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

CRA-D-1246-DB of 2014 (O&M)

Reserved on : 13.10.2025

Pronounced on : 18.11.2025

BALRAJ SINGH

... APPELLANT

VERSUS

STATE OF PUNJAB

... RESPONDENT

**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Ms. Satinder Kaur, Advocate,
and Ms. Parneet Kaur, Advocate,
for the applicant-appellant.

Mr. Raghav Garg, AAG, Punjab.

PARMOD GOYAL, J.

This appeal is directed against the judgment of conviction dated 04.07.2014 and order of sentence dated 05.07.2014 passed by Sessions Judge, Sri Muktsar Sahib, Punjab in Sessions Case No. 07 of 01.07.2013 whereby and whereunder appellant Balraj Singh was held guilty under section 302 Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and section 27 of Arms Act, 1959 (hereinafter referred to as 'Arms Act') and was sentenced to undergo life imprisonment and pay a fine of Rs. 5,000/- (in default to pay fine, to undergo RI for two months) under section 302 IPC and to undergo rigorous imprisonment for a period of three years and pay a fine of Rs. 1,000/- (in default to pay fine, to undergo RI for one month) under section 27 of Arms Act.

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2. Challan against the appellant was presented on 10.05.2013. Appellant along with Kuldeep Singh was put to trial for commission of offence under Section 302 of the IPC and section 27 of Arms Act. Thereafter charges under Section 302 IPC read with Section 34 IPC and 27 of the Arms Act were framed. Prosecution case as put forth by way of statement of Bhupinder Singh-brother of deceased-Lakhvir Singh, on the basis of which FIR was registered, is that complainant along with his elder brother Lakhvir Singh (deceased) and father Bakhshish Singh was residing in a hamlet (dhani) constructed in their agricultural fields, which they had purchased about 7–8 years ago. A lined water channel (*pakka khal*) passes through the purchased land and adjoining this water channel is temporary passage (*pahi*) leading to the hamlet of Balraj Singh @ Raja and Sehajpal Singh, sons of Joginder Singh. Another permanent passage connects their hamlet with the Fazilka–Malout Road. Approximately, one month prior to the occurrence, Bhupinder Singh and his family got the lined water channel (*pakka khal*) demarcated by the *Halqa Patwari* and *Kanungo*. Upon demarcation, it was found that passage falls within their ownership. On learning this, Balraj Singh requested some time for verification. On 17.12.2013, after a lapse of one month, Bhupinder Singh along with his brother Lakhvir Singh (deceased), father Bakhshish Singh and relative Baljinder Singh were cultivating the passage falling within their share with the help of their Farm-60 tractor. Lakhvir Singh was driving the tractor, while Bhupinder Singh, his father, and their relative followed him behind the tractor. When they reached in the middle of the field, accused Balraj Singh @ Raja, armed with a revolver, arrived there along with Kuldeep Singh, Gurcharan Singh, and Rattan @ Bunty (son of Prem Verma). They stopped the tractor and forbade them from ploughing the passage (*pahi*) threatening with dire

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consequences, if they proceeded. The complainant party tried to pacify them stating that the passage falls within their share and they do not wish to quarrel. Upon being pacified, the accused persons initially returned to their hamlet (*dhani*). Shortly thereafter, accused Balraj Singh @ Raja came outside his hamlet and began hurling abuses. Meanwhile, accused Bunt and Kuldeep Singh went inside the hamlet. At around 12:00 noon, Kuldeep Singh brought out 12-bore gun and handed it over to Balraj Singh. At that time, the complainant's brother Lakhvir Singh (deceased) had reached the end of the fields while ploughing with the tractor. Balraj Singh, after taking the gun, aimed it towards Lakhvir Singh, raised a *lalkara* (challenge) proclaiming that they would not allow him to plough the passage (*pahi*) and fired a shot. The shot hit Lakhvir Singh on his chest. As the tractor came to halt, Balraj Singh fired second shot, causing Lakhvir Singh to collapse on the seat of the tractor. On raising alarm by the complainant party, the accused persons fled towards the hamlet of Balraj Singh. While retreating, they also fired shots from revolver and continued to raise *lalkaras*. The complainant along with his father Bakhshish Singh and relative Baljinder Singh, attended to the injured Lakhvir Singh and rushed him to Civil Hospital, Malout, where he was declared brought dead. The complainant asserted that the motive behind the occurrence was the dispute over the passage (*pahi*), which fell within their land as per the official demarcation. The accused had no right to interfere but upon being prevented from using the passage, they committed the murder of Lakhvir Singh.

