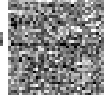


2025.PHHC.002549-DB



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

**CRA-AD-215-2024  
Reserved on : 14.10.2024  
Date of Decision: 10.01.2025**

Komalpreet Kaur  
State of Punjab and others

versus

....Appellant.  
....Respondents.

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL  
HON'BLE MS. JUSTICE LAPITA BANERJI**

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**Argued by:** Mr. Gurmohan Preet Singh, Advocate  
Mr. Navraj Narang, Advocate and  
Mr. Khushpal Singh, Advocate for the appellant.

Mr. H.S. Sullar, Senior Deputy Advocate General, Punjab.

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**ANUPINDER SINGH GREWAL, J.**

This appeal against acquittal is directed against the judgment of the Trial Court dated 21.05.2024, whereby the respondents have been acquitted in FIR No.102 dated 05.08.2019 under Sections 302, 201, 34 IPC, registered at Police Station Makhu.

**SUBMISSIONS OF THE COUNSEL FOR THE APPELLANT**

2. Learned counsel for the appellant has contended that the Trial Court has erred in acquitting respondents No.2 to 4 although there was clinching evidence warranting their conviction in the form of statement of the appellant/complainant, who was examined as PW-1 and is also the daughter of deceased-Sarwan Singh. She had categorically deposed with regard to the

involvement of respondents No.2 to 4, who include her mother in the commission of the crime. Her statement was corroborated by PW-3 Harjinder Singh and PW-9 Gurdev Singh. Moreover, recovery of rope and motorcycle, which was used to throw the body of the deceased in the lake, had been effected from the accused in terms of their statements, which is strong evidence pointing towards their guilt. He also submitted that the chain of circumstances is complete and it points to the only conclusion i.e. towards the guilt of the accused. He has relied upon the judgements of the Supreme Court in the cases of **Deonandan Mishra vs. State of Bihar, AIR 1955 SC 801**, **Mani Kumar Thapa vs. State of Sikkim, (2002) 7 SCC 157** and **Ramjee Rai vs. State of Bihar (2006) 13 SCC 229**.

3. Heard.

### **FACTUAL MATRIX**

4. It is the case of the prosecution that the appellant had made a statement to the police to the effect that she has an elder married sister and two younger brothers. Her youngest brother-Arshdeep Singh was studying in class 8<sup>th</sup> in a Government School and after school, he used to work at the AC repair shop of Rajinder Singh @ Thind son of Santokh Singh (respondent No.3) and Sukhwinder Singh son of Bakshish Singh (respondent No.4), which was situated near Railway Crossing, Makhu. Both of them would drop her brother back home and would often visit their house and they had developed illicit relations with the accused-Baljit Kaur (respondent No.2), who is the mother of the complainant. The deceased had a sawmill at the house and was working as a carpenter, making doors and windows. Her mother Baljit Kaur used to often quarrel with her father. On the night intervening 28/29.07.2019

after having meals, while she and her brother were sleeping in one room and her parents were sleeping in another room, her mother had called Rajinder Singh @ Thind and Sukhwinder Singh to their house. On hearing some noise, she woke up and while sneaking through the curtains noticed that Rajinder Singh @ Thind and Sukhwinder Singh along with her mother Baljit Kaur were wrapping her father in the cover of a quilt and tying him with a rope and pulling it outside. She thereafter went back to sleep and in the morning enquired about her father from her mother, who told her that he had gone to Himachal. She later went to her uncle's house and narrated the entire incident to him and when they could not locate her father, they suspected that her mother in connivance with Rajinder Singh @ Thind and Sukhwinder Singh had murdered her father by strangulating him. She also stated that the motive was that her mother-Baljit Kaur and Rajinder Singh @ Thind had developed illicit relations which were opposed by her father and so Baljit Kaur in connivance with Rajinder Singh @ Thind and Sukhwinder Singh had murdered her father. The appellant who was examined as PW-1, in her deposition supported the prosecution version as stated in the complaint.

5. The prosecution also examined PW-3 Harjinder Singh, who is the brother of the deceased. He had stated that he was labourer by profession and on 29.07.2019, his niece came to him and disclosed that her mother-Baljit Kaur along with Rajinder Singh @ Thind and Sukhwinder Singh had strangulated her father, covered his dead body in the cover of a quilt and she had witnessed this. When he enquired about his brother from Baljit Kaur, she told him that he had gone to Himachal Pradesh. They started searching for him but to no avail and he suspected that Baljit Kaur along with Rajinder

Singh @ Thind and Sukhwinder Singh had killed his brother as she had illicit relations with Rajinder Singh @ Thind.

