

CRA-D-193-DB-2005 (O & M)

2025:PHHC:032572-DB



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(335)

CRA-D-193-DB-2005 (O & M)

Reserved on: 04.03.2025

Date of Pronouncement: 07.03.2025

Sat Pal

.... Appellant

V/s

State of Punjab

...Respondent

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

Present: Mr.P.K.S. Phoolka, Advocate, as Amicus Curiae
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 02.02.2005 passed by the Sessions Judge, Ludhiana.

2. The instant FIR came to be registered on 07.02.2002. The accused-appellant came to be convicted vide judgment of conviction and order of sentence dated 02.02.2005. The present appeal against the judgment of conviction and order of sentence was filed on 03.03.2005. The matter has come up for final hearing now after 23 years of the registration of the FIR.

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3. Briefly, the facts of the prosecution case are that on 07.02.2002 Gejo wife of late Pana, resident of House No. 1703, Mohalla Fatehgarh Gall No. 3, Ludhiana, made a statement Ex.PA before Dilpreet Singh SI/SHO police station Division No.4 that nearly 33/34 years back, she was married with Pana, resident of village Bhattian, District Jalandhar, who breathed his last after about six years after the marriage. A son by the name of D.C. alias Makhan Singh was born from their wedlock. After the death of her husband, she started living alongwith her son in her parental house. Her father had died about 20 years ago and about 13/14 years back, her mother had passed away. She had two brothers and five sisters, all of whom were married and were residing separately. Her brother Tarsem had gone abroad. Her second brother Sat Pal (accused-appellant) alongwith his children was residing In Vardhman Colony, Meharban Ludhiana. She alongwith her son Makhan and his wife Pinki were residing in her parental house. About 14 years ago, Charanjit alias Channi, her youngest sister was married to Tara Chand son of ved Parkash resident of Gali No.5, Chander Lok Colony, Rahon Road, Ludhiana. She had two daughters. After some time of her marriage, her sister Charanjit's husband had started giving beatings to her due to which there was estrangement between the two. Around two years ago, her sister Charaniit being fed up with her husband started living with her (Gejo). However, both her daughters were kept by her husband/Tara Chand with him. Her sister-Charanjit had filed an application in the Court against her



husband for maintenance. The case was being pursued in the Court by her brother-Sat Pal. About 3/4 days prior to the occurrence, her sister Charanjit had gone towards Daresi ground. After having returned home, she had disclosed to her (Gejo) that she would go to the house of her husband as her children would be ruined in her absence. Thereupon, she (Gejo) sent a message to her brother-Sat Pal that Charanjit wanted to go back to her in-laws house and that if he (referring to the husband of Charanjit) furnishes any guarantee for Charanjit, then they would send her with some respectable persons. On that day i.e. 07.02.2002 at about 3 p.m., Sat Pal came to her house and he told her (Gejo) that now Charanjit wanted to go back to her in-laws house. However, he had faced harassment because of her since long and that if she went back to her in-laws house, they would be humiliated in their brotherhood and that he would not allow her to go back to her in-laws house. Soon after uttering these words, Sat Pal asked her (Gejo) as to where Charanjit was and she replied that Charanjit was basking in the sun on the *kotha*. Then Sat Pal climbed up the roof of the *kotha* through a wooden ladder alongwith a *chhuri* (small dagger) in his dub and looking at his anger, she also followed him and went on the roof of the *kotha*. Sat Pal gave *chhuri* blow on the right side of her (Charanjit) neck. She (Gejo) made an attempt to save Charanjit. Sat Pal threw her aside by giving a push and uttered that if she stepped forward she would also meet the same fate. She (Gejo) raised an alarm of “*bachao bachao*” and when she raised an alarm, Sat Pal dealt 5/6

