



**103/2 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH**

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(I) CRA-D-852-DBA-2004

State of Haryana ...Appellant

VS.

Rajinder and others ... Respondents

(II) CRR-197-2005

Ram Kumar ...Appellant

VS.

Rajinder and others ... Respondents

**Coram : Hon'ble Mr. Justice N.S.Shekhawat
Hon'ble Mr. Justice H.S.Grewal**

Present : Mr. Parmod Kumar, AAG, Punjab
for the appellant in CRA-D-852-DBA-2004 and
for the respondent No.4 in CRR-197-2005.

Mr. Nayandeep Rana, Advocate as
Amicus Curiae for the petitioner in CRR-197-2005.

Mr. Shalok Dalal, Advocate
for the respondents.

N.S.Shekhawat J.

1. This judgment shall dispose of two petitions i.e. **CRA-D-852-DBA-2004** titled as “**State of Haryana Vs. Rajinder and others**” and **CRR-197-2005** titled as “**Ram Kumar Vs. Rajinder and others**”, whereby the State of Haryana as well as the complainant have challenged the impugned judgment



dated 03.04.2004 passed by the Court of Additional Sessions Judge, Jind, whereby the respondents have been ordered to be acquitted.

2. The FIR (Ex.PM/1) in the present case was registered on the basis of the statement made by Ram Kumar, son of Sher Singh and the relevant extract of the FIR has been reproduced below:-

“Statement of Ram Kumar S/o Sh. Sher Singh, r/o village Dariyawala, age 45 years. It is stated that I am resident of the above mentioned address and do agricultural work. I had two sons and Rajpal was elder and Jaipal was younger to him. Jaipal had passed 10th class and was unmarried. Teja, son of Ram Kumar, resident of village Dariyawala was involved in theft, robbery and dacoity and he had stayed in prison for many years. He was lodged in jail at Jind and other jails as well for past several months. He had been out on bail for about a month. Teja and my son, Jaipal had good relations with each other. When Teja was lodged in jail, at that time, Teja, his brothers, Ajad and Raja and his father, Ram Kumar used to ask for money for expenses. On this, I told my son Jaipal that Teja was a dangerous criminal and he would not appear on dates of hearing after getting bail and that is why we refused to stand surety. Due to this, Teja and his family members had developed grudge against my son Jaipal. Teja had been out on bail for about a month. About 4/ 5 days ago, Teja abused and threatened my son Jaipal that he would not leave him alive. My son, Jaipal had told me about this. Today, on 09.02.2003, my brother-in-law, Hukam Chand son of Jawala Ram, resident of village Sudkain Khurd had come to our house. At about 8.00 p.m. I and my brother-in-law, Hukam Chand were eating food at my house. I sent my son, Jaipal to fetch the Bidi and he had just gone out of the house and he shouted that he had been killed. On this, I and my brother-in-law Hukam Chand ran outside and saw that Azad son of Ram Kumar was holding the right arm of my son,



Raja, son of Ram Kumar was holding the left arm of my son, Ram Kumar, son of Rattan Singh was holding the hair of my son's head from behind and Teja, son of Ram Kumar was holding scissors in his right hand. Ram Kumar exhorted Teja and told him not to leave him alive on that day. After saying this, Teja attacked my son, Jaipal with scissors, which he was holding in his hands, which hit my son Jaipal on the left side of his chest. When I intervened to rescue my son, Teja attacked me with scissors too, which I narrowly escaped. My son Jaipal fell down on the ground due to the injury. Teja, Azad, Raja and his father, Ram Kumar ran away from the spot with the weapon. We had seen this incident in front of the house of my brother, Balbir Singh, in the light of a bulb. My son Jaipal died on the way to hospital due to the chest injury. I and Hukam Chand brought the dead body of my son, Jaipal to the hospital in a three wheeler. Strict legal action may be taken against Teja, Azad, Raja and Ram Kumar. I have got my statement recorded to you, heard and it is correct, Sd/-Ram Kumar Attested ASI Prem Chand P.S. Sadar, Jind.

