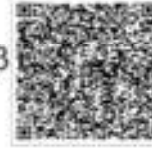


2026.PHHC:056633



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

SR. NO.102

CRA-D-657-DB-2004 (O&M)
RESERVED ON:04.02.2026
PRONOUNCED ON:16.04.2026
UPLOADED ON:-20.04.2026

SUKHWANT SINGH AND OTHERS

...APPELLANT(S)

VERSUS

STATE OF PUNJAB

...RESPONDENT(S)

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

Present: Ms. G.K. Mann, Sr. Advocate with
Ms. Chandrika, Advocate for appellant No.1 to 3.

Ms. Gurneet Sagoo, Advocate (Amicus Curiae)
for appellants No.2 and 3.

Mr. M.S. Bajwa, DAG, Punjab.

Ms. Mehak Sharma, Advocate for
Mr. Dhiraj Chawla, Advocate for the complainant.

N.S. SHEKHAWAT, J.

1. The appellants have preferred the present appeal against the impugned judgement of conviction and order of sentence dated 14.07.2004 passed by the Court of Additional Sessions Judge, Amritsar, whereby, appellant Sukhwant Singh was convicted under Sections 302, 325, 323/34

and 323/34 of I.P.C., appellant Gurmit Singh was convicted under Sections

302/34, 325/34, 323 and 323/34 of I.P.C. and appellant Hansa Singh was convicted under Sections 302/34, 325/34, 323 and 323 of I.P.C. and were sentenced as under:-

“Sukhwant Singh

- i) Under Section 302 of I.P.C., he is sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default of payment of fine, he shall further undergo rigorous imprisonment for a period of two months.*
- ii) Under section 325 of the I.P.C., he is sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.200/- and in default of payment of fine, he shall further undergo rigorous imprisonment for a period of 15 days.*
- iii) Under section 323/34 of I.P.C., he is sentenced to undergo rigorous imprisonment for a period of three months only.*
- iv) Again under section 323/34 of I.P.C., he is sentenced to undergo rigorous imprisonment for a period of three months only.*

Gurmit Singh

- i) Under Section 302/34 of I.P.C., he is sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default of payment of fine, he shall further undergo rigorous imprisonment for a period of two months.*
- ii) Under Section 325/34 of I.P.C., he is sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.200/- and in default of payment of fine, he shall further undergo rigorous imprisonment for a period of 15 days.*
- iii) Under section 323 of I.P.C., he is sentenced to undergo rigorous imprisonment for a period of three months only.*
- iv) Again under section 323/34 of I.P.C., he is sentenced to undergo rigorous imprisonment for a period of three months only.*

Hansa Singh

i) Under section 302/34 of I.P.C., he is sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default of payment of fine, he shall further undergo rigorous imprisonment for a period of two months.

ii) Under section 325/34 of I.P.C., he is sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.200/- and in default of payment of fine, he shall further undergo rigorous imprisonment for a period of 15 days.

iii) Under section 323 of I.P.C., he is sentenced to undergo rigorous imprisonment for a period of three months only.

iv) Under section 323 of the I.P.C., he is sentenced to undergo rigorous imprisonment for a period of three months only”.

2. In the present case, the FIR Ex.PA/2 was registered on the basis of the statement made by Randhir Singh and the same has been reproduced below:-

“Statement of Randhir Singh son of Harnam Singh, caste Mazhbi, resident of Nanoke, aged about 60 years.