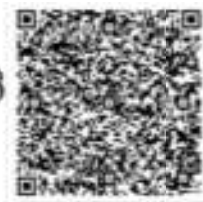


chhuri blows on the body of Charanjit, who was lying. Two blows hit her neck and in the process of warding off the blows, the hand of Charanjit also sustained injury. Her (Gejo) alarm attracted her sister Bhajno, who was residing in the neighbour-hood and Nirmaljit the son of her *taya* (father's elder brother) and bhanja Ravi. Charanjit succumbed to the injuries at the spot. The residents of the *mohalla* gathered at the spot. Accused-Sat Pal out of fear fled away from the spot alongwith the *Chhuri*. She (Gejo) got frightened. The residents of the *mohalla* consoled her. She started proceeding towards the police station alongwith her brother Nirmaljit by leaving her sister-Bhajno and certain residents of the *mohalla* near the dead body where she met the police party which recorded her statement correctly. The motive behind the occurrence was that her sister Charanjit wanted to return to her husband's house, but her brother-Sat Pal felt humiliation on account of her act and due to this reason, he had committed murder of Charanjit. SI Dilpreet Singh made his endorsement Ex.P.W.8/A under the above statement Ex.PA and sent the same to the police station where on its basis a formal FIR Ex.PW-8/B was recorded by Kashmiri Lal ASI.

4. Thereafter, Gejo took Dilpreet Singh SI PW-8 and other police officials to the place of occurrence. The said SI examined the dead body and prepared the inquest report Ex.PJ, the site plan showing the place of occurrence Ex.PW-8/C, picked up the blood-stained earth lying near the dead body and sealed it in a small tin *dabbi* in the shape of a parcel with his

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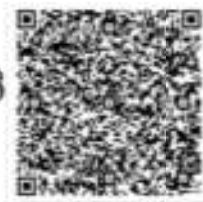
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own seal D.S. took such parcel into possession vide memo Ex.PB, recorded the statement Ex.PC of Nirmaljit and sent the dead body for post-mortem examination after preparing the Inquest report Ex.PJ. The dead body was sent for post-mortem examination through HC Palwinder Singh and Constable Harbans Lal. Meanwhile, Vijay Partap Singh A.S.P. also came at the spot and he verified the investigation.

5. On 08.02.2002, after the post-mortem examination, HC Palwinder Singh produced one shirt Ex.P2, one salwar Ex.P3, one pullover Ex.P4, vest Ex.P5. bra Ex. P6, one shawl Ex.P7 and one pair of socks Ex.P8 and Ex.P9 before Dilpreet Singh SI, who seized the same vide memo Ex.PW-8/D, after converting the same into sealed parcel. Dilpreet Singh SI was informed by some one that accused-Sat Pal, who was wanted in this case, had returned home and then he conducted raid at his house and put him under arrest and prepared memo of his personal search Ex.PW-8/E. On 10.02.2003, on interrogation accused-Sat Pal disclosed to have kept concealed one *chhuri* stained with blood underneath the heap of brick-bats lying in the courtyard of his residential house and offered to get the same recovered. Pursuant to his disclosure statement, Ex.PD he got recovered the *chhuri* Ex.P1. The rough sketch Ex.PE of the same was prepared and taken into possession vide recovery memo Ex.PG after converting the same into a parcel. He also prepared the rough site plan Ex.PW-8/F showing the place of recovery. The dead body was also got photographed, which are Ex.P10 to



Ex.P15 and their negatives are Ex.P16 to Ex.P21, which were seized vide memo EX.PW-8/G. After completion of investigation the accused was challaned.

6. On commitment, the accused was charged under Section 302 IPC to which he did not plead guilty and claimed trial.

7. In order to substantiate the charge against the accused, the prosecution examined Constable Harbans Lal/PW-1, HC Palwinder Singh/PW-2, HC Kishan Lal/PW-3, Gejo/PW-4, Nirmaljit/PW-5, Kuldeep Singh ASI/PW-6, Dr. Sanjiv Hans/PW-7, Dilpreet Singh SI/PW-8, Constable Avtar Singh/PW-9, HC Gurdeep Singh/PW-10, Ram Saran/PW-11, Constable Phulwant Singh/PW-12, Bhajno/PW-13, gave up PWs Vijay Kumar and Mewa Singh, Dharam Pal SI as unnecessary, tendered into evidence report of the Chemical examiner Ex.PX and closed its evidence.

8. On close of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. wherein he denied all the incriminating circumstances appearing in the prosecution evidence and pleaded innocence. The accused further stated in his statement as under:-

“I have been falsely implicated in this case by the complainant in connivance with the police to usurp my 1/7th share in the house owned by my mother”.