Police Proceedings:-Today one V.T. received in police station City, Jind that Jaipal S/o Ram Kumar R/o Dariyawala regarding his death was admitted to General Hospital, Jind. On which, ASI alongwith HC Birbal Singh No.628, Ct. Dharamraj No.646, Ct. Shri Krishan No.731 reached at General Hospital, Jind after receiving doctor ruqqa regarding dead body from P.S. City Jind. Where we met Ram Kumar S/o Sher Singh R/o Village Dariyawala near the dead body of Jaipal, who recorded his above-noted statement before the ASI. The statement was read out and explained, who signed his statement in Hindi below and attested by me. As per the statement of Ram Kumar case under Section 302/34 IPC was found and the tehrir has been sent through Ct. Dharamraj No.646 to the police station for registration the case. After registration the case shall be informed by case number. Special report of FIR is being sent to the Chand P.S.Sadar, Jind dated



09.02.2003. After receiving the tehrir in the police station, Special report of FIR is being sent to concerned officers. Copy of police file alongwith original tehrir is being sent at the spot through constable. SHO has been notified.”

3. After registration of the FIR, the necessary investigation was conducted and the Challan was presented before the Court of Area Magistrate. After commitment, the trial Court was of the *prima facie* opinion that the offence under Section 302/ 34 of IPC is made out against the respondents and they were charge-sheeted accordingly. However, the accused pleaded that they had been falsely involved and claimed trial.

4. During the course of trial, the prosecution had placed reliance on the testimonies of 12 witnesses. The prosecution examined PW-1, Constable Dharamraj, who along with Constable Krishan Kumar had taken the dead body of Jaipal for postmortem examination. The prosecution examined PW-2, SI Ram Kumar, SHO, who took up the investigation of this case on 10.02.2003. He inspected the place of occurrence and prepared rough site plan (Ex.PA) and also lifted blood stained earth from the spot. He also arrested Ajad Singh accused on 13.02.2003 and after completion of investigation, he prepared the challan in the present case.

5. The prosecution further examined PW-3 Dr. Atul Khera, who had conducted the post-mortem examination on the dead body of Jaipal, son of Ram Kumar on 10.02.2003. He found that there were two penetrating wounds on upper part of front of chest, slightly to left. These were situated 2 cm above the level of left nipple. They were of 1 cm x 0.5 cm and 1.3 cm x 0.5 cm in size respectively. They were separated by 4 mm. On dissection, the direction of the



wounds were found to be backward and medially. The wounds had caused laceration of underlying fascias and muscles. The wound had entered the thorax and had caused laceration in the pulmonary artery. Thoracic cavity was found to be full of blood. Heart was found to be empty and there was no sign of any injury to the heart. All organs were healthy in the abdomen. There was no other wound or problem found in the body. In his opinion, the cause of death in the present case was due to the injuries described in the PMR. As per him, there was no mark of struggle on the arms or on the head occasioned by pulling of the hair of the dead body.

6. The prosecution further examined PW-4, Constable Dilbag Singh, who prepared the scaled site plan (Ex.PG) as pointing out by Ram Kumar. The statements of PW-5, Constable Iqbal Singh and PW-6, HC, Ishwar Singh were formal in nature. The prosecution further examined Wazir Singh as PW-7 and Teja, the main accused was interrogated by ASI Prem Chand in his presence. He suffered a disclosure statement (Ex.PK) and got the scissors recovered. The sketch of scissors was prepared and was taken into possession by the police. The prosecution further examined PW-8, HC Om Parkash and PW-9, ASI Roshan Lal and their testimonies were formal in nature. Ram Kumar, complainant was examined as PW-10 and he supported the case of the prosecution.

7. In his cross-examination, he admitted that Hukam Chand, PW-II had visited his house at 3.00 p.m. on 09.02.2003. Hukam Chand is the husband of his sister. He further admitted that his son Rajpal was lodged in jail at that time, but he did not know the number of cases, in which he was involved. He did not know if his son Rajpal was involved in several cases of dacoity, theft



and attempt to dacoity. There was a case of hurt against his sons Jaipal and Rajpal, which was pending in the Court of ACJM, Jind. The prosecution further examined PW-11, Hukam Chand, who had also supported the testimony of PW-10, Ram Kumar. The prosecution examined ASI Prem Chand as PW-12, who had initially recorded the statement of Ram Kumar and got the formal FIR (Ex.PM/1) recorded. He prepared the inquest report (Ex.PE) and moved the application (Ex.PC) for getting the autopsy on the dead body of Jaipal conducted. After post-mortem examination, the doctor handed over the dead body of Jaipal for cremation. He arrested Teja on 12.03.2003 and on his disclosure, the scissors were recovered from him. On 14.03.2003, he had moved an application (Ex.PF) before the Medical Officer, Jind to seek his opinion, whether the injuries on the person of deceased, namely, Jaipal could be caused with scissors (Ex.P-1) or not? Vide report (Ex.PF/1), the doctor had opined that the possibility of injuries being caused by scissors (Ex.P-1) on the person of Jaipal could not be ruled out.

