

2026:PHHC:028664-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA D-631-DBA-2004
Reserved on:-10.02.2026
Date of Decision:23.02.2026
Uploaded on:07.03.2026

State of Punjab ...Appellant
Vs.
Ravi and others ...Respondents

CRA S-83-SB-2004
Ravi and another ...Appellants
Vs.
State of Punjab ...Respondents

CRR-1922-2004
Parmodh Kumar ...Appellant
Vs.
State of Punjab and others ...Respondents

CORAM: HON’BLE MR. JUSTICE N.S.SHEKHAWAT
HON’BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Sartaj Singh Gill, Sr.DAG, Punjab.

Ms. Gurneet Sagoo, Advocate (Amicus Curiae) for respondents
in CRA-D-631-DBA-2004 and
for the appellants in CRA-S-83-SB-2004.

Mr. Nayandeep Rana, Advocate (Amicus Curiae)
for the petitioner and Mr. Partap Singh Gill, Advocate (Amicus
Curiae) for respondents No.2 and 3 in CRR-1922-2004.

N.S.SHEKHAWAT, J.

1. This judgment shall dispose of three petitions, i.e. CRA D-631-DBA-2004, titled as “State of Punjab Vs. Ravi and others”, CRA S-83-SB-2004 titled as “Ravi and another Vs. State of Punjab” and CRR-1922-2004 titled as “Parmodh Kumar Vs. State of Punjab and others” whereby the

correctness of legality of the impugned judgment and order 17.12.2003 passed by the Court of Sessions Judge, Jalandhar, was challenged.

2. Vide the impugned judgment and order dated 17.12.2003 passed by the court of Court of Sessions Judge, Jalandhar, both the accused were held guilty and were sentenced as under:-

1	Ravi	Section 304 Part II IPC	Rigorous imprisonment for a period of eight years and to pay fine of Rs.2000/- or in default of payment of fine to undergo rigorous imprisonment for further period of 03 months.
		Section 324 IPC	Rigorous imprisonment for a period of one year
2.	Kamal Kishore	Section 304 Part II read with Section 34 IPC	Rigorous imprisonment for a period of eight years and to pay fine of Rs.2000/- or in default of payment of fine to undergo rigorous imprisonment for further period of 03 months.
		Section 324 read with Section 34 IPC	Rigorous imprisonment for a period of one year

3. By filing CRA S-83-SB-2004 titled as “**Ravi and another Vs. State of Punjab**” both the accused have prayed for their acquittal, whereas, CRA D-631-DBA of 2004 titled as “**State of Punjab Vs. Ravi and others**”, and Criminal Revision No.1922 of 2004 titled as “**Parmodh Kumar Vs. State of Punjab and others**” have been filed by the State of Punjab as well as by the complainant for convicting the respondents/accused under Sections 302/34 IPC and sentenced them accordingly. Since all the three petitions arise out of the common impugned judgment and order, the cases are being taken up simultaneously for disposal.

4. The FIR Exhibit PJ/2 in the present case was registered on the basis of the statement made by Parmodh Kumar alias Lucky and the same has been reproduced below:-

“Statement of Parmodh Kumar @ Lucky s/o Sudarshan Kumar, caste Khatri r/o 22, Aman Nagar Sodal Road, Jalandhar. Age is about 29 years. I am dealing in a dairy business. Vijay Kumar s/o Kuldip Kumar r/o DA-2497. Mathura Nagar, Sodal

