* Ex.PV regarding the death



of Krishan Kumar who was brought dead in the hospital and Jai Singh who was brought in an injured condition.

The Public Prosecutor tendered in evidence report of FSL Ex.PL, PL/1, PL/2, PL/3, PL/4 and gave up Dr. Sandeep Gupta as unnecessary. PW Madan Lal ASI was also given up as unnecessary. PWs Ajmer Singh, Raj Kumar and Rameshwar Dass were given up as unnecessary.

13. After the closure of the prosecution evidence, the accused were examined in terms of Section 313 Cr.P.C. wherein they denied all the allegations of the prosecution and pleaded their innocence. Accused Laxmi Chand stated that on 07.01.2002 deceased Krishan Kumar had visited his shop to purchase eggs, *bidi* and cigarette on credit and when his son Kuldeep Singh refused to give the said articles to him, the deceased abused his son. Thereafter, Krishan Kumar called his father Jai Singh, brothers Karam Singh, Dharam Singh, Rameshwar, Ajmer and Raj Kumar all of whom were armed with iron rods and *dandas* and started causing injuries to him and his son with their respective weapons. The deceased Krishan Kumar entered their shop and took out a knife from inside the shop and tried to give a blow to his son Kuldeep Singh which hit on the arm of his son. Kuldeep Singh caught hold of the knife and had taken the same from Krishan Kumar in order to save himself and in the scuffle Krishan Kumar received a knife injury while his son Kuldeep Singh was saved. Had his son Kuldeep Singh not saved himself by snatching the knife from Krishan Kumar all of them



would have killed Kuldeep Singh. Thereafter, he, his son and his wife had taken shelter in the Police Station Radaur from where the police of Police Station Jathlana took them in custody. He also stated that he and his son had also sustained injuries and were also medically examined at Civil Hospital Naharpur on police request on 08.01.2002. Accused Kuldeep Singh took the similar plea of his innocence. He stated that on 08.01.2002, he and his father were got medically examined by the Medical Officer of Civil Hospital, Naharpur but the police knowingly and intentionally did not attach their MLRs with the report u/s 173 Cr.P.C. in order to save the complainant party because the complainant party was the aggressor. Accused Chinto Devi stated that she and her co-accused had been falsely implicated in this case and that she was not present at the time of the alleged quarrel and was present in her house which is situated at a long distance from their shop.

14. The accused examined the following witnesses in defence evidence:-

Dr. Ish Chadha was examined as DW-1. He stated that on 09.01.2002, while he was posted in CHC Naharpur, he examined the accused on police request and opined that the accused were having the same injuries which were found by him on 08.01.2002 vide endorsement Ex.DC. However, he had not issued any separate MLR. In cross-examination, he stated that he did not have any record regarding the examination of the accused by him.



Smt. Laltesh was examined as DW-2. She stated that she was the daughter of accused Luxmi Chand and Chinto Devi and the sister of accused Kuldeep. She stated that prior to this occurrence the relations of her family members with the family members of Jai Singh were cordial as they were on visiting terms and that ceremony of her '*kanyadan*' was performed by Ajmer Singh brother of Jai Singh-complainant.

Naresh Kumar-Photographer was examined as DW-3. He stated that on 14.12.1998, he had taken the photographs Ex.D.1 to D.9 in the marriage of Rajesh Kumar at village Rajheri. The negatives of the same were Ex.D-10 to D-18. He deposed that no addition or deletion was made in the photographs and all the photographs are natural.

Neelam was examined as DW-4. She deposed on the same lines as DW-2.

15. Based on the evidence led, the accused-appellants, namely, Laxmi Chand, Kuldeep Singh and Chinto Devi came to be convicted and sentenced by the Court of the Sessions Judge, Yamunanagar at Jagadhri, vide judgment of conviction and order of sentence dated 09/15.06.2004 as under:-

Offence U/S	Sentence	Fine	In default of payment of fine
302 read with 34 IPC	Life Imprisonment	Rs.1,000/- each	RI 03 months each
307 read with 34 IPC	Life Imprisonment	Rs.1,000/- each	RI 03 months each



All the substantive sentences were ordered to run concurrently.

16. The aforementioned judgment of conviction and order of sentence dated 09/15.06.2004 passed by the Sessions Judge, Yamunanagar at Jagadhri is under challenge before this Court.