6. PW-9 Gurdev Singh, who is the cousin of the deceased, had stated that he lives in the house adjoining the house of the deceased and the younger son of the deceased namely Arshdeep Singh used to go to AC repair shop after school and Rajinder Singh @ Thind and Sukhwinder Singh used to drop him home due to which Baljit Kaur developed illicit relations with them which was disclosed to him by complainant (PW-1) and PW-3 Harjinder Singh. The complainant also told him that on the night intervening 28/29.07.2019, she was sleeping with her brother in one room while her parents were sleeping in another room and when she had woken up, she saw that all three accused after killing the deceased, had wrapped his body in a quilt cover and then took him on a motorcycle.

7. The accused in their statements under Section 313 Cr.P.C. had denied the allegations and pleaded innocence.

8. Respondent No.2 had stated that she had been falsely implicated in the case of murder of her husband. Her husband Sarwan Singh was alive and a false case has been registered against her by PW-3 Harjinder Singh as he wants to grab the property of her husband.

9. Respondent No.3 had pleaded innocence and stated that he has been falsely implicated in the present case and false recovery has been planted upon him. He has no relations with accused-Baljit Kaur. Recovery of motorcycle was not effected from him and he did not give any statement to the police record any concession. He was not arrested by the police from Railway Station Joge Wala, rather he was arrested from his house. He did not

commit the murder of Sarwan Singh and Sarwan Singh is still alive. False case has been registered by Harjinder Singh as he wants to grab the property of the deceased. He does not know Baljit Kaur and her family members and her son Arshdeep Singh never worked with him.

10. Respondent No.4 also pleaded his innocence and false implication. No recovery was effected from him and false recovery has been planted upon him. He had no relations with accused-Baljit Kaur. He was not arrested by the police from Railway Station Joge Wala, rather he was arrested from his house. He did not commit the murder of Sarwan Singh and Sarwan Singh is still alive. False case has been registered by Harjinder Singh as he wants to grab the property of the deceased. He does not know Baljit Kaur and her family members and her son Arshdeep Singh had never worked with him.

### **ANALYSIS AND FINDINGS**

11. The Trial Court after examining all the evidence had acquitted the accused/respondents No.2 to 4 of all the charges levelled against them. It is apparent that there is delay of about a week in lodging the FIR as, though the incident is stated to have taken place in the night intervening 28/29.07.2019 and witnessed by the complainant, who is the daughter of the deceased, the FIR had been lodged only on 05.08.2019. It is true that mere delay in lodging the FIR would not be fatal to the prosecution case, but in the event of delay of a week in reporting the matter to the police, the delay ought to have been satisfactorily explained. In the instant case, there does not appear to be any satisfactory explanation in this regard. The delay in lodging the FIR is a significant dent in the prosecution case especially when it is seen in light of the evidence of the complainant, who is stated to be an eyewitness. The

complainant is the daughter of the deceased and she stated that she had witnessed the occurrence at night inasmuch as she saw the accused wrapping the body of her deceased father in a quilt cover and pulling it with a rope, but she does not inform the police for a week. She had even stated that she was told by her mother that her father had gone to Himachal and they had tried to locate him and only on their failure to do so, she had lodged the FIR. This conduct is wholly unnatural as no daughter, who has seen the body of her father being wrapped in a quilt cover and being taken away by the accused, would wait for a week before informing the police. She herself had witnessed the occurrence and, therefore, there was no occasion for her to ask her mother about the whereabouts of her father and to believe her when she said that he had gone to Himachal.

12. Furthermore, the statements of PW-3 Harjinder Singh and PW-9 Gurdev Singh do not help the prosecution's case for the reason that PW-3 had only stated that he was informed by the complainant about the incident and later they had tried to enquire about the whereabouts of his brother from Baljit Kaur, who told him that her husband had gone to Himachal. They started searching for him and when they could not find him, it came to their knowledge that Baljit Kaur along with two other accused had killed his brother. He is undoubtedly not an eyewitness and is merely narrating what has been told to him by the complainant and others. The evidence of the complainant as already discussed hereinbefore is full of contradictions and is unworthy of credence.

13. PW-9 Gurdev Singh had also deposed that he lives in the house adjoining the house of the deceased. He also had had been told about the

incident by complainant (PW-1). He stated that Arshdeep Singh (son of deceased) used to work in the AC repair shop and accused Rajinder Singh @ Thind and Sukhwinder Singh used to drop him home, due to which they developed illicit relations which was disclosed to him by complainant-Komalpreet Kaur. PW-9 is also not an eyewitness, he is merely stating what had been disclosed to him by PW-1 and therefore he has led hearsay evidence which in the attendant facts and circumstances pales into insignificance.