Road is the son of my uncle and he is running a Video Audio cassettes shop in Sodal Chowk. Vijay Kumar came to my house and told me that we have to bring back the cassettes from Prince Video hall at Gadaipur. I and Vijay Kumar duly boarded on the scooter and reached at Prince Video Hall Gadaipur. It was about 11 a.m. Vijay Kumar tried to pick-up the cassettes, which were given by him, from a bench near Prince Video Hall, then Ravi, son of Vijay Kumar r/o Chotta Saipur, who was employed as a servant by Prince Video Hall restrained him from doing so and told him that he should wait for the arrival of his employer and they exchanged hot words among them. Meanwhile Kamal @ Prince s/o Ram Rattan resident of House No. B-144 Subhash Nagar, Jalandhar also reached at the spot. On the arrival of his employer, Ravi servant became courageous and he lifted the Chhura and just in my presence Kamal @ Prince had caught hold of Vijay from his back and his servant Ravi gave Chhura blow to Vijay Kumar in his chest, which he was holding in his hand. Vijay Kumar was drenched with blood. I, after parking the scooter, stepped ahead to rescue him, then Ravi gave a Chhura blow to me which hit me on the upper part of my right arm. I raised raula 'Mar Ditta Mar Ditta.' Then Prince and his servant Ravi ran away from the spot with his weapon. I called up Lovely, the younger brother of Vijay Kumar. Then after some time, he also he also reached at the spot and then after arranging the mode of conveyance, we shifted Vijay Kumar to Civil Hospital Jalandhar in an injured condition. Then the doctor opined that Vijay Kumar had expired. The dead body of my brother Vijay Kumar is lying in the dead house. Action be taken against the accused. Sd/-/English. Parmod Kumar @ Lucky. Attested English Rajinder Kumar ASI, P.P. Maqsudan, P.S. Sadar, Jalandhar 20.5.2001”.

5. After the registration of the case, the inquest report on the dead body of Vijay Kumar was prepared and the dead body was sent for

post-mortem examination. When Parmodh Kumar, complainant was medically examined, after the arrest of Ravi, he suffered a disclosure statement and got the knife (*churra*) recovered during investigation. Kamal Kishore alias Prince, accused was found innocent and was not *challaned* after completion of investigation. The *challan* was presented before the Court of Area Magistrate. After commitment, the trial Court found that a *prima facie* case was made out against Ravi, accused, under section 302/324 IPC, to which he pleaded not guilty and claimed to be tried.

6. After partly recording the statement of Parmodh Kumar, complainant, the prosecution filed an application under section 319 Cr.P.C., for summoning Kamal Kishore alias Prince, accused, and the said application was allowed by the trial Court. Again, the trial Court considered the matter against the accused and charge was framed against Ravi under Section 302/324 IPC, whereas charge under Sections 302/34 IPC and 324/34 IPC was ordered to be framed against Kamal Kishore alias Prince, accused. Both accused pleaded that they had been falsely involved in the present case and claimed to be tried by the trial court.

7. During the course of trial, the prosecution examined PW1 Dr. S.P. Singh, who had conducted post-mortem examination on the dead body of Vijay Kumar on 20.05.2001. As per the police papers, he was stabbed in the chest by the accused. All the garments were soaked in blood. He found the following injuries:-

“1. Incised wound (penetrating 1/1/2 cm x 1cm elliptical in shape above the medial end of right clavicle, 3 cm from the midline. Liquefied blood was coming out from the wound.

The wound on probing and dissection, the track from the wound goes downwards and medially cutting underlying muscles and lung tissues (right lung through and through).

Both thoracic cavities were full of blood. On further exploring

arch of aorta was found punctured. Both the lungs were collapsed.

All the other organs were healthy. Stomach contained 200ml of semi solid food material. Small intestines contained semi digested food material. Large intestine contained food material and gases”.

As per him, the cause of death in the present case was hemorrhage and shock resulting from injuries described which were ante-mortem in nature and sufficient to cause death in ordinary course of nature. He proved the correct carbon copy of PMR as Ex. PA. He conducted post-mortem on police request Ex. PB and it was accompanied by inquest Ex. PC and other police papers. The dagger (*Chhura*) Ex. P1 was shown to him and he opined that the possibility of injuries mentioned in the post-mortem report with dagger (*Chhura*) Ex. P1 could not be ruled out. The prosecution further examined Dr. Gurmit Kaur as PW2, who had medico-legally examined Parmodh Kumar son of Sudarshan Kumar and found the following injury:-

“A superficial incised wound of the size 1 cm x. 25 cm present on the antero medial aspect of right arm, in its middle 1/3rd Clotted blood was present”.