I am resident of Nanoke and a cultivator. On 29.6.03, in village Nanoke Panchayat Elections were commencing. Sh. Mukhtiar Singh was candidate for Sarpanch of our party. We helped him. On that day at about 09.30 a.m. I alongwith my son Lakhwinder Singh and my brother Dalbir Singh were standing near the outside of the wall of school for casting our vote and at that time Hansa Singh son of Fauja Singh alongwith Sukhwant Singh son of Harbans Singh armed with dang, Gurmeet Singh son of Harbans Singh, caste Mazhbi, resident of Nanoke came there and Hansa Singh raised a lalkara that caught hold of them and they be taught a lesson for casting the vote to Mukhtiar Singh, then Gurmeet Singh caught hold my son Lakhwinder Singh and Sukhwant Singh gave a dang blow to my son on his head with an intention to kill him. The dang blow struck on the left side of his head and my brother raised noise

'Marditta-Marditta'. Then Kartar Singh son of Karnail Singh and Kashmir Singh son of Harnam Singh residents of Nanoke who were standing in front of School gate for casting their votes ran towards us and then Gurmeet Singh, Hansa Singh hold dang and all the three gave injuries to Kartar Singh and Kashmir Singh. After giving injuries assailants ran away from the spot alongwith their respective weapons. I on seeing the bad condition of my son Lakhwinder Singh brought him to the Primary Hospital, Ramdas, where doctor referred him to Amritsar for medical treatment where during the course of treatment today on 30.06.2003 he died. The above accused with an intention to kill him gave injuries to my son and murdered him. I am present in the house near the dead body of Lakhwinder Singh where you met me. I have suffered a statement, the same has been heard by me. Legal action be taken against the aforesaid.

Attested:

Sd/-(In English)

Sd/-(In English)

Randhir Singh above.

Harbhajan Singh,

SI/S.H.O.,

30.06.2003.

Translation of Exhibit PA/1

Action taken by Police :An intimation on telephone from guard incharge Sarwan Singh No.279 has been received that Lakhwinder Singh son of Randhir Singh, caste Mazhbi, resident of Nanoke who was admitted in the Guru Nanak Dev Hospital for treatment has died. Before this ASI Daljit Singh alongwith SPO Pargat Singh had gone to record his statement. On this I, SI/S.H.O. alongwith SI Yashpal C Surinder Pal 1838, C Rajinder Singh 859, C Parkash Singh 335, C Kewal Singh 1118 on a government vehicle No.PCA 8671, whose driver is C Jarnail Singh 1711 were going to Guru Teg Bahadur Hospital for taking action. I reached the dead house of Guru Teg Bahadur Hospital where Randhir Singh met us and got

recorded his statement and same has been read and explained to him and he has signed in English under it, in token of its correctness. I testify the same. From the above statement offence under Section 302/34 IPC has been made out and Original writing is being sent to Police Station through SPO Pargat Singh 485 for registration of case. MHC has been directed to issue special reports and sent the same to Illaqa Magistrate and Higher Officer. Control Room be informed on wireless and on telephone. I, SI/S.H.O. alongwith complainant and with companion officials is busy in investigation. Case be registered and its number be intimated.

In the area of Dead-

Sd/-(In English)

House in Guru Teg

Harbhajan Singh

Bahadur Hospital,

SI/S.H.O.,

Amritsar.

P.S. Ramdas.

At 2-00 P.M.

Dt. 30.06.2003”.

3. At the very outset, learned counsel for the appellant as well as learned State counsel submitted that Hansa Singh son of Fauja Singh has expired and the appeal against him stood abated.

4. After registration of the FIR, the necessary investigation was conducted and the *challan* was presented against the appellant in the Court of Area Magistrate.

5. After committal of the case, the trial Court perused the *challan* and the accompanying documents and found that a *prima facie* case under Sections 302/324/323/34 IPC are made out against the appellants and they were ordered to be charge-sheeted accordingly. However, they pleaded not guilty and claimed to be tried by the trial Court.

6. In support of the prosecution case, the prosecution examined 16 witnesses in all. The prosecution examined PW1 Randhir Singh

complainant who had supported the case of the prosecution in totality. His statement was duly corroborated by the testimony of PW2 Kartar Singh injured as well as PW8 Kashmir Singh injured in the present case. The prosecution further examined PW3 Dr. Nirvail Singh, who had conducted the medico-legal examination of Kartar Singh on 30.06.2003 and found the following injuries on his person:-

“1.Lacerated wound 3 x 0.5 cm on the left side of head, blood clots were present in the wound. The wound was lying 8 cm from the pinna of left ear”.

