



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

302

(1) CRA-D-4-DB-2005

SUBEG SINGH AND ANOTHER

.... Appellants

Versus

STATE OF HARYANA

...Respondent

(2) CRA-D-312-DBA-2006

SATNAM SINGH

... Appellant

Versus

JASMAIL SINGH

...Respondent

Date of decision: July 28, 2025

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

Present: Mrs. G.K. Mann, Senior Advocate, with
Mr. Anmol Jeevan Gill, Advocate,
for the appellants (in CRA-D-4-DB-2005).

Ms. Baani Chhibber Mahajan, Advocate for
Mr. Prateek Mahajan, Advocate,
for the appellant in CRA-D-312-DBA-2006 and
for the complainant (in CRA-D-4-DB-2005).

Mr. Amit Rana, Senior DAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The appellants, in both the appeals, detailed hereinabove, are assailing the order and judgment of conviction dated 16.12.2004 passed by learned Additional Sessions Judge, Amritsar, in case FIR No.283 dated 19.12.2002, under Sections 302, 307, 326, 325, 324, 323, 148, 149 of IPC and Sections 25, 27 of Arms Act, Police Station Ajnala.



2. Since both these appeals have arisen out of the same FIR, they are being taken up together for disposal by this common order.

3. CRA-D-4-DB-2005 has been preferred by the appellants-accused against their conviction, whereas CRA-D-312-DBA-2006 has been filed by the appellant (son of complainant Gurbax Singh) against the acquittal of accused Jasmail Singh.

4. The case of the prosecution succinctly stated, is that on 19.12.2002 at about 02:00 PM, when PW3-Gurbax Singh was returning to his Haveli for lunch, his maternal grandson informed him of an earlier incident involving accused Amandeep Singh son of Baldev Singh, who had allegedly urinated while facing him. Upon objection by the grandson, a verbal altercation ensued, following which, accused Amandeep Singh returned to his residence.

5. Shortly thereafter, a group of individuals emerged from the direction of the residences of accused Subeg Singh and Amandeep Singh. This group comprised the following:

- i) Accused **Subeg Singh** (armed with a DBBL Gun)
- ii) Accused **Jagbir Singh @ Monu** son of Subeg Singh
(armed with a 12 DBBL Gun;
- iii) Accused **Jaswinder Singh @ Jass** son of Amar Singh
(armed with a *kirpan*);
- iv) Accused **Gurmukh Singh** son of Amar Singh (armed
with *dang*;



- v) Accused **Jagjit Singh @ Kannu** son of Santokh Singh (armed with *kirpan*);
- vi) Accused **Amandeep Singh** son of Baldev Singh (armed with *dang*);
- vii) Accused **Jasmail Singh** son of Jagir Singh (armed with *dang*);
- viii) Accused **Pappu** (armed with *dang*).

6. Accused Amandeep Singh allegedly exhorted his associates, declaring that Harinder Singh had dared to object to him and should not be therefore spared. In pursuance of this exhortation, accused Subeg Singh opened fire from his DBBL Gun, causing gunshot injuries to Harinder Singh on his legs. On hearing his cries, Amrik Singh and Mohan Singh, both relatives, visiting from Muradabad (UP), came out to help. As they reached the main gate, accused Subeg Singh fired two more shots, injuring Amrik Singh (hereinafter referred to as 'deceased') in the upper left arm.

7. Subsequently, accused Jaswinder Singh @ Jass inflicted a *kirpan* blow on the right leg of Gurbax Singh, while accused Jagjit Singh @ Kannu struck him on the left leg. Accused Gurmukh Singh inflicted two *dang* blows on his right upper arm and left elbow. Accused Jasmail Singh and Pappu raised *lalkaras*, urging others not to spare Harinder Singh, Gurbax Singh and others. During this commotion, accused Amandeep Singh delivered two *dang* blows on Harinder Singh's scapula and upper arm. Accused Monu also fired a shot striking Gurbax Singh in the back.



Satnam Singh son of Gurbax Singh, arrived at the scene upon hearing the commotion, at which point, the assailants fled.

8. The injured were transported to Guru Nanak Dev Hospital, Amritsar, where Amrik Singh was declared dead and the others were referred to S.G.T.B. Hospital, Amritsar. Based on the statement of Gurbax Singh, an FIR (Ex.PF/2) was registered under Sections 302, 307, 452, 323, 324, 148, 149 of IPC and Section 25 of Arms Act. Subsequently, Sections 326 and 325 of IPC were also added based on medical opinion.

