

CRA-50-DB-2005

2025:PHHC:009738-DB



::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(314)

CRA-50-DB-2005 (O & M)

Reserved on: 20.01.2025

Date of Pronouncement: 23.01.2025

Bachittar Singh alias Bawa 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. Vinod Ghai, Senior Advocate assisted by
Mr. Arnav Ghai, Advocate,
Ms. Kashish Sahni, Advocate &
Mr. K.S. Nagra, Advocate, for the appellant.

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 21.12.2004 passed by the Additional Sessions Judge, Fast Track Court, Muktsar.

2. The instant FIR came to be registered on 31.01.2003. The accused-appellants came to be convicted vide judgment of conviction and order of sentence dated 21.12.2004. The present appeal against the conviction is dated 12.01.2005. The matter has come up for final hearing now after more than 21 years of the registration of the FIR.



3. At the very outset, it has been submitted that Bachittar Singh alias Bawa (accused-appellant No.1) has passed away and therefore, the appeal abates qua him.

4. The case of the prosecution, briefly stated, is that on 31.01.2003, Gurjit Singh, SHO, Police Station, Gidderbaha was present in the police station. He received a telephone call regarding the commission of murder at the farm house of Gurjant Singh son of Mukhtiar Singh, Jatt resident of village Butter-Bakua. He alongwith ASI Makhan Singh and other police officials, reached the said farm house situated on the Gurusar-Jhandewala road. Manjt Kaur, P.W. was present there. She made a statement before Gurjit Singh, SHO wherein she stated that she was a resident of village Gurusar. She was married about 16 years back to Bachittar Singh son of Budh Singh of village Gurusar. One daughter Gurjit Kaur, aged 14 years and son Amritpal Singh aged about 11 years, were born to her. She was living in the farm house situated on the road from Gurusar to Jhandewala. About 8-9 months earlier, she had married one Bohar Singh son of Joginder Singh, resident of village Ghagha, but after living for 7-8 days with him, she had come back to her house at village Gurusar. In her absence, her husband had sent her daughter and son to the house of Harnek Singh who was the husband of the sister of her husband. She brought back her daughter, but the son was still living there. Her husband was also living with Harnak Singh at village Kutti. Since she was living with her daughter, her father Gurjant Singh son of Mukhtiar Singh Jatt, resident of village Butter-Bakua, had

CRA-50-DB-2005

2025:PHHC:009738-DB



::3::

started living with her in the farm house. On that day, her daughter had gone to school at village Gurusar. At about 2.15 p.m., she and her father were watching television at her house. In the meantime, a car came and stopped on the road. She came out and saw that her husband Bachittar Singh, Harnek Singh, Gurmel Singh son of Harnek Singh (actually known as Gurbinder Singh @ Gora-appellant No.2) and Baljit Kaur wife of Ranjit Singh, got down from the car. She came into the court-yard. Harnek Singh give a *lalkara* that they would deal with her helpers and her husband. Bachittar Singh took up a *Sabbal* (an iron rod) and went inside. Baljit Kaur, sister of her husband, started quarreling with her. Harnek Singh and Gurmel Singh gave a push to her father Gurjant Singh and he fell down on the cot. Her husband Bachittar Singh gave 2-3 *Sabbal* blows on the head of her father. She raised an alarm and then the persons who were inside, stated that they would deal with her as well. She got herself freed from the sister of her husband and ran away from the back gate. After that, all the four accused escaped in the car. She came back to the house and saw that her father Gurjant Singh had died due to the injuries received by him and his body was smeared with blood. The murder of her father had been committed by the above said persons in furtherance of their common intention. Her father wanted that she should live with Bachittar Singh and as such, he was helping her. She informed Gurbachan Singh about the occurrence and he informed the police through telephone.

CRA-50-DB-2005

2025:PHHC:009738-DB



::4::

The statement of Manjit Kaur, complainant was sent to the police station by the SHO by making his endorsement thereon and on the basis of the same, this case was registered. Gurjit Singh, Inspector visited the place of occurrence, prepared the inquest report of the dead-body of Gurjant Singh and sent the same for post mortem examination. From the place of occurrence, a blood stained mat and some blood stained *waan* of the cot were picked up, made into separate parcels and taken into possession. Simple and blood stained earth was also picked up from the place of occurrence, made into separate parcels and taken into possession. One tumbler (glass) and a bottle of liquor were also picked up, made into parcels and taken into possession. An iron rod was taken into possession from the place of occurrence. From the spot, foot print moulds were also picked up, made into parcels and taken into possession. After post-mortem examination, HC Amar Singh produced before SHO Gurjit Singh, the clothes of the deceased i.e. underwear, one piece of cloth of white colour, one shirt, one bunayan and a pair of shoes. All these were made into parcels, sealed and taken into possession. Statements of witnesses were recorded and on return to the police station, the case property was deposited with the M.H.C. The accused were arrested on 08.02.2003. On 11.02.2003, accused-appellant No.2 Gurbinder Singh on interrogation made a disclosure statement and got recovered an iron rod which was kept concealed by him in the paddy straw, which was taken into possession. On return to the police station, it was deposited with the MHC on 09.02.2003. ASI Makhan Singh



produced the accused before the S.D.M., Malout. Finger prints of accused Himat Pal Singh, Gurbinder Singh and Sukhdev Singh were taken. Shoes of accused Himat Pal Singh of right foot, of Sukhdev Singh of left foot and of Gurbinder Singh of right foot, were also taken into possession. On return to the police station, the same were deposited with the M.H.C. Accused Bachittar Singh was arrested by ASI Makhan Singh. The Finger-prints and other articles which were taken into possession, were sent to the Forensic Science Laboratory and its reports were received. After investigation of the case, the accused were challaned.

5. The charge for the commission of offences under Section 302 IPC against accused Bachittar Singh, under Sections 302/149 IPC against the other accused, under Section 449 IPC against accused Bachittar Singh, Gurbinder Singh, Sukhdev Singh, Himat Pal Singh and Harnek Singh & against accused Baljit Kaur under Section 448 and 323 IPC, was framed on 07.05.2003. All the accused pleaded not guilty to the charge and claimed trial.

6. The prosecution to prove the charge against the accused, examined HC Amar Singh as PW-1, ASI Makhan Singh as PW-2, Dr. Surinder Kumar as PW-3, HC Jagdish Chander as PW-4, C. Baljinder Singh as PW-5, Pawan Kumar Draftsman as PW-6, Constable Baj Singh as PW-7, C. Jaskaran Singh as PW-8, Manjit Kaur complainant as PW-9 and SI Gurjit Singh as PW-10. The prosecution also tendered in evidence the reports of

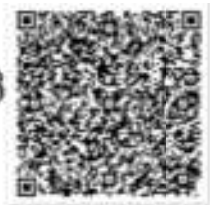


the Forensic Science Laboratory as Exs.PT, PU and PX and that of the Finger-print Bureau as Ex.PV, and PW.

7. The accused in their statements denied the case of the prosecution. Accused-Bachittar Singh further stated that Manjit Kaur was married to Jaila Singh at village Rupana for consideration of money without getting divorce from him. She was sent with him on receipt of Rs.20,000/ by her father. 7-8 months prior to the death of her father, she was married with Bohar Singh son of Joginder Singh of village Ghagha. He had given his land on lease to Mithu Singh about 7-8 months prior to the occurrence. Mithu Singh and his servant were residing in the farm house in village Gurusar. He was living with Harnek Singh at the time of the occurrence. Gurjant Singh (deceased) had murdered his brother and also crushed to death 02 persons under the scooter in village Gurusar. He had many known and unknown enemies. Manjit Kaur PW was having a grudge against him as she was residing with her 3rd husband. She had filed a maintenance suit against him and on that account, she falsely implicated him. The other accused simply stated that they were innocent and had been falsely implicated due to their relationship with Bachittar Singh-accused.

8. In their defence, the accused produced documents Ex. D-1 and Ex.D-2.

9. Based on the evidence led, the accused, namely, Bachittar Singh (deceased) and accused-appellant No.2-Gurbinder Singh came to be



convicted and sentenced by the Court of the Additional Sessions Judge, Fast Track Court, Muktsar vide judgment dated 21.12.2004 as under:-

Name of the accused	Offence U/S	Sentence RI/SI	Fine	RI/SI in default of payment of fine
Bachittar Singh	302 IPC	Life Imprisonment	Rs.1,000/-	RI 02 months
Gurbinder Singh @ Gurmel Singh	302/34 IPC	Life Imprisonment	Rs.1,000/-	RI 02 months

10. The aforementioned judgment of conviction dated 21.12.2004 passed by the Additional Sessions Judge, Fast Track Court, Muktsar is under challenge before this Court.