3. The assertions made in FIR were duly reiterated by PW-2 Bhupinder Singh (author of FIR) and PW-3 Baljinder Singh – eyewitness to occurrence. To prove case of prosecution, apart from examining eye witnesses

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i.e. Bhupinder Singh as PW-2 and Baljinder Singh as PW-3, prosecution has also examined Dr. Jagdeep Chawla as PW-1, who had conducted post-mortem on the dead body of deceased-Lakhvir Singh. Doctor PW-1 vide post-mortem report Ex. P-1 had noted as under :-

Injuries - Multiple lacerated, punctured wounds numbering more than 60 observed on chest of the body on both sides of the sternum and especially on the left half of the chest. The diameter of these lacerated, punctured wounds varies between 0.3 cm to 0.7 cm. These wounds are situated between left middle axillary line and right anterior axillary line. Upon dissection mid – part of the sternum found fractured and shattered to pieces. Heart, aorta, pulmonary vessels, inferior vena cava, both lungs (especially the left) found badly lacerated and punctured with large blood clots and blood in their vicinity. Many metallic pellets recovered which were put in glass bottle, to be handed over to the police. Death was due to shock and haemorrhage as a result of the described injury No. 1 which is ante mortem in nature and sufficient to cause death in ordinary course of nature. Injury could be due to discharge firearm.

Doctor had further noticed that Rigor Mortis and post-mortem staining were present. That clothes had multiple holes.

4. Prosecution has also examined PW-4, Amar Ranjit Singh *Kanungo*, who had stated to have demarcated land on 28.01.2013 on the application moved by Bhupinder Singh and had made report Ex. PW-4/A. PW-5 ASI Balwinder Singh recorded FIR and had witnessed disclosure statement Ex. PW-5/B suffered by accused Balraj regarding concealment of guns and revolver. PW-6 HC Raj Davinder Singh stated about return of two empties by FSL with objections. PW-7 Constable Randeep Singh and PW-10 H.C. Mukhtiar Singh

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ordered their formal affidavits Exs. PW7/A and Ex.PW10/A regarding deposit

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of case property. PW-8 Babu Singh, Patwari prepared site plan Ex. PW-8/A. PW-9 HC Sukhraj Singh got conducted post-mortem examination and PW-11 S.I. Paramjeet, the Investigating Officer deposed regarding investigation and proved the relevant documents consisting of statement of complainant Bhupinder Singh.

5. To counter the case of the prosecution, the accused, apart from denying their involvement vide their statements recorded under Section 313 Cr.P.C., examined three witnesses in defence. DW-1 Arvinder Singh, Data Entry Operator proved that he had received an application dated 07.02.2013 for the demarcation of land. DW-2 Swaran Singh produced the original Panchayat Register containing the resolution dated 20.08.2013. DW-3 Satwinderpal Singh, Junior Engineer, Water Supply and Sanitation Department, Malout, brought the field data pertaining to the water works distribution and the pipelines laid in various *Dhanies* of village Malout.

6. Learned Sessions Judge, Sri Muktsar Sahib, relying on evidence led by prosecution, accepted the deposition of PW-2 and PW-3 corroborated by other witnesses, held accused Balraj Singh guilty of charges levelled against him and acquitted other accused. Aggrieved of judgment of conviction dated 04.07.2014 and order of sentence dated 05.07.2014, present appeal has been filed.

