

2026:PHHC:016994-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(1) CRA-D-329-DB of 2004 (O&M)
Reserved on:-04.11.2025
Pronounced on:- 05.02.2026
Uploaded on:-13.02.2026

Mainpal ...Appellant
Vs.
State of Haryana ...Respondents

CRA D-756-DBA-2004

2.
State of Haryana ...Appellant
Vs.
Chander and others ...Respondents

CORAM: HON’BLE MR. JUSTICE N.S.SHEKHAWAT
HON’BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. J.P. Jangu, Advocate and
Mr. Sagar Dangi, Advocate for the appellant
in CRA-D-329-DB-2004.

Mr. Parmod Kumar, AAG, Haryana.

Mr. Partap Singh Gill, Advocate
as Amicus Curiae for the respondents
in CRA-D-756-DBA-2004.

N.S.SHEKHAWAT, J.

1. By way of the instant judgment, we shall dispose off two
criminal appeals, i.e., CRA-D-329-DB of 2004 titled as “Mainpal Vs.

State of Haryana”, and CRA D-756-DBA-2004 titled as “State of Haryana Vs. Chander and others”. In fact, the appellant in CRA-D-329-DB of 2004 and seven respondents in CRA D-756-DBA-2004 were tried by the Court of Additional District and Sessions Judge (Adhoc), Jhajjar and vide the impugned judgment and order dated 04.03.2004, Mainpal, appellant in CRA-D-329-DB of 2004 was convicted for the offence under Section 302 IPC and was sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.5,000/-, alongwith default stipulation, whereas, the respondents No. 1 to 7 were ordered to be acquitted. Mainpal appellant has filed the appeal, i.e., CRA-D-329-DB of 2004 with a prayer to acquit him of the charge, whereas, the State of Haryana has filed the criminal appeal, i.e., CRA D-756-DBA-2004 with a prayer to convict the respondents No. 1 to 7. Since, the appeals involve the same questions of law and facts and arise out of a common impugned judgment, the same are being disposed of simultaneously.

2. The FIR Ex.PD in the present case was registered on the basis of the statement Ex.PA made by Bimla Devi wife of Om Parkash, deceased and the relevant extract of Ex.PD has been reproduced below:-

“Statement of Smt. Bimla Devi w/o Om Parkash caste Jat resident Lakhyan Pana Badli age 42 years old, stated that I am resident of village Badli and household lady. On dated 18.11.2000 Mainpal son of Bhagwan Singh son of Molar, Vikram, Vijay Pal sons of Bhagwan

Singh, Mahender Singh son of Molar, all residents of village Badli had illegally got transferred the land of my maternal uncle of my husband situated at village Berla and share of my Devar Chander was got transferred in the name of Mainpal. In lieu of stopping this illegal transfer of land Bhagwan Singh etc., gave many injuries to my Devar Hem Chander and his son Jitender. Due to this Hem Chander died and Jitender received injuries over his eyes and head, due to which he became one eyed. In this respect a murder case was got registered at P.S. Sadar Bahadurgarh. Except Mainpal all the accused were arrested. Today 28.7.2001 at about 5.00/5.30 P.M. I, my sister Bala, my both daughter namely Asha and Nisha were coming from the fields of Tejbir Pandit and Satnarain Pandit resident of Badli, which were taken on rent (Ughai) alongwith bundle of grass. My husband Om Parkash was heading towards us with buffaloes. When we reached near Garg Bhatha company, in the meantime nearby the tubewell Kotha behind Garg Bhatta, Mainpal son of Bhagwan Singh, Chander son of Molar, Mahender, Roshni wife of Bhagwana, Urmila daughter of Bhagwan Singh came running towards us. Roshni raised a lalkara that Om Parkash should not be left alive. Hence, Chander, Mahender sons of Molar, Urmila daughter of Bhagwan Singh, Roshni wife Bhagwan Singh caught hold shoulder of my husband and Mainpal fired from pistol on the head and chest of my husband Om Parkash. My husband after receiving bullet injuries fell down on earth. We raised alarm and tried to rescue Om Parkash, Mainpal came ahead and pointed his pistol towards us and threatened to kill in the event of coming

forward. All of them ran towards village Ladhpur. We take care of Om Parkash and found that Om Parkash had died due to receiving bullet injuries. I had left my both daughters nearby the dead body of my husband and was coming to report to police chowki and you had met me at Bus stand Padli. I had got recorded my statement. It is correct. Kindly take legal action

Sd/- Bimla Devi

Attested by Maha Singh SI I/P.P. Padli”.