The injury was declared simple in nature and the probable duration was about 6 hours. The weapon used while causing injuries was sharp and he proved the carbon copy of MLR as Ex. PE. The prosecution further examined Dalip Singh, Draftsman as PW3, who had prepared the scaled site plan Ex. PF. HC Kailash Chander tendered his affidavit Ex. PG whereas Constable Gurpal Singh PW4 had tendered his affidavit Ex. PH and their testimonies were formal in nature. The prosecution further examined PW6 Lovely, cousin of Parmodh Kumar. On 20.05.2001, Parmodh Kumar had telephoned him and told him that he and Vijay Kumar had gone to

Prince Video Hall, Gudaipur, to take video cassettes from the owner of that Prince Video Hall. He had told that Ravi servant had refused to give cassettes on demand and there was exchange of hot words. In the meantime, Kamal Kishore @ Prince also came and on seeing the owner, Ravi had taken out a dagger. Kamal Kishore @ Prince had caught hold of Vijay Kumar and Ravi had given a blow with dagger on the chest of Vijay Kumar. The prosecution further examined PW7 Parmodh Kumar, complainant, who reiterated the version as mentioned in the FIR. He fully supported the case of the prosecution. The prosecution further examined PW8 Constable Nirmal Singh, whose testimony was formal in nature.

8. HC Salinder Singh appeared as PW9 and he had taken the postmortem report from the hospital. In his presence, Ravi Kumar was interrogated, who suffered a disclosure statement that he had kept concealed a dagger near canal bridge in a village and only he could get the same recovered. In pursuance of his disclosure statement, he led the police party to the disclosed place and got recovered dagger (*Chhura*). The dagger was blood stained and the same was taken into possession vide memo Ex. PN. ASI Malkit Singh PW10 had recorded the statement of MHC Kailash Chander and Parmodh Kumar in the present case. ASI Rajender Kumar appeared as PW11, who initially conducted the investigation in the present case. He had initially recorded the statement of the complainant and got the FIR registered in the police station. He prepared inquest report Ex. PC and the dead body was identified by Kuldip Kumar and Ashwani Kumar. He also inspected the spot, prepared the rough site plan Ex. PQ. He also arrested Ravi who suffered the disclosure statement in police custody and got recovered a dagger in pursuance of the disclosure statement suffered by him. Even the dagger was taken into possession by the police by a separate

memo. The public prosecutor tendered the FSL report Ex. PU in evidence and, thereafter, closed the evidence.

9. After the closure of evidence, the statement of Ravi was recorded under section 313 Cr.P.C. and the entire incriminating evidence was put to him. In the concluding part of the statement, he had taken the following stand:-

“I am innocent. Vijay Kumar picked up cassettes forcibly from inside the video Hall of Kamal Kishore. I objected to this forcible act of Vijay Kumar, but without caring for my objection, he ran away with the said cassettes on a scooter. Since the road had become slippery on account of rain in the previous night, his scooter slipped and he fell on pointed piece of iron and suffered injury. I have been falsely, implicated in this case as I was the employee of Kamal Kishore”.

Similarly, Kamal Kishore alias Prince, accused also pleaded that he was innocent and had been falsely involved. He had also taken the following stand:-

“I am innocent. Harneet Singh, a Cement Depot Holder of Village Gaddaipur, which he was running under the name and style of Happy Cement Store had organized an Akahnd Path at Gurdwara Sahib at Talhan, which is at a distance of 15-16 k.m, away from Village Gadaipur. He had invited me and other shopkeepers/residents of Village Gadaipur, at the Bhog Ceremony, which was to be performed on 20.05.2001. I and others had gone to attend said Bhog ceremony on 20.5.2001 at about 9 a.m. I was not present at my Video Hall on that day. Enquiry was conducted by Sh. Aheer S.P., Jalandhar and he found me as innocent. I was not challaned by the police.”