7. Learned counsel appearing on behalf of appellant, in support of the appeal, submitted as under :

1. That the evidence of PW-2 and PW-3 is liable to be ignored as they are related and interested witnesses.

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2. That no independent witness was joined during the investigation or examined before the Court; hence, the testimony of PW-2 and PW-3 is not reliable.
 3. That the prosecution has failed to establish any motive for the commission of the alleged offences.
 4. That the time of occurrence as stated by PW-2 and PW-3 to be 12.00 noon is wholly improbable in view of the post-mortem report and the evidence of PW-1, which clearly indicates that rigor mortis was fully developed at the time of post mortem examination at 5:30 p.m.
 5. That the defence raised by the accused persons cannot be said to be improbable, particularly in light of the medical evidence of PW-1 and the post-mortem report.
8. Learned State counsel defended impugned judgment of conviction and order of sentence being well reasoned; based on appreciation of evidence led by prosecution.
9. Argument raised on behalf of appellant that evidence of PW-2 and PW-3 is liable to be ignored as they are related to deceased and interested witnesses, is liable to be rejected. It is well settled principle that witnesses related to victim are competent witnesses and can be relied upon by Court if their testimony is found to be consistent, trustworthy and reliable. Evidence of a relative has to be appreciated keeping in view that said witness may be the most natural witness and more often public witnesses are not willing to come forward to depose in criminal cases. Arguments that no reliance can be placed upon witnesses who are relatives is not applicable in absolute terms. In ***Mst. Dalbir Kaur and others v. State of Punjab, AIR 1977 SC 472***, it was held:-

"Moreover a close relative who is a very natural witness cannot be regarded as an interested witness. The term

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"interested" postulates that the person concerned must have some direct interest in seeing that the accused person is somehow or the other convicted either because he had some animus with the accused or for some other reason."

In decision of Hon'ble the Supreme Court reported as ***Dilip Singh and others v. The State of Punjab, AIR 1953 SC 364***, it was held that ;

*"We are unable to agree with the learned Judges of the High Court that the testimony of the two eye witnesses requires corroboration. If the foundation for such an observation is based on the fact that the witnesses are women and that the fate of seven men hangs on their testimony, we know of no such rule. If it is grounded on the reason that they are closely related to the deceased we are unable to concur. This is a fallacy common to many criminal cases and one which another Bench of this Court endeavoured to dispel in the case of ***Rameshwar Vs. State of Rajasthan, AIR 1952 SC 54 at p. 59(A) : (1952 Cri. LJ 547)***. We find, however, that it unfortunately still persists, if not in the judgments of the Courts, at any rate in the arguments of counsel."*

"A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted and that usually means unless the witness has cause, such as enmity against the accused, to wish to implicate him falsely. Ordinarily a close relation would be the last to screen the real culprit and falsely implicate an innocent person. it is true when feelings run high and there is personal cause for enmity that there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but foundation must be laid for such a criticism and the mere fact of relationship far from being a foundation is often sure guarantee of truth. However, we are not attempting any sweeping generalisation. Each case must be judged on its

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own facts. Our observations are only made to combat what is so often put forward in cases before us as a general rule of prudence. There is no such general rule. Each case must be limited to and be governed by its own facts."

Relative of a victim of offence would never like to involve a person who is not concerned with criminal act and allow the real accused to go scot-free. Evidence of such witness, therefore, needs to be appreciated depending upon facts and circumstances of each case. Court as caution may, seek corroboration from other material facts, if needed. A relative is not an interested witness unless it is shown that he wants to get conviction of accused by all means, just or unjust.

10. On consideration of evidence of PW-2-Bhupinder Singh, brother of deceased and PW-3-Baljinder Singh who is stated to be relative of deceased, it is clearly made out that deceased and PW-2 were residing in same house (*dhani*) situated in fields and PW-3 was resident of another *dhani* situated at a distance of just 2-½ kms away from *dhani* of deceased. Cousin sister of deceased-Lakhvir Singh is married to him. It is common in agricultural community that relative extends helping hand in agricultural activities. Place of occurrence is near the house of deceased and PW-2 in the fields. Therefore, presence of both the witnesses at the time of occurrence is natural and reliable. Furthermore, both the witnesses have stated occurrence in line with case stated by PW-2 at the time of lodging FIR which was lodged on the same day within few hours of occurrence. Their statements before Court on oath are consistent and inspire confidence. From their statements, it does not appear that they had any reason to depose falsely against appellant. Despite both the witnesses being subjected to extensive and lengthy cross examination, nothing could be elicited to raise doubt over their testimonies. They have described the occurrence in a consistent

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manner and had denied case of defence that they were not present or occurrence had taken place at 4.00 am instead of 12.00 noon, when unknown persons had fired upon deceased. Minor discrepancies in the testimonies of witnesses are not uncommon and should not automatically lead to their rejection unless they strike at the root of the prosecution's case. Therefore, minor discrepancies in the eyewitness account do not detract from the core narrative implicating the accused. Both PW-2 & PW-3 have duly stated about demarcation of land which was stated to be motive for murder. Testimonies of key witnesses are consistent on material points, such as presence of the accused at the scene and the manner of assault. Evidence if evaluated as a whole inspires confidence.