8. After the conclusion of the prosecution evidence, the entire incriminating evidence was put to the respondents in the shape of their statements under Section 313 Cr.P.C. All the respondents had taken the stand that they were not present at the place of occurrence and they had been involved only because of their relationship with Teja, main accused. Teja was involved in several criminal cases and had lost track of life and had eventually died. None of them was present at the place of occurrence.

9. Learned State counsel as well as learned counsel for the complainant vehemently argued that in the present case the respondents along with Teja had actively participated in the commission of crime. The trial Court



had completely failed to appreciate that the prosecution had examined PW-10 Ram Kumar and PW-11, Hukam Chand, who had proved that all the respondents had actively participated in the commission of crime.

10. While, they had seen that Azad and Rajinder had caught hold of arms of Jaipal, whereas Ram Kumar, accused had held him with his hair from behind. After this, Teja (since deceased), the main accused had given a single blow with scissors on the chest of the deceased, who succumbed to the injuries. Thus, it was apparent that all the three respondents had conspired with Teja to commit the murder of Jaipal. Thus, the involvement of all the three respondents was proved beyond the shadow of reasonable doubt and the impugned judgment is liable to be set aside by this Court.

11. On the other hand, learned counsel appearing on behalf of the respondents submitted that the trial Court had recorded detailed reasons while ordering the acquittal of the respondents. In fact, there was no evidence to show that the deceased, who was a young man, had struggled before his death. Not only the evidence of PW-10, Ram Kumar and PW-11, Hukam Chand was unreliable, but their testimonies were not supported by the medical evidence. Thus, the impugned judgment is legally sustainable and both the cases are liable to be dismissed by this Court.

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

13. In the present case, the prosecution has alleged that Teja was a criminal, who had taken to crime on a large scale. He was involved in several cases of dacoity and other crimes and used to remain in jail for several years at a stretch. Jaipal (since deceased) was son of the complainant, namely, Ram



Kumar and had developed close relations with Teja, main accused and both of them used to stay together. Apart from that, it is also an admitted fact that Rajpal, another son of the complainant was also involved in several cases of dacoity, theft and attempt to dacoity. Even a hurt case was pending against both his sons, namely, Rajpal, and Jaipal (since deceased), which was pending in the Court of ACJM, Jind. Still further, it was a case of single blow and two penetrating wounds had been caused by that single blow. The prosecution had examined Dr. Atul Khera as PW3, who had conducted the post-mortem examination on the dead body of Jaipal and he found that there were only two penetrating wounds on the upper part of the front of the chest, slightly to the left. He further opined that the death in the present case was due to the injuries mentioned in the PMR and the injuries were *ante mortem* in nature and were sufficient to cause death in the ordinary course of nature.

14. In his cross-examination, he clearly stated that there was no mark of struggle on the arms or on the head occasioned by the hair pull of the dead body. Thus, it is apparent that the two injuries on the person of Jaipal (since deceased) were attributed to Teja, who was a hardened criminal and has now died. Even the medical evidence clearly shows that there were no marks of struggle on the person of the deceased and consequently, the possibility of false implication of the respondents, who are brothers and father of Teja, cannot be ruled out. In fact, it appears that Teja had caused the injuries on the person of Jaipal (since deceased) and the complainant had decided to teach lesson to Teja as well as his family members and the possibility of false implication of the respondents cannot be ruled out. Even otherwise, the law is well settled that in this part of the country, in a murder case, family members of the principal



accused are involved by either showing their presence at the spot or by assigning them the roles of exhortation etc. We agree with the findings recorded by the trial Court that the defence version looks quite probable that only late Teja was involved in the murder of his former associate, namely, Jaipal, deceased.

15. Even otherwise, we have carefully gone through the findings recorded by the trial Court and find no reasons to defer the trial Court. The impugned judgment passed by the trial Court does not suffer from any material, irregularities, illegality or perversity and finding no merits in both the cases and both the cases are ordered to be dismissed.

16. Further, the fee of Mr. Nayandeep Rana, learned Amicus Curiae, who assisted the Court on behalf of the petitioner in CRR No. 197-2005 is assessed at Rs. 20,000/-. The aforesaid fee shall be paid by the Secretary, High Court Legal Services Committee.

17 Pending application(s), if any, stand(s), also disposed of, accordingly.

18. Case property, if any, be dealt with, and destroyed after the expiry of period of limitation for filing the appeal/petition, in accordance with law.

19. The Trial Court record be sent back.

(N.S.SHEKHAWAT)
JUDGE

(H.S.GREWAL)
JUDGE

25.02.2026

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