Thereafter, the respondents examined Sarwan Kumar as DW1, who stated that he was running a *Dhaba* for the last five or six years near the shop of the accused. Only food is supplied from his *Dhaba* and not tea. On

village Talhan Gurudwara. Happy is also known as Harmeet Singh. He also owns a shop in the market. The shop of Happy is at a distance of 15/20 yards from the Video Parlour of Prince. Happy had invited the whole market. He along with Kamal Kishore @ Prince had left at about 8.00 a.m. and reached at Gurudwara at 9.00 a.m. They left Talhan Gurudwara at 2.00 p.m. and from 9 a.m. to 2 p.m., he along with Kamal Kishore @ Prince had stayed at the Gurudwara. Similarly, DW2 Sat Pal deposed on similar lines and stated that Kamal Kishore @ Prince, accused, was not present at the place of occurrence at about 10/11 a.m. on 20.05.2001. The defence examined Jasbir Singh as DW3, who stated that on 20.05.2001, he had gone to Talhan Gurudwara at about 8:30 a.m. to attend Akhand Path, which was organized by Harmeet Singh alias Happy. He had come back from the Gurudwara at about 10.30 a.m. on the same day. After arrival at his shop, he attended his work. Then he heard a noise outside the video parlour of the accused. He saw that one boy was lying on the ground and his scooter was lying nearby. Blood had oozed on the ground. He made a telephonic call to Gulshan at his house, but the telephone was not connected. Rajeev Aheer, SP, had conducted the investigation in the present case and he was found innocent during the inquiry. The accused also examined Gulshan Kumar as DW4 who also stated that he had received a telephonic message from Jasbir Singh that Kamal Kishore @ Prince should be called, however, at about 10:30 or 11:00 a.m., he came to know that the accused was not present at the shop.

10. Learned counsel appearing on behalf of the State of Punjab as well as Parmodh Kumar complainant have vehemently argued that both the accused had shared common intention to cause the murder of Vijay Kumar.

From the testimonies of PW1 to PW7, it was apparent that serious injuries

were caused with a dagger by the accused. Even injuries were caused to Parmodh Kumar injured and the ingredients of the offence under Section 302 IPC were complete and the accused have been wrongly acquitted of the offence under Section 302 IPC. Even nature of the injuries and the manner in which the injuries have been caused clearly showed that the offence under Section 302 IPC was made out against the accused in the present case. Thus, the impugned judgment and order are liable to be modified to the extent that both the accused may be convicted under Section 302 IPC and may be sentenced accordingly.

11. On the other hand, learned counsel for the appellants in CRA S-83-SB of 2004 have vehemently argued that that Kamal Kishore alias Prince accused was found innocent during the course of inquiry at the level of Superintendent of Police. Even, he was not present at the place of occurrence and had gone to village Talhan, which was at a distance of about 15/16 kilometers from the place of occurrence to attend the Bhog of Akhand Path organized by Harmeet Singh alias Happy. Even four witnesses, namely DW1 Sarwan Kumar, DW2 Sat Pal, DW3 Jasbir Singh and DW4 Gulshan Kumar, were examined by the accused to prove the said fact. Learned counsel next contended that from the testimonies of four witnesses, it was apparent that Kamal Kishore alias Prince was not present at the place of occurrence. Moreover, PW7 Parmodh Kumar had made considerable improvements in his testimony while appearing as a witness before the trial Court. Thus, the appellants were liable to be acquitted by this Court.

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

13. In the present case, the occurrence had taken place at about 11 a.m. on 25.01.2001 and PW7 Parmodh Kumar reported the matter to the

police at 1:30 p.m. on 25.01.2001 and it can be inferred that the FIR has been got registered by the complainant with promptness. Even, the special report was delivered without any undue delay. The trial Court has correctly observed that in the cross-examination PW8 Nirmal Singh has deposed that he had delivered the special report at 4 p.m. Thus, there was neither delay in reporting the matter to the police nor in delivering the FIR to the Area Magistrate. Learned counsel for the accused had vehemently argued that the presence of PW7 Parmodh Kumar at the place of occurrence was doubtful. He had made considerable improvements in his testimony. Even the injuries suffered by Parmodh Kumar could be self-suffered so that his presence may be shown at the place of occurrence. However, we find no grounds to accept the said testimony. PW7 Parmodh Kumar had reiterated the version as mentioned in the FIR Ex. PJ/2. He had categorically stated that he along with Vijay Kumar had gone on scooter to Prince Video Hall for taking cassettes. Vijay Kumar tried to pick the cassette from the bench near the Prince Video Hall, to which Ravi accused had objected. Even Ravi accused had admitted that Vijay Kumar had come to shops and tried to pick up the cassettes to which he objected. Even Parmodh Kumar categorically stated that while he was there, Ravi had given a blow with dagger on the chest of Vijay Kumar and the other accused Kamal Kishore alias Prince, caught hold of Vijay Kumar from his back. When Parmodh Kumar, PW7, went ahead to rescue Vijay Kumar, he was caused an injury with a dagger by Ravi and Parmodh Kumar also suffered an injury on his right arm. The prosecution had examined PW2, Dr. Gurmit Kaur, who had conducted the medico legal examination of Parmodh Kumar at 5:50 p.m. on 25.01.2001 itself and found the following injury:-