9. Based on the evidence led, the accused-appellant/Sat Pal came to be convicted and sentenced by the Court of the Sessions Judge, Ludhiana



vide judgment of conviction and order of sentence dated 02.02.2005 as under:-

Offence U/S	Sentence RI	Fine	RI in default of payment of fine
302 IPC	Imprisonment for Life	Rs.10,000/-	RI 01 year

10. The aforementioned judgment of conviction and order of sentence dated 02.02.2005 passed by the Sessions Judge, Ludhiana is under challenge before this Court.

11. During the pendency of this appeal, the sentence of the accused-appellant, namely, Sat Pal was suspended by this Court vide order dated 10.07.2009.

12. The learned Amicus Curiae for the accused-appellant contends that there is substantial delay in the registration of the FIR. The occurrence took place on 07.02.2002 at 3.00 p.m.. The FIR came to be registered at 5.35 p.m. whereas the said report reached the Magistrate at 12.30 a.m. on 08.02.2002. This delay is totally fatal to the prosecution case and shows that the complainant has not witnessed the occurrence. The entire case of the prosecution is based on the solitary statement of the complainant who is not a reliable witness. Multiple improvements have been made by her in her statement in Court. In fact, she has implicated the accused to grab his 1/7th share in the property. In fact, the deceased had illicit relations with one Babbu, cousin brother of Tara Chand because of which her husband had

committed the offence. The recovery of the weapon of the offence allegedly



at the instance of the accused-appellant cannot be believed. He, thus, contends that the judgment of conviction dated 02.02.2005 was liable to be set aside.

13. The learned counsel for the State, on the other hand, contends that the complainant is a most natural witness, having resided in the house owned by her mother where the occurrence took place. The medical evidence is totally in consonance with the ocular account. There is absolutely no reason for the complainant to have falsely implicated the accused in the murder of their sister-Charanjit Kaur @ Channi. He, thus, contends that there was no merit in the present appeal and the same was liable to be dismissed.

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

15. The statement of the complainant-Gejo was recorded as PW-4. The same is similar to the contents of the FIR and need not be repeated for the sake of brevity.

16. Dr. Sanjiv Hans was examined as PW-7 and deposed as under:-

"On 08.02.2002 at 12.00 p.m., I alongwith Dr. Manjit Bajwa the other member of the board constituted by S.M.O. Incharge Civil Hospital, Ludhiana, had conducted the post mortem on the dead body of Charanjit alias Channi wife of Sh. Tara Chand aged 33 years, resident of 1703, Gali No.3 Mohalla Fatehgarh, Ludhiana. Dead body was identified by Mewa Ram son of Sh. Gurditta Ram and Vijay Kumar son of Sh. Bishan Dass. The



body was brought by HC Palwinder Singh No. 373, P.S. Div. No. 4. Ludhiana.

Dead body of moderately built and moderately nourished female wearing cotton bra, cotton undershirt, shirt, salwar, sweater and nose pin. Eyes and mouth were partially open. Rigour mortis was present and P.M. staining was present on back and dependent parts. Bleeding from both the nostrils was present.

We found the following injuries:-

(1) An elliptical incised wound 2.5cm x .5cm present vertically in the 4th intercostal space 1cm. medial to left nipple. Underlying tissue was cut and heart was punctured.

(2) An elliptical incised wound 3 cm. x 1 cm x 5 cm was present obliquely on right side of base of neck 3 cm above medial end of right clavicle. The underlying tissues were cut along with blood vessels.

(3) An incised wound 2.5 cm x 2 cm x 4 cm on left side of base of neck, 3 cm above medial end of left clavicle. Underlying tissues and blood vessels were all cut and damaged.

(4) An incised wound 3.5 cm x 1.5 cm x 3 cm below angle of mandible on right side of jaw. Underlying tissue was cut and damaged.

(5) An incised wound 3.5 cm x 1 cm x bone deep was present on right side of lower face extending from right side of lower lip up to chin. Underlying mandible bone was cut.

(6) An Incised wound 1.5 cm x .5cm x 3 cm was present on left lateral side of middle of neck. Underlying tissue was cut and damaged.



(7) An incised wound 2 cm x .5 cm x muscle deep was present on dorsum of left wrist in its middle.

(8) An incised wound 5 cm x 1 cm muscle deep was present on dorsum of right hand extending up to inter digital web between right index and middle finger.

On dissection of head and neck

Membranes and brain were pale right internal carotid and left internal carotid were cut through and through corresponding to injuries No 2 and 3 respectively.

On dissection of thorax

Pleural cavity and mediastinum was full of blood. Left lung was perforated and heart was punctured with an incised wound corresponding to injury No. 1.

Liver, spleen and kidneys were pale.

The cause of death in this case in our opinion was due to shock and haemorrhage as a result of multiple stab wounds causing injuries to the heart, major blood vessels and left lung as a result of injuries No. 1, 2 and 3. which were sufficient to cause death in ordinary course of nature.

Injuries were ante mortem.

Probable time that elapsed between injuries and death was immediate and between death and post mortem examination it was within 24 hours.

After post mortem examination, we handed over to the police, stitched dead body after post mortem examination, copy of the P.M.R. original police papers No. 1 to 22 duly signed, clothes etc. (corresponding cuts on the clothes of the deceased were also found).



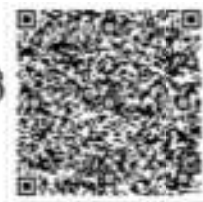
Ex. PH is the carbon copy of the post mortem report and Ex.PH/1 is the carbon copy of the pictorial diagram showing the seats of the injuries on the person of the deceased.

The injuries on the person of deceased would be possible with the blows from the dagger Ex.P1.

We conducted the post mortem on the police request Ex.PK, which was accompanied by inquest report Ex.PJ. The endorsement by the S.M.O. Dr. Harvinder Singh Ex.PK/1 deputing me and Dr. M. S. Bajwa for post mortem has been seen by me and I identify the signatures of Dr. Harvinder singh on the same."

17. It is clear from the medical evidence that injuries on the person of the deceased could be possible with the blows from the dagger Ex.P1 which came to be recovered from the accused. This evidence converges with the ocular account of Gejo/PW-4, who had statedly witnessed the occurrence. The argument that the prosecution case hinges upon the solitary statement of Gejo/PW-4, whose statement being unreliable cannot be the basis of conviction, cannot be accepted. In addition to the ocular account which is in consonance with the medical evidence, there is a recovery of the *chhuri* Ex.P1 at the instance of the accused which was stained with human blood. Therefore, there is sufficient corroboration to the deposition of the complainant.

18. As regard the delay in the registration of the FIR, it would be relevant to note that the occurrence took place on 07.02.2002 at about



3.00 p.m. The FIR came to be recorded at 5.35 p.m., though, the Special Report reached the Magistrate at 12.30 a.m. on 08.02.2002. As regards the making of the statement by the complainant, by no stretch of imagination can it be stated to have been delayed. Though, there is some delay in the receipt of the Special Report by the Magistrate, the said delay is not fatal to the prosecution version in view of the clear and categoric evidence of the complainant regarding the manner in which the occurrence took place alongwith the corroborating evidence of the recovery of a blood-stained knife (*chhuri*) at the instance of the accused.

19. Though, PW-5/Nirmaljit and PW-13/Bhajno have not supported the prosecution case, the same would not cause any dent in the prosecution case in view of the overwhelming evidence on the record.

20. In his statement under Section 313 Cr.P.C., the accused has come up with the plea that he has been falsely implicated in this case by the complainant in connivance with the police to usurp his 1/7th share in the house owned by his mother. In support of this plea he has not adduced any cogent evidence and thus, it has gone unsubstantiated. On the contrary, it is the prosecution case that the house in question was transferred by Bachni Devi, the mother of the complainant-Gejo, deceased-Charanjit Kaur and accused-Sat Pal to the name of the complainant 14 years prior to the occurrence. Therefore, there was no question of the accused claiming any



share in this house making it a part of conflict leading to his false implication.

21. In view of the aforementioned discussion, we find that the offence stands established beyond doubt and therefore, finding no merit in the present appeal, the same stands dismissed. The accused-appellant is directed to surrender before the Jail Authorities concerned forthwith to serve out his remaining sentence.

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

(GURVINDER SINGH GILL)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

07.03.2025
sukhpreet

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