



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

322

1.

CRA-D-294-DB-2005**Date of decision: 06.08.2025**

Gurdeep Singh and another

.....Appellants

Versus

State of Punjab

.....Respondent

2.

CRA-383-DB-2005**Date of decision: 06.08.2025**

Jagrup Singh alias Chhinda

.....Appellant

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL
HON'BLE MR. JUSTICE H.S. GREWAL**

Present : Mr. N.P.S. Mann, Advocate with
Mr. G.S. Sandhu, Advocate and
Mr. Mohit Kumar, Advocate
for the appellants.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The instant Criminal Appeals are directed against the judgement of conviction dated 02.03.2005 and order of sentence dated 03.03.2005 passed by learned Additional Sessions Judge, Moga, whereby appellants, Gurdeep Singh, Gurjant Singh and Jagrup Singh @ Chhinda (hereinafter referred to as 'accused'), were convicted under Section 302 read with Section 34 of the IPC, for causing the death of Chuhar Singh and sentenced accordingly.

2. The case of the prosecution arises from an occurrence that



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took place on the night of 22.06.2002 leading to the death of Chuhar Singh (hereinafter referred to as 'deceased'). The case of the prosecution rests on the allegation that the murder was committed in furtherance of common intention by accused Jagrup Singh @ Chinda, armed with a sword, accused Gurdeep Singh, also armed with a sword, and accused Gurjant Singh, armed with a *dah*.

3. According to the prosecution, on the night of the incident, PW-9 Sukhwinder Singh and PW-10 Harpreet Singh, both sons of the deceased, were on their way to irrigate their agricultural fields by availing the three-phase electricity supply at approximately 9.45 p.m. While passing near Sadhu Singh Puli, they allegedly saw the three accused inflicting injuries on a man lying on the ground, using the weapons they were carrying.

4. Both these eyewitnesses, who were carrying a torch, approached the scene and raised an alarm by shouting "*kee gall hai?*" Upon hearing this, all three accused fled the scene. Upon closer inspection, the victim was identified as their father, Chuhar Singh, who was found bleeding profusely from his face and appeared to have succumbed to the injuries on the spot.

5. The deceased was immediately transported to Civil Hospital, Baghapurana, where he was declared brought dead. PW-9 Sukhwinder Singh then proceeded to report the incident and met PW-11, Sub Inspector Chiranji Lal, to whom he narrated the sequence of events. His statement was recorded and formed the basis of FIR No.137 dated 23.06.2002 registered at Police Station Baghapurana under



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Sections 302/34 of the IPC.

6. Inquest proceedings were conducted by SI Chiranji Lal, and the post-mortem examination was performed by Dr. Rajesh Kumar Puri (PW-5). The post-mortem report (Ex.PE, Ex.PE/1) revealed six incised and contused wounds, primarily located on the face and head. The injuries were deemed sufficient in the ordinary course of nature to cause death. Notably, the left eye of the deceased was missing from the socket, indicating extreme brutality.

7. During the course of investigation, blood-stained soil was collected from the scene of crime. Accused Jagrup Singh was arrested on 01.07.2002, and on 12.07.2002 he made a disclosure statement (Ex.PJ) under Section 27 of the Indian Evidence Act, 1872, leading to the recovery of a sword and its sheath from his house. These were recovered vide recovery memo (Ex.PL).

8. Initially, accused Gurdeep Singh and Gurjant Singh were not arrayed as accused in the chargesheet. However, upon an application under Section 319 of the Cr.P.C., they were summoned to face trial along with accused Jagrup Singh, all were charged under Section 302 read with Section 34 of the IPC.

9. In support of its case, the prosecution examined 11 witnesses, including :

- PW-1 Dr. Arvinder Gill, who sent *ruqa* to the police about the death of the deceased,
- PW-5 Dr. Rajesh Kumar Puri, the doctor who conducted the post-mortem examination,



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- PW-7 Sub-Inspector Kirpal Singh, who witnessed and recorded the recovery of the weapon.
- PW-9 Sukhwinder Singh (complainant) and PW-10 Harpreet Singh, both sons of the deceased and eyewitnesses to the occurrence,
- PW-11 SI Chiranji Lal, the Investigating Officer.

10. The forensic reports (Ex.PT and Ex.PU) confirmed the presence of human blood on the recovered sword, sheath and the soil collected from the scene of crime.

11. In their statements recorded in Section 313 of the Cr.P.C., all three accused denied the allegations and claimed false implication due to prevailing village factionalism. They denied any knowledge of the incident or their presence at the scene of the crime.

12. In their defence, the accused examined DW-1 Sukhdev Singh, an Assistant Engineer with the PSEB, who produced Ex.D1, a log book indicating that the three phase electricity supply ended at 7.30 p.m., thereby disputing the version of the prosecution that PW-9 Sukhwinder Singh and PW-10 Harpreet Singh were headed to irrigate their fields at 9.45 p.m.