11. Similarly, there is no absolute rule that in the absence of independent witnesses, evidence of related witness is liable to be ignored. Effect of non-examination of independent witness is dependent on facts and circumstances of each case. Neither PW-2 nor PW-3 stated about presence of independent witness at the time of occurrence, therefore, non-examination of independent witness when none was present cannot be taken against case of prosecution. When independent witness is not available, the other witnesses whose presence is natural cannot be discarded. Argument of learned counsel for the appellant that prosecution ought to have proved demarcation by examining independent witness to demarcation as PW-3 had admitted presence of 8-10 other persons, is without any merit. Prosecution, by examination of PW-4 the *Kanungo*, *Halqa*, village Malout has duly proved demarcation conducted by him on 28.01.2013 on application dated 27.12.2012 moved by PW-2 Bhupinder Singh. In cross examination, PW-4 Amar Ranjit Singh, *Kanungo* duly stated that Balraj Singh accused was also present at the time of demarcation but had

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refused to sign demarcation report. In fact, appellant has not challenged the demarcation but suggestion given to PW-4 was that he had not demarcated land properly. *Kanungo* himself is an independent witness and had no connection with complainant's side. It is quality of evidence and not the quantity of evidence which matters. Therefore, no other independent witness was required to prove demarcation prior to occurrence in order to establish motive for occurrence on the part of appellant.

12. Argument of learned counsel for appellant that prosecution has failed to prove motive is also without merit. In present case, prosecution has duly proved that *dhanies*/land of deceased and accused were adjoining and passage in question existed, which was bone of contention. Defence itself examined witnesses to prove that appellant-Balraj Singh had also submitted application dated 07.02.2013 just 10 days prior to occurrence, for demarcation as was proved by DW-1. Therefore, from evidence of PW-2, PW-3 & PW-4, it is proved that relation between deceased side and accused were strained on account of existence of *pahi*.

13. Question for consideration would be whether strained relations is sufficient motive for occurrence. In ***Krishna Pillai Sree Kumar & Anr. Vs. State of Kerala, 1981 AIR SC 1237***, Hon'ble the Supreme Court held that:-

“7. It is undisputed that some bad blood existed between the deceased on the one hand and the appellants on the other prior to the occurrence. The animosity may not have been very bitter but then it is too much to say that it could not possibly form a motive for the occurrence. The variation in human nature being so vast murders are known to have been actuated by much lesser motives. In any case, it is not a sine qua non for the success of the prosecution that the motive must be proved. So long as the other evidence remains

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convincing and is not open to reasonable doubt, a conviction may well be based on it.”

Therefore, in a case based upon ocular account, absence of motive or insufficiency of motive by itself is not sufficient to dislodge evidence of witnesses who are otherwise found trustworthy and reliable. In present case, on appreciation of evidence, evidence of PW-2 as well as PW-3 is consistent, reliable and trustworthy. Therefore, presence of discord between complainant side and accused is sufficient to further corroborate case of prosecution.

14. Learned counsel for appellant has laid great emphasis on post-mortem report and evidence of PW-1 (Doctor who had conducted postmortem) to argue that evidence of PW-2 and PW-3 is totally improbable in view of the post-mortem report and the evidence of PW-1, which clearly indicates that rigor mortis was fully developed at the time of post-mortem examination at 5:30 p.m. PW-2 and PW-3 had stated occurrence to be at 12.00 noon. Presence of fully developed rigor mortis within 5-1/2 hours of death and post-mortem examination (having been conducted after about 5½ hours of the alleged occurrence) makes case of prosecution as stated by PW-2 and PW-3 highly improbable and, therefore, defence version that murder was committed by unknown persons at 4.00 am and appellant was falsely implicated is probable and must be accepted.

