IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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(1) **CRA-D-882-DB-2004**

SUCHA SINGH

.....Appellant

Versus

STATE OF PUNJAB

.....Respondent

(2) **CRA-D-286-DB-2005**

KHAZAN SINGH AND ANOTHER

.....Appellants

Versus

STATE OF PUNJAB

.....Respondent

Date of decision: August 19, 2025

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

Present: Mr. Rahul Mohan, Advocate (*Amicus Curiae*)
for the appellant(s).

Mr. H.S. Deol, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The instant appeal is directed against the judgment of conviction and order of sentence dated 30.09.2004 passed by the learned Additional Sessions Judge (Adhoc) Fast Track Court, Gurdaspur in case FIR No.10 dated 18.08.2021 under Sections 302/34 of Indian Penal Code, 1860, registered at Police Station Ghanie-ke-Bangar, arising out of an occurrence dated 17.08.2001. The instant appeals were preferred by accused-appellants namely Sucha Singh, Khazan Singh and Ladda @ Gurdial Singh.

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2. During the pendency of the appeal (CRA-D-286-DB-2005), appellant No.1 Khazan Singh has expired. The said appeal *qua* him stands abated.

3. The present judgment, therefore, considers the challenge at the instance of the remaining two appellants – Sucha Singh and Ladda @ Gurdial Singh, who were convicted and sentenced as follows by the learned trial Court:-

Name of the accused	**Offence under Section**	**Period of Sentence**	**Fine imposed**	**Period of sentence in default of payment of fine**
Sucha Singh	302 IPC	Imprisonment for life	Rs.3,000/-	RI for six months
Ladda @ Gurdial Singh	302/34 IPC	Imprisonment for life	Rs.3,000/-	RI for six months

4. The prosecution case, as unfolded by the statement of Prakash Singh (PW3) recorded on 18.08.2001 at about 1:30 p.m., is that on 17.08.2001 at about 8:30 p.m., appellants Khazan Singh and Ladda @ Gurdial Singh along with their co-accused Sucha Singh came in front of the house of Prakash Singh (PW3). On their knocking, Prakash Singh stepped out, accompanied by his father, Munsha Singh (the deceased), and his brother Mukhtiar Singh (PW4).

5. At that stage, accused Sucha Singh raised a *lalkara* to "*teach a lesson*" to Prakash Singh (PW3). In the incident that followed, Ladda @ Gurdial Singh delivered a *datar* blow on the head of Munsha Singh above

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the left eye, whereupon he fell to the ground. Khazan Singh then allegedly delivered another *datar* blow on the left leg/ankle of the deceased. On alarm being raised, the accused fled.

6. The injured was taken to Civil Hospital, Batala, where Dr. Sukhdip Singh (PW1) medico-legally examined him at about 11.10 p.m. on 17.08.2001 and found two incised wounds:-

(i) Incised wound 14 cm x 2 cm on the left perital region vertically placed 3cm above the left eye brow 4 cm from the mid line and 9 cm from the left ear pinna. Profuse bleeding was present. Wound was bone deep and was kept under observation. Pupils were normal. Patient was conscious. B.P. was 120/78 MM of Hg. Pulse was 80 per minute, regular;

(ii) Incised wound 4 cm x ¾ cm on the natero medical aspect of lower 1/3rd of left leg 7cm above the left ankle joint. Bleeding was present. The wound was bone deep. X-ray was advised.

Both were bone deep, with profuse bleeding, attributable to a sharp-edged weapon within 6 hours duration. The Medico Legal Report (MLR) (Ex.PA) was proved.

7. As the condition of the injured deteriorated, he was referred on 18.08.2001 to Guru Nank Dev Hospital, Amritsar, where he succumbed around 1 pm. The police were informed; the statement of Prakash Singh (Ex.PA) was recorded at 1:30 p.m. the formal FIR (Ex.PA/1 and PA/2) was

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registered at 5:30 p.m.; and the Special Report reached the *Ilaqa* Magistrate at 6:35 p.m.

8. After the accused were arrested, investigation was carried out leading to the presentation of challan against them. The case was thereafter committed to the Court to Sessions, where the accused were charged for offence under Section 302 read with Section 34 IPC, to which they pleaded not guilty and claimed trial. The prosecution examined as many as 11 witnesses including PW1 Dr. Sukhdip Singh (who conducted the medico-legal examination of the deceased), PW2 Satish Chander [Draftsman who prepared the site plan (Ex.PC)], PW3 Prakash Singh (complainant) and PW4 Mukhtiar Singh (eyewitness), and PW5 Dr. Guriqbal Singh (who conducted the postmortem of the deceased). PW5 Dr. Guriqbal Singh opined that injury No.1 on the head was sufficient in the ordinary course of nature to cause death. In addition, certain formal witnesses were examined and the recovery of *datar* was stated to have been effected at the instance of the accused.

