

CRA-D-185-DB-2005 (O & M)

2025:PHHC:023297-DB



::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(332)

CRA-D-185-DB-2005 (O & M)
Reserved on: 14.02.2025
Date of Pronouncement: 18.02.2025

Bhola @ Paramjit Singh Appellant

V/s

State of Haryana ...Respondent

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

Present: Mr. Himanshu Singh, Advocate,
for Mr. Vikram Singh, Advocate,
for the appellant.

Mr. Ranvir Singh Arya, Addl.A.G., Haryana.

JASJIT SINGH BEDI, J.

The present appeal has been filed against the judgment of conviction and order of sentence dated 10.02.2005 passed by the Additional District & Sessions Judge (Adhoc), Jhajjar.

2. The instant FIR came to be registered on 13.12.2002. The accused-appellant came to be convicted vide judgment of conviction and order of sentence dated 10.02.2005. The present appeal against the

CRA-D-185-DB-2005 (O & M)

2025:PHHC:023297-DB



::2::

judgment of conviction and order of sentence was filed on 03.03.2005. The matter has come up for final hearing now after more than 22 years of the registration of the FIR.

3. Briefly stated the facts of the case are that on 13.12.2002 Mahender Singh son of Prabhu resident of Village Badli appeared in the Police Post Badli at about 6.15 PM and reported the matter to the police that Krishan son of Narain Singh, resident of Badli was shot at by Bhola @ Paramjit at the tea shop of village Badli and that his brother Devender and friend Manoj had removed him to Rao Tula Ram Hospital Jafarpur, Delhi for treatment. On that information, Parkash Chand, SI Incharge, Police Post Badli arrived in that Hospital with Daya Nand, HC Jai Pal EHC, Sat Narian EHC and Krishan Constable in Govt. jeep driven by Joginder. On reaching the Hospital, he obtained the opinion of the doctor whether the injured was fit to make a statement or not on which the doctor reported that the injured was brought dead. So, Parkash Chand SI obtained the medical report from the Hospital and found that there was one firearm injury on the right side neck of Krishan. The Sub Inspector met Devender, the brother of the deceased in the hospital who reported the matter to him and so, Parkash Chand, SI recorded his statement Ex.P1 regarding the occurrence, it was read over to him and he put his signatures thereon after admitting the same as correct. His statement was to the effect that he was employed in the godown of Shiva Indian Oil Gas Company as a Storekeeper and that godown

CRA-D-185-DB-2005 (O & M)

2025:PHHC:023297-DB



::3::

was situated in their field. The deceased-Krishan was his younger brother. On the date of occurrence i.e. 13.12.2002 in the evening when he was free from his duty, he went to the sweet shop of Pandit Om Parkash resident of Village Badsa, who was running that shop at Badli, for taking tea. While taking tea there, one Manoj of his village and a friend of Krishan was also taking tea there with him at that shop. At that time at about 6.00 p.m., the accused Paramjit also arrived at that shop and in the meantime, Krishan also arrived there for calling him and his friend Manoj. Paramjit was having a pistol in his hand and he told Krishan that he could kill a man like a dog with one shot from a pistol. Krishan retorted as to how he could kill a man without any fault on his part. On that altercation, the accused fired a pistol shot at Krishan which hit him on the right side of his neck. He then went away with his pistol. He and Manoj then arranged a car for taking the injured to the Hospital and they asked Mahender who turned up there in the meantime to inform the police regarding the occurrence. They took the injured to Rao Tula Ram Hospital, Jafarpur and on reaching the Hospital the doctor declared him dead. Prakash Chand, SI made his endorsement Ex.P-18 on the statement and sent the same to the Police Station Sadar, Bahadurgarh through Krishan Kumar, Constable on which formal FIR Ex.P-10 was recorded by Sat Narain SI, Parkash Chand SI, then visited the spot and picked up blood-stained earth which was sealed into a *dibbi* and it was taken into possession vide recovery memo Ex.P-2 attested by Daya Chand and

CRA-D-185-DB-2005 (O & M)

2025:PHHC:023297-DB



::4::