17. During the pendency of this appeal, the sentences of the accused-appellants, namely, Laxmi Chand, Kuldeep Singh and Chinto Devi were suspended by this Court vide orders dated 27.09.2007 and 27.08.2007 respectively.

18. The learned Amicus Curiae for the accused-appellants contends that as per the case of the prosecution, Kuldeep Singh gave a single blow with a knife on the person of the deceased on a non-vital part of the body which would show that he never intended to cause a fatal injury. Krishan Kumar succumbed to his injuries in the hospital for want of proper medical aid and therefore, the accused cannot be held guilty for having committed an offence under Section 302 IPC and the offence, if at all would be one punishable under Section 304 IPC. To support his contention, he submits that as per DW-2/Laltesh and DW-4/Neelam, the relationship between both the families was cordial and they were on visiting terms with each other including attending the marriage ceremonies of each other and therefore, there was no hatching of any conspiracy to commit the offence. There is an inordinate delay in the registration of the FIR. The occurrence took place on 07.01.2002 at 7.00 p.m., the complainant made a statement before the investigating officer at 10.45 p.m. which led to the registration of the FIR at



12.30 a.m. on 08.01.2002. However, the special report reached the Illaqa Magistrate on 08.01.2002 at 3.50 a.m. This delay is fatal to the prosecution case. The prosecution has not been able to prove the motive behind the occurrence. As regards the offence under Section 307 IPC for the injuries suffered by Jai Singh, he contends that as all the said injuries were simple in nature and not dangerous to life, the accused deserve acquittal under Section 307 IPC. He lastly contends that taking the allegations to be correct, so far as accused-appellant No.3/Chinto Devi is concerned, she is stated to have caught hold of the deceased-Krishan and the injured-Jai Singh and allegedly gave a fist blow on the mouth of Jai Singh. Such allegations of having caught hold of the injured or the deceased are easy to level and therefore, she being a lady, it is unlikely that she committed the offence alongwith her husband and son and therefore, she is entitled to acquittal.

19. The learned counsel for the State, on the other hand, contends that PW-8/Dharam Singh (complainant) and PW-9/Jai Singh, father of the complainant are consistent regarding the manner in which the occurrence took place. The medical evidence is totally in consonance with the ocular account. Though, where the prosecution case is based on an eye-version account, motive has little relevance, in this case, the same stands established inasmuch as the accused party was upset that the complainant party used to purchase household articles from another shop. As regards the offence under Section 307 IPC, he contends that multiple knife injuries were given on the chest of Jai Singh and merely because the nature of injuries were



simple does not mean that the offence under Section 307 IPC is not made out, as the intention of the accused was to commit murder which is apparent from the nature of weapon used and the seat of injuries. He, thus, contends that the present appeal is liable to be dismissed.

20. We have heard the learned counsel for the parties.

21. Though, in a case based on eye-witnesses, motive has little relevance, in the instant case, the statements made by Dharam Singh (PW-8), Jai Singh (PW-9) and Karam Singh (PW-10) are clear and consistent that the accused persons were having a grudge as they (complainant party) used to purchase household goods from another shop and not their (accused party's) shop. Therefore, the motive stands established.

22. From the evidence on record, the recovery of a blood stained knife at the instance of the accused stands established beyond doubt. As per the report of the FSL, Ex.PL, the knife was found to be blood stained.

23. The contention that the accused persons have not committed any offence under Section 302 read with Section 34 of Indian Penal Code and at the most can be convicted under section 304 Part II of Indian Penal Code because a solitary blow had been given by the accused namely Kuldeep Singh to deceased Krishan Kumar in self defence and he had no intention to cause the death and had also not intended to cause the said injury is also devoid of any merit.

24. The sequence of events and the statement made by the witnesses would reveal that on 07.01.2002 Dharam Singh (PW-8) saw



accused Kuldeep Singh giving a knife blow on the person of Krishan Kumar while the other co-accused, namely, Chinto Devi and Laxmi Chand allegedly caught hold of his brother (since deceased). He being the eye-witness to the occurrence saw his brother, namely, Krishan Kumar shouting. He also shouted for help and after hearing his shouts his father, namely, Jai Singh also came out and reached the spot. On reaching there his father asked the accused as to why he had given a knife blow to his son Krishan Kumar. Thereupon the accused Kuldeep Singh and Chinto Devi caught hold of him and another accused, namely, Laxmi Chand gave a knife blow near his chest and on his right arm. The knife used in the crime was taken by the accused namely Kuldeep Singh from his shop. After causing injuries on the person of Krishan Kumar and Jai Singh, the accused persons ran away and the injured were taken to Civil Hospital, Radaur. The statement made by Dharam Singh (PW-8) and Jai Singh (PW-9) is fully corroborated by the medical evidence emanating from the statements of Dr. Rajiv Arron (PW-1) and Dr. Seema (PW-2). The injury found on the person of Krishan Kumar was on the chest wall on the left side going deep into the ribs. Thus, it cannot be held that the solitary blow had been given on a non vital part of the body.