9. In their examinations under Section 313 Cr.P.C., the accused denied the incriminating circumstances, pleaded false implication due to village rivalry, asserted that the deceased was not the intended target (the alleged quarrel being with Prakash Singh), and urged that there was no common intention to cause death; in any event at the highest, the case would fall under Section 304(II) IPC.

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10. The accused did not lead any evidence in their defence. The learned trial Court, finding the ocular account consistent with the medical evidence and relying upon the recovery, returned findings of guilt.

11. Learned *Amicus Curiae* made the following submissions on behalf of the appellants:-

(I) The occurrence was stated to have taken place at about 8:30 p.m. on 17.08.2001; the deceased was shifted to the hospital, where his medic-legal examination was conducted at 11:10 p.m. on the same night; he died on 18.08.2001 at about 1 p.m. Yet, the statement of PW3 Prakash Singh was recorded only at about 1:30 p.m. on 18.08.2001. The formal FIR (Ex.PA/1 and PA/2) was registered at 5:30 p.m., and the Special Report reached the Magistrate at 6:35 p.m. Learned *Amicus Curiae* argued that the unexplained delay afforded opportunity for deliberation, embellishment and tutoring.

(II) It was also further argued that PW1 Dr. Sukhdip Singh during his deposition categorically admitted that neither the patients nor his attendants disclosed any facts of assault by anyone, much less the appellants. It was asserted by the learned *Amicus Curiae* that in a case of murderous attack by known persons, such silence was abnormal and unnatural, and clearly went to the root of the case of the prosecution.

(III) Learned *Amicus Curiae*, while drawing the attention of this Court to the cross-examination of PW1 Dr. Sukhdip Singh, argued that his

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witness accepted that the ankle injury (injury No.2) on the deceased with friendly hands cannot be ruled out. This clearly undermined the assertion of the prosecution that both injuries were necessarily from sharp-edged weapon blows.

(IV) It was further argued that both the alleged eyewitnesses PW3 Prakash Singh and PW4 Mukhtiar Singh were none other than the sons of the deceased, and who were, as per the case of the prosecution, present when their father i.e. the deceased was attacked. Learned *Amicus Curiae* argued that strangely, none of these two eyewitnesses made any attempt to protect their father and raise hue and cry sufficient to attract neighbours; though the police station lay on the route of the hospital and the hospital was about 4 kms away, they lodged no report that night and remained silent only after the death, which was against normal human conduct, seriously casting doubt on their presence at the scene of crime. It was also submitted that as per the site plan (Ex.PC), the occurrence took place outside the house of the complainant party. The prosecution proved no dependable source of light at the scene of crime. In such circumstances also, identification of the assailants was extremely doubtful.

(V) Furthermore, learned *Amicus Curiae* argued that the *lalkara* attributed to Sucha Singh was to teach a lesson to Prakash Singh (PW3); the deceased intervened. Thus, even as per the prosecution version, the deceased was not the intended target, no common intention to cause his death could be

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inferred. At the highest, if any offence was made out on accepted facts, it would be under Section 304(II) IPC; otherwise, the appellants deserved acquittal.

(VI) It was lastly argued that both PW3 Prakash Singh and PW4 Mukhtiar Singh, being close relatives of the deceased, were entrusted witnesses; their testimony corroborated by independent witnesses and marred by omissions and conduct, was unsafe to rely upon. The absence of any injuries on both these witnesses, despite being at arm's length from their father, further eroded their credibility.

12. *Per contra*, learned State counsel justified the delay in lodging of the FIR by arguing that the immediate priority of the family was to secure treatment and save life of the deceased; formalities cannot override the urgency of medical care. The timeline did not, by itself, render the prosecution version, therefore, doubtful.

13. It was further argued that PW3 Prakash Singh's testimony clearly came across as being consistent and natural and was further corroborated by PW4 Mukhtiar Singh. Minor discrepancies in their testimonies were inevitable and would in no manner create any dent in the case of the prosecution.

14. While referring to the medical evidence, learned State counsel submitted that the ocular testimony found due corroboration with the medical evidence. The fatal skull injury was caused by a sharp-edged

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weapon and was sufficient in the ordinary course to cause death. He also asserted that non-narration of the history of assault to PW1 Dr. Sukhdip Singh by the complainant and his brother PW4 Muktiar Singh would not adversely affect the case of the prosecution as their priority at that point of time was immediate treatment of their injured father. Furthermore, recovery of the *datar* at the instance of the accused provided additional corroboration. A prayer was, therefore, made for dismissal of the instant appeals.