3. After the registration of the FIR, the police went to the spot alongwith Raj Kumar, Photographer and inspected the site. The inquest proceedings were conducted and the statements of Ramesh Chand and Ved Pal were recorded. The blood stained earth and the fired bullets were sealed separately and were taken into possession vide separate recovery memos. The rough site plan was prepared and the necessary investigation was conducted. Mainpal, main accused was arrested by the police on 01.10.2001, while he was travelling in his car with his companion Amarjeet. On personal search of Mainpal, one pistol of .315 bore loaded with live cartridge was recovered, while a pistol of .38 bore was recovered from Amarjeet Singh. On further search of Mainpal, an amount of Rs.50,000/- was recovered, while an amount of Rs.3.96 lacs was recovered from Amarjeet. During investigation, it was also established that the pistol of .38 bore, which was recovered from Amarjeet, was used in the commission of the crime by Mainpal, accused. The other accused were also arrested by the police, however, no recovery was effected

from anyone. During the course of investigation, the police also recorded the supplementary statement of Bimla Devi on 29.09.2001, wherein, she alleged that Mainpal, accused was being provided shelter and food by Jai Pal, Ajit @ Kala and Sonu, residents of village Badli and they had done so intentionally and were having knowledge that Mainpal had committed the murder of Om Parkash. On this, Ajit @ Kala, Jaipal and Sonu were also arrested under Section 216 IPC. After completion of investigation, the *challan* was presented before the Court of Area Magistrate. Since, the case was exclusively triable by the Court of Sessions, the case was committed to the Court of Sessions Judge, Jhajjar. Vide order dated 19.04.2002, Chander, Roshini, Urmila, Mahender and Mainpal were charge-sheeted for the commission of the offence under Sections 148, 302, 149 and 506 IPC. Mainpal accused additionally charge sheeted for the commission of offence punishable under Sections 25 of the Arms Act.

4. Apart from that, Ajit @ Kala, Jaipal and Sonu were also charge-sheeted for the commission of offence under Section 216 IPC. All the accused pleaded that they had been falsely involved in the present case and claimed to be tried by the trial Court.

5. During the course of trial, the prosecution examined Bimla wife of Om Parkash as PW1 and she reiterated the version as mentioned in the FIR Ex.PD. However, in her cross-examination, she admitted that she and Bala are real sisters whereas Nisha and Asha are her daughters. Roshni and Urmila caught hold of left hand of Om

Parkash, whereas Chander and Mahender caught hold of right hand of Om Parkash and they had seen all the accused from a distance of 50/60 yards. All of them were having sickles for cutting grass. All the four ladies were having bundles of grass on their head. Nisha and Asha used to cut grass in field daily. They did not try to catch any of the accused as Mainpal threatened to kill them by showing pistol. Except, Mainpal, main accused, all other accused were empty handed. Mainpal, main accused fired shots continuously, one after another without any time gap. No person came after hearing gun shot.

6. The prosecution further examined Bala wife of Hem Chander and Asha daughter of Om Parkash, deceased, as PW2 and PW3, respectively. Both the witnesses had supported the testimony of PW1 Bimla and deposed also on similar lines. The prosecution further examined PW4 Ramkaran, Constable, who accompanied the other police officials and went to the spot after the occurrence. He remained associated with the process of investigation and the doctor handed over the copy of the postmortem report to him on 30.07.2001, alongwith sealed parcel of clothes of the deceased and a sealed parcel (phial) containing the bullet recovered from the dead body with one envelope containing the seal impression. Even, inquest papers and postmortem report were given to him, which he handed over to Maha Singh, S.I. The prosecution further examined PW5 Ranjit Singh, ASI, who arrested Mahender Singh accused. Ved Pal PW6 identified the dead body of Om Parkash in the hospital and during inquest

proceedings, his statement was recorded. As per PW7 Karan Singh, MHC, on 30.07.2001, the sealed parcel of the clothes of the deceased, one plastic box containing the bullets, a sealed parcel of blood stained earth and an envelope containing the seal impression of the doctor were deposited by him. On 13.8.2001, he sent all the parcels to FSL Madhuban.