Devender PWs Bhup Singh, SI of Police Station Jafarpur also reached the Hospital and he got removed the dead body to Deen Dayal Hospital, Delhi. On the next day, he conducted the inquest proceedings over the dead body and obtained the Post Mortem examination report. On the same day, Parkash Chand, SI visited the spot and prepared the rough site plan Ex.P-20 with marginal notes in his hand. On 16.12.2002, he arrested the accused from village Hiran Kudna and interrogated him in the presence of Daya Chand, HC. The accused made a disclosure statement that the pistol used by him in the occurrence had been kept concealed by him near Bijli Bhatta in the area of village Badli and he could get the same recovered. That disclosure statement Ex.P-15 was signed by the accused and attested by Daya Chand, HC. On the next day, the accused took the police party and the witnesses to the place of concealment of the pistol and got recovered the same from the disclosed place in pursuance of the disclosure statement. The pistol had one empty cartridge and it was also produced along with the pistol. The rough sketch Ex.P-4 of the pistol was prepared and it was sealed with the cartridges and taken into possession vide recovery memo, Ex.P-3 attested by Daya Chand, HC and Devender, PW. The rough site plan Ex.P-21 of the place of recovery was also prepared. On 13.12.2002, the photographs of the spot were also obtained through Balram Photographer. After sending the case property to FSL Madhuban and completion of the investigation, the accused was challaned.



4. On commitment, charges were framed under Sections 302 IPC and 25 of the Arms Act. The accused pleaded not guilty and claimed Trial.

5. The prosecution, in support of its case examined 14 witnesses. Devender-complainant appeared as PW-1 and deposed as per the FIR. In addition, he deposed that he accompanied the police to the spot and the blood stained earth was picked up by the police vide recovery memo Ex.P-2 attested by him. He further deposed that on 17.12.2002 he accompanied the police party and the accused to the brick kiln of village Badli from where the accused got recovered one country made pistol with one cartridge. The pistol and the cartridge were sealed and taken into possession vide recovery memo Ex.P-3 after preparing its rough sketch Ex.P-4.

6. Manoj appeared as PW-2 and deposed that on 13.12.2002 he and Devender were taking tea at the tea shop of Om Paraksh Tea vendor situated near Bus Stand Badli. It was about 6.00 PM when Krishan brother of Devender came there for calling him. In the meantime, the accused also arrived there and told Krishan that he could kill a man like a dog on which Krishan retorted as to how he could do that. Then the accused immediately took out the pistol and fired at Krishan at his neck and ran away with his pistol. Then, he and Devender took the injured to Rao Tula Ram Hospital Jafarpur, Delhi but the doctor declared him dead. He further stated that Mahender who had arrived at the spot after the occurrence was sent by them to report the matter to the police.

CRA-D-185-DB-2005 (O & M)

2025:PHHC:023297-DB



::6::

7. Om Parkash the owner of the Tea shop was examined as PW-11. He deposed that on 13.12.2002 at about 6.30 PM, some persons of village Badli were taking tea at his shop but he did not know who were those persons. His servant had taken the tea to them. Then one of them was shot dead at that place and he came to know that the person who died was Krishan. After hearing the sound of gunshot and seeing the dead body he closed his shop and went to his house. He could not see who was the person who fired at Krishan. He was got declared hostile and some leading questions were put to him and in answers to those questions he stated that he made no statement before the police that Krishan had come to his shop at about 6.30 PM for calling his brother Devender and that soon he heard a gunshot sound and he saw one person, the accused, running with a pistol in his hand and that thereafter, Manoj and Devender took the injured to Jafarpur Hospital in a private vehicle.

8. Dr. Devender Kumar who conducted the medical examination over the dead body of Krishan in Rao Tula Ram Hospital at about 8.30 PM appeared as PW-8. He found one round entry wound on right side of neck 1" in diameter with the peripheral signing and the blood was oozing out of the wound. There was no other visible mark of injury on his body. His medico legal report is Ex.P-11.