11. The learned Senior counsel for the accused-appellant No.2/Gurbinder Singh alias Gora contends that as per the first information provided to the investigating agency (Ex.D-1), it was only Bachittar Singh who had committed the offence in question. The said information had been provided by Sarpanch Balwant Singh. No other accused was named then. Subsequently, in the FIR, certain improvements were made where the names of three other accused were added, namely, Harnek Singh, Gurmel Singh son of Harnek Singh (subsequently known to be Gurbinder Singh @ Gora @ Gurmel Singh-appellant No.2) and Baljeet Kaur wife of Ranjit Singh. As per the FIR, while Bachittar Singh had caused the fatal injuries on the person of the deceased, Harnek Singh and the present appellant are stated to have pushed the deceased. However, during the course of her deposition as PW-9, the complainant-Manjit Kaur improved her version and while not



present appellant to the effect that he had pushed the deceased. Not only is there an improvement in the statement of the complainant but the allegations of having pushed the deceased are easy to level so as to knit a wider net. He further contends that the investigation leaves a lot to be desired. PW-10/SI Gurjit Singh admitted that he had recorded Ex.D-1. As per his investigation, Manjit Kaur (complainant) was not present at the spot. Bachittar Singh, Harnek Singh and Baljit Kaur had not participated in the occurrence. In fact, Bachittar Singh was arrested for having committed the offence under Section 120-B IPC only. Strangely, while it is Bachittar Singh who is stated to be the main accused for having caused injury with the *Sabbal*, the said weapon of offence is shown to have been recovered at the instance of the appellant. It is, thus, his contention that the present appeal deserves to be allowed and the appellant 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 in consonance with the ocular account. As per the complainant-Manjit Kaur (PW-9), the present appellant No.2 accompanied Bachittar Singh to the place of occurrence alongwith the other accused (who have been acquitted). Bachittar Singh caused the injuries on the person of the deceased. However, the liability of the appellant with the aid of Section 34 IPC is clearly made out. Though, Harnek Singh and the appellant were attributed the same role of having pushed the deceased as per the FIR, however, no such allegations were levelled against Harnek Singh

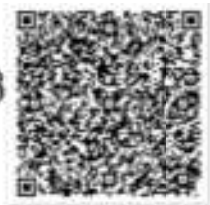


when the complainant-Manjit Kaur deposed in the Court as PW-9 and the allegations of pushing were levelled against the appellant No.2 only. Therefore, the appeal is liable to be dismissed.

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

14. The first information in the present case was provided to SI/SHO Gurjit Singh (PW-10) by Sarpanch Balwant Singh to the effect that he had come to know it that Bachittar Singh had caused injuries to the deceased. It was only thereafter, that the instant FIR came to be registered naming Bachittar Singh, Harnek Singh, Gurmel Singh alias Gurbinder Singh alias Gora and Baljit Kaur. As per the allegations in the FIR, Harnek Singh (since acquitted) and the present appellant No.2-Gurbinder Singh alias Gora are stated to have pushed the deceased. Subsequently, the complainant attributed the role of pushing only to the appellant. Such allegations are easy to level so as to knit a wider net to implicate other for the offence in question. Therefore, the false implication of the accused-appellant No.2 cannot be ruled out.

Strangely, despite the eye version account of the complainant-Manjit Kaur, during the course of investigation, Bachittar Singh, Harnek Singh and Baljit Kaur were found to have not participated in the occurrence and Bachittar Singh was sought to be arrayed as an accused only with the aid of Section 120-B IPC. This line of investigation make the entire prosecution case doubtful, though, the eye-version account has been believed qua



Bachittar Singh and the present appellant No.2 only. The investigation conducted, in a sense disapproves the eye-version account and creates a doubt in the entire case of the prosecution.

Interestingly, the prosecution has produced evidence to show that accused-Gurbinder Singh alias Gurmel Singh made a disclosure statement and got recovered a *Sabbal*. Injuries to the deceased with the *Sabbal* were attributed to accused-Bachittar Singh (since deceased) and its recovery has been effected on the basis of the disclosure statement made by accused-Gurbinder Singh. A *Sabbal* is an article which is easily available. Therefore, much importance cannot be attached to the alleged recovery of the *Sabbal*.

15. In view of the aforementioned discussion, we find considerable merit in the arguments raised on behalf of the accused-appellant No.2 and therefore, the present appeal stands allowed. Accused-appellant No.2/Gurbinder Singh alias Gora is acquitted of the charges framed against him.

(GURVINDER SINGH GILL)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

23.01.2025
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No