7. PW8 ASI Sarup Singh, deposed that on 01.10.2001, he was posted as Reader to S.P. Gurugram and after cross FIR, they had arrested Mainpal accused and one pistol of .315 bore loaded with one live cartridge was recovered from him. Amarjeet accused was also arrested and from his search, a pistol of .38 bore was recovered. Apart from that five empty cartridges, one live cartridge and Rs. 3.96 lacs were recovered from Amarjeet Singh, accused. An amount of Rs. 50,000/- was also recovered from Mainpal. All these articles were taken into possession by the police by drawing separate memos. The testimonies of PW9 Rajesh Kumar, SI, PW10 HC Ashok Kumar, and PW11 Jagdish Chander, ASI were formal in nature. The prosecution further examined PW12 Mohammad Uffan, who was working as MHC in Police Station Sadar Gurugram. On 01.10.2001, the Inspector/SHO Police Station Sadar Gurugram handed over one sealed parcel containing a pistol with six live cartridges and five empty cartridges and one sealed parcel of country made pistol of .315 bore with one live cartridge, one empty cartridge, amount of Rs. 3.96 lacs and a Maruti car and the same were kept by him in his safe

custody. PW13 Bhim Singh, Inspector had prepared the report under Section 173 Cr.P.C. The prosecution further examined PW14 Maha Singh SI, who had conducted the initial investigation and had arrested the other accused. PW15 Balwan Singh, ASI, had arrested Ajit Singh @ Kala, Jaipal and Sonu and no recovery was effected from them. PW16 Satpal Singh, Patwari had prepared the scaled site plan Ex.PN with correct marginal notes. The prosecution further examined PW17 Dr. N.K. Mundra, who was part of the board of doctors, which had conducted the postmortem examination on the dead body of Om Parkash on 30.07.2001 and found the following injuries:-

“1. A lacerated wound 5 x 5 cm. on the lateral part of the region of scalp in the mid part.

2. A lacerated wound 5 x. 5 cm.on left upper occipital region of scalp just lateral to the mid line.

3. A lacerated wound 1cm x 5 cm.on the left side of chest, 2 cm. lateral and just above the nipple.

On dissection:-

1. clotted blood was present subcutaneously. There was a hole of about 5 x.5cm. on left parietal bone. Track was going towards right side posteriorly and backward piercing all skull membrane and brain. A foreign body track in right parietal area on posterior side which was taken out and sealed. Blood was present.

2. Blotted blood present subcutaneously. A hole of 5 x.5 cm. was present in occipital region which was going anteriorly on the right side obliquely downward, piercing all brain membrane and brain material. A foreign body was found struck in the right frontal area

just above supra orbital region which was taken out and sealed. Blood was present in the whole part.

3. Sub cutaneous haematoma present right side lung. Pleura was found ruptured in the mid lobe. Track was going obliquely downward to right side after piercing diaphragm. A foreign body was found in right lob liver which was sealed. Pleural cavity and pericardium cavity were full of blood.

The cause of death in this case in the opinion of panel was due to hemorrhage and shock & coma because of these firearm injuries which were sufficient to cause death in normal course of nature and injuries were antemortem in nature. The postmortem report is Ex. PC which is in my hand and bear my signatures and that of Satish Sangwan and Dr.N.K.Jain”.

In his cross-examination, he stated that there was no blackening or tattooing marks at the seat of any injury found on the person of the deceased. In case the firearm shot is given to any person from a range of about one feet, the blackening and tattooing marks appear around the wound. It is not necessary in all cases that in case firearm is made from a distance of about 1 feet, the bullet or the pallet may go through the body giving some exit wound. It depends upon the weapon used.

8. After the closure of the prosecution evidence, the statements of all the accused were recorded under Section 313 Cr.P.C. and all the accused stated that they had been falsely involved in the present case due to previous enmity between the parties.

9. Learned counsel appearing on behalf of Mainpal appellant in CRA-D-329-DB of 2004 vehemently argued that it was a case of blind murder and the appellant was falsely involved due to previous enmity between the parties. Even, the appellant had no grudge against Om Parkash, since deceased, as the matter regarding the land had already been settled between the parties. Therefore, there was no motive on the part of the appellant to commit the crime. Learned counsel further contended that the FIR in the instant case was got registered by PW1 Bimla, who was the wife of the deceased and was introduced as an eye witness. Apart from her statement, the police had recorded the statement of three more witnesses, i.e., PW2 Bala and PW3 Asha and Nisha. PW1 Bimla categorically admitted that PW2 Bala was her real sister whereas Nisha and Asha PW3 were her daughters. Apart from these three witnesses, the prosecution did not examine any other independent witness to corroborate their statements. Even, the occurrence had taken place in the broad day light at a public place, but strangely, it was not witnessed by any other person. Thus, the appellant is liable to be acquitted by this Court.

10. On the other hand, learned State counsel vehemently argued that the respondents No. 1 to 7 were wrongly acquitted by the trial Court. In fact, the respondents No. 1 to 4 were accompanied by Mainpal, co-accused and their active participation was proved on record from the testimony of complainant, i.e., PW1 Bimla and two eye witnesses, namely, Bala PW2 and Asha PW3. Still further, the

respondents No. 5 to 7 were also residents of Badli and had been providing shelter to Mainpal, accused, who had been absconding for almost two months. Respondents No. 5 to 7 were well aware of the fact that Mainpal was involved in murder of Om Parkash and had been absconding from the process of law. Consequently, the respondents No. 1 to 7 were wrongly acquitted by the trial Court.

11. Still further, learned counsel appearing on behalf of respondents No. 1 to 7 in CRA D-756-DBA-2004, has referred to the evidence in detail and submitted that they had been correctly acquitted by the trial Court. In fact, respondents No. 1 to 4 were closely related to Mainpal, main accused and due to relation, they were named by Bimla, complainant/PW1. Apart from that, it is highly improbable that respondents No. 1 to 4 would have caught hold of Om Parkash, deceased, when he was being fired indiscriminately by Mainpal, main accused. Even, the story of the prosecution is highly improbable and unbelievable. He also referred to various findings recorded by the trial Court to contend that the respondents No. 1 to 7 had been rightly acquitted by the trial Court.

12. We have heard learned counsel for the parties and perused the record.

13. From the evidence led by the prosecution, it is apparent that the prosecution was launched on the basis of the statement Ex.PA made by PW1 Bimla, who was the wife of the deceased. While appearing as PW1, she reiterated her statement and categorically

stated that Chander, Roshni, Urmila, Mahender and Mainpal had attacked Om Parkash and only Mainpal was carrying a firearm, whereas Chander, Roshni, Urmila and Mohedner were empty handed. She further stated that Roshni and Urmila had caught hold of left hand of Om Parkash, whereas Chander and Mohender, both the accused caught hold of right hand of Om Parkash and they had seen all the accused from a distance of 50/60 yards whereas Mainpal accused fired shots on Om Parkash several times. However, we are not able to accept the story propounded by the prosecution that the deceased was fired at, when he was caught hold by four persons and that too by an old lady and a young girl. Still further, it is also apparent that Mainpal had fired several shots and one fire had also missed and one empty was found at the spot. Even, three bullets were recovered from the dead body also. This clearly shows that when the fire was made by Mainpal, it was impossible for any other person to catch hold of the deceased by some persons. It has been shown that all the other four accused, namely, Chander, Roshni, Urmila and Mahender were empty handed. In case, all these four accused shared common intention with Mainpal to kill Om Parkash, they would have also caught some weapons in their hands. However, none of them was shown to be carrying any weapon and their presence at the place of occurrence was highly doubtful.

14. Even otherwise, it is also projected by the prosecution that there was enmity between the parties and Mainpal, the main

accused was shown to be armed with a firearm. Once Mainpal had decided to eliminate Om Parkash, there was no need to reach the place of occurrence with four other family members, who were admittedly unarmed. Still further, we also agree with the findings recorded by the trial Court that from the medical evidence, it was apparent that one injury was caused to Om Parkash by Mainpal with a firearm on his backside while he might be trying to escape from the spot. Even, Mainpal fired two shots on the head of Om Parkash from a close range, after he fell on the ground. Thus, it is highly unbelievable that the attack was made with a pistol and four persons were catching hold of the deceased as it was highly dangerous and unsafe. Still further, even otherwise, the parties were inimical towards each other and there is a tendency in this part of the country to name all the family members of the main accused as accomplices so as to cast the net as wide as possible.