Dr. Manoj Nagpal who conducted the post Mortem examination over the dead body of Krishan son of Narain resident of Badli could not be



produced by the prosecution as he was not available. To avoid delay, the defence counsel made a statement that he had no objection to exhibiting of the post mortem report and reading the same in evidence. As the injured was brought dead in Rao Tula Ram Hospital and his medical examination was done by Dr.Devender Kumar in that hospital and his clothes were also handed over to the police, the examination of Dr. Nagpal was just a formality. So the public prosecutor tendered that report into evidence and closed his evidence. Dr. Nagpal found a single firearm injury on the right side of neck measuring 3x2.5 cm. with blackening of border, 6cm below right pinna and 6 cm. above the right clavical and 8cm, from midline. The projectiles 13 in number pierced the skin, muscles right carotid neck structure and went upwards towards left side and embedded in the left side of ramus of mandible. The cause of death in his opinion was due to shock and haemorrhage. His post mortem report is Ex.P-32. He took out the pellets and sealed the same and handed over the sealed parcel to the police.

9. Daya Nand, HC who accompanied Ram Parkash, SI to Rao Tula Ram Hospital appeared as PW-10 and deposed that on 13.12.2002 he accompanied Ram Parkash SI to Rao Tula Ram Hospital and on reaching there he came to know that the body had been removed to Deen Dayal Hospital. The doctor handed over to him the sealed parcel of the clothes of the deceased and he handed over the same to the Sub Inspector who took the sealed parcels into possession vide recovery memo Ex.P-14. Then they

CRA-D-185-DB-2005 (O & M)

2025:PHHC:023297-DB



::8::

visited the spot and blood-stained earth was picked up, sealed and taken into possession vide recovery memo Ex.P-2. He further deposed that on 16.12.2002 the accused was produced by his brother before Parkash Chander SI and thus, he was arrested and on interrogation he made the disclosure statement Ex.P-15 that the pistol used by him in the occurrence had been kept concealed by him near HUDA minor in the area of village Badli near Bijli Bhatta and he could get the same recovered from there. On the next day, the accused took the police party and witnesses to the stated place and got recovered the pistol from the bushes with one empty cartridge. The rough sketch Ex.P-4 of the pistol was prepared and then the pistol was sealed with the cartridge and taken into possession vide recovery memo. Ex.P-3 attested by him and Devender.

Parkash Chand, SI appeared as PW-12 and deposed that on 13.12.2002 at about 6.15 PM Mahender Singh resident of Badli came to the police post and informed him that one person named Krishan was shot dead by accused Bhola near the shop of Balaji Sweets on the G.T.Road and that his brother Devender and Manoj had taken him to Rao Tula Ram Hospital. So, he accompanied the police party to that hospital where he came to know that Krishan was declared dead, when he arrived in the Hospital. Devender brother of the deceased was found available in the hospital who reported the matter to him and so he recorded his statement Ex.P-1 and got this case registered vide FIR Ex.P-10. He also deposed about the handing over the

CRA-D-185-DB-2005 (O & M)

2025:PHHC:023297-DB



::9::

sealed parcel of the clothes of the deceased to him by the doctor which he took into possession vide recovery memo Ex.P-14 attested by Daya Chand HC. Then, he accompanied Devender to the spot and picked up blood-stained earth in a *dibbi* which was sealed and taken into possession vide memo Ex.P-2. He also prepared rough site plan Ex.P-20. He has further deposed that Bhoop Singh SI of Police Station Jafarpur had removed the dead body to Deen Dayal Hospital, Delhi and he prepared the inquest proceedings and also obtained the post mortem report. On 16.12.2002, he arrested the accused from village Hirankudna where he was produced by his brother. After his arrest, he interrogated him on which he made the disclosure statement Ex.P-15 signed by him and attested by Daya Chand HC. Then he obtained his medical examination and the remand and was brought to the police station. On the next day, the accused took the police party and the witnesses to the place of concealment of pistol and got recovered one pistol, a live cartridge and an empty cartridge. The rough sketch Ex.P-4 of the pistol was prepared and it was sealed with the cartridges and taken into possession vide recovery memo Ex.P-3 attested by Daya Chand HC and Devender PW. The rough site plan Ex.P-21 of the place of recovery was also prepared.

Bhoop Singh, SI of Police Station Jafarpur deposed as PW-14 and stated that on receipt of information from Rao Tula Ram Hospital he went there and found that the dead body had been taken to Deen Dayal

CRA-D-185-DB-2005 (O & M)

2025:PHHC:023297-DB



::10::

Hospital. On the next day, he conducted the inquest proceedings over the dead body (Ex.P-19) and then obtained the post mortem examination report by moving an application Ex.P-20.