The injury was simple in nature caused with a duration of 24 hours and kind of weapon used was blunt. He further exhibited the MLR as Ex. PC.

On the same day, he also medico-legally examined Kashmir Singh son of Harnam Singh and found the following injuries on his person:-

“1.Lacerated wound 20 cm x 0.5 cm on the right side of the head. Blood clots were present in the wound. Wound was lying 8 cm from the pinna of right ear.

2.Diffused swelling 9 cm x 7 cm on the posterior aspect of left leg.

3.Diffused swelling 12 cm x 9 cm on the dorsum aspect of right hand. Swelling extending to the right wrist joint. Movements of the hand and joint were totally restricted. Injury was kept under observation”.

Injury No.3 was kept under observation. Rest were all simple. Duration of injuries was within 24 hours. Kind of weapon used was blunt for all the injuries. He proved the MLR Ex. PD. Dr. Krishan Sharma, Radiographer, was examined as PW4, who conducted X-ray of injury No.3 of Kashmir Singh and proved X-ray report Ex. PE/1.

7. Dr. Manpreet Kaul, who had conducted post-mortem examination on the dead body of Lakhwinder Singh on 01.07.2003, was examined as PW5. He stated that post-mortem staining was present on the back sparing areas of contact flattening and was fixed and faint purplisation. Following injuries were found on his body :-

“1. 2.1 cm long stitched wound with 4 stitches intact was present on left parietal region and was 13.5 cm about top of left ear pinna. Wound was obliquely placed.

2. 2.5 cm long C shaped curved stitched wound with 7 stitches intact was present on left fronto temporal region, 3 cm above left ear pinna. Drain was present in C-2 (Surgical wound). Defused swelling was present in the wound.

3. 4.5 x 2.3 cm reddish blue bruise was present on the posterior lateral aspect of left fore-arm, 4 cm to proximal to wrist joint. Infiltration was present in underline muscles.

4. 2.3 x 2.3 cm reddish blue bruise was present around left eye ball, conjunctive was found defused. On dissection, reflecting the scalp extra cranial haemotoma was about 500 gm. in weight was present all over. Burr hole was seen in left temporal region, drain was present, communitated fracture of left temporal, borh parietal and frontal bone was present. Bony fragments were seen thrusting inwards. Infiltration was present. About 1500 gms. of clotted blood was present in frontal left temporal parietal region (extra dural haemotoma). Both lungs were over distended, pits on pressure, Rib intentention was present on cut section froth mixed with blood came out. On dissection of heart, right cavity contained fluid blood and left was empty. Stomach contained about 50 CC of greenish yellow fluid. Liver, spleen and both kidneys were found pale. Bladder was empty”.

All injuries in this case were ante-mortem in origin. Cause of

death in this case in his opinion was due to compression of brain (a vital

organ) as a result of injury No.1 which was sufficient to cause the death in the ordinary course of nature. After conducting the post-mortem examination, sutured dead body alongwith its belongings was handed over to police, alongwith carbon copy of PMR, police papers and bed head ticket and one X-ray duly initialled by him were handed over to the police. He had brought the original post-mortem register and Ex.PF was the correct photocopy of the same prepared in the same process. Pictorial diagram showing seats of injury was Ex.PF/1.

In his cross-examination, he stated that there were four injuries in all and injury No. 2 was a surgical injury. The possibility of injury No. 3 by fall on a hard surface could not be ruled out. There was a remote possibility of suffering of injury No. 4 by fall on a hard surface.

8. Doctor Parmod Kumar Gill, who conducted the medical-legal examination of Lakhwinder Singh was examined as PW6 and he had found the following injuries:-

“1. 2 x 0.5 cms lacerated wound over the left parietal region of the head. 13.5 cms above the top of left ear. Obliquely placed. Fresh bleeding present”.

Injury was kept under X-ray examination and Surgeon's progress and operation notes. Weapon was blunt and duration of injuries within six hours. He proved the MLR Ex. PG.