14. The prosecution is also relying upon circumstantial evidence as it is alleged that respondent No.2 was in illicit relationship with Rajinder Singh @ Thind and call records, indicating that they were both in touch with each other, had been placed on record. However, the location of the two at the time of the incident i.e. on the night intervening 28/29.07.2019 appears to be at different places. The exchange of calls, which were at times at odd hours, could only be a pointer towards an illicit relationship between respondent No.2-Baljit Kaur and respondent No.3-Rajinder Singh @ Thind, but that by itself would be insufficient to drive home the guilt of respondents No.2 to 4. Illicit relations may raise suspicion, but mere suspicion without cogent incriminating evidence would not be sufficient to warrant a conviction. Reference can be made to the judgement of the Supreme Court in **Ravishankar Tandon vs. State of Chhattisgarh, (2024) 4 S.C.R. 558.**

Relevant extract thereof is reproduced hereunder:-

*“10. It is settled law that suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent unless proved guilty beyond a reasonable doubt.”*

15. It is significant to note that the body of the deceased has not been

found despite concerted efforts in that regard. In the absence of *corpus delicti*, it would be necessary to carefully examine the prosecution evidence and only in the event of clinching evidence, the conviction of the accused would be warranted. The prosecution has relied upon the disclosure statements of the accused, which led to the recovery of the rope and motorcycle. However, even with regard to the recoveries of rope and motorcycle and the manner in which the deceased was killed, there are material discrepancies and contradictions in the evidence of the prosecution witnesses. PW-1 Komalpreet Kaur and PW-3 Harjinder Singh had stated that deceased had been done away with the help of a rope, whereas PW-9 Gurdev Singh had stated that deceased was killed after being stabbed. Moreover, the recovery of the rope by itself cannot lead to the inference with regard to its use in the commission of the crime. Rope is a common material and which is available freely. Reference can be made to the judgement of the Supreme Court in the case of **Kusal Toppo and another vs. State of Jharkhand, (2019) 13 SCC 676**, wherein it was held that mere recovery of a rope, which is a common material and freely available in market or every household, would not be sufficient unless there was further evidence to link the rope with the crime including report on forensic aspect of fiber or any recovered strands. In the case at hand, there does not appear to be any forensic evidence to indicate that the rope, which was recovered, had been used in the commission of the crime.

16. The judgements relied upon by the counsel for the appellant are distinguishable on facts and are not applicable to the instant case. There is no denying the proposition of law laid therein. In **Deonand Mishra** (supra) the Supreme Court had held that in a case of circumstantial evidence not only



should the various links in the chain of evidence be clearly established, but the completed chain must be such as to rule out a reasonable likelihood of the innocence of the accused.

17. In that case, the appellant who was accused of having murdered his second wife was the last person to have been seen with the deceased prior to her death. He was unable to offer any satisfactory explanation as to how he parted company with her although they had travelled together in the train to Gaya. The murder weapon which was a knife was found just by the side of the head of the deceased stained with blood. The accused who was arrested two and a half days after the murder had simple injuries on his hand and the knees which were unexplained. It was in such circumstances that the case against the appellant therein was established.

18. Learned counsel for the appellant/complainant has also relied on the judgments in **Mani Kumar Thapa** and **Ramjee Rai's** cases (supra) to argue that it is a well-settled principle in law that in a trial for murder, it is neither an absolute necessity nor an essential ingredient to establish *corpus delicti*.

19. It is true that in some cases it may not be possible to trace or recover the body or remains of the deceased due to several reasons and if the recovery of the dead body was held to be mandatory to convict an accused, the accused would make sure that the dead body is destroyed without any trace so as to make him immune from being convicted.

20. However, what is required in law to base a conviction for an offence of murder is that there should be reliable and plausible evidence that the offence of murder was committed and the same must be proved by direct

or circumstantial evidence albeit the dead body may not be traced. Reference can be made to the judgement of the Supreme Court in the case of ***Sevaka Perumal v. State of T.N. (1991) 3 SCC 471***. The relevant extract is reproduced hereunder:-

*“In a trial for murder it is not an absolute necessity or an essential ingredient to establish corpus delicti. The fact of death of the deceased must be established like any other fact. Corpus delicti in some cases may not be possible to be traced or recovered. Take for instance that a murder was committed and the dead body was thrown into flowing tidal river or stream or burnt out. It is unlikely that the dead body may be recovered. If recovery of the dead body, therefore, is an absolute necessity to convict an accused, in many a case the accused would manage to see that the dead body is destroyed etc. and would afford a complete immunity to the guilty from being punished and would escape even when the offence of murder is proved. What, therefore, is required to base a conviction for an offence of murder is that there should be reliable and acceptable evidence that the offence of murder, like any other factum, of death was committed and it must be proved by direct or circumstantial evidence, although the dead body may not be traced.”*

21. In **Mani Kumar Thapa**’s case (supra), the prosecution had led sufficient evidence to prove its case beyond reasonable doubt. The deceased was last seen in a Jeep with the accused by multiple witnesses. The accused had given contradictory version about his whereabouts on the day in question.

22. In the case of **Ramjee Rai** (supra), the links in the chain of circumstances were complete inasmuch as the prosecution had brought on record sufficient evidence to prove that the assailants had arrived on a boat, assaulted the deceased and carried away his dead body; PW-3 who was the complainant/informant, had lodged the FIR at the earliest possible opportunity. The informant had categorically stated that he not only saw the deceased being assaulted, he at the first opportunity jumped from the boat, swam across the dhab and the next morning he went to Danapur Police

Station on a boat and lodged the FIR. Apart from the complainant, there were at least three other witnesses who had seen the deceased being attacked by the accused.

22. The principles pertaining to conviction in cases of circumstantial evidence have been culled out by the Supreme Court in the case of **Sharad Birdhi Chand Sarda vs. State of Maharashtra, (1984) 4 SCC 116**. The relevant extract is being reproduced hereunder:-

*“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:*

*(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.*

xx    xx    xx  
xx    xx    xx

*(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say. they should not be explainable on any other hypothesis except that the accused is guilty,*

*(3) the circumstances should be of a conclusive nature and tendency.*

*(4) they should exclude every possible hypothesis except the one to be proved, and*

*(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.*

*These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence.”*

These principles have been reiterated by the Supreme Court in the case of **Ravishankar Tandon's** case (supra).

## CONCLUSION

23. It is manifest that in the instant case, the prosecution has completely failed to establish the chain of incriminating circumstances pointing to the guilt of the accused. There was a delay of seven days in lodging the FIR and no plausible explanation has been offered as to why it took her so long, despite allegedly having seen her mother and her paramours take away the body of her father in the dead of the night. The body of the deceased has not been recovered and the statement of the complainant, who is a star witness, is replete with material contradictions. Furthermore, the testimony of the other public witnesses is merely a reiteration of what the complainant allegedly witnessed. No credible forensic evidence in terms of hair or blood or any other evidence, has been led by the prosecution to show that the deceased was done to death or that his body was taken away on the motorcycle. Thus, the evidence led by the prosecution as discussed in the foregoing paragraphs is too sketchy to warrant conviction of the accused.

24. It is trite that the judgment of acquittal would not be lightly interfered by the Appellate Court as the presumption of innocence of the accused is reinforced by a judgment of acquittal. Even if another view is possible on appreciation of evidence, the finding of acquittal would prevail. Reference can be made to the judgement of the Supreme Court in the case of **Chandrappa and others vs. State of Karnataka (2007) 4 SCC 415**. The relevant extract thereof is reproduced hereunder:-

*“42. From the above decisions, in our considered view, the following general principles regarding powers of appellate Court while dealing with an appeal against an order of acquittal emerge;*

*(1) An appellate Court has full power to review, reappraise and reconsider the evidence upon which the order of acquittal is founded;*

(2) The *Code of Criminal Procedure*, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate Court on the evidence before it may reach its own conclusion, both on questions of fact and of law;

(3) Various expressions, such as, 'substantial and compelling reasons', 'good and sufficient grounds', 'very strong circumstances', 'distorted conclusions', 'glaring mistakes', etc. are not intended to curtail extensive powers of an appellate Court in an appeal against acquittal. Such phraseologies are more in the nature of 'flourishes of language' to emphasize the reluctance of an appellate Court to interfere with acquittal than to curtail the power of the Court to review the evidence and to come to its own conclusion.

(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

25. We are, therefore, of the considered view that judgment of acquittal appears to be well reasoned and based upon proper appreciation of evidence as the prosecution has not been able to establish its case beyond reasonable doubt. In the result, the appeal stands dismissed.

**(ANUPINDER SINGH GREWAL)**  
**JUDGE**

**(LAPITA BANERJI)**  
**JUDGE**

**10.01.2025**  
jitender

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|----------------------------|---|---------|
| Whether speaking/ reasoned | : | Yes/ No |
| Whether Reportable         | : | Yes/ No |