“A superficial incised wound of the size 1 cm x. 25 cm present on the antero medial aspect of right arm in its middle 1/3rd Clotted blood was present”.

Thus, it is apparent that Parmodh Kumar, PW7, was medico legally examined on the same day. Still further, Parmodh Kumar, PW7, had fully supported the case of the prosecution and he was examined at length. However, in spite of incisive cross-examination, the defence could not elicit anything which could shake the credibility of this witness. Even otherwise, he was related to Vijay Kumar, since deceased, and he would be last person to spare the real culprit and to falsely involve an innocent person. Even he had given vivid description of the entire occurrence in which the special role has been assigned to both the accused. Not only that, the testimony of PW7 Parmodh Kumar has been duly corroborated by the statement of PW1 Dr. S.P. Singh, who had conducted post-mortem examination on the dead body of Vijay Kumar on 25.02.2001 itself. After the post-mortem, he found the following injuries:-

“1. Incised wound (penetrating 1 1/2 cm x 1cm elliptical in shape above the medial end of right clavicle, 3 cm from the midline. Liquefied blood was coming out from the wound.

The wound on probing and dissection, the track from the wound goes downwards and medially cutting underlying muscles and lung tissues (right lung through and through. Both thoracic cavities were full of blood. On further exploring arch of aorta was found punctured. Both the lungs were collapsed.

All the other organs were healthy. Stomach contained 200ml of semi solid food material. Small intestines contained semi digested food material. Large intestine contained food material and gases”.

As per him, the cause of death in this case was hemorrhage and shock resulting from the injuries described which were ante-mortem in

stated that the possibility of causing the injuries mentioned in the post-mortem report with dagger Ex. P1 could not be ruled out. Thus, the oral statement of PW7 Parmodh Kumar was duly corroborated by the statement of PW1 Dr. S.P. Singh. Apart from that, so far as the role of Kamal Kishore alias Prince is concerned, Parmodh Kumar PW7 had clearly deposed that he had caught hold of Vijay Kumar and in the meantime, Ravi accused had given a blow with dagger on his chest. Even Kamal Kishore alias Prince had exhorted that Vijay Kumar be not spared on that day. Even, Kamal Kishore alias Prince tried to set up a case by examining four defence witnesses, namely DW1 Sarwan Kumar, DW2 Sat Pal, DW3 Jasbir Singh and DW4 Gulshan Kumar, who were neighbors of either the shop or the house of the accused. Even otherwise, the Bhog of Akhand Path had to take place in Gurudwara of village Talhan at 9.00 a.m. and, admittedly, the said Gurudwara was at a distance of 15/16 kilometers from the village Gadaipur, i.e., the place of occurrence. Even, if it is presumed that Kamal Kishore alias Prince had gone to attend the Bhog of Akhand Path, which was organized by Harmeet Singh alias Happy, then also Kamal Kishore alias Prince accused could return to his shop at about 11.00 a.m., when the occurrence had taken place. Even otherwise, as per Parmodh Kumar also, Kamal Kishore alias Prince initially was not present at the place of occurrence, and he had returned when the occurrence had just started. Even otherwise, we have carefully perused the testimonies of various defence witnesses, and we agree with the findings recorded by the trial Court that there were serious discrepancies and inconsistencies in the statements of DW3 Jasbir Singh and DW4 Gulshan Kumar. In the present case, the statement of Parmodh Kumar PW7 was found to be believable and credible, and Kamal Kishore alias Prince cannot be granted the benefit of doubt simply on the ground that

during inquiry he was found to be innocent by the police. Thus, it can be safely held that both the accused were present at the place of the occurrence and had actively participated in the commission of the offence. In the present case, Parmodh Kumar PW7 had deposed that Vijay Kumar had demanded the cassettes back from Ravi, accused, but he had refused, and there was an exchange of hot words between them. Even Parmodh Kumar had initially stated that when he tried to pick up the cassette from the bench near Prince Video Hall, Ravi had objected to it.