9. PW7, Rishi Ram, draftsman, had prepared scaled site plan Ex. PH. PW9 HC Jagtar Singh was associated with the process of investigation and had made a formal statement in this regard. SI Yesh Pal appeared as PW10 and he had gone with the SHO Harbhajan Singh to civil hospital and was a witness to various recoveries. PW11 Daljit Singh ASI moved

application for getting MLR of the injured in the present case and remained associated with Harbhajan Singh SHO. PW12 Parkash Singh appeared as PW12 and made a formal statement. Harbhajan Singh SI/SHO was examined as PW13 and he proved the entire investigation in the present case. He further submitted that the accused were arrested by him and they all three got the *dangs* (sticks) recovered during the process of investigation. Still further, the prosecution examined PW14 MHC Arjan Kumar, PW15 Constable Rajinder Singh and PW16 Constable Rachhpal, whose testimonies are formal in nature.

10. Thereafter, the statements of all the three accused were recorded under Section 313 Cr.P.C. and they stated that they had been falsely implicated due to political rivalry.

11. In their defence, the appellants examined DW1 Sukhdev Singh, who was the presiding officer of the election held on 29.06.2003. He stated that Gurmit Singh accused was one of the candidates for the post of Sarpanch held on 29.06.2003. The two other accused namely Natha Singh and Sukhwant Singh were polling agents of Gurmit Singh and they remained with him from 08.00 a.m. to 05.00 p.m. in the polling booth. He did not receive any information with regard to any fight inside the booth. Similarly, DW2 Rajinderpal Singh, who stated that as per the record produced by the Returning Officer, the name of the presiding officer of the booth No. 37 was Sukhdev Singh Malri.

12. Learned senior counsel appearing on behalf of the appellants as well as learned *amicus curiae* have vehemently argued that in the present case the occurrence had taken place at 09.30 a.m. on 29.06.2003. However,

the statement of Randhir Singh, complainant, was recorded at 02:00 p.m. the next day. Thus, there was unexplained delay in the registration of the FIR and the appellants have been implicated due to political rivalry. There was difference between ocular and medical account and in fact it is apparent that all the witnesses framed the appellants by improving their statements. Even there was no common intention on the part of the present appellants to cause murder of the deceased and charge under Section 302 read with Section 34 IPC was wrongly framed against them. Learned counsel further submitted if the prosecution case was admitted, just for the sake of arguments, even then the appellants could be convicted for the commission of offence punishable under Section 304 Part 1 IPC.

13. On the other hand, learned State Counsel has opposed the submissions made by the appellants on the ground that the matter was promptly reported to the police by the complainant side. In fact, the top priority of the complainant side was to provide best possible treatment to Lakwinder Singh and the delay was properly explained by the witnesses of the prosecution. Apart from that, there were no inconsistencies between the ocular and the medical account and no serious infirmity could be pointed out in the evidence led by the prosecution. Even the learned State Counsel referred to various findings recorded by the trial Court and prayed that the appeal is liable to be dismissed by this Court.

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

15. In the present case, the case is primarily based on the testimonies of PW1 Randhir Singh, PW2 Kartar Singh and PW8 Kashmir