25. The contention that had the accused persons intended to cause death they would have inflicted more injuries and the solitary blow given by them was in self-defence cannot be accepted. The accused persons firstly caused an injury on the deceased. Then, on seeing Jai Singh father of Krishan Kumar, they left Krishan Kumar and two accused, namely, Kuldeep



Singh and Chinto Devi caught hold of him (Jai Singh) and accused Laxmi Chand inflicted as many as 3 injuries on his person. Had this been a case of self defence. the accused persons were bound to have suffered some injuries at the hands of the complainant-party. The defence of the accused in their statements recorded under Section 313 Cr.P.C. is that Krishan Kumar (since deceased) who was heavily drunk and was under the influence of liquor demanded eggs and *bidies* cigarettes on credit. He started hurling abuses when he was informed by the accused, namely, Kuldeep Singh that he had stopped giving any articles on credit. On his invitation the complainant party comprising of his father Jai Singh, brothers Karam Singh, Dharam Singh and uncle Rameshwar, Ajmer and Raj Kumar armed with iron rods and *dandas* reaching the shop and started causing injuries. Though the case of the defence is that they were got medically examined by Medical Officer, Civil Hospital, Naharpur on 08.01.2002 regarding their injuries caused by the complainant party yet there is nothing on record to establish this fact except that an attempt was made by the accused persons by producing Dr. Ish Chadha (DW-1) in the witness box to prove that he had medically examined the accused persons on 08.01.2002 and on 09.01.2002 on the police request. He had opined that the accused persons were having some injuries which were found by him on 08.01.2002 vide his endorsement Ex.DC. A perusal of Ex.DC would reveal that the doctor failed to mention any injury and it was opined by him that the accused persons namely Kuldeep Singh and Laxmi Chand were having old injuries as noted down in the



medical examination. Had the accused persons suffered any grievous injury or any injury worth mentioning the doctor would have stated so and would have made a report in this regard. It seems that on the insistence of the accused party a police request Ex.DB was made and nothing abnormal was noticed by the Medical officer and therefore, it was opined that no fresh mark of injury was seen and told by the patient and it was thus, concluded that all injuries were old as noted down in the medical examination dated 08.01.2002. Besides this, the plea that Krishan Kumar (since deceased) was drunk cannot be accepted as there is no such evidence of alcohol consumption by the deceased. In this situation, the contention of the defence that the injuries inflicted by the accused on the person of Krishan Kumar (since deceased) and Jai Singh were in self defence cannot be accepted. Similarly, it cannot be held that the injuries were inflicted on the person of Krishan Kumar and Jai Singh in a heat of passion or in a sudden fight without any pre-meditation. In fact, the accused had the necessary motive to commit the offence as they were aggrieved by the fact that the complainant party used to make household purchase from another shop and not their shop.

26. The Hon'ble Supreme Court in a number of judgments has categorically held that every case of a single blow would not necessarily entail conviction under Section 304 IPC. The facts and circumstances are to be seen on a case to case basis.



In '***Mahesh Balmiki @ Munna versus State of Madhya Pradesh 1999(4) RCR(Criminal) 91***', it was held as under:-

5. *Apropos the contentions, we have perused the judgments of the Trial Court and the High Court. It appears that the appellant and three others snatched the wrist watch of a boy known to the deceased and Harikishan. At the request of that boy, they asked the appellant and his associates to return the watch. The appellant told the deceased and Harkishan to come to some specified place. On reaching there, they had exchange of hot words and then Naresh, Pappu and Laxman caught hold of the deceased and the appellant gave a knife blow on the chest of the deceased as a result of which he fell down. The appellant also inflicted injuries with knife on Harkishan who rushed to save the deceased. While the deceased was being taken to the police station, he succumbed to the injuries. Dr. D.S. Badkur (P.W. 5), who conducted postmortem on the person of the deceased, found the following injuries :*