15. Rigor mortis is the temporary stiffening of muscles after death, caused by a lack of Adenosine Triphosphate (ATP) which prevents muscle fibers from relaxing after they contract. After death, the body can no longer produce ATP, the molecule that provides the energy for muscle relaxation.

Without ATP, the myosin heads remain attached to actin filaments, preventing the muscles from relaxing and causing them to stiffen. The process is also

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accompanied by the release of calcium ions and the buildup of lactic acid in the muscle cells, which contributes to the stiffening and decreased 'pH'. This process begins a few hours after death, becomes most pronounced with passage of time, and eventually dissipates as decomposition begins. The stiffness is a result of the inability to break the actin-myosin cross-bridges in the muscle fibers, leading to a rigid state. Rigor mortis starts in smaller muscles, like those in the face and hands and progresses to the larger muscles and the entire body becomes stiff. The degree to which rigor mortis has set in is a key factor used by medical examiners to estimate the time of death. The position in which rigor mortis is found can indicate the position of the body at the time of death, unless the body was moved after the process began. Several variables can alter the timing of rigor mortis :

- **Temperature** : Higher temperatures accelerate the chemical reactions that cause rigor mortis, while colder temperatures slow them down. Heat can also cause the stiffness to resolve faster.
- **Physical exertion before death** : Strenuous activity right before death depletes the body's energy stores (ATP) more quickly, causing rigor to set in faster.
- **Age & muscle mass** : Individuals with lower muscle mass, such as the very young or very old, have a faster onset and less prominent rigor mortis.
- **Cause of death** : Conditions such as fever, convulsions, or certain types of poisoning can speed up the process.
- **Fat content** : Body fat can insulate the body, delaying the onset of rigor mortis.

16. In *Bihari Mahto @ Kubra Vs. State of Bihar, (2004) 2 PLJR 596*,

decided on 24.11.2003, Patna High Court held as under:-

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“14. In this case, the time of occurrence is 8.00 A.M. and the P.M. Examination was conducted same day at 10.55 A.M. i.e. after 2 hours and 55 minutes of the occurrence. The doctor mentions that rigor mortis was absent in upper limbs and rigor mortis was present in the lower limbs. The doctor deposed at-Paras-5 and 6 that rigor mortis appears in the dead body after three hours of death and it appears first in the upper limb and expands in the whole body within 18 to 36 hours and then it starts vanishing/disappearing from upper limb after 12 hours. According to the doctor, there was no rigor mortis in the upper limb and it was present in the lower limb. Referring to the doctor's evidence that rigor mortis starts disappearing after 12 hours of death and it starts disappearing first from the upper limb, learned Counsel for the Appellant argued that since the rigor mortis had disappeared in the upper limb, which according to the doctor, disappears only after 12 hours of death, the death of the deceased had taken place at least 12 hours before the time of P.M. Examination and not 2 hours and 55 minutes. When the evidence of the doctor about appearing and disappearing of the rigor mortis within the time frame as stated by the doctor is taken as a conclusive material for deciding the time of death, a vital infirmity, would appear. But the time as said by the doctor for appearing and disappearing of rigor mortis cannot be accepted as conclusive material for deciding this matter. There are some exceptions also. Modi's "Medical Jurisprudence" 21st Edition at Page 171 mentions about the cases in which rigor mortis developed and disappeared within an hour and half after death. It is also mentioned by Modi that when rigor mortis sets in early, it passes quickly and vice versa. Thus, the possibility of setting and passing off rigor mortis within a shorter period cannot be ruled out. In this case, there is consistent and reliable evidence adduced by the prosecution through witnesses that the Appellant had shot at

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the deceased causing injury on him and thus killing him. The P.M. examination has been done after 2 hours and 55 minutes. In view of unassailable ocular evidence, the evidence of the doctor as pointed out by the Appellant's counsel that rigor mortis disappears after 12 hours only, cannot be considered to affect the prosecution case adversely."