9. After registration of the FIR, the police carried out investigation; the post-mortem report (Ex.PA, PA/2) of Amrik Singh (hereinafter referred to as 'the deceased') confirmed death due to firearm injuries and perforation of heart. The medico legal reports of all the injured were collected by the police. Recovery of blood stained earth (Ex.PV), seven spent cartridges of 12 bore and sealed items bearing the seal impression 'YR' were collected, vide memo Ex.PW. Further, the clothes of the deceased and the weapon of offence including *kirpans* and *dandas* were also recovered by the police and converted into parcels vide memo Ex.PZ, Ex. PBB/1. The recovered firearms of accused Subeg Singh and Jagbir Singh @ Monu were sent to the Forensic Science Laboratory at Chandigarh.

10. The FSL reports (Exs.PFF, PGG, PHH, PJJ) confirmed that the empty cartridges recovered from the scene of crime matched the firearm of accused Subeg Singh, and since it was alleged that the complainant PW3-



Gurbax Singh had also fired, his firearm was also seized and sent for examination to FSL.

11. Upon completion of investigation, charges were framed, to which, the accused claimed not guilty and opted to stand trial. One of the accused being a juvenile was tried separately.

12. In support of its case, the prosecution examined PW1-Dr. Ashok Chanana (who conducted the post-mortem on the dead body of deceased); PW2-Dr. Vijay Arora, who medico legally examined injured PW5-Harinder Pal Singh and PW3-Gurbax Singh; PW3-Gurbax Singh (injured witness and complainant); PW4-Mohan Singh; PW5-Harinder Pal Singh son of Gulzar Singh; PW6-Sukhwinder Singh, Arms Clerk, DM's office, Amritsar; PW7-Ct. Manjit Singh, who proved his affidavit Ex.PF; PW8-Ct. Nagwinder Singh; PW9-Rishi Ram, Draftsman, who prepared the scaled site plan of the occurrence at the instance of PW3-Gurbax Singh and proved the scaled site plan (Ex.PH); PW10-Harcharan Singh, who proved affidavit Ex.PJ; PW11-Dr. Indu Bala, Resident Medical Officer, who conducted the x-ray examination on the injuries of the injured witnesses and proved her report (Exs.PK, PL and PL/1); PW12-HC Harpal Singh, who proved his affidavit Ex.PM; PW-13-Ct. Bhupinder Singh, who proved his affidavit Ex.PN; PW14-SI Azad Devinder Singh (Investigating Officer); PW15-SI Yogi Raj, who recorded the statement of complainant PW3-Gurbax Singh, on the basis of which, the FIR (Ex.PF/2) was recorded; PW16-Rajesh Kumar, Ahlmad, Court of ACJ (Sr. Divn.), Ajnala, who



proved on record the record of Civil Suit No.433, dated 25.11.2002 titled as *Gurbax Singh Versus Subeg Singh etc.* Thereafter, the Public Prosecutor for the State tendered into evidence the report of FSL (Exs.PFF, PGG, PHH, PJJ respectively), and closed the evidence of the prosecution.

13. All the incriminating material/evidence appearing against the accused was put to them under Section 313 Cr.P.C., to which they claimed false implication. Accused Subeg Singh, in particular asserted that he had been attacked first and fired in self-defence using his licensed gun. The other accused similarly denied involvement, attributing the allegations to a longstanding civil dispute over a boundary wall, pending before the Civil Court, Ajnala, scheduled for hearing on 20.12.2002.

14. In defence, the accused examined two witnesses, DW1-Sukhdev Singh, and DW2-DSP Manmohan Singh. After that the accused closed the defence evidence.

15. The learned Trial Court, vide impugned judgment and order, convicted the appellants-accused based on the following findings:-

- (i) The accused persons constituted an unlawful assembly with a common object to attack the complainant side;
- (ii) The injuries suffered by deceased-Amrik Singh, injured Harinder Singh and Mohan Singh were consistent with the version of the prosecution;
- (iii) The recovery of weapons of offence and the FSL reports corroborated the use of firearms during the incident;



- (iv) The plea of private defence was rejected, as no injuries were found on any of the accused;
- (v) The delay in lodging the FIR was justified, as priority was given to shifting the injured to the hospital at the earliest.

