



**In The High Court for the States of Punjab and Haryana
At Chandigarh**

I **CRA-D-190-DB-2005 (O&M)**
Date of Decision:- 15.02.2025

Gurpal Singh and another ... Appellants

Versus

State of Punjab ... Respondent

II **CRR-2260-2007 (O&M)**

Jora Singh ... Petitioner

Versus

State of Punjab and others ... Respondents

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

Present:- Proceedings qua appellant No.1-Gurpal Singh
in CRA-D-190-DB-2005 stood abated
vide order dated 30.01.2025.



CRA-D-190-DB-2005 (O&M) &
CRR-2260-2007 (O&M)

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Mr. Jasdev Singh Brar, Advocate with
Mr. Inderjeet Singh Brar, Advocate for appellant No.2.

Mr. H.S.Randhawa, Amicus Curiae, for the appellant No.2 in
CRA-D-190-DB-2005 and
for the respondent in CRR-2260-2007.

Mr. Arav Gupta, Amicus Curiae, for the petitioner
in CRR-2260-2007.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

GURVINDER SINGH GILL, J.

1. This judgment shall dispose off the above mentioned appeal filed by appellants Gurpal Singh and Malkiat Singh @ Lambu challenging their conviction and also a revision petition filed by Jora Singh (father of deceased Mohinder Singh) who seeks enhancement of sentence. Vide judgment dated 02.02.2005 passed by learned Sessions Judge, Bathinda, the appellants Gurpal Singh and Malkiat Singh @ Lambu have been held guilty and sentenced as under:-

Section	Sentence
302 IPC for committing the murder of Mohinder Singh	Imprisonment for life and a fine of Rs.1000 and in default of payment of fine to further undergo rigorous imprisonment for a period of three months
302 for committing the murder of D.C.Singh	Imprisonment for life and a fine of Rs.1000 and in default of payment of fine to further undergo rigorous imprisonment for a period of three months

2. Since the proceedings qua appellant No.1-Gurpal Singh already stand abated, the appeal survives qua appellant No.2-Malkiat Singh only.
3. The matter relates to death of two persons namely Mohinder Singh and D.C. Singh, in respect of which FIR No.49, dated 25.05.2002,



was lodged at Police Station Talwandi Sabo, Bathinda, under Sections 302 and 460 IPC (Ex.PJ/2) on the statement (Ex.PJ) of complainant Pirthi Singh, wherein it is alleged that he was employed as a tractor driver with Narinder Singh. It is alleged that Mohinder Singh (deceased No.1) was serving as a cook whereas D.C. Singh (deceased No.2) was looking after cattle of Narinder Singh. About 7/8 days earlier Narinder Singh had gone to Delhi and that on the previous night (24.5.2002) at about 7:30 PM, he went home after winding up his work. Mohinder Singh and D.C.Singh were sleeping outside for the purpose of security of the house. Next morning at about 7:00 AM, when he went to the house of Narinder Singh, he saw that Mohinder Singh and D.C.Singh had been tied to cots with the help of '*parna*' (piece of cloth) and they were having injuries on their heads. Complainant stated that it appeared that the said two had been strangled to death with '*parna*' and had also been inflicted injuries during the night intervening 24/25.02.2002 by some unknown persons.

4. Pursuant to lodging of the FIR, the Investigating Officer SI Mukhtiar Singh (PW-13) along with other police officials went to the spot. Inquest proceedings were conducted in respect of both the dead bodies namely Mohinder Singh and D.C.Singh vide memo Ex.PF and Ex.PC respectively. The spot was got photographed. The dead bodies were sent for post mortem examination vide memo Ex.PB and Ex.PE. Rough site plan of place of occurrence was prepared vide



memo Ex.PX. Blood stained soil was collected from the spot and was sealed vide memo Ex.PN. A broken piece of stick was also taken into possession vide recovery memo Ex.PP. Two pairs of shoes, a '*parna*' and blood stained shirt were also taken into possession. Foot moulds in respect of foot prints were got prepared and taken into possession vide memo Ex.PQ. Statement of witnesses were recorded in terms of Section 161 Cr.P.C.

5. It is further the case of prosecution that Investigating Officer SI Mukhtiar Singh (PW-13) again visited the spot the next day i.e. on 26.5.2002 along with finger print expert Prabh Dayal and finger prints were lifted from almirah and from the photo frame. It is further the case of prosecution that on 27.5.2002 he had again visited the spot and that Shamsheer Singh had disclosed to him that two empty glasses and a liquor bottle were lying in the cattle shed and that the said bottle and glasses were duly sealed and taken into possession vide recovery memo Ex.PW attested by Shamsheer Singh and by ASI Mohinder Singh whose statements were also recorded under Section 161 Cr.P.C.
6. It is further the case of prosecution that on 31.5.2002 Jaspal Singh produced both the accused before the Investigating officer and were formally arrested the same day itself and were interrogated by him during the course of which both of them made disclosure statements. Gurpal Singh is alleged to have made a disclosure statement Ex.PX/1 pursuant to which he got recovered '*kapa*' (large heavy sharp edged cutter) which was taken into possession vide recovery memo



Ex.PX/6. Malkiat Singh during interrogation suffered disclosure statement Ex.PX/2 pursuant to which he got recovered a broken wooden log which was taken into possession vide recovery memo Ex.PX/3.

7. Upon completion of investigation a challan was presented against both the accused in the Court of Judicial Magistrate 1st Class, Talwandi Sabo on 13.7.2002, who committed the case to the Court of Sessions vide order dated 06.09.2002. Charges were framed against the accused for offence punishable under Sections 460 IPC with an alternate charge under Section 302 IPC by learned Sessions Judge, Bathinda on 11.10.2002 to which accused pleaded not guilty and claimed trial.
8. The prosecution in order to substantiate its case examined as many as 16 PWs. The gist of their testimonies is referred to herein under:-

PW-1 Dr. Maninder Singh Brar who had conducted post mortem examination on the dead body of D.C.Singh and also on the dead body of Mohinder Singh deposed with regard to the same and proved the post mortem reports as Ex.PA and PD respectively. He opined that the cause of death in respect of both the deceased was due to shock and haemorrhage on account of strangulation and the injuries.

PW-2 Head Constable Mukhtiar Singh stated that on 25.5.2002 he had delivered special reports to the Magistrate as well as to Deputy



Superintendent of Police Talwandi Sabo and also to Superintendent of Police and Senior Superintend of Police, Bathinda.

PW-3 Head Constable Jagdev Singh No.1097 who is a formal witness tendered his affidavit Ex.PG in evidence wherein he deposed that on 29.5.2002 he was posted at Police Station Talwandi Sabo and on the said day A/MHC Harjiwan Singh had handed over case property which included foot moulds, blood stained '*juti*', blood stained shirt, '*parna*', broken baton and other articles for depositing the same in the office of FSL, but the same could not be deposited on the same day on account of certain objections having been raised by the office of FSL Chandigarh and consequently after removal of the objections, the same were deposited on 03.06.2002. He further deposed therein that again on 16.6.2002 A/MHC Harjiwan Singh handed over another 13 articles to him which were accordingly deposited. He further stated that as long as the said parcels remained in his custody the same were not tampered with.

PW-4 Constable Jagdev Singh No.1320 tendered his affidavit Ex.PH in evidence wherein he deposed that on 29.5.2002 A/MHC Harjiwan Singh handed over the case property i.e. a parcel containing glass and empty bottle for the purpose of depositing the same with Director Finger Expert Bureau, Phillor which he deposited on 30.5.2002. He further deposed that on 30.6.2002 he collected 8 photographs from Finger Print Bureau and also two parcels of glass and a parcel of bottle which he deposited with A/MHC Harjiwan Singh. He further



stated that as long as the said parcels remained in his custody the same were not tampered with.

PW-5 Pirthi Singh (complainant) on whose statement the FIR had been lodged stated in tune with the version got recorded by him in the FIR which has already been referred to in the earlier part of the judgment.

PW-6 Narinder Singh stated that he is living in his house at village Jeon Singh Wala and had employed Pirthi Singh (complainant) as tractor driver who was working for him since the last 20/22 years. He stated that D.C.Singh was looking after cattle whereas Mohinder Singh was working as a cook for him. He stated that on 18.5.2002 he had gone to Delhi and to Goa and had deputed D.C.Singh and Mohinder Singh to look after the house in his absence and to sleep there during the night. He stated that on 25.5.2002 he received telephonic information that D.C.Singh and Mohinder Singh had been murdered in his house by some unknown persons and that he returned back to his village on 28.5.2002 and noticed that somebody had attempted to break open the lock of almirah in which he used to keep his weapon and cash. He suspected that the murder had been committed by Gurpal Singh and Malkiat Singh as Gurpal Singh had earlier been employed by him as a servant and was also looking after his financial affairs, but since he had stolen some cash, his services were discontinued.



PW-7 Stated that on 25.5.2002 Pirthi Singh had come to his house in the morning and had informed him about the murder of D.C.Singh and Mohinder Singh and that he had then accompanied him to the house of Narinder Singh and then proceeded along with him towards police station. He further stated that on 31.5.2002 both the accused had come to his house and confessed their guilt and that he had produced them before the police.

PW-8 Mandeep stated that on 25.5.2002 he had taken photographs of the place of occurrence and proved the same as Ex.P-1 to P-4 and the negatives as Ex.P-5 to P-8.

PW-9 Hem Raj is a witness with regard to “last seen” evidence who stated that he had seen the deceased on the night intervening 24/25.5.2002 near the house of Narinder Singh.

PW-10 Buta Singh stated that he had met the accused at about 12 mid-night/2:00 AM about 1 ³/₄ years back while they were on *kutcha* passage and that while Gurpal Singh was carrying ‘*kapa*’ Malkiat Singh was carrying a broken stick.

PW-11 Sukhraj Singh, Naib Tehsildar stated that he was working as Naib Tehsildar Talwandi Sabo on 01.06.2002 and pursuant to receipt of orders from SDM, he went to the police station and that in his presence foot moulds of Gurpal Singh and Malkiat Singh were prepared.



PW-12 ASI Jagroop Singh stated that on 25.5.2002 while he was posted as ASI at police Station Talwandi Sabo, he was entrusted with the dead bodies of Mohinder Singh and D.C.Singh by SI Mukhtiar Singh for getting the post mortem examination conducted and that he accordingly got the needful done.

PW-13 SI Mukhtiar Singh who is Investigating officer in the present case stated in detail with regard to the investigation conducted by him. He specifically deposed about recovery of case property, lifting of finger prints, preparation of foot moulds, disclosure statements and the statements of witnesses.

PW-14 HC Harjiwan Singh tendered his affidavit Ex.PY in evidence wherein he deposed that on 25.5.2002 he was posted as MHC at Police Station Talwandi Sabo. He stated with regard to deposit of the case property with him by the Investigating Officer and as regards handing over the same to HC Jagdev Singh and to C. Jagdev Singh for the purpose of depositing the same in the Office of FSL/Finger Prints Bureau. He further stated that as long as the said parcels remained in his custody the same were not tampered with.

PW-15 Balwant Singh, Finger Prints Expert stated that on 17.7.2002 he was posted as Finger Prints Expert at Phillaur and on the said day a Board comprising of Bal Krishan, Director Finger Prints Bureau, SI Surinder Kumar, Finger Prints Expert and SI Anup Gautam Finger Prints Expert was constituted and that he as well as other finger prints



experts of Bureau were also present and that with the help of all of them, the Director Bal Krishan had submitted his report Ex.PZ. He identified the signatures of Bal Krishan, Director Finger Prints Expert Bureau.

PW-16 ASI Mahinder Singh stated that on 27.5.2002 he was posted at Police Station Talwandi Sabo which was headed by SI Mukhtiar Singh SHO. He stated with regard to investigation conducted by SI Mukhtiar Singh in his presence and proved various document which had been prepared in his presence including recovery memos, disclosure statements etc.

9. The prosecution tendered into evidence the report of Director Forensic Science Laboratories as Ex.ZA, ZB, ZC and ZD and closed its evidence.
10. Upon conclusion of prosecution evidence, the entire incriminating evidence was put to the accused in terms of Section 313 Cr.P.C. to enable them to explain the same, but the accused denied the entire prosecution case in toto and pleaded false implication. Both the accused stated that they had been picked up from their houses by the police on 25.5.2005 and that their finger prints and foot moulds were taken in the police station. Both of them further stated that the prosecution witnesses are closely related to the deceased and to the complainant.



11. The accused in their defence examined DW-1 Satpal Singh who stated that about 2 ½ years back when he was coming from his fields at about 8:30 PM, he came across a police party including SHO Mukhtiar Singh and that they told him (DW-1) that they have to go to the house of Malkiat Singh as there had been a murder in the village and there was a suspicion against Malkiat Singh. He stated that he accompanied them to the house of Malkiat Singh along with lady Sarpanch Amarjit Kaur and that Malkiat Singh was picked up from his house for inquiry. He stated that on the next day when he went to the police station to make inquiries about Malkiat Singh, he was told that the Malkiat Singh was yet to be interrogated and that they have suspicion against Malkiat Singh and Gurpal Singh.
12. DW-2 Darshan Singh, Senior Assistant, Office of Additional Deputy Commissioner, Development, Bathinda produced the summoned record pertaining to nomination papers of Panchayat Samiti as per which Narinder Singh had filled in nomination papers and the nomination was proposed by Jaspal Singh. He also produced the voter list.
13. DW-3 Tejinder Singh stated that he had remained a Sarpanch of village Jeon Singh Wala in the year 2002 and that on 25.5.2002 at about 9:00 PM Gurpal Singh was taken away from his house in his presence as well as in the presence of Jagga Singh Member and Surjit Singh Ex-Member and that another 15/20 persons were also present in connection with inquiry of murder in the village. He further stated



that on 25.5.2002 a number of persons of the village had been picked up by the police for inquiry. He stated that Jaspal Singh and Narinder Singh are close friends. He further stated that Gurpal Singh had never worked for Narinder Singh and that he had been illegally detained by the police for a number of days.

14. Learned trial Court upon examining the evidence led by the prosecution held that both the accused had murdered Mohinder Singh and D.C. Singh and accordingly held them guilty for offence punishable under Section 302 IPC and sentenced them to undergo life imprisonment vide judgment and order dated 02.02.2005 which is assailed in this appeal.
15. Jora Singh (father of deceased Mohinder Singh) assails the sentence imposed upon accused by way of filing revision petition and seeks enhancement of the same from life imprisonment to death penalty.
16. Learned counsel representing the appellant submitted that it is a case of blind murder where there is no eye witness to the occurrence and the prosecution banks on circumstantial evidence only. It has been submitted that the circumstantial evidence, which is in the nature of extra judicial confession and “last seen” evidence is in fact padded evidence which has been created to falsely implicate the appellants whereas there is no such material fact on record from which the guilt of the appellant could be inferred much less established. Learned counsel further submitted that as a matter of fact the accused were



illegally detained on 25.5.2002 and the foot moulds and their finger prints were forcibly taken/prepared in the police station to create evidence against them.

17. It has further been submitted that even the testimony of Jaspal Singh (PW-7) before whom the accused had allegedly confessed their guilt on 31.5.2002 does not inspire confidence and that in any case the extra judicial confession being a weak type of evidence would not carry any value particularly when there is dearth of any other convincing evidence on record. Learned counsel thus submitted that under these circumstances the impugned judgment could not sustain was liable to be set aside and the accused consequently were entitled to be acquitted.
18. Opposing the appeal, learned State counsel submitted that although the occurrence was not witnessed by anyone, but the circumstantial evidence led in the present case is not only trustworthy, but is complete in all respects leading to one and only one conclusion that it is the accused who had murdered the deceased.
19. This Court has considered rival submissions and have also perused the record of the case.
20. Before proceeding further, the medical evidence needs to be scrutinized so as to ascertain the cause of death. PW-1 Dr. Maninder Singh Brar who had conducted post mortem examination on the dead



body of D.C.Singh, described the injuries found on the dead body as under:

- “1) Incised wound on right side of head 6 cm. long bone deep 7 cms. above right ear. Tissue infiltrated with blood. Clotted blood was present.
- 2) Incised wound 3 cm. long 5 cms above right eyebrow. Tissue infiltrated with blood. Clotted blood was present.
- 3) Incised wound 4 cms. long bone deep on fore head 6 cms above left eyebrow. Clotted blood was present. Tissue infiltrated with blood.
- 4) Incised wound 3 cms. long bone deep on fore head on left side 2 cms above the left eyebrow. Clotted blood was present. Tissue infiltrated with blood.
- 5) Incised wound 5 cms. long on left side of head 6 cms above left eyebrow. Clotted blood was present. Tissue infiltrated with blood.”

21. PW-1 Dr. Maninder Singh Brar opined that cause of death of D.C. Singh was due to shock and haemorrhage because of strangulation and the injuries. PW-1 had also conducted post mortem examination on the dead body of Mohinder Singh and has described the injuries found on the dead body as under:

- “1) Incised 7 cms. long bone deep 2 cms above the left eye. Clotted blood was present and tissue infiltrated with blood.
- 2) Incised wound 2 cms. long bone deep 2 cms behind injury No.1. Clotted blood was present and tissue infiltrated with blood.”

22. PW-1 Dr. Maninder Singh Brar opined that the cause of death of Mohinder Singh was due to shock and haemorrhage because of strangulation and the injuries. PW-1 Dr. Maninder Singh Brar was briefly cross-examined, but nothing substantial could be elicited



during his cross-examination so as to doubt the factum of homicidal death of D.C.Singh and Mohinder Singh.

23. It is not in dispute that there is no eye witness to the occurrence and the prosecution mainly banks upon the circumstantial evidence which is in the shape of following facts:

- i. Extra judicial confession before PW-7 Jaspal Singh;
- ii. Last seen evidence in the shape of statement of PW-9 Hem Raj and PW-10 Buta Singh;
- iii. Recovery of blood stained stick at the instance of accused Malkiat Singh;
- iv. Evidence regarding finger prints matching;
- v. Matching of foot moulds;
- vi. Motive;

24. Extra judicial confession before PW-7 Jaspal Singh

PW-7 Jaspal Singh stated that on 25.5.2002 Pirthi Singh had come to his house and disclosed to him that D.C.Singh and Mohinder Singh were lying dead in the house of Narinder Singh and that thereafter he (Jaspal Singh) and Pirthi Singh went to the house of Narinder Singh and then proceeded to the police station and while on the way, they met police officials at Verka Chowk, Talwandi Sabo where statement of Pirthi Singh was recorded by the police. He further stated with regard to the proceedings conducted by the police in his presence. He



specifically stated about the various articles taken into possession by the police and as regards the recovery memos attested by him. He specifically stated that on 31.5.2002 Gurpal Singh and Malkiat Singh came to his house in the morning and confessed having killed D.C. Singh and Mohinder Singh on the night intervening 24/25.5.2002 with 'kapa' and a wooden baton after having consumed liquor in the cattle shed. He further stated that he is an Ex-Sarpanch of the Panchayat of the village and had produced both the accused before the police and that his statement was also recorded by the police on 31.5.2002. The relevant extract pertaining to the confession made before him by the accused is extracted herein under from his statement:

“.....On 31.5.2002 Kirpal Singh and Malkiat Singh again said Gurpal Singh and Malkiat Singh came to me in the morning at my house. They are present in the Court today. Gurpal Singh was previously known to me. Malkiat Singh was seen roaming by me with Gurpal Singh. Gurpal Singh told me that Narinder Singh had gone to Delhi for the last 7-8 days and that his servants D.C. Singh and Mohinder Singh used to sleep in his house and that on the night intervening 24/25-5-2002 at about mid night time, they consumed liquor while sitting in the room meant for tethering cattles shed and that room was of Narinder Singh. I was further told by Gurpal Singh that he was armed with KAPA and that Malkiat Singh was armed with wooden baton and that they assaulted D.C.Singh and Mohinder Singh with KAPA and wooden baton, and that Mohinder Singh died at the spot and that D.C.Singh got up on receiving the injuries and that thereafter they inflicted injuries by them to D.C.Singh and that after killing him his neck was tied with the PARNA with the cot and that the neck of Mohinder Singh was also tied with the cot with PARNA. Gurpal



Singh further told me that they broke upon the lock of the residential house of Narinder Singh and that they started breaking the Godrej Almirah in which there used to be cash and arms of Narinder Singh and that thereafter they started breaking the iron box. I was further told that when the dogs started barking and that feeling afraid of the dogs, they opened the main gate of the house of Narinder Singh and went away on the road which leads to village Chhathewala and that they reached village Gobindpura. He requested me that they be produced before the police, as I would save them from the torture by the police. Malkiat Singh told the same story to me. I brought Gurpal Singh and Malkiat Singh to Police Station, Talwandi Sabo and produced them before the police. I am Ex-Sarpanch of Panchayat of my village.....”

25. PW-7 Jaspal Singh was cross-examined at length, but the witness remained firm on his statement and did not budge from his stand. In any case, even though the factum of extra judicial confession does stand proved, but the evidentiary value of such statement can only be assessed in context of the other evidence on record which is being discussed in the forthcoming paragraphs.
26. Last seen evidence in the shape of statement of PW-9 Hem Raj and PW-10 Buta Singh;

The prosecution has examined PW-9 Hem Raj and PW-10 Buta Singh in the shape of ‘last seen’ evidence. PW-9 Hem Raj stated that at about 12:00 mid-night on the night intervening 24/25.5.2002 he experienced some pain in stomach and while he was proceeding to see a doctor, he saw both the accused standing near the gate of cattle shed of Narinder Singh. He stated that he knew both the accused and asked Gurpal Singh as to why they were standing there at such late



hours to which they replied that they had to meet Mohinder Singh who was working as a cook for Narinder Singh and that it was on the next day he came to know about murder of Mohinder Singh and D.C.Singh. PW-10 Buta Singh stated that he knew Gurpal Singh and Malkiat Singh and that about 1 ³/₄ years back at about 2:00 am (mid-night) when he was coming from his fields after tethering cattle, he met both the accused on the '*kutchha*' passage leading to village Chathe Wala and that while Gurpal Singh was having '*Kapa*', Malkiat Singh was having a broken wooden log and when he inquired as to where they were going they retorted that he (Buta Singh) should mind his own business and go to sleep. He stated that on the next morning he came to know that Mohinder Singh and D.C.Singh had been murdered and that he suspected that they had been killed by the accused.

27. The learned counsel for the appellant assailed the testimonies of PW-9 Hem Raj and PW-10 Buta Singh while stating that their presence at odd hours is doubtful inasmuch as nobody would be tethering cattle during midnight or would be going to a doctor at 02:00 AM. While both the PWs are residents of the same village and on one hand it could be said that their presence at the spot is possible, but this Court finds that while PW-10 Buta Singh during cross-examination admitted that he is nephew of deceased D.C.Singh, PW-9 Hem Raj during his cross-examination also admitted relationship with deceased Mohinder Singh and under these circumstances it could be said that



they are interested witnesses. As such, it would not be safe to rely upon their testimonies being interested witnesses.

28. Recovery of blood stained stick at the instance of accused Malkiat Singh

It is the case of prosecution as has been specifically deposed by PW-13 SI Mukhtiar Singh that during the course of interrogation of Malkiat Singh, he suffered disclosure statement Ex.PX/2 to the effect that he had kept concealed a broken wooden stick/log under the bushes by the side of drain and could get the same recovered. PW-13 specifically stated that pursuant to the disclosure statement of accused Malkiat Singh, accused led the police party to the nominated place and got a blood stained wooden log recovered which was taken into possession vide recovery memo Ex.PX/3. Said recovery memo is also attested by ASI Mohinder Singh who has also stated consistently in this regard. The said wooden stick/log was sent for chemical examination and as per report of FSL (Ex.P-2/B), the same was found to be stained with human blood. It may here be mentioned that co-accused Gurpal Singh (already expired) who was alleged to be carrying a 'Kapa', had got the same recovered pursuant to his disclosure statement Ex.PX/1 and the same had also been sent for chemical examination to the FSL and as per report Ex.PZ/C, it was stained with human blood. During the course of arguments learned counsel for the appellant submitted that in the absence of blood group matching, the report of FSL could not be taken into account, but even



shorn of blood group matching the factum of existence of human blood on the weapon of offence is a circumstance which surely can be taken into account and coupled with other circumstances can safely be relied upon being a relevant fact.

29. Evidence regarding finger prints matching;

In the instant case it is the specific case of the prosecution that two glasses and a bottle was recovered from the cattle shed of the house of Narinder Singh which were taken into possession on 27.5.2002 and the same were sent to finger prints bureau for comparison of the finger prints as lifted from the said articles with the finger prints of the accused and as per report Ex.PZ, the finger prints were found to match. Although learned counsel for the appellant attempted the assail the report of finger print expert, but given the fact that the finger prints in question were lifted from the glasses and bottle which had been taken into possession by the police much before the accused came to be arrested and there is nothing to show that the said glasses or bottle had been tampered with in any manner, the sanctity of the report cannot be doubted. There is nothing on record to discredit the expert opinion of the finger prints expert.

30. Matching of foot moulds

It is the specific case of the prosecution that foot moulds had been lifted from the spot and the same were later got compared with the specimen foot moulds of the accused and were found to be matching



as has been opined in report of FSL (Ex.PZ/A). However, it needs to borne in mind that it is the admitted case of the prosecution that several persons had gathered at the spot after the factum of murder of two persons came to known in the village. The foot moulds of the accused were lifted from the place of occurrence on the next day i.e. on 26.5.2002. It remains unexplained as to how the police was able to shortlist on just two foot prints when admittedly a large number of persons were present there. In any case, since even the comparison of foot moulds is not as accurate as comparison of finger prints, therefore, in a case where even lifting of foot moulds from the place of occurrence is somewhat suspect, this Court would rather be cautious and would not prefer to depend upon such evidence.

31. Motive

The motive alleged in the present case is of an attempt of robbery as had been disclosed by the accused to PW-7 Jaspal Singh in their extra judicial confession. PW-6 Narinder Singh in whose house the occurrence had taken place has stated that Gurpal Singh had earlier been employed by him and he had been looking after his financial affairs, but since he had stolen some cash, his employment was discontinued. He further stated that he used to keep weapon and cash in his almirah and that an attempt had been made to break open the lock of the almirah. It is apparently a case where the accused attempted to commit robbery, but were unsuccessful in their attempt. Even though, nothing was admittedly found missing from the house



of Narinder Singh, but the factum of an attempt to commit robbery is quite evident.

32. Before proceeding to examine the cumulative effect of the various pieces of circumstantial evidence it is apposite to bear in mind the proposition of law as settled by Hon'ble Apex Court in Hanumant v. State of Madhya Pradesh, AIR 1952 Supreme Court 343, wherein it was held as follows:

"10. It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."

30. The aforesaid principles have consistently been followed and have been affirmed in catena of authorities. Recently, a three Judges Bench of Hon'ble Apex Court reiterated the aforesaid position of law in 2025(1) RCR(Criminal) 12, Vishwajeet Kerba Masalkar v. State of Maharashtra, and while doing so also referred to the case of Sharad Birdhichand Sharda v. State of Maharashtra (1984) 4 SCC 116 1984 INSC 121, wherein it has been held that the following conditions must



be fulfilled before a case against an accused can be said to be fully established:

- (1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. It may be noted here that this Court indicated that the circumstances concerned "must or should" and not "may be" established.
- (2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,
- (3) the circumstances should be of a conclusive nature and tendency,
- (4) they should exclude every possible hypothesis except the one to be proved, and
- (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused

31. The above referred five conditions are the golden principles on which any case based on circumstantial evidence would rest. It is necessary for the prosecution that the circumstances from which the conclusion of guilt is to be drawn should be fully established and the chain of evidence should be so complete that the facts so established should be totally consistent with one and only one version i.e. as regards guilt of accused.

32. In the present case even if the "last seen" evidence is discarded, the evidence in the shape of finger prints expert report coupled with the



recovery of blood stained weapon recovered at the instance of the accused and the extra judicial confession of accused and also the motive, when pieced together clearly show that it is the accused who had murdered D.C.Singh and Mohinder Singh in a futile attempt to commit robbery in the house of Narinder Singh. The clinching piece of evidence is the report of finger print expert. Finger prints were lifted from the glasses and the bottle found recovered from the house of Narinder Singh and which were lifted much prior to arrest of the accused. Admittedly, it is not a case that the accused were frequently visiting the house of the deceased in which case there could have been possibility of existence of their finger prints on account of some earlier visits. As such, the entire evidence when read together leaves no room to doubt as regards the complicity of the appellant in committing murder of D.C.Singh and Mohinder Singh. This Court does not find any infirmity in the finds so reached by the trial Court and the same are hereby affirmed.

33. Consequently, the appeal filed on behalf of the appellant is shorn of merit and is dismissed.
34. As regards the revision petition filed by Jora Singh seeking enhancement of sentence, since there is no appeal filed on behalf of State challenging acquittal of the accused for offence under Section 460 IPC and the facts of the case are not such which would fall in the category of 'rarest of rare case' to justify capital offence, there is no



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room for any enhancement of sentence. The revision petition is sans merit and is hereby dismissed.

35. A photocopy of this order be placed on the connected case.

(GURVINDER SINGH GILL)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

15.02.2025
Mohan

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No