17. In ***Mangu Khan & Ors. Vs. State of Rajasthan, (2005) 10 SCC 374***, decided on 24.02.2005, Hon'ble Supreme Court had held that :

"The contention urged by reference to text books on Forensic Medicine to show the time within which rigor mortis develops all over the body also has no factual basis. It depends on various factors such as constitution of the deceased, season of the year, the temperature in the region and the conditions under which the body has been preserved. The record indicates that the body was taken from the mortuary. We notice that there is no cross-examination, whatsoever, of the doctor so as to elicit any of the material facts on which a possible argument could have been based. If these are the circumstances, then the presence of rigor mortis all over the body by itself cannot warrant the argument of the learned counsel that the death must have occurred during the previous night. Acceptable ocular evidence cannot be dislodged on such hypothetical bases for which no proper grounds were laid."

18. Hon'ble Supreme Court in ***Thangavelu v. State of T.N., (2002)6 SCC 498***, again observed :

"We have heard learned counsel and carefully looked into the material on record. From the evidence of PW-5, the doctor, we find that there is a possibility that the incident in question might have occurred about 39 hours prior to the post mortem."

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Though in the examination in chief, PW-5 has stated that the time between the death and post mortem could be 16 to 24 hours which fits in with the prosecution case, in the cross examination he has very clearly stated that in this case death would have been caused about 39 hours before the post mortem which would be sometime after 5.30 p.m. on 15.12.1990. This the doctor has stated by taking into consideration the time and month of the incident as also the time required for the setting of rigor mortis and passing off of the same. According to the doctor, in the month of December in a place like Erode the rigor mortis may set in after about 2 to 3 hours after the death. He has stated that for the rigor mortis to reach from the leg to head, it would take 12 hours and the same would remain in existence for about another 12 hours. Thereafter, it would gradually diminish in the reverse direction i.e. from head to leg taking about another 12 hours and on this basis when he examined the body of the deceased, he found the rigor mortis had reversed almost to the end of the legs. By this process he came to the conclusion that the death in question must have occurred about 39 hours before post mortem...."

19. In 'Modi's Textbook of Medical Jurisprudence and Toxicology', it is stated :

"Rigor mortis generally occurs, while the body is cooling. It is in no way connected with the nervous system, and it develops even in paralyzed limbs, provided the paralyzed muscle tissues have not suffered much in nutrition. It is retarded by perfusion with normal saline. Owing to the setting in of rigor mortis all the muscles of the body become stiff, hard, opaque and contracted, but they do not alter the position of body or limb. A joint rendered stiff and rigid after death, if flexed forcibly by mechanical violence, will remain supple and flaccid, but will not return to its original position after the force is withdrawn; whereas a joint contracted during life in

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cases of hysteria or catalepsy will return to the same condition after the force is taken away. Rigor mortis first appears in the involuntary muscles, and then in the voluntary. In the heart it appears, as a rule, within an hour after death, and may be mistaken for hypertrophy, and its relaxation or dilatation, atrophy or degeneration. The left chambers are affected more than the right. Post-mortem delivery may occur owing to contraction of the uterine muscular fibres.

In the voluntary muscles rigor mortis follows a definite course. It first occurs in the muscles of the eyelids, next in the muscles of the back of the neck and lower jaw, then in those of the front of the neck, face, chest and upper extremities, and lastly extends downwards to the muscles of the abdomen and lower extremities. Last to be affected are the small muscles of the fingers and toes. It passes off in the same sequence. However, according to H.A. Shapiro this progress of rigor mortis from proximal to distal areas is apparent only, it actually starts in all muscles simultaneously but one can distinguish the early developing and fully established stage, which gives an indication of the time factor.

Time of Onset. - This varies greatly in different cases, but the average period of its onset may be regarded as three to six hours after death in temperate climates, and it may take two to three hours to develop. In India, it usually commences in one to two hours after death."

20. In Parikh's Textbook of Medical Jurisprudence, Forensic Medicine and Toxicology' it is stated :

"Rigor mortis (rigor-rigidity; mortis-of death) is a condition characterised by stiffening and shortening of the muscles which follow the period of primary relaxation. It is due to chemical changes involving the structural proteins of the muscle fibres and indicates the molecular death of its cells.