"Stab wound 1.5 x .5 cm. vertical situated on interior aspect of chest on left border of sternum and at the stern coastal joint of 6th and 7th rib, sternum cut and fracture in arms 9.2 area, track of the wound going through and through and sternum, pericardium (pericardium), anterior and posterior wall of rt. vertical (It) dome of diaphragm (diaphragm), left lobe of liver cardiac and of stomach perforated total depth of wound was 19 cm. and direction of track was going downwards posteriorly and towards abdominal cavity pericardial (illegal) [iliac] full of blood, abdominal cavity full of blood, middle media sternum ecchy mosed (ecchymosis) around wound track. Stomach contention (contents ?) coming out in peritoneum cavity."

6. *P.W. 5 stated that the deceased died due to shock and haemorrhage resulting from the said wound which could have been caused by a sharp-edged cutting weapon.*



7. Now *Exception 4* to *Section 300* Indian Penal Code, is in the following terms :

"Exception 4. - Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation. - It is immaterial in such cases which party offers the provocation or commits the first assault."

The requirements of this exception are :

- (a) without premeditation in a sudden fight;*
- (b) in the heat of passion upon a sudden quarrel;*
- (c) the offender has not taken undue advantage; and*
- (d) the offender has not acted in a cruel or unusual manner.*

Where these requirements are satisfied, culpable homicide would not be murder.

8. On the facts of this case, it cannot said that the fatal injury was inflicted without premeditation. Indeed, the appellant asked the deceased to come to a particular place to receive the watch. There, three associates of the appellant caught hold of the deceased and the appellant gave the fatal blow with the knife. The stab wound was given on the chest on the left side of the sternum between the coastal joint of the 6th and 7th rib and both the ribs have been fractured. It appears that truck of the wound had gone through sternum, pericardium anterior and posterior after passing the ribs and thereafter entered the liver and perforated a portion of stomach. Total depth of wound was 19 cm. and direction of truck was going downwards posteriorly. The impact of the single blow with knife has been disastrous. Therefore, it cannot be said that the appellant has not taken undue advantage or not acted in cruel or unusual manner. In our view, *Exception 4* has, therefore, no application on the facts of this case.



9. Adverting to the contention of a single blow, it may be pointed out that there is no principle that in all cases of single blow Section 302 Indian Penal Code is not attracted. Single blow may, in some cases, entail conviction under Section 302 Indian Penal Code, in some cases under Section 304 Indian Penal Code and in some other cases under Section 326 Indian Penal Code. The question with regard to the nature of offence has to be determined on the facts and in the circumstances of each case. The nature of the injury, whether it is on the vital or non-vital part of the body, the weapon used, the circumstances in which the injury is caused and the manner in which the injury is inflicted are all relevant factors which may go to determine the required intention or knowledge of the offender and the offence committed by him. In the instant case, the deceased was disabled from saving himself because he was held by the associates of the appellant who inflicted though a single yet a fatal blow of the description noted above. These facts clearly establish that the appellant had intention to kill the deceased. In any event, he can safely be attributed knowledge that the knife blow given by him is so imminently dangerous that it must in all probability cause death or such bodily injury as is likely to cause death.

10. Dr. Singh invited our attention to the following judgments of this Court in *Tholan v. State of Tamil Nadu*, AIR 1984 Supreme Court 759, *Ranjitsinh Chandrasinh Atodaria v. State of Gujarat*, AIR 1994 Supreme Court 1060 and *Balbir Singh v. State of Punjab*, 1995(3) Suppl. SCC 472 for altering conviction from Section 302 Indian Penal Code to Section 304 Indian Penal Code. A perusal of these judgments shows that these are instances of application of the aforementioned principles. We do not, therefore, consider it necessary to refer to them in detail.

11. For the above reasons, we are of the view that the appellant had rightly been convicted and sentenced under Sections 302 and 324



Indian Penal Code by the Trial Court and the High Court. We find no merit in this appeal which is accordingly dismissed.

In '***Manubhai Atabhai versus State of Gujarat 2007 AIR Supreme Court 2437***', it was held as under:-

7. In the instant case the injury was 3cm x 2cm x 6cm about 6 cm. below sternum and 8 cm above umbilicus. There was corresponding internal injury causing incised wound of 2 cm on the interior border of the liver. Doctor had opined that the liver is a vital organ of the body and the injury found on the person of the deceased was sufficient in ordinary course of nature to cause death.