14. It is also an admitted case of the parties that there was no enmity between both the parties and there was no intention on the part of the accused to commit the murder of Vijay Kumar. However, after reaching at the spot, Kamal Kishore alias Prince stated that Vijay Kumar would not be spared and will be killed. However, from the evidence led by the prosecution, it is apparent that there was no intention to cause death of Vijay Kumar and the occurrence had taken place at the spur of the moment. Even only one injury was given by Ravi, accused, on the chest of Vijay Kumar and Vijay Kumar had succumbed to the said injury. Even Ravi had not repeated the blow and both the accused had not acted in a cruel and unusual manner. Thus, the trial Court had correctly held that from the facts of this case, only the offence of culpable homicide of Vijay Kumar, not amounting to murder, was proved, which was punishable under Section 302 Part II IPC. Even otherwise, the statements of PW7 Parmodh Kumar was found to be correct during course of investigation as well. The prosecution had examined PW9, HC Salinder Singh, who stated that on 23.05.2001, Parmodh Kumar accused was taken out of the police lock-up and was interrogated in his presence. Ravi disclosed that he had kept a *dagger* concealed near canal bridge in a village and in pursuance of his disclosure

statement, he got recovered the blood-stained *dagger*. Even the statement of PW9 HC Salinder Singh was duly corroborated by ASI Rajinder Kumar PW11 who had initially conducted the investigation in the present case. He also stated that on 23.05.2001, Ravi was interrogated and in pursuance of his disclosure statement, he got recovered a *dagger* Ex. P1, which was taken into possession and was sealed. Thus, the prosecution had been able to prove the case under Section 304 Part II and Section 324 IPC against Ravi accused and the offences under Sections 304 Part II/34 IPC and Sections 324/34 IPC were proved against Kamal Kishore alias Prince accused and the findings recorded by the trial Court in this regard are upheld. Now, advertent to the order of sentence, we are conscious of the fact that the alleged occurrence had taken place on 25.02.2001 and since then both the accused are facing the agony of investigation, trial and appeal. Even at the time of occurrence, Ravi was aged about 18 years and Kamal Kishore alias Prince was aged about 28 years, and the occurrence had taken place at the spur of the moment over a trivial issue.

15. Consequently, the sentence awarded to both the accused/appellants in CRA S-83-SB of 2004 is reduced to rigorous imprisonment for a period of six years under Section 304, Part II IPC. However, the sentence awarded to both the appellants under Section 324/34 IPC, amount of fine and default sentence shall remain the same. With these modifications, the CRA S-83-SB of 2004 is partly allowed and the sentence imposed on both the appellants is reduced to six years from eight years under Section 304, Part II, IPC. The rest of the order of sentence will remain the same.

16. Since, it has been found that both the accused, namely Ravi and Kamal Kishore alias Prince, respondents in CRA-D-631-DBA of 2004 and

CRR-1922-2004 also held guilty for the commission of offence under Section 304, Part II, and Section 34 IPC only, both the petitions are ordered to be dismissed.

17. The appellant/accused Ravi and Kamal Kishore @ Prince are 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 them to custody to serve the remaining sentence of imprisonment.

18. This Court places on record a note of appreciation for all the amicus curiae who had assisted the Court properly on behalf of the parties and the counsel's fees is assessed to be Rs.20,000/- for each of the amicus curiae in these cases. The aforesaid fee shall be paid by the Secretary, High Court Legal Services Committee.

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

20. The case property, if any, may be dealt with as per the rules.

21. Records of the Court below be sent back.

22. A photocopy of this judgment be also placed on the file of connected case.

(N.S.SHEKHAWAT)
JUDGE

(H.S.GREWAL)
JUDGE

23.02.2026
amit rana

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