PW-3/Karan Singh MHC, PW-4/Joginder Constable, PW-5/Jai Chand Constable Draftsman, PW-6/Raj Kumar Constable, PW-7/Sat Narain SI, PW-9/Rattan Singh Armour and PW-13/Balram Photographer deposed as to the different aspects of the investigation.

10. The prosecution also placed on record the report Ex.P-33 of FSL Madhuban showing that the product of combustion of smokeless powder was detected from the barrel of the country made pistol of .12 bore and on test firing its mechanism was found in order. On Laboratory examination, it was also found that the pellets recovered from the dead body had been fired from a weapon of .12 bore as pellets were loaded in such cartridge. Further, human blood was found on the T-shirt and jacket of the deceased and on the gauze piece but the material was found disintegrated on blood stained earth. There was no report regarding the origin of the blood.

11. In his examination under section 313 Cr.P.C., the accused stated that he had been falsely implicated in the case. He made no disclosure statement nor got recovered any pistol.

In defence, he examined Bijender, DW-1 who deposed that at the time of occurrence, he was taking tea at the shop of Pandit Om Parkash and after 10/15 minute of his arrival there, Krishan also reached there. He

CRA-D-185-DB-2005 (O & M)

2025:PHHC:023297-DB



::11::

was known to him and so he offered him a cup of tea but he stated that he did not take tea. After a while, one unknown person came to Krishan and told him that he was not showing any improvement in his conduct. They exchanged hot words. That person took Krishan towards the back side of the shop and fired at him. Then, he started running but fell down and the pistol he was having in his hand also fell on the ground. He stood up and ran away leaving the pistol there. Krishan expired at the spot. Then, he went to the house of Krishan on his motorcycle and informed his brother Devender and narrated about the incident. Then, Devender and Manoj came to the spot with him and they arranged a vehicle and took the deceased to Delhi Hospital. Two police persons came to the spot and they picked up the pistol from the spot. He further deposed that on 15.12.2002, he went to the house of Krishan for mourning and Devender met him there who told him that he mentioned the name of Bhola at the asking of Manoj. He further deposed that Manoj was having enmity with Satbir Member Panchayat and his dead body was found in the well and Bhola told the police that he saw Krishan, Satbir and Manoj taking liquor in the field that night. On account of that enmity, the accused was falsely named at the instance of Manoj.

12. Based on the evidence led, the accused-appellant Bhola @ Paramjit came to be convicted and sentenced by the Court of the Additional District & Sessions Judge (Adhoc), Jhajjar vide judgment of conviction and order of sentence dated 10.02.2005 as under:-



Offence U/S	Sentence RI	Fine	RI in default of payment of fine
302 IPC	Imprisonment for Life	Rs.5,000/-	RI 06 months

13. The aforementioned judgment of conviction and order of sentence dated 10.02.2005 passed by the Additional District & Sessions Judge (Adhoc), Jhajjar is under challenge before this Court.

14. During the pendency of this appeal, the sentence of the accused-appellant, namely, Bhola @ Paramjit was suspended by this Court vide order dated 17.03.2008.

15. The learned counsel for the accused-appellant contends that from the evidence lead, it has not been proved beyond reasonable doubt that it was Paramjit @ Bhola who had shot dead the deceased. No independent witness has been associated by the police in support of the prosecution case despite their presence. The Police Post, Badli was only a short distance away from the tea shop but instead of reporting the matter to the Police Post, they took the injured to Delhi. The FIR is shown to have been written on the statement of Mahender Singh who allegedly informed the police about the occurrence and not at the instance of Devender-complainant, brother of the deceased. This fact makes the prosecution case doubtful. The statement of DW-1/Bijdender where he had categorically deposed that some unknown person had shot dead Krishan and that he had gone to the house of the deceased for mourning on 15.12.2002 and informed Devender about the

same and there, it was revealed by Devender that Manoj had mentioned the



name of the accused-Paramjit @ Bhola because of an earlier dispute, has not been considered. He, thus, contends that the impugned judgment was liable to be set-aside and the accused be acquitted for the offence in question.

16. The learned counsel for the State, on the other hand, contends that PW-1/complainant-Devender and PW-2/Manoj are consistent with regard to the manner in which the occurrence took place. Their presence at the spot is natural and they had taken the deceased to the hospital. The medical evidence is totally in consonance with the ocular account of one shot of having been fired at the deceased. The weapon of offence has been recovered at the instance of the accused and as per the FSL Report, it was the same weapon which has been used in the occurrence. He, therefore, contends that as the offence stands established beyond reasonable doubt, the present appeal is liable to be dismissed.

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

18. The version of PW-1/complainant Devender and PW-2 Manoj is quite consistent. Their presence also stands established from the fact that they immediately removed the injured to Rao Tula Ram, Hospital, Jafarpur after arranging a vehicle. They reached the hospital at 8.30 PM the occurrence having taken place earlier that evening. The name of Devender is mentioned in the medico legal report of the hospital. The injured had died before reaching the hospital or at the spot. There is no dispute about the occurrence at the tea shop and about the time of its occurrence. Even

CRA-D-185-DB-2005 (O & M)

2025:PHHC:023297-DB



::14::

according to the defence version, the occurrence took place at the tea shop of Pandit Om Parkash. Bijender who appeared as DW-1 stated that he was taking tea at the tea shop when Krishan arrived there and that in the meantime, some unknown person also arrived there who fired at him. So there remains no dispute about the place and the time of occurrence.

19. As regards non-recording of statement of Mahender, it may be pertinent to notice that Mahender was not an eye witness. He arrived at the spot soon after the occurrence and he was asked by Devender and Manoj to inform the police when they were taking Krishan to the Hospital. The Police party, thus, rushed to the hospital for obtaining the version of an eye witness. The police party reached there and by 9.30 PM, the statement of Devender-complainant had been recorded and sent to the police station for recording of a formal FIR. In endorsement Ex.P-18, it is mentioned that Mahender resident of Badli appeared in the Police post and informed that Krishan had been shot at by the accused-Bhola and that he was taken by his brother and Manoj to Rao Tula Ram Hospital. Thus, within the few minutes the police was informed and in that information the name of the accused was mentioned. Devender also mentioned the name of the accused. The time of about 2-2½ hours had elapsed in between the occurrence and in making the report to the police in the hospital and so, there was little time for any concocted version. The removal of the dead body to the hospital immediately and arrival of the police within 1 or 1½ hours at the Delhi

CRA-D-185-DB-2005 (O & M)

2025:PHHC:023297-DB



::15::

Hospital on receiving information and lodging the report with the police without any delay goes to establish beyond doubt that Devender and Manoj were present at the time of occurrence and they witness the occurrence and that while leaving the spot with the injured they had asked Mahender Singh to immediately inform the police who on his information arrived at Rao Tula Ram Hospital, Delhi before 9.00 PM. The prompt lodging of the FIR and immediate information to the police rules out the possibility of any false implication.

20. As regards the defence version emanating from the statement of DW-1/Bijender to the effect that while at the tea shop, he saw an unknown person shooting at the deceased and thereafter, throwing the weapon at the spot and ran away is concerned, the same cannot be believed. There is no evidence on record that the deceased had any enmity with any one. As has already been discussed hereinabove, Devender-complainant, the brother of the deceased accompanied with Manoj immediately took the dead body to the Hospital and Mahender was sent to give information to the police. Therefore, the defence version cannot be believed.

21. As per the consistent case of the prosecution, the accused was arrested on 16.12.2002 and the recovery of the pistol alongwith an empty cartridge was effected on the basis of his disclosure statement on 17.12.2002. The said pistol was sent for Forensic analysis and it was found that the country-made pistol recovered at the instance of the accused was the



same one used in the occurrence. This does not leave any doubt whatsoever regarding the prosecution case of the accused committing the murder of the deceased.

22. The motive for the occurrence may be of some importance in a case depending upon circumstantial evidence. However, in a case of an eye version account, motive has little relevance, specially, when the prosecution witnesses have deposed consistently as to the manner in which the occurrence took place.

23. In view of the aforementioned discussion, we do not find any merit in the present appeal and therefore, the same stands dismissed. The accused-appellant is directed to surrender before the Jail Authorities concerned forthwith to serve out his remaining sentence.

24. The pending applications, if any, stands disposed of accordingly.

(GURVINDER SINGH GILL)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

18.02.2025
sukhpreet

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