8. The nature of intention has to be gathered from the kind of weapon used, the part of the body hit, the amount of force employed and the circumstances attendant upon death. In the instant case the accused had used a knife. the blade of which had a length of 6 inches. The injury was caused just below the stomach and had affected a vital part i.e. liver. Knife had gone as deep as 6 cm. in the body which clearly is indicative of the fact that blow was given with great force and the outcome of the injury was that the deceased expired instantaneously. The deceased as it is admitted was trying to pacify the parties and there was no part played by him in the exchange of words which was taking place.

9. Trial court's conclusions are very confusing. For recording conviction under Section 304 Part I Indian Penal Code, the High Court recorded that it was a case of exercise of right of private defence and only one blow was given and there was a counter case. If it was really a case of exercise of right of private defence, there could not have been any conviction much less under Section 304 Part I Indian Penal Code. Merely because a single blow was given that does not automatically bring in application of Section 304 Part I Indian Penal Code.



10. Trial court did not consider the various aspects highlighted by this Court in cases relating to single blow. The cross case has really no relevance for determining as to the nature of offence.

11. Above being the position the order of the High Court does not suffer from any infirmity to warrant interference.

In '**Vijender Kumar @ Vijay versus State of Delhi 2010(3)**

RCR(Criminal) 450', it was held as under:-

4. Mr. Sanjiv Bhatnagar, the learned counsel for the appellant has very candidly stated that in view of the limited notice it was not open to him to argue the matter seeking the acquittal of the appellant. He has, accordingly, submitted that taking the prosecution story as it is, it was clear that the matter would fall under Exception 4 of Section 300 of the Indian Penal Code as an outcome of a sudden quarrel. He has pointed out that only one injury of small dimensions had been caused by the appellant to the deceased and that too in the abdomen and as the appellant had himself taken the deceased to the hospital, an inference could be drawn that there was no intention to kill the deceased. This plea has been strongly controverted by Mr. Ashok Bhan the learned counsel for the respondent State of Delhi.

5. We have examined the arguments raised by the learned counsel for the parties very carefully. The sine quo non for the application of an Exception to Section 300 always is that it is a case of murder but the accused claims the benefit of the Exception to bring it out of that Section and to make it a case of culpable homicide not amounting to murder. We must, therefore, assume that this would be a case of murder and it is for the accused to show the applicability of the Exception. Exception 4 reads as under

"Exception 4. - Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner."



A perusal of the provision would reveal that four conditions must be satisfied to bring the matter within Exception 4 :

(i) it was a sudden fight;

(ii) there was no premeditation;

(iii) the act was done in the heat of passion; and; that

(iv) the assailant had not taken any undue advantage or acted in a cruel manner.

6. We are of the opinion that the facts, as have been given by us above, do not justify the applicability of Exception 4. Admittedly there was no pre- meditation in the incident. The second requirement of a sudden fight is however missing. The facts show that there was no sudden quarrel and it was a unilateral act on the part of the appellant as he lost his temper as he suspected the deceased of having misappropriated the fare that he had been collecting. The deceased also had no role to play. We also see that the appellant had taken undue advantage of his position inasmuch as that he had run to the scooter opened the boot, taken out a knife and caused one injury on the person of the deceased who was a young, unarmed boy. It was, therefore, also a clear case where the appellant had taken undue advantage of his position. It is also well settled that the number of injuries caused in such a case is not conclusive in determining the nature of the offence, but what has to be primarily seen are the circumstances preceding the incident and not exclusively during the incident. We are, therefore, of the opinion that the case of the appellant cannot fall within Exception 4.

In ‘*Arun Raj versus Union of India & Ors. 2010(3)*

***RCR(Criminal) 230*’, it was held as under:-**

9. We now turn to second point urged on behalf of the appellant. It is contended by learned counsel that there was no intention on the part



of the appellant to cause the death of the deceased and, hence, Section 304 Part II of the Indian Penal Code which deals with culpable homicide not amounting to murder, will be attracted. Alternatively, it is contended that the appellant dealt one single blow on the deceased, and hence, intention to cause death cannot be attributed to the appellant and, hence, the act of the appellant will not fall under Section 302 of Indian Penal Code but under Section 304 Part II. In light of these contentions, it is necessary to look into the wordings of the relevant provision. Section 304 of Indian Penal Code reads :-

"Section 304. Punishment for culpable homicide not amounting to murder

Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life ,or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death,

Or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death."

10. Essentially the ingredients for bringing an act under Part II of the Section are :-

(i) act is done with the knowledge that it is likely to cause death,

(ii) there is no intention to cause death, or to cause such bodily injury as is likely to cause death.

11. The first ingredient is easily solved by referring to the weapon used by the appellant to strike a knife blow to the appellant. The appellant in this instance has used a kitchen knife. A kitchen knife



with sharp edges is a dangerous weapon and it is very obvious that the appellant was aware that the use of such a weapon can cause death or serious bodily injury that is likely to cause death. As far as the second ingredient is concerned, the appellant's learned counsel contended that the fact that there was one single blow struck, proves that there was no intention to cause death. In support of the plea, reliance is placed on the decisions of this court in the case of Bhera v. State of Rajasthan, [(2000) 10 SCC 225], Kunhayippu v. State of Kerala, [(2000) 10 SCC 307], Masumsha Hasansha Musalman v. State of Maharashtra, 2000(2) RCR (Criminal) 116 : [(2000) 3 SCC 557], Guljar Hussain v. State of U.P., [1993 Supp (1) SCC 554], K. Ramakrishnan Unnithan v. State of Kerala, 1999(2) RCR (Criminal) 219 : [(1999) 3 SCC 309], Pappu v. State of M.P., 2006(3) RCR (Criminal) 737 : 2006(2) Apex Criminal 624 : [(2006) 7 SCC 391], Muthu v. State by Inspector of Police, Tamil Nadu, [(2007) 12 Scale 795]. A brief perusal of all these cases would reveal that in all these cases there was a sudden and instantaneous altercation which led to the accused inflicting a single blow to the deceased with a sharp weapon. Hence, there has been conviction under Section 304 Part II as delivering a single blow with a sharp weapon in a sudden fight would not point towards intention to cause death. These cases are clearly distinguishable from the case at hand, purely on the basis of facts. In the present case, there has been no sudden altercation which ensued between the appellant and the deceased in the present case. The deceased called the appellant 'gandu' following which there was a heated exchange of words between the two, the day before the murder. The next day, however, the appellant concealed a kitchen knife in his lungi and went towards the cot of the deceased and struck the deceased a blow on the right side of the chest, while the deceased was sleeping. The fact that the appellant waited till the next day, went on to procure a deadly weapon like a kitchen knife and then proceeded to strike a blow on the chest of the appellant (sic deceased) when he was sleeping, points unerringly towards due



deliberation on the part of the appellant to avenge his humiliation at the hands of the appellant (sic deceased). The nature of weapon used and the part of the body where the blow was struck, which was a vital part of the body helps in proving beyond reasonable doubt, the intention of the appellant to cause the death of the deceased. Once these ingredients are proved, it is irrelevant whether there was a single blow struck or multiple blows. This court in the case of State of Rajasthan v. Dhool Singh, [(2004) 12 SCC 546] while dismissing a similar contention has stated that, "It is the nature of injury, the part of body where it is caused, the weapon used in causing such injury which are the indicators of the fact whether the respondent caused the death of the deceased with an intention of causing death or not. In the instant case, it is true that the respondent had dealt one single blow with a sword which is a sharp-edged weapon measuring about 3 ft. in length on a vital part of body, namely, the neck. This act of the respondent though solitary in number had severed sternocleidomastoid muscle, external jugular vein, internal jugular vein and common carotid artery completely leading to almost instantaneous death. Any reasonable person with any stretch of imagination can come to the conclusion that such injury on such a vital part of the body with a sharp-edged weapon would cause death. Such an injury, in our opinion, not only exhibits the intention of the attacker in causing the death of the victim but also the knowledge of the attacker as to the likely consequence of such attack which could be none other than causing the death of the victim. The reasoning of the High Court as to the intention and knowledge of the respondent in attacking and causing death of the victim, therefore, is wholly erroneous and cannot be sustained."

12. In the case of Virsa Singh v. State of Punjab, [AIR 1958 Supreme Court 465], this court while referring to intention to cause death laid down:-

"27. Once these four elements are established by the prosecution (and, of course, the burden is on the prosecution throughout) the



offence is murder under section 300, 3rdly. It does not matter that there was no intention to cause death. It does not matter that there was no intention even to cause an injury of a kind that is sufficient to cause death in the ordinary course of nature (not that there is any real distinction between the two). It does not even matter that there is no knowledge that an act of that kind will be likely to cause death. Once the intention to cause the bodily injury actually found to be proved, the rest of the enquiry is purely objective and the only question is whether, as a matter of purely objective inference, the injury is sufficient in the ordinary course of nature to cause death. No one has a licence to run around inflicting injuries that are sufficient to cause death in the ordinary course of nature and claim that they are not guilty of murder. If they inflict injuries of that kind, they must face the consequences; and they can only escape if it can be shown, or reasonably deduced that the injury was accidental or otherwise unintentional."

This court further observed :-

"33. It is true that in a given case the enquiry may be linked up with the seriousness of the injury,. For example, if it can be proved, or if the totality of the circumstances justify an inference, that the prisoner only intended a superficial; scratch and that by accident this victim stumbled and fell on the sword or spear that was used, then of course the offence is not murder. But that is not because the prisoner did not intend the injury that he intended to inflict to be as serious as it turned out to be but because he did not intend to inflict the injury in question at all. His intention in such a case would be to inflict a totally different injury. The difference is not one of law but one of fact; and whether the conclusion should be one way or the other is a matter of proof, where necessary, by calling in aid all reasonable inferences of fact in the absence of direct testimony. It is not one for guess-work and fanciful conjecture."

13. In Anil v. State of Haryana, 2007(3) RCR (Criminal) 222 : 2007(3) R.A.J. 291 : [(2007) 10 SCC 274], while referring to Virsa Singh (supra) this court laid down :-

"19. In Thangaiya v. State of T.N., relying upon a celebrated decision of this Court in Virsa Singh v. State of Punjab 1958 CriLJ 818, the Division Bench observed:

17. These observations of Vivian Bose, J. have become locus classicus. The test laid down by Virsa Singh case for the applicability of Clause "thirdly" is now ingrained in our legal system and has become part of the rule of law. Under Clause "thirdly" of Section 300 Indian Penal Code. culpable homicide is murder, if both the following conditions are satisfied : i.e. (a) that the act which causes death is done with the intention of causing death or is done with the intention of causing a bodily injury; and (b) that the injury



intended to be inflicted is sufficient in the ordinary course of nature to cause death. It must be proved that there was an intention to inflict that particular bodily injury which, in the ordinary course of nature, was sufficient to, cause death viz. that the injury found to be present was the injury that was intended to be inflicted.

18. Thus, according to the rule laid down in Virsa Singh case even if the intention of the appellant was limited to the infliction of a bodily injury sufficient to cause death in the ordinary course of nature, and did not extend to the intention of causing death, the offence would be murder. Illustration (c) appended to Section 300 clearly brings out this point.

14. In the aforesaid decision, this Court held that there is no fixed rule that whenever a single blow is inflicted Section 302 would not be attracted.

15. It is clear from the above line of cases, that it is necessary to prove first that there was an intention of causing bodily injury; and that the injury intended to be inflicted is sufficient in the ordinary course of nature to cause death. From the evidence on record, it is very clear that the appellant intended to cause death. In light of this finding, the evidence on record makes it clear that Section 304 Part II of the Indian Penal Code will not be attracted. Further PW-1, in his cross-examination asserts that the deceased held his hand out after he was stabbed in the chest. It is very likely that this action on the part of the deceased prevented the appellant from stabbing him multiple number of times. The argument might deserve some merit in case there is a sudden altercation which ensues in the heat of the moment and there is no deliberate planning. In the present case, as stated above there was due deliberation on the part of the appellant and he assaulted the deceased a day after he misbehaved with him. Hence, the contention of the learned counsel that the appellant had no intention to cause death of the deceased has no merit and, accordingly, it is rejected.

27. In the instant case, Exception 2 to Section 300 IPC that the injuries were inflicted to the complainant party in the right of private



defence will have no application. Similarly, the Exception 4 to Section 300 IPC would have no application as the occurrence took place with pre-meditation and it is not a case of a sudden fight.

28. Now coming to the next contention as to whether the accused persons can be held guilty of the offence punishable under section 307 read with section 34 IPC. It has come in the statement of Dr. Seema (PW-2) that injuries on the person of Jai Singh were simple in nature and the weapon used was sharp edged. A police request was made to the doctor for seeking her opinion by moving an application Ex.PF as to whether or not the patient was fit to make a statement. It was opined by the doctor vide her opinion Ex.PF/1 that the patient was unfit to make statement on 08.01.2002. On 05.03.2002, an application Ex.PG was moved by the police and it was opined by the doctor that in the natural course of events, the possibility of the injuries being dangerous to life was less likely. It was also opined that the patient would have died of the injuries received by him if no medical treatment would have been given to him and if profuse bleeding had continued. Though, in her cross-examination it was admitted by her that the possibility of the injuries found on the person of the patient having been self inflicted could not be ruled out, yet her admission to this extent would not render any help to the accused as it has categorically come in the statements of Dharam Singh, Jai Singh and Karam Singh PWs that Jai Singh was caught hold of by Kuldeep and Chinto Devi accused and Laxmi Chand inflicted three knife blows injuries on his chest, abdomen and left arm. The



seat of these injuries show that they cannot be self-inflicted. The manner in which the occurrence took place, the weapon used and the seat of injuries would certainly go to show that the accused persons intended to cause the death of Jai Singh (PW-9) father of the deceased-Krishan Kumar. Therefore, the offence under Section 307 IPC is certainly made out.

29. As regards the delay in the registration of the FIR, it would be appropriate to scrutinize the evidence available on record. The occurrence had taken place at 7.00 p.m. on 07.01.2002. The injured were taken to Civil Hospital, Radaur at about 7.30/8.00 p.m. According to Amar Nath SI (PW-12) a telephonic message was received at 9.30 p.m. that an occurrence had taken place in village Rajheri and the injured had already been removed to Civil Hospital. Radaur. He alongwith Madan Lal ASI, Mohinder Singh ASI, HC Ranbir Singh, HC Mohinder Singh, Constable, Mohinder Singh and C.Karam Singh thereafter reached the hospital and recorded the statement Ex.PH of Dharam Singh. He made his endorsement Ex.PH/2 and sent the same to the police station for the registration of the FIR and on the basis of which formal FIR Ex.PH/1 was recorded by Mohinder Singh MHC. The endorsement Ex.PH/2 was made by Amar Nath SI at 10.35 p.m. on 07.01.2002 and accordingly the case was registered at 12.30 a.m. on 08.01.2002. The inquest proceedings Ex-PC were conducted at 10.45 p.m. on 07.01.2002. The special report was delivered to the Judicial Magistrate. D.S.P and S.P at about 3.50 a.m. by HC Nurati Ram PW. This would show that the FIR was registered after about four and half hours of the occurrence.



This delay cannot be stated to be fatal to the prosecution case in the attending facts and circumstances and the evidence available on the record.

30. As regards the role played by accused-appellant No.3/Chinto Devi, she is stated to have caught hold of the deceased-Krishan Kumar alongwith her husband Laxmi Chand when her son-Kuldeep Singh inflicted a fatal knife blow on the chest of the deceased. Similarly, she is stated to have caught hold of the injured-Jai Singh (PW-9) alongwith her son-Kuldeep Singh when her husband-Laxmi Chand inflicted three knife injuries on the left side chest, right shoulder and on the left lower side of the chest on the person of Jai Singh-injured. She is also stated to have given a fist blow on the mouth of Jai Singh (PW-9). We cannot lose sight of the fact that she is a lady. It is highly unlikely that she would have caught hold of the deceased-Krishan Kumar and the injured-Jai Singh (PW-9) while her son and husband respectively inflicted the injuries on them. It is also unlikely that she would have inflicted a fist blow on the mouth of Jai Singh. It is highly unlikely that she would have shared a common intention with her son and husband to commit the offences in question. In fact, it seems, that a wider net has been knit so as to implicate her as well. Therefore, by giving her the benefit of doubt, we deem it appropriate to partly accept this appeal and acquit the accused-appellant No.3/Chinto Devi of the charges framed against her.

31. As regards accused-appellants No.1 and 2, namely, Laxmi Chand and Kuldeep Singh, as discussed hereinabove, the commission of the offences by them stands established beyond reasonable doubt and therefore,



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this appeal stands dismissed qua them. Therefore, they are directed to surrender before the Jail Authorities concerned to serve out their remaining sentence.

32. Information be given to the concerned quarters.

33. The pending applications, if any, shall stands disposed of accordingly.

(GURVINDER SINGH GILL)
JUDGE

29.05.2025
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No