Singh. In fact, PW1 Randhir Singh is the complainant of the case, whereas PW2 Kartar Singh and PW8 Kashmir Singh are the injured witnesses in the present case. All the three witnesses had consistently deposed with regard to the role of each of the appellants and assigned specific roles to all of them. As per the said witnesses, there was a Panchayat election in the village on 29.06.2003. Mukhtiar Singh was a candidate for the post of Sarpanch and Lakhwinder Singh and Dalbir Singh were standing near the wall of the school for casting their votes. At that time, all the three appellants came there and were carrying sticks (*dangs*), in their hands. After reaching there, Hansa Singh exhorted them to catch hold of them. They should be taught a lesson for casting votes to Mukhtiar Singh. Gurmit Singh caught hold of Lakhwinder Singh, whereas Sukhwant Singh gave a blow with the *dang* to his son on his head. The *dang* blow hit on the left side of his head and he raised the hand to save himself. Thereafter, Kartar Singh and Kashmir Singh were also caused injuries by the other appellants. Even statements of PW1 Randhir Singh, PW2 Kartar Singh and PW8 Kashmir Singh had been duly corroborated by the statement of PW3 Dr. Nirvail Singh, who conducted the MLR of Kartar Singh and Kashmir Singh. As per him, Kartar Singh had suffered one injury, whereas Kashmir Singh had suffered three injuries. Similarly, the prosecution had examined PW6 Dr. Parmod Kumar Goel, who had prepared the MLR of Lakhwinder Singh initially, and as per the same, Lakhwinder Singh suffered one injury. However, the prosecution also examined PW5 Dr. Manpreet Singh, who proved the post-mortem report of Lakhwinder Singh and found the following injuries on his body:-

“1. 2.1 cm long stitched wound with 4 stitches intact was present on left parietal region and was 13.5 cm about top of left ear pinna. Wound was obliquely placed.

2. 2.5 cm long C shaped curved stitched wound with 7 stitches intact was present on left fronto temporal region, 3 cm above left ear pinna. Drain was present in C-2 (Surgical wound). Defused swelling was present in the wound.

3. 4.5 x 2.3 cm reddish blue bruise was present on the posterior lateral aspect of left fore-arm, 4 cm to proximal to wrist joint. Infiltration was present in underline muscles.

4. 2.3 x 2.3 cm reddish blue bruise was present around left eye ball, conjunctive was found defused. On dissection, reflecting the scalp extra cranial haematoma was about 500 gm. in weight was present all over. Burr hole was seen in left temporal region, drain was present, communitated fracture of left temporal, borh parietal and frontal bone was present. Bony fragments were seen thrusting inwards. Infiltration was present. About 1500 gms. of clotted blood was present in frontal left temporal parietal region (extra dural haematoma). Both lungs were over distended, pits on pressure, Rib intention was present on cut section froth mixed with blood came out. On dissection of hart, right cavity contained fluid blood and left was empty. Stomach contained about 50 CC of greenish yellow fluid. Liver, spleen and both kidneys were found pale. Bladder was empty”

16. In his cross-examination, he stated that the cause of death in the present case was due to operation of brain as a result of injury No. 1, which was sufficient to cause death in the ordinary course of nature. Similarly, in his cross-examination, he stated that out of four injuries, the injury No. 2 was a surgical injury and possibility of injury No. 3 by fall on a hard surface could not be ruled out. Even there was a remote possibility that injury No. 4 was also suffered by him by fall on a hard surface. Thus, the ocular account

was duly corroborated by the medical evidence and minor inconsistencies appearing in the statements of various prosecution witnesses are liable to be ignored. Even, the occurrence had taken place in the morning of 29.06.2003 and immediately thereafter, Lakhwinder Singh, was shifted to various hospitals and the priority of the complainant party was to save his life. On the next day at about 01.00 p.m., Lakhwinder Singh also succumbed to the injuries and, thereafter, the matter was immediately reported to the police. Thus, the delay in reporting the matter to the police already stood explained properly.

17. In the present case, the learned counsel for the appellants had raised an alternative argument that the appellants have been wrongly convicted under Section 302 IPC, rather, at the most, they could be convicted for commission of the offence under Section 304 Part 1 IPC. Before proceeding any further to examine the evidence led by the prosecution, it would be appropriate to determine as to whether the appellants had any intention to commit the murder of Lakhwinder Singh or not. Eventually, it would depend upon a combination of fresh factors and there cannot be any straightjacket formula for deciding whether there was any intention to commit the murder or not. The Honourable Supreme Court in The Hon'ble Supreme Court has held in ***Criminal Appeal No. 2006 of 2023 decided on 06.09.2023*** titled as "***N. Ramkumar Vs. The State rep. By Inspector of Police***" as follows:-