The contractile element of the muscle consists of protein

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filaments of two types, viz, myosin and actin, which are arranged and organised interdigitating manner. In the relaxed state, the actin filaments interdigitate with myosin filaments only to a small extent but when the muscle contracts, they interdigitate to a great extent due to the presence of ATP (adenosine triphosphate). The production and utilisation of ATP are constantly balanced in life. After death, ATP is resynthesised for a short time depending upon the glycogen available locally, but after this glycogen is used up, ATP cannot be resynthesised. This leads to the fusion of myosin and actin filaments into a dehydrated stiff gel resulting in the condition known as rigor mortis. During rigor mortis, the reaction of muscle changes from slightly alkaline to distinctly acid owing to the local formation of lactic acid. Rigor mortis persists until autolysis of myosin and actin filaments occurs as a part of putrefaction. When autolysis occurs, the muscles soften and secondary relaxation sets in.

Rigor mortis can also be broken by mechanical force. Thus, if a limb, which is stiff due to rigor, is flexed forcibly at a joint, the limb becomes flaccid and will remain so thereafter. This is known as breaking of rigor mortis. Existing rigor mortis is broken down at least partially in the process of removal of the body from the crime scene to mortuary, and this may mislead the doctor in estimation of time since death. It is therefore essential to make a note of its stage of development while visiting the crime scene.

All muscles of the body, voluntary and involuntary, are affected by rigor. It first appears in involuntary and then in voluntary muscles. It is not dependent on the nerve supply as it also develops in the paralysed limbs. It is tested by (1) attempting to lift the eye lids (2) depressing the jaw, and (3) gently bending the neck and various joints of the body."

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**At page 3.16 it is stated :**

"The medico-legal importance is as follows : (1) It is a sign of death (2) It helps to estimate the time since death. (3) It may give information about the position of the body at the time of death and if it has been altered after rigor has set in. As for example, if a person dies with the hands and legs supported against a brick wall and the position of the body has been changed after rigor set in, the hands and legs would remain raised in an unnatural position (without support)

The factors which influence rigor mortis are : age and condition of the body (2) mode of death, and (3) surroundings.

Age and condition of the body : In children and old people, rigor develops earlier than in the adults. The onset of rigor is later and the duration longer in the strong muscular person. The more feeble or poorly developed the muscles, the more rapid is the time of onset, and the shorter the duration"

21. Therefore, merely because rigor mortis was complete at the time of examination of dead body would not lead to conclusion that occurrence had not taken place at the time suggested by PW-2 and PW-3. Completion of rigor motis between occurrence and examination cannot be ruled out in view of variable conditions to complete it. Medical opinion is not conclusive / definite regarding nature to make case of prosecution improbable as to take precedence over ocular account. If evidence of eye-witnesses is reliable and trustworthy, the same cannot be ignored merely on the basis of medical opinion unless it is shown that evidence of witnesses is improbable in light of conclusive medical opinion. No such conclusive medical opinion is available in present case. Therefore, argument on behalf of appellant that case of prosecution is improbable and defence is probable is without any basis and is hence rejected.

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22. Learned counsel for appellant also argued that manner of occurrence is highly improbable as deceased was sitting on tractor and alleged firing was from ground level, therefore, nature of injuries suffered by deceased was not possible on chest. However, neither from evidence of prosecution nor from evidence of defence it can be concluded that in view of difference of level of deceased and assailant, injuries suffered by deceased were not possible. By raising barrel of gun upwards, gun can be fired and, therefore, it cannot be said that level of both injured and deceased should have been same. Therefore, said contention raised on behalf of learned counsel for appellant is rejected being devoid of merit.

23. In the given factual matrix prosecution has indeed proved its case against the appellant beyond reasonable doubt. Learned Trial Court has rightly appreciated the evidence led by both sides and correctly concluded that it was appellant who had caused death of deceased-Lakhvir Singh by firing upon him with 12 bore gun. The judgment of conviction and order of sentence are well reasoned and according upheld. There is no merit in present appeal.

24. No other argument was raised.

25. Appeal is accordingly, dismissed. Conviction and sentence as recorded by learned Trial Court is upheld.

(LISA GILL)
JUDGE

(PARMOD GOYAL)
JUDGE

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Whether speaking/reasoned
Whether reportable

Yes
Yes