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

16. The following issues arise for determination:-

(a) Whether the delay and sequence in lodging the FIR stands satisfactorily explained;

(b) Whether the conduct of PW3 Prakash Singh and PW4 Mukhtiar Singh and their non-disclosure to the doctor/police impair the credibility of the ocular version;

(c) Whether identification at the scene is free from doubt in the prevailing conditions;

(d) Whether the prosecution proved common intention under Section 34 IPC particularly *qua* Sucha Singh, whose role is limited to a *lalkara*;

(e) Whether on the whole, the prosecution was unsuccessful in establishing the guilt of the accused beyond reasonable doubt; or

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(f) Whether benefit of doubt must enure to the appellants.

17. The occurrence was at 8:30 p.m. on 17.08.2001; the time of MLR of the deceased was recorded as 11:10 p.m. followed by death around 1 p.m. on 18.08.2001. The statement of PW3 Prakash Singh (Ex.PA) was recorded at 1:30 p.m. on 18.08.2001, leading to the registration of formal FIR (Ex.PA/1 and PA/2) at 5:30 p.m. The Special Report reached the Magistrate at 6:35 p.m. While delay is not *per se* fatal, it demands a plausible and cogent explanation because the FIR is expected to be the earliest version. Here, despite the injured being taken to a Government hospital, there is no contemporaneous intimation to the police; even after death at a referral hospital, the formal machinery was set in motion only hours later. The explanation that the family prioritized treatment, cannot, in the facts, fully account for the silence during the night and again after the death – particularly when the route to the hospital passed the police station. As per the case of the prosecution, both PW3 Prakash Singh and PW4 Mukhtiar Singh, sons of the deceased, witnessed the occurrence in question, however, strangely not even one of the two bothered to report the crime to the police even after the deceased had been referred to the referral hospital at Amritsar. The hiatus is of such quality and length as to permit a deliberation and embellishment. We, therefore, find merit in the contention of the learned *Amicus Curiae* for the appellants on this score.

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18. Pertinently, as per PW1 Dr. Sukhdip Singh, neither the patient nor the attendants i.e. PW3 Prakash Singh and PW4 Mukhtiar Singh disclosed anything about the assault to the doctor. In a case of alleged targeted attack and that too by known villagers, non-disclosure of even the factum of assault (let alone names) at the earliest medical interface is an unnatural omission. Coupled with the admitted failure to alert the police during the night despite presence at the hospital and the absence of any attempt by PW3 Prakash Singh and PW4 Mukhtiar Singh to intervene or to raise a hue and cry attracting neighbours, the conduct appears inconsistent with normal human behaviour. These features cumulatively corrode the intrinsic worth of the ocular account and render the presence of PW3 Prakash Singh and PW4 Mukhtiar Singh at the scene of crime doubtful.

19. As per the site plan (Ex.PC), the incident took place outside the house of the complainant party. The prosecution was unable to prove any definitive source of lighting at 8:30 p.m. in the month of August. In rural settings, particularly in the absence of proof of functional light sources, identification in the dark is hard. No doubt, the State relied on relationship and familiarity to contend that identification was nonetheless possible, however, when the very presence of the eyewitnesses is already under doubt and the FIR itself is delayed, absence of proof of lighting becomes a

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significant infirmity. The possibility of mistaken identity cannot be safely excluded.

20. PW5 Dr. Guriqbal Singh attributed death of the deceased to the head injury, sufficient in the ordinary course to cause death. That medical conclusion, however, does not, by itself, point to the authorship of the injury. The prosecution case, when weighed with the unnatural omissions and the doubtful presence/ identification, reinforces reasonable doubt about the exact manner of assault and the roles attributed.

21. The alleged recovery of *datar* is, at best, corroborative evidence. In the backdrop of unreliable ocular evidence, doubtful presence and identification, and the infirmities noted, such recovery cannot sustain a conviction. In light, evidence of recovery cannot substitute for participation beyond reasonable doubt.

22. Criminal jurisprudence requires the prosecution to establish guilt beyond reasonable doubt. In the present case, the concatenation of (i) significant and inadequately explained delay in lodging the FIR; (ii) failure to disclose a history of assault by named assailants at the first opportunity – the time of admission of the deceased in the hospital; (iii) conduct of PW3 Prakash Singh and PW4 Mukhtiar Singh, inconsistent with ordinary human behaviour; (iv) non-proof of lighting rendering identification at night unsafe, leaves us with a residual doubt, which is both reasonable and substantial.

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23. The learned trial Court overlooked the cumulative effect of these infirmities. The prosecution version does not inspire confidence to the degree that the law demands for sustaining a conviction under Section 302 IPC.

24. In sequel to the above, the instant appeals are allowed and the conviction of the appellants is set aside.

25. Copy of this order be placed on the file of the connected case.

(MANJARI NEHRU KAUL)
JUDGE

August 19, 2025 **(H.S. GREWAL)**
Jaspreet Kaur **JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

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