"19. This Court in a recent judgement in the case of Anbazhagan v. The State represented by the Inspector of Police in Criminal Appeal No.2043 of 2023 disposed of on 20.07.2023 has defined the context of the true test to be adopted to find out

the intention or knowledge of the accused in doing the act as under:

"60. Few important principles of law discernible from the aforesaid discussion may be summed up thus:

(1) When the court is confronted with the question, what offence the accused could be said to have committed, the true test is to find out the intention or knowledge of the accused in doing the act. If the intention or knowledge was such as is described in Clauses (1) to (4) of Section 300 of the IPC, the act will be murder even though only a single injury was caused. To illustrate: 'A' is bound hand and foot. 'B' comes and placing his revolver against the head of 'A', shoots 'A' in his head killing him instantaneously. Here, there will be no difficulty in holding that the intention of 'B' in shooting 'A' was to kill him, though only single injury was caused. The case would, therefore, be of murder falling within Clause (1) of Section 300 of the IPC. Taking another instance, 'B' sneaks into the bed room of his enemy 'A' while the latter is asleep on his bed. Taking aim at the left chest of 'A', 'B' forcibly plunges a sword in the left chest of 'A' and runs away. 'A' dies shortly thereafter. The injury to 'A' was found to be sufficient in ordinary course of nature to cause death. There may be no difficulty in holding that 'B' intentionally inflicted the particular injury found to be caused and that the said injury was objectively sufficient in the ordinary course of nature to cause death. This would bring the act of 'B' within Clause (3) of Section 300 of the IPC and render him guilty of the offence of murder although only single injury was caused.

(2) Even when the intention or knowledge of the accused may fall within Clauses (1) to (4) of Section 300 of the IPC, the act of the accused which would otherwise be murder, will be taken out of the purview of murder, if the accused's case attracts any one of the five exceptions enumerated in that section. In the event of the case falling within any of those exceptions, the

offence would be culpable homicide not amounting to murder, falling within Part I of Section 304 of the IPC, if the case of the accused is such as to fall within Clauses (1) to (3) of Section 300 of the IPC. It would be offence under Part II of Section 304 if the case is such as to fall within Clause (4) of Section 300 of the IPC. Again, the intention or knowledge of the accused may be such that only 2nd or 3rd part of Section 299 of the IPC, may be attracted but not any of the clauses of Section 300 of the IPC. In that situation also, the offence would be culpable homicide not amounting to murder under Section 304 of the IPC. It would be an offence under Part I of that section, if the case fall within 2nd part of Section 299, while it would be an offence under Part II of Section 304 if the case fall within 3rd part of Section 299 of the IPC.

(3) To put it in other words, if the act of an accused person falls within the first two clauses of cases of culpable homicide as described in Section 299 of the IPC it is punishable under the first part of Section 304. If, however, it falls within the third clause, it is punishable under the second part of Section 304. In effect, therefore, the first part of this section would apply when there is 'guilty intention,' whereas the second part would apply when there is no such intention, but there is 'guilty knowledge'.

(4) Even if single injury is inflicted, if that particular injury was intended, and objectively that injury was sufficient in the ordinary course of nature to cause death, the requirements of Clause 3rdly to Section 300 of the IPC, are fulfilled and the offence would be murder.

(5) Section 304 of the IPC will apply to the following classes of cases : (i) when the case falls under one or the other of the clauses of Section 300, but it is covered by one of the exceptions to that Section, (ii) when the injury caused is not of the higher degree of likelihood which is covered by the expression 'sufficient in the ordinary course of nature to cause death' but is of a lower degree of likelihood which is generally spoken of as

an injury 'likely to cause death' and the case does not fall under Clause (2) of Section 300 of the IPC, (iii) when the act is done with the knowledge that death is likely to ensue but without intention to cause death or an injury likely to cause death.