15. Still further, we have examined the roles of Ajit @ Kalu, Jaipal and Sonu @ Soni, respondents No. 5 to 7 in CRA D-756-DBA-2004. In fact, all the respondents No. 5 to 7 were arrested in the present case on the basis of the supplementary statement made by Bimla PW1 on 27.09.2001, i.e., more than 02 months after the occurrence. It is highly unbelievable that Mainpal, main accused, was residing in the same village for almost two months. Even, it is highly improbable that Mainpal, who was facing several criminal cases would be able to reside safely in the same village, without getting

noticed from the villagers or the police officials. Even, it is also apparent from the record that the police was making all efforts to arrest him and it is highly improbable that Mainpal was hiding at the house of respondents No. 5 to 7.

16. Still further, it has been alleged that Mainpal was extending threats on telephone but there is no evidence to show that the calls were made from the house of respondents No. 5 to 7 and there is absolutely no evidence on record to infer the involvement of respondents No. 5 to 7 in the crime.

17. Now adverting to the role of Mainpal, main accused, in CRA-D-329-DB of 2004, we are of the considered opinion that the prosecution had led sufficient evidence to prove his involvement in the crime. The prosecution examined PW1 Bimla, PW2 Bala and PW3 Asha and all the three witnesses had categorically deposed that Mainpal had fired shots at Om Parkash and Om Parkash had succumbed to the injuries. The statements of three witnesses were duly corroborated by the testimony of PW17 Dr. N.K. Mundra, who found the following injuries:-

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2. Blotted blood present subcutaneously. A whole of 5 x.5 cm. was present in occipital region which was going anteriorly on the right side obliquely downward, piercing all brain membrane and brain material. A foreign body was found struck in the right frontal area just above supra orbital region which was taken out and sealed. Blood was present in the whole part.

3. Sub cutaneous haematoma present right side lung. Pleura was found ruptured in the mid lobe. Track was going obliquely downward to right side after piercing diaphragm. A foreign body was found in right lob liver which was sealed. Pleural cavity and pericardium cavity was full of blood.

18. As per the testimony of PW17 Dr. N.K. Mundra, all the injuries fired by Mainpal were firearm injuries, which were sufficient to cause death in ordinary course of nature and injury No. 3 was antemortem in nature. The police had recovered three bullets from the dead body of Om Parkash and as per the FSL report Ex.PN, the .38 pistol Mark BC/1 to BC/4 were fired from .38 bore pistol. It is also apparent from the testimony of PW8 Sarup Singh ASI that on 01.10.2001, Amarjeet and Mainpal, main accused were apprehended by the police and .38 bore pistol recovered from Amarjeet, who was

traveling with Mainpal, main accused and the said weapon was used in the commission of crime. Thus, keeping in view the testimonies of PW1 Bimla, PW3 Asha and PW17 Dr. N.K. Mundra and the FSL reports, the involvement of Mainpal, main accused, appellant in CRA-D-329-DB of 2004 proved beyond the shadow of reasonable doubt.

19. As an upshot of the above-said discussion, we agree with the findings recorded by the trial Court to the effect that the prosecution had been able to prove the involvement of Mainpal, main accused, exclusively, in CRA-D-329-DB of 2004, whereas, the prosecution had failed to prove the charge against the respondents No. 1 to 7 in CRA D-756-DBA-2004. Even otherwise, we have carefully perused the findings recorded by the trial Court and found no infirmity, illegality or perversity in the same and both the appeals are ordered to be dismissed. The impugned judgment and order dated 04.03.2004 passed by the Court of Additional District and Sessions Judge (Adhoc), Jhajjar are upheld.

20. Mainpal, appellant/accused in CRA-D-329-DB of 2004 is directed to surrender within 15 days from today, failing which, the CJM concerned shall issue non bailable warrants against the present appellant/accused and shall commit him to custody to serve the remaining sentence of imprisonment.

21. All pending applications, if any, are disposed off, accordingly.

- 22. The case property, if any, may be dealt with as per the rules.
- 23. Records of the Court below be sent back.
- 24. A photocopy of this judgment be also placed on the file of connected case.

(N.S.SHEKHAWAT)
JUDGE

(SUKHVINDER KAUR)
JUDGE

05.02.2026
amit rana

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No