13. After appreciating the material on record, the learned Trial Court held that the prosecution had proved beyond reasonable doubt that the three accused, in furtherance of their common intention, committed the murder of deceased. The testimony of the two eyewitnesses, PW-9 Sukhwinder Singh and PW-10 Harpreet Singh, was



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found to be consistent, reliable, and corroborated by both medical and forensic evidence.

14. The learned Trial Court rejected the defence's plea concerning the timing of electricity supply, noting that it was insufficient to discredit the otherwise trustworthy ocular testimony of the eyewitnesses. The absence of independent witnesses and the allegation of bias in the investigation were also found to be inadequate to raise reasonable doubt.

15. Accordingly, the learned Trial Court convicted all three accused under Section 302/34 of the IPC and sentenced them as follows:-

Offence(s) under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
302 read with Section 34 of the IPC	Imprisonment for life	Rs.5,000/-	RI for 01 year

Submissions on Behalf of the Accused-Appellants

16. Learned counsel appearing for the accused-appellants assailed the impugned judgement as legally unsustainable and factually erroneous. The primary thrust of the submissions was that the case of the prosecution was riddled with inconsistencies, improbabilities, and suppressed material, and that the learned Trial Court had failed to appreciate the same in the correct legal perspective. The arguments raised by the learned counsel may be summarised as follows :

(i) The ocular evidence was untrustworthy due to both PW-9 Sukhwinder Singh and PW-10 Harpreet Singh, being highly interested



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witnesses, as they were sons of the deceased. Their testimony, it was argued, could not be relied upon without substantial independent corroboration. Learned counsel submitted that once the two witnesses were related to the deceased, the need for corroboration was all the more necessary.

(ia) Furthermore, it was urged that the prosecution failed to examine any independent witness from the locality, even though the alleged place of occurrence was in an open area accessible to others. This omission, it was argued, cast a cloud on the veracity of the prosecution version.

(ii) Learned counsel further argued that it was implausible to identify the accused in torchlight. It was pointed out that as per PW-9 Sukhwinder Singh and PW-10 Harpreet Singh, they could not recognise their own father while he was being assaulted and identified him only after approaching the injured body. Yet, they claimed to have identified the assailants from a distance with the help of torchlight. This, according to the learned counsel, rendered the identification of the assailants wholly implausible and raised serious doubts about the very presence of the eyewitnesses at the scene. It was, therefore, argued that identification in poor lighting conditions without corroboration was inherently weak and, therefore, the learned Trial Court should have approached the testimonies of both these witnesses with caution, which unfortunately it failed to do.

(iii) Learned counsel further referred to the testimony of DW-1 Sukhdev Singh, who brought on record Ex.D1, the electricity log book



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showing that three-phase power supply had been discontinued at 7.00 p.m. on the date of occurrence. Since the eyewitnesses claimed to have been going to irrigate their fields at 9.45 p.m., the learned counsel argued that their stated purpose was false, and their presence at the place of occurrence was fabricated.

(iv) It was further contended that no clear motive to commit the crime was brought out by the prosecution. The vague suggestion of prior strained relations was neither substantiated nor independently corroborated. It was submitted that in the absence of any motive, it failed to appeal to prudence as to why the three accused would have committed the murder.

(v) Learned counsel further argued that the recovery of weapons allegedly used in the crime was effected nearly 20 days after the incident and the FSL reports were dispatched with considerable delay. The soil samples and the blood-stained weapons were sent to the FSL at significantly different times, which could allow tampering. Moreover, there was no conclusive comparison between the blood on the weapons and that of the deceased.

(vi) It was also vehemently argued that the complainant and his brother PW-10 Harpreet Singh themselves had a motive to eliminate their father due to his questionable character and that the version of the prosecution was concocted to cover up the actual crime. Though no direct evidence was led to support this theory, it was submitted that the burden was on the prosecution to rule out such possibilities beyond reasonable doubt.



(vii) It was finally contended that the learned Trial Court had relied more on conjectures and assumptions rather than strict legal standards of proof. It was urged that the entire impugned judgement was speculative and failed to meet the threshold of “proof beyond reasonable doubt”.

Submissions on Behalf of the State

17. Learned counsel for the State, on the other hand, supporting the judgement of conviction, submitted that the prosecution had succeeded in establishing the guilt of the appellants beyond reasonable doubt by placing on record credible, cogent, and consistent ocular evidence, duly corroborated by medical and forensic testimony. The key submissions made by the learned State counsel are summarised thus :

(i) Learned State counsel pointed out that the presence of PW-9 Sukhwinder Singh and PW-10 Harpreet Singh at the scene of crime was not challenged during their cross examination. On the contrary, the defence elicited from the witnesses that they had seen the incident from a distance of five to six *karams* and had raised an alarm. This, it was argued, constituted an admission of their presence. The FIR as per the learned State counsel was promptly launched by PW-9 Sukhwinder Singh and there was no delay or opportunity to concoct a false story.