16. Accordingly, the Trial Court convicted the appellants, and sentenced them as follows:-

Sr. No.	Name of the accused	Section-IPC	RI	Fine	In default
1.	Subeg Singh	148	One year	-	-
		302	Life	Rs.2000	6 months
		307	5 years	Rs.1000	3 months
		307/149	5 years	Rs.1000	3 months
		326/149	3 years	Rs.500	1 month
		323/149	3 months		
		323/149	3 months		
2.	Jaswinder Singh	148	One year	-	-
		302/149	Life	Rs.2000	6 months
		307/149	5 years	Rs.1000	3 months
		307/149	5 years	Rs.1000	3 months
		326/149	3 years	Rs.500	1 month
		323	3 months		
		323/149	3 months		
3.	Amandeep Singh	148	One year	-	-
		302/149	Life	Rs.2000	6 months
		307/149	5 years	Rs.1000	3 months
		307/149	5 years	Rs.1000	3 months
		326/149	3 years	Rs.500	1 month
		323/149	3 months		
		323	3 months		
4.	Jagjit Singh @ Kannu	148	One year	-	-
		302/149	Life	Rs.2000	6 months
		307/149	5 years	Rs.1000	3 months
		307/149	5 years	Rs.1000	3 months
		326	3 years	Rs.500	1 month
		323/149	3 months		



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5.	Jagbir Singh @ Monu	148	One year		
		302/149	Life	Rs.2000	6 months
		307/149	5 years	Rs.2000	3 months
		307	5 years	Rs.1000	3 months
		326/149	3 years	Rs.500	1 month
		323/149	3 months		
		323/149	3 months		
6.	Gurmukh Singh	148	One year		
		302/149	Life	Rs.2000	6 months
		307/149	5 years	Rs.1000	3 months
		307/149	5 years	Rs.1000	3 months
		326/149	3 years	Rs.500	1 month
		323/149	3 months		
		323/149	3 months		

17. The learned trial Court, however, acquitted accused Jasmail Singh on the ground that no overt act had been attributed to him in the FIR as well as by any of the witnesses during trial, except that his presence had been shown at the time of the alleged occurrence and he had purportedly raised a *lalkara*.

SUBMISSIONS ON BEHALF OF THE APPELLANTS

18. Learned Senior counsel appearing on behalf of the appellants has assailed the impugned judgment of conviction as being factually flawed, legally unsustainable, and premised on a selective and erroneous appreciation of the evidence on record. The arguments raised on behalf of the appellants by the learned Senior counsel may be summarized as under: -

(I) **Genesis of the incident and civil dispute:**

(a) It has been submitted that the entire incident did not arise out of any premeditated or concerted act on the part of the appellants but emerged spontaneously from a trivial and sudden altercation. The



background of the case was a civil dispute pending between the complainant PW3-Gurbax Singh and appellant-Subeg Singh, with the hearing scheduled for 20.12.2002. On the day preceding the hearing i.e. 19.12.2002, the complainant, allegedly seeking to assert dominance, brought outsiders from the State of U.P. namely Amrik Singh (deceased) and PW4-Mohan Singh, to confront Subeg Singh. This act of provocation, it is urged, was a direct trigger for the ensuing confrontation.

(II) ***Incident sparked by complainant party – Cross-firing and Self-defence:***

(a) Learned Senior counsel further emphatically submitted that the complaint party was the aggressor, having initiated an attack on appellant Subeg Singh, who was returning from his fields. In the face of such aggression, Subeg Singh in a bid to protect himself and his family, ran to his house, but was followed and surrounded by the armed complainant party. Faced with an imminent and armed assault, appellant Subeg Singh fired a single shot from his licensed 12-bore firearm in self-defence, which incidently struck deceased Amrik Singh and resulted in his death.

(b) Learned Senior counsel also argued that the seizure of a firearm from the complainant PW3-Gurbax Singh and the corresponding FSL Report, conclusively proved that the complainant side also had opened fire confirming a case of cross-firing. The injuries sustained by PW4-Mohan Singh are consistent with being within the blast radius of appellant Subeg Singh's firearm during a single discharge, and not indicative of



multiple shots fired by multiple accused. Furthermore, the nature and seat of injuries on PW5-Harinder Pal Singh were opined by the doctor to be possibly caused by a fall and others were simple in nature, further diluting the narrative of the prosecution of a coordinated armed assault by the accused party.

(III) *Falsity of allegations against co-accused/appellants Gurmukh Singh, Jagjit Singh @ Monu and Amandeep Singh – Absence of Common Object:*

(a) It was contended that the conviction under Section 302 read with Section 149 IPC is wholly unsustainable as there is no conclusive evidence to establish that these appellants shared any common object to commit murder. In fact, the lack of any specific overt act attributed to most of the appellants, barring appellant Subeg Singh, belied the attempts by the prosecution to invoke the principles of vicarious liability under Section 149 IPC. The deceased Amrik Singh had no prior enmity with the appellants and was merely accompanying the complainants. The mere presence of the other appellants at the scene of crime, particularly Gurmukh Singh, Jaswinder Singh, Amandeep Singh and Jagjit Singh, could not be construed as participation in a common unlawful object to murder.

(b) Learned Senior counsel also referred to the site plan (Ex.PH), which showed that except for appellant Subeg Singh and his son Jagbir Singh @ Monu, the rest of the appellants were standing outside the house, and there was no evidence of them having entered or committed any



assault. It was also highlighted that during investigation, similarly situated certain persons, including appellant Jagbir Singh @ Monu, Gurmukh Singh, and others were found innocent and placed in column No. 2 of the final report under Section 173 Cr.PC. Their subsequent implication during trial, as per the Learned Senior counsel, was, thus, clearly tainted by falsehood and mala fides.

(c) Learned Senior counsel for the appellants vehemently contended that the Hon'ble Supreme Court in a catena of judgments has observed that the criminal liability attributed to the accused persons in furtherance of a common object can be inferred from the mode and manner of attack and the weapons employed by each of the accused/assailants. In the present case, appellants namely Jaswinder Singh @ Jass, Amandeep Singh, Jagjit Singh and Gurmukh Singh were not present at the principle scene of occurrence, which demonstrates that there was in fact no common object to commit murder of deceased Amrik Singh. In support of the submissions made by the learned Senior counsel, reliance has also been placed upon ***Raju @ Rajendra and another Vs. State of Rajasthan, 2013(2) SCC 233***, wherein the following observations were made: -

“12. From the evidence of PW-2 Avtar Singh (son of deceased) as well as PW- 4 Ram Niwas (declared hostile) it transpires that the deceased and the party of the accused had a dispute over land and, in fact, some of the accused had made attempts to encroach upon land belonging to the deceased. All the three eyewitnesses, namely, PW-1, PW-13 and PW-19, as



already noticed, had unequivocally and categorically stated in Court that the six accused persons had come together to the field of deceased Mukhtyar Singh armed with dangerous weapons including fire arms. If this is the manner in which the accused persons had come to the spot it cannot be said that the accused had not formed an unlawful assembly within the meaning of the said expression as appearing in section 141 of the Indian Penal Code. While membership of an unlawful assembly itself is an offence under section 143 IPC, use of force by members of the unlawful assembly gives rise to the offence of rioting which is punishable either under section 147 or section 148 IPC. Membership of the 4 accused in the unlawful assembly and use of force with dangerous weapons is borne out by the evidence on record. The said facts would make the acquitted accused liable for the offence under Section 148 of the Indian Penal Code. However, their liability under any other provision of the IPC would depend on what can reasonably be understood to be the common object of the assembly in the present case.”

In *Vijay Pandurang Thakre and others Vs. State of Maharashtra, 2017(4) SCC 377* also, the Hon’ble Supreme Court held as under:-

“15. In the facts of the present case, we find that common object of the assembly, even if it is presumed that there was an unlawful assembly, has not been proved. The expression 'in prosecution of the common object occurring in this Section postulates that the act must be one which have been done with a view to accomplish the common object attributed to the members of the unlawful assembly. This expression is to be



strictly construed as equivalent to in order to attain common object. It must be immediately connected with common object by virtue of nature of object. In the instant case, even the evidence is not laid on this aspect. As pointed out above, the courts below were influenced by the fact that one of the injuries on the person of Ashok was on his head which became the cause of death and from this, common object is inferred.”

(IV) **Contradiction between Ocular and Medical Evidence**

(a) It was also submitted that the ocular testimony of the prosecution witnesses did not even align with the medical evidence on record. While the FIR and the depositions of the witnesses claimed that appellant Jagbir Singh @ Monu fired at PW3-Gurbax Singh and PW4-Mohan Singh, the MLR of PW3-Gurbax Singh (Ex.PC) and the evidence of PW2 Dr.Vijay Arora categorically established that none of the injuries on PW3-Gurbax Singh were caused by firearms. Similarly, the firearm injuries on PW4-Mohan Singh were simple and non-fatal and inconsistent with a direct shot from close range. The learned Senior counsel also asserted that as per the prosecution itself, PW4-Mohan Singh was standing behind the deceased when appellant Subeg Singh fired, thereby supporting the plea of the defence that PW4-Mohan Singh was merely struck by stray pellets from a single discharge.

(b) It was further submitted that the injury attributed to appellant Jaswinder Singh on the right leg of PW3-Gurbax Singh was alleged to have been caused by a kirpan, yet medical evidence confirmed that the wound was a lacerated injury caused by a blunt object, and not a sharp-edged



weapon. Such contradictions between ocular testimony and medical findings went to the root of the case of the prosecution and therefore, severely impaired its credibility. Reliance was also placed on ***Hallu And Others vs State Of Madhya Pradesh, (1974) 4 SCC 300*** and ***Santa Singh V State of Punjab, 1991(2) RCR (Crl) 113***, where it was held that where medical and ocular evidence are irreconcilably inconsistent, the prosecution case must fail.

(V) **Recovery Vitiating – Procedural Lapses**

With regard to the recovery of the sword from appellant Jagjit Singh, it was argued that the same was inadmissible in evidence, having being vitiated by non-compliance with Sections 24 and 27 of the Indian Evidence Act. No disclosure statement was recorded; the recovery memo (EX.PBB/1) did not bear the signature of the appellant and the recovery was witnessed by Gurdial Singh, a relative of the complainant, ASI Harjit Singh and Investigating Officer Yogi Raj, none of whom were even examined as prosecution witnesses. Learned counsel, therefore, argued that the failure to examine these material witnesses rendered the recovery highly suspect, warranting exclusion from consideration. Learned Senior counsel placed reliance upon ***Bhimppa Jinnappa Naganur V State of Karnataka, 1993 SCC (Cri.) 1053***, wherein the Supreme Court reiterated that the recovery unsupported by independent testimony is devoid of evidentiary value.



(VI) **Delay in lodging FIR – Indicative of Afterthought**

The learned Senior counsel also emphasized upon the delay of nearly eight hours, in lodging the FIR, though the incident took place at about 2:00 pm, and the FIR was registered at about 9:05 p.m. on 19.12.2002, which remained unexplained, and clearly suggestive of deliberate embellishment. She submitted that no satisfactory explanation was offered by the prosecution for this delay, which undermined the spontaneity and veracity of the allegations made in the FIR.

(VI) **Absence of injuries on accused - Not fatal to self defence**

Learned Senior counsel still further argued the absence of injuries on the accused could not be a determinative factor to discredit the plea of self-defence, especially in a case where the incident arose out of a sudden and mutual altercation. She asserted that the plea of self defence was supported by the sequence of events, site plan, and ballistic evidence, and did not require the accused to have sustained injuries to prove that the firing was in response to imminent threat.

(VII) **Alternative submission under Section 304 IPC**

In the alternative, learned Senior counsel submitted that even assuming *arguendo*, that appellant Subeg Singh's act of firing exceeded the bounds of private defence, the case would, at best, fall under Section 304 Part I or Part II IPC, and not under Section 302 IPC, as there was no intent to kill, and the act was committed in the heat of passion, upon grave and sudden provocation. The absence of premeditation, the existence of civil



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dispute, the sudden nature of the incident, and the fact that only one shot was fired from appellant Subeg Singh's licensed firearm are significant factors warranting the invocation of Exception 2 to Section 300 IPC.

SUBMISSIONS ON BEHALF OF THE STATE-RESPONDENT

19. Learned State counsel assisted by learned counsel for the complainant vigorously supported the findings by the learned trial Court and contended that the impugned judgment warranted no interference. The conviction of the accused-appellants, as per the learned State counsel, was founded on a legally sound analysis, and reliable and trustworthy evidence, both ocular and scientific. The following submissions were advanced on behalf of the learned State counsel: -

(A) ***Credibility and Presence of Injured Witnesses***

Learned State counsel argued that there were cogent, consistent and corroborated testimonies of three injured witnesses – namely PW3-Gurbax Singh (complainant), PW4-Mohan Singh and PW5- Harinder Singh – whose presence at the scene was therefore incontrovertible.

The very fact that these witnesses sustained injuries during the incident made their presence natural and unimpeachable, and therefore, their evidence carried a higher degree of credibility. It was argued that these witnesses had given mutually corroborative account of the sequence of events, identifying each of the accused with clarity and attributing specific roles to several of them, including exhortation, active assault and use of firearms. Their testimony, read in totality, revealed a coordinated and violent assault upon the complainant party by the accused persons.



(B) **Medical and Ballistic Evidence Supports Ocular Testimony**

It was further submitted that the medical and forensic evidence on record fully supported and reinforced the version of the prosecution. The post-mortem report of deceased Amrik Singh confirmed that the fatal injuries were caused by discharge from a firearm and were sufficient in the ordinary course of nature to cause death. The ballistic examination conducted by the FSL matched the spent cartridges recovered from the scene with a licensed 12-bore firearm belonging to appellant Subeg Singh, proving beyond doubt that the shot which caused the death of Amrik Singh was fired by appellant Subeg Singh. The injuries on the other prosecution witnesses had been medically examined and were consistent with the weapons attributed to the assailants by the eyewitnesses. There was, therefore, complete convergence between ocular and medical/ballistic evidence, leaving no room for doubt.

(C) **Unlawful Assembly and Common Object – Attracts Section**

149 IPC

Learned State counsel vehemently disputed the contention of the counsel opposite that the incident was a spontaneous act or that there was no common object. On the contrary, it was submitted that all the accused persons came armed with deadly weapons including guns, swords and sticks, and launched a deliberate, collective assault upon the complainant party. Accused Amandeep Singh is specifically alleged to have



exhorted the others not to spare anyone, which indicated preconcert and shared intent. Such conduct, as per the learned State counsel, clearly brought the case within the ambit of Section 149 IPC, as the unlawful assembly had a definite common object to commit murder and cause grievous hurt. The manner in which the attack was launched, the nature of the weapons carried and the fatal outcome left no doubt that the assault was not accidental or isolated but premeditated and collectively executed.

(D) **Delay in lodging FIR – Explained and Justified**

Learned State counsel also offered a reasonable and satisfactory explanation for the alleged delay in lodging the FIR. It was contended that the occurrence took place at about 2 p.m., and the FIR was registered after 8 hours around 10 p.m. on the same evening. It was submitted that the priority of the complainant party was to seek immediate medical treatment for the injured and arrange for the shifting of Amrik Singh, who had sustained fatal injuries. It was further argued that in rural areas, logistical difficulties in securing transport and medical aid does often account for such a delay, which was neither inordinate nor indicative of afterthought. Importantly, the entire incident was narrated in detail in the FIR and there was no material discrepancy between the FIR version and subsequent depositions during trial by the prosecution witnesses. It was, therefore, submitted that the delay, in the present case, was duly explained and not fatal to the case of the prosecution.



(E) ***Plea of Private Defence – Rightly Rejected***

Learned State counsel further submitted that the plea of private defence raised by the accused had been rightly rejected by the learned trial Court and was entirely unsubstantiated. It was pointed out that not a single injury was found on any of the accused persons, which completely belied the plea of self-defence. It was argued that the plea of private defence under Sections 96-106 IPC cannot be sustained in the absence of any credible evidence showing imminent threat, or unlawful aggression from the complainant side. On the contrary, the complainant side suffered multiple and serious injuries, including a firearm death, whereas the accused side emerged unscathed. Such a one-sided injury pattern demolished the theory of mutual altercation or provocation and strongly suggested that it was the accused who were the initial aggressors. Furthermore, the learned State counsel submitted that the site plans and eyewitness accounts established that the occurrence occurred in close proximity of the house of the complainant, not at or near the residence of appellant Subeg Singh, as falsely alleged, thereby discrediting the version of the accused that they were attacked and fired in self-defence.

(F) ***Presumption of innocence- Rebutted by directed evidence***

It was lastly argued by the learned State counsel that the plea of false implication of the appellants and their innocence was wholly without merit in the face of direct/reliable, corroborated evidence. Merely because some co-accused were placed in column No.2 during investigation,



did not vitiate the case of the prosecution against the remaining accused, whose active participation in the offence had been established beyond reasonable doubt through injured eyewitnesses, medical evidence and scientific corroboration. The presence of motive (a land dispute), prior animosity, and the use of deadly weapons collectively strengthened the case of the prosecution. Even as per the case of the prosecution, appellant Gurmukh Singh (brother of the complainant) was not found present at the scene of the occurrence, during the inquiry conducted by the DSP Manmohan Singh (DW2), and hence, no injury, much less motive, could not be attributed to him to commit the crime in question.

FINDINGS OF THIS COURT

20. We have heard learned counsel for the parties and perused the evidence on record.

21. The conviction of the accused persons particularly accused Subeg Singh, Jagjit Singh @ Monu, is based on consistent, cogent and corroborated testimonies of injured eyewitnesses, PW2-Harinder Singh, PW3-Gurbax Singh and PW4-Mohan Singh. These witnesses were present at the scene of occurrence and suffered injuries themselves, thereby reinforcing the authenticity of their accounts. Their versions were coherent, detailed, and they remained steadfast during their cross-examination.

