

263 (2 case) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:116356-DB



CRA-D-463-DBA-2005 (O&M)
Date of Decision: 28.08.2025

State of Punjab

...Appellant

V.

Inderpal and others

...Respondents

2025:PHHC:116356-DB



CRR-173-2005 (O&M)
Date of Decision: 28.08.2025

Sant Ram

...Petitioner

V.

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Amit Kumar Goyal, Addl. AG, Punjab
for the appellant in CRA-D-463-DBA-2005.

Mr. Sanjeev Sharma, Advocate
for the petitioner in CRR-173-2005

Mr. Ramesh Sharma, Advocate for respondents No.1, 2 and 4
in CRA-D-463-DBA-2005.

ASHWANI KUMAR MISHRA, J. (Oral)

1. Criminal Appeal No.CRA-D-463-DBA-2005 filed by the State of Punjab as well as Criminal Revision No.CRR-173-2005 filed by the father of the deceased namely Sant Ram, are directed against the judgment of

acquittal passed by the Court of learned Addl. Sessions Judge, Jalandhar, in Sessions Case No.40/2003. Both the cases are listed together and are being disposed of by way of this common judgment.

2. Prosecution case herein is with regard to an incident which occurred on 23.05.2022, at about 09:00 pm, when one Parveen Kumar (since deceased) was done to death by four accused/respondents namely (i) Inder Pal, (ii) Vikram Singh, (iii) Dinesh Kumar and (iv) Bimla Rani. FIR No.192 dated 24.05.2002, in respect of the incident was lodged at Police Station Sadar Jalandhar, at about 10:00 am on the next day, on the basis of disclosure statement made by Sant Ram son of son of Sukhdayal (informant), to Inspector Gurbachan Singh, Police Station Sadar Jalandhar.

3. The prosecution case, as recited in the FIR, is that the PW-1, Sant Ram (informant) had four sons and six daughters and all of whom were married. The other sons and daughters were living separately while the deceased (Parveen Kumar) was living with the informant (PW-1). The deceased was having differences with his wife who was living with her parents. Deceased had also a son and a daughter.

4. On the fateful night, at about 09:00 pm, one Chhotu accompanied by two other persons called the deceased from his house and took him away. The informant waited for the whole night for his son to return but in vain. On the next day, at about 09:00 am in the morning, the informant came to know that dead body of his son was lying in the fields near the small Canal (Sua). The informant along with his son, Vinod Kumar and Sushil Kumar, came to the spot and saw the dead body which was identified by them to be of Parveen Kumar (son of the informant). The dead body was

lying in the fields and on the body of the deceased, there were injury marks allegedly caused by sharp edged weapon.

5. According to the informant, the deceased was done to death by Chhotu and his companions. It was on this basis that the FIR was registered. Pursuant to registration of the FIR, the investigation proceeded and from the place of occurrence, the Investigating Officer collected the blood-stains and sample earth as well as six footprints. Inquest was prepared and the dead body was sealed and sent to hospital for postmortem.

6. In the postmortem report, multiple incised and sharp wounds have been found which are as under:-

1. *15x5 cms sharp incised wound in front of neck in a semi circular way deep upto vertebral column cutting trachea oesophagus. Major vessels also cut and exposed. Wound covered with mud.*
2. *3 ½ x ½ cm and 6 ½ cms deep sharp edged wound on left side, 2" below the left clavical in its middle.*
3. *3 ½ x ½ cm and 12 ½ cms deep sharp edged wound, 1" below right nipple piercing shirt and buniyan.*
4. *3 ½ cms x 1 cm and 7 ½ cms deep in right hypogastrium region (incised wound).*
5. *3 ½ cms x 1 cm and 7 ½ cm and 7 ½ cms deep incised wound, 1" medial to injury No.4.*
6. *Sharp wound 3 ½ cms x 1 cm and 3 ½ cms deep over right inter scapular region 1" lateral to the medial line (incised wound).*
7. *3 ½ x 1 cm and 7 ½ cms deep incised wound on right lumber region, 4 cms lateral to mid line.*
8. *Multiple sharp wound of size 1 cm x ½ cms present over different sites on back subcutaneous deep and similar in appearance.*

9. *Skin peeled off over right ankle joint in area of 6" x 2" size.*

All injuries except no.1 to 9 are corresponding to tear points over the clothes.

