



CRA-D-724-DBA-2004 (O&M)

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

CRA-D-724-DBA-2004 (O&M)

Date of Reserve : 22.08.2025

Date of Pronouncement : 11.09.2025

State of Haryana

... Appellant

Versus

Nanak

... Respondent

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

Present:- Mr. Karan Sharma, DAG, Haryana
for the appellant-State.

Ms. Monika Jalota, Advocate (Amicus Curiae)
for the respondent.

H.S. Grewal, J.

1. The present appeal has been preferred by the State against the judgment dated 13.03.2004 passed by the learned Sessions Judge, Sirsa in case FIR No.17 dated 28.01.2002, under Section 302 IPC, registered at Police Station Sadar Dabwali whereby the respondent had been acquitted of the charges by giving him the benefit of doubt.

2. The case of the prosecution is that the complainant-Subhash (PW9) had stated that on 27.01.2002 at about 08:30 p.m., he (complainant) along with his mother-Shashi and younger brother-Shishpal were present at their house at village Kaluana, when one Subhash, brother-in-law (wife's



brother) of accused-Nanak came to their house and demanded cooked vegetable from the mother of Subhash(complainant). His mother had given cooked vegetable to Subhash and he then left the house. The younger brother of the complainant-Shishpal also accompanied with Subhash in order to watch television. After a period of about half an hour, the accused-Nanak came to the house of the complainant and at that time, Subhash(complainant), his mother-Shashi and his father-Ram Chander were present at the house. The accused/respondent told the father of the complainant that he was summoned by his father and at that time, the accused-Nanak was armed with a sabbal. The father of the complainant, namely, Ram Chander, then accompanied the accused. However, the complainant-Subhash also followed them in order to watch television at the house of the accused. When Shri Ram Chander reached at the gate of the house of the accused, he had inflicted a sabbal blow on his head and as a result thereof, he fell down. The accused then inflicted one more sabbal blow, which hit the father of the complainant on the right side of his head. The noise of the complainant-Subhash attracted his younger brother Shishpal and PW(s) Chet Ram and Dewat Ram. The accused then ran away from the spot alongwith the sabbal. The deceased Ram Chander succumbed to the injuries on the spot.

3. The complainant stated that the motive behind the crime was that the accused/respondent was suspecting that the deceased had illicit relations with his wife. The complainant-Subhash, after leaving Dewat Ram and Chet Ram on the spot, had gone to the house of Sarpanch Daya Ram and after joining the Sarpanch, he proceeded for the Police Station. ASI Rajbir Singh met them on the way at Goriwala Chowk where the complainant made his



statement Ex.PE which was sent by ASI Rajbir Singh to the Police Station with his endorsement Ex.PE/2 whereon the formal FIR (Ex.PE/1) was registered against the accused/respondent.

4. ASI Rajbir Singh (PW12) had inspected the place of occurrence and prepared a rough site plan of the place of occurrence(Ex.PK). He had also lifted blood stained earth, Sarkanda and an electricity wire from the spot. The blood stained earth was sealed into a parcel with the seal of 'RS' and all the articles were taken into possession vide recovery memo Ex.PI attested by PW(s) Subhash and Chet Ram. ASI Rajbir Singh also got the scene of occurrence photographed and prepared an inquest report Ex.PG/1 and scribed an application (Ex.PG) for post-mortem examination of the dead-body and dispatched the dead-body to Civil Hospital, Dabwali with Constable Dharambir and Ajay Pal. Dr. T.R.Mittal (PW6) had conducted the post-mortem examination on the dead-body of deceased Ram Chander on 28.01.2002 at 01:20 p.m. at Civil Hospital, Dabwali and found three lacerated wounds on the parietal region of the deceased. He had opined that the death of the deceased-Ram Chander had occurred due to shock and haemorrhage and the injuries were ante-mortem and sufficient to cause death in the ordinary course. After the post mortem examination, he had handed over a well stitched dead-body, a copy of the post mortem report (Ex.PF) with diagrams (Ex.PF/1) and a sealed parcel containing the belongings of the deceased to the police. Constable Dharambir had produced the sealed parcel of the belonging of the deceased and the post-mortem report etc. before ASI Rajbir Singh, who took the same into possession vide recovery memo (Ex.PL) which was attested by Constable Dharamvir. ASI Rajbir Singh had also recorded the statement of PW(s) Dewat



Ram, Chet Ram and other relevant witnesses during the investigation of the case.

5. On 31.01.2002, the investigation was taken up by Inspector Randhir Singh, who after examining the case file, joined the complainant-Subhash and had conducted a raid at the house of the accused on that day. The accused/respondent was found present in his house. Inspector Randhir Singh had interrogated the accused/respondent in the presence of the complainant-Subhash and ASI Rajbir Singh. The accused made a disclosure statement Ex.PJ to the effect that he had kept buried under the ground an iron Sabbal in the field of Pat Ram and could get the same recovered. The disclosure statement Ex.PJ was thumb marked by the accused/respondent and attested by aforesaid witnesses. The accused/respondent then led the police party and got recovered an iron sabbal (Ex.P9) in pursuance of his disclosure statement. Inspector Randhir Singh then prepared a rough sketch of the iron sabbal and sealed the same into a parcel and took it into possession vide memo Ex.PJ/2, attested by the abovesaid witnesses. He also prepared a rough site plan Ex.PJ/3 of the place of recovery with correct marginal notes and recorded the statements of the relevant witnesses.

6. The belongings of the deceased i.e. Kambal, Kurta, pyjama, Kachha, jutti end blood stained earth and iron rod were sent to FSL and the report of FSL (Ex.PM) was received to the effect that the blood was detected on the blood stained earth and on the belongings of the deceased. The origin of the blood on Kambal, Kurta and rod was human but the origin of the blood could not be determined on the other exhibits.



7. After completion of the necessary investigation, the challan was presented against the respondent and charges were framed against him under Section 302 IPC to which he pleaded not guilty and claimed trial.

8. Learned State counsel submits that the trial Court had erred in acquitting the respondent while there was sufficient material to prove his guilt. The complainant-PW9 Subhash and son of the deceased, who was an eye-witness of the occurrence, had fully supported the prosecution case. He further submits that the post-mortem examination conducted by PW-6 Dr. T.R. Mittal revealed three lacerated wounds on the parietal region, sufficient in the ordinary course of nature to cause death. The injuries, their site and nature perfectly corroborate with the ocular version. The iron sabbal (Ex.P9) was recovered at the instance of the accused/respondent pursuant to his disclosure statement which was stained with human blood, as confirmed by the FSL report. Learned State counsel further submits that although there are minor discrepancies in timings or in the description of the weapon but the same are insignificant and do not cast doubt on the prosecution version. The prosecution had successfully established motive because the accused/respondent was having suspicion that the deceased was having illicit relations with his wife. Learned State counsel complainant urged that the judgment of acquittal is unsustainable in law and facts. Learned State Counsel, therefore, prays that the judgment of acquittal be set aside and the respondent be convicted for the commission of an offence punishable under Section 302 IPC.

9. Learned counsel for the respondent, on the other hand, has vehemently argued that the trial Court has rightly appreciated the evidence while acquitting the respondent. She submits that it was a case of blind murder



and the respondent had been falsely implicated in this case. Moreover, the prosecution has failed to establish the presence of PW-9 Subhash at the place of occurrence. She further submits that the entire prosecution story cast serious doubt on its reliability insofar as there are material inconsistencies in the prosecution evidence. The FIR is alleged to have been recorded at Goriwala Chowk at 01:05 a.m. whereas the Investigating Officer himself admitted to reach at the spot around 12:15 a.m. The rough site plan prepared by the Investigating Officer indicates a four-room house with a courtyard, whereas the scaled plan by the draftsman depicts only one kachcha room. It is also significant to note that the complainant in the FIR stated that the accused was armed with an 'iron rod', but in the trial Court, he had improved his statement and changed the weapon to 'iron sabbal'. The trial Court correctly noticed that a sabbal is different from a simple iron rod. Moreover, the recovery of sabbal (Ex.P9) pursuant to disclosure statement is of no value, because it was not conclusively connected with the injuries on the deceased. The FSL report merely confirmed the presence of blood but did not determine its origin. The only eye-witness is PW-9 Subhash, who is son of the deceased and his testimony is not corroborated by any independent witness. The alleged motive of illicit relationship between the deceased and wife of the accused remains unproved and cannot substitute for proof of motive. Learned counsel also submits that although injuries were consistent with blunt weapon but the doctor did not exclusively confirm that they could only be caused by the recovered sabbal. She, therefore, submits that the appeal filed by the State is liable to be dismissed and the judgment of acquittal be upheld.



10. We have heard learned counsel for the parties and have carefully perused the material available on record.

11. In order to prove the allegations against the accused/respondent, the prosecution had examined as many as 12 prosecution witnesses.

12. PW1 Constable Dharamvir Singh, PW2 Constable Rajesh Kumar, PW3 HC Ram Kumar and PW4 Constable Sumer Singh are the formal witnesses and they have simply tendered their affidavits Ex.PA to Ex.PD in evidence, respectively.

13. PW-5 ASI Maha Singh had deposed that on 28.01.2002 he was posted as ASI at Police Station Sadar Dabwali and on receipt of ruqa Ex.PE, he recorded a formal FIR Ex.PE/1 at the Police Station on that day. He had also deposed that he had sent the special reports to the officers concerned and since he was working as an officiating SHO, he visited the place of occurrence and verified the investigation being carried out by ASI Rajbir Singh. He also prepared a final report under Section 173 Cr.P.C. after completion of the investigation.

14. PW-6 Dr.T.R.Mittal had conducted the post-mortem examination on the dead body of deceased Ram Chander on 28.01.2002 at 01.20 p.m. at Civil Hospital, Dabwali and had found three lacerated wounds on the parietal region of the deceased. It was opined that the death of the deceased-Ram Chander had occurred due to shock and haemorrhage and the injuries were ante-mortem and sufficient to cause death in the ordinary course of nature. He was also shown the iron sabbal (Ex.P9) in the court and thus, he opined that the injuries on the person of the deceased could be possible with iron sabbal Ex.P9.



15. PW7 Ramesh Kumar was a photographer and he had deposed that on 28.01.2002, he had visited the place of occurrence and took the photographs Ex.P1 to Ex.P4 vide negatives Ex.P5 to Ex.P8 of the dead-body.

16. PW8 Constable Radhe Sham, who was a Draftsman, had deposed that on 18.02.2002 he had visited the place of occurrence and prepared scaled plan Ex.PH with correct marginal notes.

17. PW9 Subhash (complainant and eye-witness) had reiterated the version as mentioned in the FIR.

18. PW10 Chet Ram had deposed that he had reached the place of occurrence on hearing the noise of PW Subhash and that on his enquiry, Subhash told him that the accused/respondent had committed the murder of his father-Ram Chander by inflicting blows with iron rod and PW Dewat Ram had also reached the spot and Subhash had narrated the occurrence before him. He had also stated that the police had lifted blood stained earth from the spot, sealed it into a parcel and took the same into possession vide recovery memo Ex.PI attested by him as a witness.

19. PW11 Inspector Randhir Singh and PW12 ASI Rajbir Singh, are the Investigating Officers of this case and they had apprised about the details of the investigation conducted by them from time to time in this case.

20. After closing the prosecution evidence, the statement of the accused/respondent under Section 313 Cr.P.C. was recorded wherein he had denied all the allegations and also pleaded innocence. He pleaded that he had been falsely implicated in this case as it was a case of blind murder. The prosecution witnesses were summoned from the houses and then they called



the police through telephone message and concocted a false story against him in connivance with the police because the dead body was lying near his house.

21. In defence, the accused/respondent had examined DW1 Inderjit, a private Draftsman, who had deposed that he is a trained Draftsman being a Diploma Holder from ITI, Hisar and on 15.12.2003, he had visited the spot at village Kaluana and prepared a scaled plan Ex.DA. He further deposed that the distance between the house of the deceased and that of Lalji is 287 ft.

22. After considering the statements of all the witnesses and taking into account the evidence led by both the sides, the trial Court had observed that the prosecution had failed to prove its case and the respondent was acquitted of the charges by giving him the benefit of doubt.

23. Upon an independent and comprehensive appraisal of the evidence on record and the rival submissions advanced by learned counsel(s) for both the sides, we are of the considered view that the trial Court had rightly passed a well-reasoned judgment of acquittal dated 13.03.2004 and the respondent was rightly given the benefit of doubt.

24. The case of the prosecution hinges on the statement of sole witness i.e. PW-9 Subhash, who is the son of the deceased and was an interested witness. Undoubtedly, a conviction can rest on the testimony of a single witness, provided the witness is completely reliable and inspires confidence but in the present case, there are material inconsistencies with regard to the timeline as stated by the complainant-Subhash. As per the prosecution version, the occurrence had taken place at about 08:30 p.m. and the statement of the complainant-Subhash (Ex.PE) was alleged to be recorded at Goriwala Chowk



at 01:05 a.m. but PW10 Chet Ram had stated in his cross-examination that the Sarpanch had reached the place of occurrence alongwith the Police at 09:30 p.m. and further that the police had left the spot at 11:30 p.m. Moreover, ASI Rajbir Singh, (the Investigating Officer) had stated that he had reached the place of occurrence at 12:15 a.m in the night and he had inspected the spot and prepared the inquest proceedings. These inconsistencies are not just minor mistakes in dates or timing but they affect the very origin of the FIR itself.

25. Moreover, the deposition of PW-10 Chet Ram that PW-9 Subhash had narrated the occurrence to him immediately after the incident is not admissible because PW-9 nowhere stated that he had made such a disclosure to PW-10.

26. Although the prosecution had identified Ladhu (son of Diwana) as an independent and natural witness to the events in the street but he was not examined and the prosecution suggested that he had been won over. The failure to produce the most natural independent witness clearly weakens the prosecution story.

27. Furthermore, the rough site plan (Ex. PK) prepared by the Investigating Officer shows a four-room residential house with a courtyard. In contrast, the scaled site plan (Ex. PH) by the draftsman (PW-8) shows only a single kachcha room and even suggests it did not seem to be lived-in.

28. PW-9 Subhash had described in the FIR that the respondent was armed with an iron rod whereas in the trial Court, had stated it to be a sabbal. The trial Court had rightly observed that a sabbal (a crowbar-like tool with a pointed end used for digging/prying) is materially different from a plain iron

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rod. Moreover, the FSL report merely shows the presence of blood on the earth, clothes and on the iron rod/sabhal, with human origin but it did not consistently identify origin on all exhibits.

29. In view of the above inconsistencies and the absence of reliable corroborative evidence, we find that there is no infirmity or illegality in the judgment of the trial Court dated 13.03.2004 passed by the learned Sessions Judge, Sirsa acquitting the respondent by giving him the benefit of doubt and the appeal is, hereby, dismissed.

30. Pending application, if any, shall stand disposed of accordingly.

(MANJARI NEHRU KAUL)
JUDGE

11.09.2025
A.Kaundal

(H.S.GREWAL)
JUDGE

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