To put it more succinctly, the difference between the two parts of Section 304 of the IPC is that under the first part, the crime of murder is first established and the accused is then given the benefit of one of the exceptions to Section 300 of the IPC, while under the second part, the crime of murder is never established at all. Therefore, for the purpose of holding an accused guilty of the offence punishable under the second part of Section 304 of the IPC, the accused need not bring his case within one of the exceptions to Section 300 of the IPC.

(6) The word 'likely' means probably and it is distinguished from more 'possibly'. When chances of happening are even or greater than its not happening, we may say that the thing will 'probably happen'. In reaching the conclusion, the court has to place itself in the situation of the accused and then judge whether the accused had the knowledge that by the act he was likely to cause death.

(7) The distinction between culpable homicide (Section 299 of the IPC) and murder (Section 300 of the IPC) has always to be carefully borne in mind while dealing with a charge under Section 302 of the IPC. Under the category of unlawful homicides, both, the cases of culpable homicide amounting to murder and those not amounting to murder would fall. Culpable homicide is not murder when the case is brought within the five exceptions to Section 300 of the IPC. But, even though none of the said five exceptions are pleaded or prima facie established on the evidence on record, the prosecution must still be required under the law to bring the case under any of the four clauses of Section 300 of the IPC to sustain the charge of murder. If the prosecution fails to discharge this onus in establishing any one of the four clauses of Section 300 of the IPC, namely, 1stly to

4thly, the charge of murder would not be made out and the case may be one of culpable homicide not amounting to murder as described under Section 299 of the IPC.

(8) The court must address itself to the question of mens rea. If Clause thirdly of Section 300 is to be applied, the assailant must intend the particular injury inflicted on the deceased. This ingredient could rarely be proved by direct evidence. Inevitably, it is a matter of inference to be drawn from the proved circumstances of the case. The court must necessarily have regard to the nature of the weapon used, part of the body injured, extent of the injury, degree of force used in causing the injury, the manner of attack, the circumstances preceding and attendant on the attack.

(9) Intention to kill is not the only intention that makes a culpable homicide a murder. The intention to cause injury or injuries sufficient in the ordinary course of nature to cause death also makes a culpable homicide a murder if death has actually been caused and intention to cause such injury or injuries is to be inferred from the act or acts resulting in the injury or injuries.

(10) When single injury inflicted by the accused results in the death of the victim, no inference, as a general principle, can be drawn that the accused did not have the intention to cause the death or that particular injury which resulted in the death of the victim. Whether an accused had the required guilty intention or not, is a question of fact which has to be determined on the facts of each case.

(11) Where the prosecution proves that the accused had the intention to cause death of any person or to cause bodily injury to him and the intended injury is sufficient in the ordinary course of nature to cause death, then, even if he inflicts a single injury which results in the death of the victim, the offence squarely falls under Clause thirdly of Section 300 of the IPC unless one of the exceptions applies.

(12) In determining the question, whether an accused had guilty intention or guilty knowledge in a case where only a single injury is inflicted by him and that injury is sufficient in the ordinary course of nature to cause death, the fact that the act is done without premeditation in a sudden fight or quarrel, or that the circumstances justify that the injury was accidental or unintentional, or that he only intended a simple injury, would lead to the inference of guilty knowledge, and the offence would be one under Section 304 Part II of the IPC."

18. Similarly, the Honourable Supreme Court in the matter of **Ravinder Kumar versus State of Punjab, 2025(2) Crimes 382** has held as follows:-

"Definitely, it was in the course of such altercation that the blow was inflicted on the head of the accused resulting in an injury which caused his death. As we observed, there is no pre-meditation and it was the deceased and the persons along with him who chased and confronted the accused. It was a group of five persons who confronted the three occupants of the vehicle involved in the hit and run. The altercation was spoken of, but the witnesses of the prosecution only spoke of heated arguments. It was in the course of such altercation that the 1st accused who is the appellant-herein picked up an iron rod and hit the deceased. There cannot be any intention to cause death alleged but there is definitely an intention to cause bodily injury which resulted in the death. We say this, since the assailants, including the deceased, were not armed and in the midst of a wordy altercation, the accused took out an iron rod and hit one of the assailants on the head; a vital part of the body. Hence, culpability under Section 299 of the I.P.C. though attracted, it does not result in a finding under Section 300 since it falls under Exception 1. The one blow inflicted on the head of the deceased resulted in his death, that too after five days, which overt act was without any pre-meditation and was occasioned