10. *Oblique incised wound injuring upper and lower lip."*

7. During the course of investigation, the role of the accused persons surfaced, who were arrested on 25.05.2002. A sword and a 'Kirpan' was allegedly recovered on pointing out of accused, Inder Pal and Vikram on 28.05.2022. The recovery memo was signed by Vinod son of Sant Ram besides other witnesses.

8. The prosecution case primarily depends upon the testimony of Rajiv Kumar (PW-2) who happens to be the sister's son of the deceased. The prosecution case is that on the fateful evening, when Rajiv Kumar (PW-2), was returning on his bicycle, he heard screams (bachao – bachao) of someone. It was a moonlit night and though he had a torch but he did not use it out of fear. PW-2, Rajiv Kumar allegedly saw the incident from a distance of 15 yards. It was seen by PW-2 that Dinesh Kumar had caught hold of a person who could not be identified by PW-2 at the spot, because the face of the said person was on the other side. Accused, Inder Pal, was allegedly carrying a sword with which he gave multiple blows on the neck of the unknown person. Accused, Vikram, was holding a 'Kirpan' and he also gave blows in the abdomen of the unknown person. The injured person fell on the ground whereafter the accused fled from the spot.

9. Though PW-2, Rajiv Kumar, saw the incident but he did not inform anyone of what he has seen nor did he report the matter to the police. It is only on the next morning that he came to know from PW-1, Sant Ram, that his son (deceased herein) did not return home.

10. PW-2, Rajiv Kumar, at that stage proceeded in search of the deceased along with PW-1, Sant Ram and ultimately found the dead body of the deceased. It is thereafter that he informed PW-1 that he had seen the incident on the previous night and on his disclosure the accused persons were identified and were implicated.

11. The Investigation was concluded by the police and a charge sheet was submitted against four accused in the matter. The learned Addl. Chief Judicial Magistrate, Jalandhar, vide order dated 12.08.2002, committed the case to the Court of Sessions.

12. During the course of trial, the prosecution in addition to PW-1, Sant Ram (informant) and PW-2, Rajiv Kumar (eye witness) also examined PW-3 - Dalip Singh, PW-4 HC Pardeep Kumar, PW-5- HC Raj Kumar, PW-6, Dr. Nirdosh Goel, PW-7 ASI Naresh Kumar, PW-8 Karandeep Singh and PW-9 Inspector Gurbachan Singh. Except PW-1 and PW-2, other witnesses were more or less formal in nature.

13. Trial Court on the basis of evidence led on record, has come to the conclusion that the prosecution has failed to establish its case beyond reasonable doubt. Thus, aggrieved by the said judgment, the State of Punjab and the Informant are before us in the present appeal/revision.

14. Learned State counsel as also Mr. Sanjeev Sharma, Advocate for the revisionist submits that the prosecution on the basis of evidence placed on record has proved the guilt of the accused beyond reasonable doubt and the contrary view taken by the learned Court below is absolutely perverse and cannot be sustained in the eyes of law.

15. Learned counsel for the respondents/accused, on the other hand, supports the conclusions drawn by the learned trial Court on the basis of evidence placed on record during the course of trial.

16. Having heard learned counsel for the parties, we find that the prosecution case herein is based upon four different set of evidence. The first set of evidence is of '*last seen*' based upon the testimony of PW-1 (informant). The other set of evidence is in the form of '*eye-witness account*' based upon the testimony of PW-2, Rajiv Kumar. The third set of evidence is with regard to '*foot prints of accused*' having been found on the place of occurrence. This evidence is in the form of the report of Forensic Science Laboratory, Punjab (Ex.PV and Ex.PW). The last set of evidence of the prosecution is in the form of '*recovery of weapons from accused Inder Pal and Vikram*'.

17. So far as the evidence of '*last seen*' is concerned, the prosecution relies upon the statement of PW-1, Sant Ram (informant). PW-1, Sant Ram in his disclosure made to the police has stated that the deceased was taken by one Chhotu along with two others. The other two persons were never identified. In his statement recorded under Section 161 of the Cr.P.C. PW-1, has also reiterated that it was Chhotu who had taken the deceased with him. However, in his statement made before the Court, this witness for the first time has stated that it was Inder Pal who had come and taken the deceased along with him. In his cross-examination, for the first time the version is developed by PW-1, Sant Ram that Inder Pal is also known by the name of Chhotu. However, this evidence has been discarded by the learned trial Court on the ground that the statement of PW-1, Sant Ram, contains

material improvements, inasmuch as, the identity of the person who had taken the deceased was not consistent in the version of PW-1.

18. We have perused the statement of PW-1, Sant Ram as also his statement made before the Investigating Officer U/s 161 of the Cr.P.C. as well as statement made to the police on the strength of which the FIR was lodged. At the stage of investigation, PW-1, has implicated Chhotu as being the person who had taken the deceased along with two others. It is for the first time during the stage of trial that he has taken the name of Inder Pal. In his examination-in-chief, he has not stated that Inder Pal Singh and Chhotu are one and same person. It is only at the stage of cross-examination that PW-1, Sant Ram, on his own has suggested that Chhotu is also known by the name of Inder Pal. There is no other evidence/material available on record to prove that Inder Pal and Chhotu are one and the same person. In such circumstances, the conclusion drawn by the learned trial Court that evidence of '*last seen*' is not credible and reliable is a permissible view. Merely because a different view can be taken, can hardly be a ground to interfere with the judgment of acquittal.

19. Coming to the testimony of PW-2, Rajiv Kumar, who is the nephew (sister's son) of the deceased. PW-2, Rajiv Kumar, has not been able to tell as to from where was he returning and his presence at the place of occurrence has not been adequately explained. It is admitted that there was no source of light at the spot. It was otherwise a night incident. Though PW-2, Rajiv Kumar, says that he had a torch with him but admittedly this torch was not used by him out of fear. It is, therefore, apparent that there was no source of light available at the spot in which PW-2, Rajiv Kumar, could have indentified the four accused persons.

20. PW-2, Rajiv Kumar also states that the face of the person who was being assaulted, was in the other direction and, therefore, he could not identify the deceased. However, in his testimony, PW-2, Rajiv Kumar, has assigned specific role to the three accused as per which that Dinesh Kumar was holding the deceased while Inder Pal and Vikram were causing injuries by sharp edged weapons. The learned trial Court has disbelieved the testimony of PW-2, Rajiv Kumar, on the ground that his conduct is highly unnatural, inasmuch as, having seen such drastic incident from a close distance of about 15/20 yards, he returned home but did not inform anyone about such incident. He also did not lodge a report. His version that he could not identify the person assaulted as being his maternal uncle, has not been found credible inasmuch as, the witness even if had not seen the face of the person concerned, yet he had heard the screams of the deceased.

21. We find substance in the observation of the learned trial Court that hearing the screams of such close relative, would have been sufficient for PW-2, Rajiv Kumar, to identify the person who was being assaulted. The fact remains that PW-2, Rajiv Kumar, neither informed anyone of the incident nor lodged any report. He did not inform PW-1, Sant Ram, in the morning, when he came to know that the deceased had gone missing which raises doubt upon the veracity upon the statement of PW-2, Rajiv Kumar. It was only after discovery of the dead body that PW-2 narrated the incident of previous night to PW-1. It was for this reason that the testimony of PW-2, has been disbelieved. We find such view of the trial Court to be clearly permissible. This is particularly so as Rajiv Kumar is an interested witness being loosely related and his version otherwise requires careful and cautious scrutiny.

22. The other two evidences of the prosecution are in the form of recovery of weapons as well as recovery of footprints of the accused from the spot. So far as recovery of weapons from Inder Pal and Vikram are concerned, these recoveries are made from open field near the place of occurrence several days after the incident.

23. The only independent witness to these recoveries is Vinod, who has admittedly not been examined by the prosecution. The recovery memo has also not been prepared in terms of requirement of law which has been propounded by the Hon'ble Supreme Court in the case of **Boby v. State of Kerala**, Criminal Appeal No.1439 of 2009, decided on 12.01.2023. There is no panchnama nor have independent persons been associated in the recovery as is required in law.

24. The recovery of weapons, therefore, could not have been relied upon by the prosecution to implicate the accused persons and the trial Court has rightly disbelieved the same.

25. The only other evidence is in the form of footprints of accused collected from the place of occurrence.

26. Learned State counsel has laid much emphasis on this evidence to challenge the findings of acquittal. However, we are not much impressed by such argument, inasmuch as the trial Court has taken the view that no reasons are forthcoming to indicate that all four persons during the night time in a village would go barefoot and would leave their footprints on the spot. Several persons must have otherwise passed through that area before the samples were collected on the next morning.

27. Even otherwise, we are of the view that merely on the recovery of footprints near the place of occurrence, it cannot be established that

accused persons committed the offence or to hold them guilty. The recovery of footprints would only constitute a circumstantial evidence and unless the chain of events is not adequately connected such that the chain of circumstances is complete, the accused cannot be hold guilty only on the basis of such evidence. Such evidence on its own will not constitute sufficient basis to implicate the accused. In this regard, we have also seen the motive for the accused persons to commit the offence. The only motive furnished comes from the statement of PW-2, Rajiv Kumar. PW-2, Rajiv Kumar is a close relative and is an interested witness. It is alleged that Bimla Rani was also found standing near the place of occurrence by PW-2, Rajiv Kumar. As per PW-2, Rajiv Kumar, daughter of Bimla Rani, was having an affair with the deceased. It is also the prosecution case that one of the other daughters of Bimla Rani was having an affair with accused Vikram. It is for this reason that Vikram along with two others had committed the offence. Apart from the testimony of PW-2, Rajiv Kumar, there is no other independent witness to support the motive furnished by the prosecution for the offence. The motive furnished for the offence thus seems to be rather weak.

28. We otherwise find such motive to be highly unreliable particularly when no other attending circumstance or testimony has been produced by the prosecution to prove the motive for the offence.

29. When the evidence furnished by the prosecution is analyzed in its entirety, we find that the view taken by the learned trial Court that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt is shown to be a permissible view. It is otherwise settled that just because a different view could be taken in the matter, it would not be a

ground for this Court to reverse the judgment of acquittal as has been held by the Supreme Court in the case of **Bhupatbhai Bachubhai Chavda and another vs. State of Gujarat 2024 SCC Online SC 423**, wherein the Hon'ble Supreme Court held as under:

“The Appellate Court cannot overturn order of acquittal only on the ground that another view is possible. In other words, the judgment of acquittal must be found to be perverse. Unless the Appellate Court records such a finding, no interference can be made with the order of acquittal. The High Court has ignored the well-settled principle that an order of acquittal further strengthens the presumption of innocence of the accused. After having perused the judgment, we find that the High Court has not addressed itself on the main question.”

30. In that view of the matter, the appeal filed by the State of Punjab and revision filed by the informant (PW-1, Sant Ram) are dismissed.

31. All pending misc. application(s), if any, also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

28.08.2025

rajesh

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No