IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(307)

CRA-30-DB-2005 (O & M)
Reserved on: 23.01.2025
Date of Pronouncement:29.01.2025

Parminder Singh and anr. .... Appellants

V/s

State of Punjab ...Respondent

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

Present: Mr. Narinder Singh, Advocate, for the appellants.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

*****

JASJIT SINGH BEDI, J.

The present appeal has been filed against the judgment of conviction and order of sentence dated 23.11.2004 passed by the Sessions Judge, Bathinda.

2. The instant FIR came to be registered on 27.09.2001. The accused-appellants came to be convicted vide judgment of conviction and order of sentence dated 23.11.2004. The present appeal against the conviction was filed on 11.01.2005. The matter has come up for final hearing now after more than 23 years of the registration of the FIR.

SUKHPREET KAUR
2025.01.31 00:05
I attest to the accuracy and
integrity of this document
chandigarh

3. Since the accused-appellant No.1/Parminder Singh has passed away, therefore, the appeal stands abated qua him vide a separate order dated 23.01.2025.

4. The brief facts of the case are that on 27.9.2001, Mohinder Singh son of Karnail Singh made a statement before Inspector Gurdarshan Singh that he was residing in his in-laws house at village Tungwali for the last 20 years. His father-in-law Uttam Singh had adopted his wife, namely, Chhinder Kaur from his brother-in-law Harnek Singh, as he was issueless. Uttam Singh had transferred his entire property in the name of his wife Chhinder Kaur. Gursharan Singh, nephew of Uttam Singh, fraudulently got that land transferred in his name through a decree about 20-25 years back, regarding which civil litigation was pending. Accused Parminder Singh alias Kaka and Sukhjinder Singh alias Jinder were helping Gursharan Singh. Previously, Parminder Singh and Sukhjinder Singh had fired upon him in the field and a criminal case regarding the said firing was pending against them in the Court. On 27.09.2001, he, his son Kuljit Singh alias Dimpy and his brother-in-law Jagwinder Singh were present in their field known as 'KAULE WALA KHET' and were mending the KHAL. He asked his son Kuljit Singh to cut the fodder. At about 9.30 a.m., Kuljit Singh alias Dimpy went to the field for cutting the fodder. In the meantime, accused Parminder Singh armed with .12 bore D.B.B.L. gun and Sukhjinder Singh who was empty handed, came there. Sukhjinder Singh raised a *lalkara* that they (complainant party) be taught a lesson for taking possession of the land.

SUKHPREET KAUR
2025.01.31 00:05
I attest to the accuracy and
integrity of this document
chandigarh

Upon this, Parminder Singh fired a shot with his gun at his son Kuljit Singh. The pellets hit on the right wrist of Kuljit Singh. He and Jagwinder Singh raised an alarm. Parminder Singh fired another shot with his gun towards them (complainant and Jagwinder Singh) with the intention to kill them. They saved themselves by lying down in the KHAL. Thereafter, Sukhjinder Singh took the gun from Parminder Singh and after loading two cartridges in the gun, fired a shot which hit the abdomen of Kuljit Singh alias Dimpy as a result of which, Kuljit Singh fell down. While Kuljit Singh was lying on the ground Sukhjinder Singh fired another shot with his gun, which hit below the right ear of Kuljit Singh who succumbed to his injuries at the spot. Thereafter, both the accused ran away from the spot on a motorcycle alongwith their gun towards village Kachi Bhucho. He (complainant) made Jagwinder Singh sit near the dead-body of Kuljit Singh and he along with Mukand Singh went to the Police Station for lodging the report. The motive behind the occurrence was that accused Parminder Singh and Sukhjinder Singh wanted to grab his (complainant's) land and on that account, they murdered Kuljit Singh alias Dimpy.

5. After recording this statement (EX.PJ) of the complainant Mohinder Singh, Inspector Gurdarshan Singh made his endorsement (EX.PJ/1) on the same and thereafter, sent the same to the Police Station, Nathana through Constable Ranjit Singh on the basis of which formal First Information Report (EX.PJ/1) was recorded. Inspector Gurdarshan Singh took over the investigation of the case. He along with other police officials

SUKHPREET KAUR
2025.01.31 00:05
I attest to the accuracy and
integrity of this document
chandigarh

reached the spot. He conducted the inquest proceedings regarding the dead-body of Kuljit Singh and also got it photographed from Piara Singh, Photographer. He sent the dead-body for post-mortem examination through Head Constable Avtar Singh. Inspector Gurdarshan Singh lifted blood-stained earth and simple earth from the place of the occurrence. He also took into possession two empty cartridges from the spot and prepared a rough site plan (Ex. PK) of the place of the occurrence with correct marginal notes. Statements of the witnesses were recorded under Section 161 Code of Criminal Procedure. Accused/appellants Parminder Singh (since deceased) and Sukhjinder Singh were arrested on 07.10.2001 when they were coming on a motorcycle from the side of village Chak Fateh Singh Wala. After the completion of the investigation, the challan was submitted to the Court.

6. On commitment, charges were framed under Sections 302, 307 read with Section 34 of the Indian Penal Code against both the accused. Charges were framed under Section 27 of the Arms Act against accused-appellant No.1/ Parminder Singh (since deceased) and under Section 25 of the Arms Act against accused-appellant No.2/Sukhjinder Singh.

Both the accused pleaded not guilty and claimed trial.

7. In order to substantiate the charges against the accused, the prosecution examined PW-1 Dr. K.S. Brar Medical Officer, Civil Hospital, Bathinda, PW-2 Head Constable Avtar Singh, PW-3 Piara Singh, Photographer, PW-4 Constable Lakhbir Singh, PW-5 Mohinder Singh complainant, PW-6 Jagwinder Singh, PW-7 Constable Paramjit Singh, PW-8

SUKHPREET KAUR
2025.01.31 00:05
I attest to the accuracy and
integrity of this document
chandigarh

Inspector Gurdarshan Singh, PW-9 Hardial Singh, PW-10 Head Constable Jagjit Singh and thereafter, the evidence was closed after tendering into evidence reports of the Forensic Science Laboratory.

8. The accused were examined under Section 313 Code of Criminal Procedure. Accused-appellant No.1/Parminder Singh (since deceased) stated that he had been falsely implicated on the basis of misplaced suspicion. It was a blind murder. There was a party faction in their village. Ranjit Singh was the Sarpanch of their village. He had appeared against Buta Singh in a murder case. PW Mohinder Singh had also appeared as witness in the cross-case. Said Ranjit Singh belonged to the Akali party headed by S. Parkash Singh Badal, who was married in village Chak Fateh Singh Wala and his two brothers-in-law were living in the said village. At the time of occurrence, it was the Government of S. Parkash Singh Badal. They got him and his co-accused falsely implicated in this case, as they belonged to Congress party. Gursharan Singh and his brother had land measuring 03 acres 18 marlas in their village. Gursharan Singh had won the case regarding the said land upto the High Court, but the relations of Sh. Parkash Singh Badal got the revenue entries incorporated in the name of the wife of Mohinder Singh whereas in the preceding years there was the ownership of Gursharan Singh, who was his collateral and he (Gursharan Singh) was living in Rajasthan. He wanted that Mohinder Singh not to take the possession of the land and as such, he involved him in a case under Section 336 of the Indian Penal Code.

SUKHPREET KAUR
2025.01.31 00:05
I attest to the accuracy and
integrity of this document
chandigarh

Accused Sukhjinder Singh pleaded his innocence. He stated that he has been falsely implicated in this case. He adopted the plea of his co-accused Parminder Singh.

9. Based on the evidence led, the accused, namely, Parminder Singh (deceased) and accused-appellant No.2-Sukhjinder Singh came to be convicted and sentenced by the Court of the Sessions Judge, Bathinda, vide judgment of conviction and order of sentence dated 23.11.2004 as under:-

Name of the accused	**Offence U/S**	**Sentence RI/SI**	**Fine**	**RI/SI in default of payment of fine**
Parminder Singh for committing the murder of Kuljit Singh	302/34 IPC	Imprisonment for life	Rs.2,000/-	RI 03 months
for attempting to commit the murder of Mohinder Singh	307/34 IPC	RI for 05 years	Rs.500/-	RI 01 month
for attempting to commit the murder of Jagwinder Singh	307/34 IPC	RI for 05 years	Rs.500/-	RI 01 month
	27 of the Arms Act	RI for 03 years		
Sukhjinder Singh for committing the murder of Kuljit Singh	302/34 IPC	Imprisonment for life	Rs.2,000/-	RI 03 months
for attempting to commit the murder of Mohinder Singh	307/34 IPC	RI for 05 years	Rs.500/-	RI 01 month
for attempting to commit the murder of Jagwinder Singh	307/34 IPC	RI for 05 years	Rs.500/-	RI 01 month
	25 of the Arms Act	RI for 03 years		

10. The aforementioned judgment of conviction dated 23.11.2004 passed by the Sessions Judge, Bathinda, is under challenge before this Court.

SUKHPREET KAUR
2025.01.31 00:05
I attest to the accuracy and
integrity of this document
chandigarh

11. The learned counsel for the accused-appellants contends that it is a case of a blind murder. The presence of Jagwinder Singh (PW-6) and Mohinder Singh (PW-5) at the spot is doubtful. The recovery of 02 empty cartridges was shown from the spot and two from the weapon, a number of days after the occurrence. The said recoveries were doubtful. The inquest report was silent about any empty cartridges at the spot. The weapon was sent for forensic analyses on 08.11.2001 more than a month and a half after the occurrence. The pellets from the bodies have, however, not been sent for analysis. The medical evidence is counter to the ocular account. As per the case of the prosecution, four shots were fired. However, injury No.1 and injury No.2 are entry and exit wounds whereas injuries No.3 and 4 could be a result of one shot. Therefore, at best, only two shots were fired. The motive has not been established. If there was enmity with the complainant, he would not have been spared. In fact, the accused had been implicated due to political rivalry as they belonged to one party and the complainant side to another. Lastly, with respect to the allegations specifically against accused-appellant No.2/Sukhjinder Singh alone, he contends that even if the entire prosecution case was to be accepted, the allegations of Parminder Singh/accused-appellant No.1 (now deceased) handing over his weapon to Sukhjinder Singh and Sukhjinder Singh reloading and firing cannot be believed. In this kind of a scenario, the intention of the accused would have been to attack the complainant party and immediately flee away from the spot and not hand over the weapon of offence to another accused who would

SUKHPREET KAUR
2025.01.31 00:05
I attest to the accuracy and
integrity of this document
chandigarh

reload and fire. He, therefore, contends that, at least qua Sukhjinder Singh, the surviving accused, the allegations appear to be doubtful and therefore, he ought to be acquitted of the charges framed against him.

12. The learned counsel for the State, on the other hand, contends that the medical evidence is totally in consonance with the ocular account. The presence of PW-5/Mohinder Singh and PW-6/Jagwinder Singh cannot be doubted. Initially, accused-appellant No.1/Parminder Singh (since deceased) fired at the deceased after which the weapon was handed over to the accused/appellant No.-Sukhjinder Singh who also fired at the deceased. The FSL report clearly establishes that the empty cartridges were fired from the licensed weapon of Parminder Singh. Even though, the motive stands established, since it is a case of an eye version account, the same has little relevance. He, therefore, contends that there was no merit in the appeal and the same was liable to be dismissed.

13. We have heard the learned counsel for the parties and gone through the record.

14. In this case, the prosecution has relied upon the testimony of PW-5 Mohinder Singh complainant and PW.6 Jagwinder Singh eye witness, besides the statement of PW-1 Dr. K.S.Brar and statement of PW-8 Inspector Gurdarshan Singh.

15. Dr. K.S. Brar (PW-1) conducted the autopsy on the dead-body of Kuljit Singh alias Dimpy 27.09.2001 in Civil Hospital, Bathinda. He found the following injuries on the dead-body:-

SUKHPREET KAUR
2025.01.31 00:05
I attest to the accuracy and
integrity of this document
chandigarh

i) Lacerated irregular margins with clotted blood 5 cm x 5 cm lateral and below on right ear lobule 1 cm below. Blacking and and scorching and tattooing was present. Margins were inverted.

ii) Lacerated wound 4 cm x 3 cm with everted margins. Clotted blood was present at the left eye-brow and left forehead. On dissection, injuries No.1 and 2 were interlinked. Underlying bones muscles, vessels were found injured and fractured. Right eye-ball was damaged and left eye-ball was also found damaged and on left side root of left orbit was fractured into multiple pieces. Meninges were injured. Brain matter was injured. Intra-criminal cavity contained liquid and clotted blood and 100 pellets were removed and packed and sealed into plastic Jar No.1 sealed with two seals.

iii) Multiple lacerated wound 0.5 cm and 0.5 cm on the right side of abdomen on midline of the abdomen at the level of right costal margin on anterior and lateral aspect of abdomen in the area of 19 x 18 cms. Clotted blood present. On dissection, right lobe of liver, spleen, right kidney, left kidney small and large intestines were injured at many places. Semi digested food was also present in the abdominal cavity. Abdominal cavity was the full of blood and liquor. Bladder was also injured and ten pellets were removed and sealed in a plastic Jar No.2 and sealed with two seals. Corresponding holes in the shirt were present.

(iv) Multiple lacerated wound on the right fore-arm and right hand were present. On dorsum aspect on the area of 12 cms. On fore-arm, 12 cms., on the hand in length of various sizes 0.5 x 0.5 and 0.75 x 0.75 cms. in size. On dissection, underlying both bones radius and ulna found multiple fractures with multiple pieces. Clotted blood was present and 11 pellets were recovered and sealed in a plastic Jar No. 3 with two seals. The

SUKHPREET KAUR
2025.01.31 00:05
I attest to the accuracy and
integrity of this document
chandigarh

thorax and other contents were found healthy and the stomach contained semi-digested food and was healthy.

This witness opined that cause of death in this case was due to hemorrhage and shock due to the aforesaid injuries, which were ante-mortem in nature and were sufficient to cause death in the ordinary course of nature. This witness further opined that the probable time between injuries and death was instantaneous and between death and post-mortem was within 6 to 12 hours. He proved the copy of the post-mortem report Ex. PA and pictorial diagram showing the seat of injuries Ex. PA/1.

Apparently, the medical evidence is totally in consonance with the ocular account.

16. PW-5 Mohinder Singh/complainant and PW-6 Jagwinder Singh have stated that on 27.09.2001, Kuljit Singh was cutting the fodder at 9.30 a.m. Accused-appellants Parminder Singh (since deceased) and Sukhjinder Singh came there from the adjoining fields. Parminder Singh was armed with a .12 bore DBBL gun and whereas Sukhjinder Singh was empty handed. Sukhjinder Singh raised a *lalkara* that the complainant be taught a lesson for taking the possession of the land. Parminder Singh fired a shot with the gun and the pellets hit on the right hand wrist of Kuljit Singh. They raised a noise. Parminder Singh fired another shot towards the complainant party with the intention to kill, but the complainant and Jagwinder Singh fell in the water-course to save themselves. It is further deposed by them that Sukhjinder Singh took the gun from Parminder Singh and he loaded two

SUKHPREET KAUR
2025.01.31 00:05
I attest to the accuracy and
integrity of this document
chandigarh

cartridges in the gun. He then fired a shot with the gun and the pellets hit the abdomen of Kuljit Singh on the right side who fell down. Sukhjinder Singh fired another shot with the gun, which hit under the ear on the right side of Kuljit Singh who died at the spot. Both these witnesses were cross-examined at length, but nothing could be brought on the file to discard their sworn testimonies. Minor discrepancies are bound to occur due to passage of time but no material discrepancy or contradiction has been brought on record. The promptness in lodging the First Information Report, further rules out the false implication of the accused. By no stretch of imagination can it be said to be a case of a blind murder in view of the consistent testimonies of the prosecution witnesses.

17. The argument of the learned counsel for the accused-appellants that two empty cartridges recovered from the spot have not been reflected in the inquest report and on that account the prosecution story is doubtful, cannot be accepted. The photographs have been brought on record, in which empties can be seen which were recovered and a memo in this regard was also prepared at that time. Therefore, it cannot be said that the empty cartridges were planted at the spot. Similarly, the argument that two empty cartridges recovered from accused-appellant No.2 Sukhjinder Singh at the time of the arrest of both the accused have been planted upon him, also cannot be accepted. The same is corroborated by the Investigating Officer/PW-8-Gurdarshan Singh. The report of the Forensic Science Laboratory further lends support to the prosecution story. All the four empty

SUKHPREET KAUR
2025.01.31 00:05
I attest to the accuracy and
integrity of this document
chandigarh

cartridges were found to have been fired from the licenced gun of Parminder Singh accused. Moreover, licence EX. P-25 has been proved by PW-9 Hardial Singh, Junior Assistant of the office of Deputy Commissioner, Bathinda. The mere fact that the gun was sent late to the Forensic Science Laboratory, does not create a dent in the prosecution version, moreso, when the eye witness account has been brought on the file promptly.

18. So far as the submission made by the counsel in respect of the present appellant-Sukhjinder Singh to the effect that injury on the person of deceased could be the result of two shots and on that account it be presumed that only one person has fired and that the story regarding the taking of gun by Sukhjinder Singh accused is not probable is concerned, is without any basis whatsoever. As discussed above, the entire sequence of events finds mentioned in clear unequivocal term in the First Information Report which was lodged promptly. The versions of PW5-Mohinder Singh and PW-6/Jagwinder Singh are quite consistent regarding the specific role played by each accused. The recovery of two empty cartridges from the place of the occurrence and two empty cartridges from the accused-appellant No.2/Sukhjinder Singh later, alongwith the report of the Forensic Science Laboratory proves the case of the prosecution beyond any shadow of doubt qua the role by accused-appellant No.2/Sukhjinder Singh as well.

19. In view of the aforementioned discussion, we find no infirmity in the impugned judgment dated 23.11.2004 passed by the Sessions Judge, Bathinda, and therefore, the present appeal stands dismissed. The appellant

SUKHPREET KAUR
2025.01.31 00:05
I attest to the accuracy and
integrity of this document
chandigarh

No.2-Sukhjinder Singh is directed to surrender forthwith to serve out his remaining sentence.

(GURVINDER SINGH GILL)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

29.01.2025
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

SUKHPREET KAUR
2025.01.31 00:05
I attest to the accuracy and
integrity of this document
chandigarh