(ii) It was also submitted by the learned State counsel that the testimony of the two eyewitnesses was consistent, natural, and bore the hallmark of truth. Their inability to initially recognise the victim in a panic situation could not be held against them, particularly when they



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subsequently identified both the accused and their father without any contradiction. It was argued that even related witnesses can form the foundation for conviction if their testimony is otherwise trustworthy and natural.

(iii) Learned State counsel while referring to the medical evidence on record contended that it revealed that deceased sustained grievous and fatal injuries to the face and head, including loss of an eye and fractured skull bones. The injuries were consistent with the use of sharp-edged weapons like a sword and a *dah*. Further, the post-mortem report confirmed that the injuries were sufficient in the ordinary course of nature to cause death. It was argued that once the medical evidence corroborated the eyewitness testimony, it reinforced the prosecution case and could be safely relied upon to sustain conviction.

(iv) It was also argued by the learned State counsel that the recovery of the weapon of offence from accused Jagrup Singh pursuant to his disclosure statement was admissible and properly proved through the testimony of independent witnesses. The blood stains on the weapon and soil samples were found to contain human blood. The delay, if any, in sending the samples to the FSL, it was argued, was not sufficient to discredit the evidence, in the absence of any proof of tampering or prejudice.

(v) Learned State counsel also argued that the theory as projected during the course of arguments before this Court that the complainant and his brother killed their own father was neither pleaded during trial nor put to the witnesses in cross-examination. It was raised



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for the first time in appeal and was devoid of any factual or legal basis.

(vi) It was lastly asserted by the learned State counsel that where there is direct evidence of eyewitnesses, motive becomes secondary. In any case, he asserted that relations between the parties were a little strained, which could sufficiently explain the motive.

Findings of the Court

18. Having heard learned counsel for the parties and meticulously examined the evidence and other material on record, we are of the considered view that the prosecution has succeeded in proving its case beyond reasonable doubt, and that the impugned judgment of conviction passed by the learned Trial Court is sound, reasoned, and based on a thorough appraisal of the evidence.

19. The eyewitness account comes across as consistent, credible, and natural. The testimony of PW-9 Sukhwinder Singh and PW-10 Harpreet Singh, both sons of the deceased is free from material contradictions. Their presence at the scene of occurrence has not been effectively challenged during trial. While they are related to the deceased, their testimony is not to be discarded solely on that ground. Related witnesses can also be the most natural witnesses in case of murder, and their testimony must be evaluated on merit.

20. In the instant case, both witnesses immediately took their father to the hospital and got the FIR registered without delay. Their testimony comes across as spontaneous and detailed, leaving no doubt about the authenticity of their version. It needs to be emphasized once their presence stands established and has not been challenged during



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cross examination, the possibility of any embellishment or fabrication deserves to be rejected in view of the prompt removal of the deceased to the hospital and thereafter the registration of the FIR.

21. Non-challenge to the presence of the eyewitnesses in cross-examination amounts to an acceptance of their presence and renders their testimony credible.

22. The injuries recorded in the post-mortem report (Ex.PE, Ex.PE/1) fully corroborate the ocular version. The lacerated brain, fractured facial bones, and incised wounds are consistent with the targeted assault with sharp-edged weapons. The recovery of the sword and sheath, and the FSL report confirming human blood on them, further support the case of the prosecution.

23. Coming next to the alleged discrepancy with respect to the electricity supply, it is of no relevance. The defence attempted to challenge the presence of the eyewitnesses by citing electricity log book showing dis-continuation of three-phase power at 7.00 p.m. However, this alone cannot rebut the positive, consistent, and direct testimony of PW-9 Sukhwinder Singh and PW-10 Harpreet Singh. Minor discrepancies or technicalities do not vitiate and otherwise credible and coherent case of the prosecution.

24. Further, the recovery of the sword from the house of accused Jagrup Singh was also proved in accordance with law under Section 27 of the Indian Evidence Act, 1872. The delay in dispatching the samples to the FSL has not been shown to have caused prejudice or led to tampering. Procedural delays as the one emphasized upon, do not



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necessarily cast doubt unless *malafides* or manipulation is demonstrated.

25. The argument raised about the complainant and his brother PW-10 being the actual murderers of their father, is utterly speculative and not supported by any evidence. More importantly, no such suggestion was made during trial, and the argument raised for the first time in appeal, therefore, stands rejected. The burden lies on the accused to establish such an alternative defence, which must be credible and raised in time.

26. Though no clear cut compelling motive was brought forth by the prosecution, that alone is not sufficient to discredit a case based on trustworthy ocular evidence. The presence of motive, while helpful, is not indispensable where there is cogent direct evidence.

27. Even related witnesses can form the foundation for conviction if their testimony is otherwise trustworthy and natural.

28. In view of the foregoing discussion, we find no ground to interfere with the impugned judgment. Consequently, the both the appeals are hereby dismissed.

(MANJARI NEHRU KAUL)
JUDGE

(H.S. GREWAL)
JUDGE

06.08.2025

Vinay

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