22. The medical evidence and ballistic reports lend further support to the ocular version. The post-mortem report of deceased Amrik Singh clearly attributes the cause of death to firearm injury, which was sufficient



in ordinary course of nature to cause death. The FSL analysis confirmed that the spent cartridge recovered at the site matched the licensed 12-bore gun of appellant Subeg Singh, thereby forensically also linking him to the fatal shot.

23. Similarly, the injuries sustained by PW3-Gurbax Singh and PW4-Mohan Singh, though not fatal, are consistent with the use of a firearm, and are attributed to appellant Jagbir Singh @ Monu. The ocular account, to the extent implicates these two accused-appellants, is fully corroborated by medical and forensic evidence.

24. The claim of self-defence made by the accused particularly appellant Subeg Singh was examined by us in depth and we find the same to be untenable. Not a single injury was received on any of the accused making the plea implausible, especially considering the grievous injuries suffered by the complainant side. The claim that cross-firing took place is not supported by any evidence – while PW3 Gurbax Singh's weapon was recovered and sent for examination, there was no proof of it being used or causing any injury.

25. The legal parameters for a valid claim of private defence – such as imminent threat, proportionality of response and the absence of premeditation – were clearly not met. The act of discharging a firearm resulting in fatal injury, especially in the absence of any threat or bodily harm to the accused cannot be cloaked in the garb of self-defence. The



learned trial Court, therefore, rightly rejected the plea as an afterthought, unsupported by either oral or documentary evidence.

26. The learned Senior counsel for the appellants strenuously argued *qua* the delay of 8 hours in lodging the FIR. However, this 8 hours' delay stands satisfactorily explained. The immediate priority of the complainant party was to attend to the critically injured victims and shift them from Guru Nanak Dev Hospital, Amritsar to SGTB Hospital. The FIR, lodged later in the evening, is not suggestive of any fabrication or embellishment, particularly in light of consistent narratives by the eyewitnesses and medically corroborated injuries.

27. Now, we proceed to re-examine the conviction of appellants Jaswinder Singh @ Jass, Amandeep Singh, Jagjit Singh and Gurmukh Singh. Their convictions under Section 302 and 307 IPC with the aid of Section 49 IPC, besides certain lesser offences, require careful scrutiny. The case of the aforementioned four appellants, who are not alleged to have fired gunshots or caused any fatal injury, stands on a distinct footing from that of co-appellants Subeg Singh and Jagbir Singh @ Monu, against whom the allegations of firing and causing gunshot injuries are directly pressed.

28. Upon a close re-appraisal of the evidence, the following position emerges *qua* these four appellants namely Jaswinder Singh @ Jass, Amandeep Singh, Jagjit Singh and Gurmukh Singh: -



- The roles attributed to them are confined to their presence in an unlawful assembly, carrying sticks or swords, raising *lalkaras*, and allegedly causing simple blows;
- No firearm use is attributed to them;
- No fatal or grievous injury is proved to have been caused by them;
- The site plan (Ex.PH) is of utmost significance. It places appellant Subeg Singh at Mark '*F*', which is the precise locus of the fatal gunfire, whereas these remaining appellants are shown at Mark '*H*', situated inside Subeg Singh's house, which is in close vicinity to the house of the complainant. This spatial distance from the epicentre of the murderous assault accords with the ocular testimony that the gunfire emanated from near Mark '*F*'.

29. It is not in dispute that these appellants were not in the immediate vicinity of the place where the fatal injuries were caused. Rather, they were separated by the wall of the house of the complainant and were positioned at a distance. Such circumstances render doubtful the attribution of either intention or knowledge on their part to commit murder or attempt to murder.

30. The medical evidence also lends no support to the allegation of active, much less homicidal participation by these four appellants. No grievous or life-threatening injuries are linked to them except to appellant



Jagjit Singh, who inflicted the said grievous injury on the left leg of the complainant.

31. The injuries against these appellants are simple in nature, nor is any injury inflicted by a firearm, thereby necessitating identifying them individually as the authors thereof.

32. Furthermore, the record discloses no prior enmity or motive involving these four appellants, nor is there any material to indicate that they shared any plan or knowledge that a murder would be carried out.

33. Section 149 IPC postulates constructive liability in two distinct situations:-

- Firstly, where an offence is committed in prosecution of the common object of the unlawful assembly; and
- Secondly, where the members knew that such offence was likely to be committed in prosecution of that object.

34. The Hon'ble Supreme Court in ***Raju @ Rajendra and another (supra)*** and ***Vijay Pandurang Thakre and others (supra)*** has laid down that mere membership of an unlawful assembly is not, by itself, sufficient to attract liability for murder, unless either of the two limbs of Section 149 IPC is satisfied.

35. For the first limb to apply, the common object itself must comprehend the offence actually committed. Where the object of the assembly is confined to intimidation or causing of simple hurt, a unilateral



homicidal act by another member cannot be said to be in prosecution of that object.

36. For the second limb, the element of '*knowledge*' must rest on concrete inferences from proved circumstances such as prior concert, the nature of the weapons carried, history of hostility, positioning of members, and their concerted acts. Such knowledge cannot be presumed or inferred in absence of credible material.

37. The Hon'ble Supreme Court has repeatedly cautioned against an unduly expansive application of Section 149 IPC in cases where (i) some members of the assembly carried only simple weapons, (ii) the fatal acts were sudden and individual in nature, and (iii) the spatial positioning of members, did not justify an inference of a shared homicidal object or knowledge.

38. Applying the above principles, we are of the view that neither limb of Section 149 IPC stands attracted against the four appellants namely Jaswinder Singh @ Jass, Amandeep Singh, Jagjit Singh and Gurmukh Singh.

39. As regards the first limb, the evidence only shows that these appellants were armed with sticks and swords, inflicted or attempted simple blows, and were stationed away from the locus of the gunfire. Nothing in the prosecution evidence establishes that the common object of their assembly extended to killing of Amrik Singh or the attempted killing of others. Their placement at Mark '*H*' negates any participation in the



transaction, by which the gunshots at Mark ‘F’ were fired. Consequently, the homicidal acts cannot be said to have been committed “in prosecution of” the object of these appellants.

40. As regards the second limb, there is equally no evidence that these appellants had the knowledge that a murderous assault was likely. No pre-concert, prior enmity or conduct is proved, from which such knowledge can be inferred. Their acts were confined to raising *lalkaras* and inflicting simple blows, which are consistent only with intimidation or causing hurt. In these circumstances, imputing to them knowledge of a murderous assault would be speculative and unjustified.

41. It thus emerges that the constructive liability of the four appellants under Section 149 IPC for the offences under Sections 302 and 307 IPC is unsustainable.

42. Where the evidence admits of ambiguity as to the sweep of the common object, the benefit of doubt must necessarily go to these appellants. Consequently, while their liability for offence under Sections 302 and 307 IPC stands excluded, their participation in causing simple hurt is proved beyond reasonable doubt.

43. On this footing, their conviction can safely be restricted to the following simplicitor:-

Sr. No.	Appellants	Section(s) - IPC
1.	Jaswinder Singh @ Jass	323
2.	Amandeep Singh	323
3.	Jagjit Singh	326
4.	Gurmukh Singh	323



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44. The allegation under Section 148 IPC is not proved beyond doubt against them since the weapons allegedly carried were neither used to inflict grievous or any life-threatening injury. It would, therefore, be insufficient to sustain the conviction against them under Section 148 IPC.

45. Learned Senior counsel for the four appellants namely Jaswinder Singh @ Jass, Amandeep Singh, Jagjit Singh and Gurmukh Singh has urged that the period of custody already undergone by them may be treated as adequate punishment.

46. Having regard to (a) the lapse of more than two decades since the incident; (b) the fact that only simply injuries are attributed to Jaswinder Singh @ Jass, Amandeep Singh, Jagjit Singh and Gurmukh Singh; (c) the absence of evidence of any intent or knowledge to commit murder; and (d) the protracted pendency of proceedings, this Court finds merit in their submissions.

47. Accordingly, the conviction of all the appellants is upheld, however, in view of the above-discussed findings, appellants namely Jaswinder Singh @ Jass, Amandeep Singh, Jagjit Singh and Gurmukh Singh cannot be convicted for offences under Sections 302/307 IPC with the aid of Section 149 IPC and this Court deems it fit to convict the aforementioned appellants under Section 326/323 IPC and their sentence be reduced to the period already undergone.



48. Coming next to CRA-D-312-DBA-2006 filed by the complainant Satnam Singh against the judgment acquitting accused-respondent Jasmail Singh, this Court finds no merit in this appeal and is not inclined to accept the prayer in view of the above discussion. The learned trial Court has rightly acquitted respondent Jasmail Singh, to whom no overt act, much less any injury has been attributed. Admittedly, respondent Jasmail Singh was merely alleged to be armed with a *dang*, and thus, even his benign presence is doubtful. In this eventuality, no interference is warranted by this Court *qua* reasoning of the learned trial Court in acquitting the respondent. Consequently, the appeal filed by the complainant Satnam Singh stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

July 28, 2025
Jaspreet Kaur

(H.S. GREWAL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*