in an altercation where the group comprising the deceased were the aggressors and the offender appellant herein could be said to have acted under sudden provocation, thus being deprived of the power of self-control. Necessarily, the offence has to be found to be one under Section 304 of the I.P.C. being culpable homicide not amounting to murder. However, under Part I of Section 304 of the I.P.C., since the bodily injury deliberately inflicted was likely to cause death and in such circumstance, the conviction has to be modified to be under Section 304 Part I. In the totality of the circumstances based on the evidence led, we are of the opinion that the sentence has to be of 7 years rigorous imprisonment. The fine imposed and the default sentence shall remain untouched. The appellant, if on bail, shall surrender within a period of two months before the jurisdictional Court, if he has not already completed seven years in jail”.

19. Now, advertent to the facts of the present case, it is apparent that on 29.6.2003, elections for the post of Sarpanch were to be held in the village. On the one hand, Mukhtiar Singh was contesting, whereas on the other hand, Gurmit Singh, appellant No. 2, was also contesting the elections for the post of Sarpanch. Randhir Singh, along with his son Lakhwinder Singh and Dalbir Singh, were standing in the queue for casting their votes. At that time, all the three appellants had caught hold of them and stated that they would be taught a lesson for casting the votes to Mukhtiar Singh and, thereafter, injuries were caused. From the *lalkara* raised by three appellants, it was apparent that their intention was only to teach a lesson to the deceased and other two injured for casting their votes in favour of Mukhtiar Singh. Still further, it is not even the case of either side that there was a serious enmity between the parties. Further, as per the case of the prosecution,

Hansa Singh had only exhorted the other co-accused to cause injuries, whereas Gurmit Singh had caught hold of Lakhwinder Singh and Sukhwant Singh gave a blow with *dang* (stick) on the head of Lakhwinder Singh, deceased. Even there was only one injury on the head of Lakhwinder Singh, which finally proved fatal and he died because of that. Apart from that, it is also apparent that no other lethal weapon was used in causing injuries and *lathi* can never be called a deadly weapon and which is easily available in all the houses in this part of the country and cannot be said to be a deadly weapon. Still further, from the facts of the case, it is also apparent that the appellants had no intention to cause death but had definitely an intention to cause bodily injury which resulted in death. Thus, the conviction of the appellants is converted from Section 302 IPC to Section 304 Part 1 of IPC and the impugned judgment of conviction is modified to that extent.

20. Now adverting to the order on quantum of sentence, this Court cannot lose sight of the fact that the appellants are facing the agony of trial/appeal since 30.06.2003, i.e., for the last almost 23 years. As per the custody certificate, Sukhwant Singh, appellant No. 1 has already undergone more than 11 years and 3 months of sentence (including remissions), whereas, appellant No. 2 has already undergone more than eight years and one month of sentence (including remissions). Even both the appellants are rustic villagers and are first-time offenders. Even the sentences imposed on them were suspended by this Court in the year 2009, and for the last 17 years, they had admittedly maintained good conduct. Thus, the sentence imposed upon them is reduced to the period already undergone by them.

21. This Court records its appreciation for Ms. Gurneet Sagoo, *Amicus Curiae*, who has rendered able assistance to the Court on behalf of the appellants No. 2 and 3. Her fee is assessed Rs. 20,000/-, which shall be paid by the Secretary, High Court Legal Services Committee.
22. The case property, if any, may be dealt with as per the rules.
23. Trial Court record be sent back to the trial Court.
24. All pending applications, if any, are disposed of, accordingly.

(N.S.SHEKHAWAT)
JUDGE

(H.S.GREWAL)
JUDGE

16.04.2026
amit rana

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO