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

CRA-D-978-DB-2004 (O&M)
Date of Reserve: 30.10.2025
Date of Decision: 13.01.2026
Date of Uploading: 16.01.2026

Inder Singh and Others

...Appellants

Vs.

State of Haryana

...Respondent

Coram : **Hon'ble Mr. Justice N.S.Shekhawat**
 Hon'ble Ms. Justice Sukhvinder Kaur

Present: Mr. Virender Singh Punia, Advocate
 for the appellants.

Mr. Rajiv Sidhu, Sr.DAG, Haryana
Mr. Rajinder Kumar Banku, Sr.DAG, Haryana.

Mr. Ram Kumar Saini, Advocate with
Mr. Ankit Saini, Advocate
for the complainant.

N.S.Shekhawat J.

1. Challenging the legality and correctness of the impugned judgment dated 08.10.2004 and order of sentence dated 12.10.2004, passed by the Court of Additional Sessions Judge, (II), Jind, whereby, the appellants have been convicted for commission of the offence punishable under Sections 148/302/149, 307/149, 323/149 of IPC and Section 25 of Arms Act, the appellants have preferred the present appeal before this Court.

2. The FIR in the present case was registered on the basis of the statement (Ex.P.1) of Gurdev Singh son of Phagwa and the same has been



reproduced below:-

I am resident of village Kakrod and do labour work. In the month of August, 1999 an altercation had taken place between us and the sons of Surju and Jogia, Balmiki, resident of Kakrod and both the parties were challaned. Since then sons of Surju and Jogia bore a grudge against us. Today, on 3.10.2000, at about 6.00 P.M., I. Daya Kishan son of Dhup Singh and Aakar son of On Parkash, Balmiki, resident of the village were talking while sitting on the chabutra of Hukmi son of Mansa Balmiki abutting the street when Darshan son of Inder, Balmiki, resident of village, due to this grudge, asked while hurling abuses as to why we were sitting in front of their houses. When we said asked him not to abuse, he went towards their houses saying that they would teach us a lesson for sitting there, and after some time, Darshan son of Inder and Dal Singh son of Surju armed with their guns, Inder son of Jogia armed with his gun, Kavala son of Rampal armed with a lathi came there with their common intention. Dal Singh son of Surju fired a shot from his gun aiming at us with intent to kill which hit Daya Kishan son of Dhupa. Inder son of Jogia fired a shot from his gun the pellets of which hit my body. In the meantime, Darshan son of Inder snatched the gun from the hand of his father and fired a shot after loading the gun. The pellets of that shot hit Onkar son of Om Parkash. we raised alarm of “Mar-Diya Mar-Diya”. On hearing the noise made by us my brother Mahipal, Rajpati wife of Nafe Singh and Krishana wife of Dhup Singh rushed there. In the meanwhile, Dal Singh again loaded the gun and fired but the pellets hit Rajpati who fell down at the spot and died due to the striking of the pellets. Kavala son of Ram Pal gave two lathi blows on the head of my brother Mahipal as a result of which Mahipal fell down at the spot and Kavala continued beating him. I tried to separate them after taking Kavala in my grip. In the meanwhile, Ram Pal son of Surju also came at the spot and started pelting brick-bats towards us. Krishana, wife of Dhup Singh



received injuries due to the brick-bats. On hearing the report of firing and noise of fight, Virender son of Bhalle Ram, Nafe son of Mai Lal etc. and many other persons came to the spot and on seeing them the assailants ran towards their houses with their respective weapons. Thereafter, my nephew Laxman arranged for a TATA Sumo of Satish son of Balwant of our village. He took us to Civil Hospital, Narwana for treatment. Dal Singh, Inder, Darshan, Kavala and Ram Pal etc., attacked us with their common object to kill and committed the murder of Rajpati with a gun shot. They have also caused us gun shot injuries. Action be taken against them. Statement has been heard which is correct. Attested Sd/-(In English) SI/SHO, PS Uchana, dated 04.10.2000”.

3. After the registration of the FIR, usual investigation was conducted and after completion of investigation, challan under Sections 302,307,323,34 of IPC and Section 25 of Arms Act was presented against the appellants and co-accused. During the course of trial, Dal Singh, co-accused had died and the trial proceedings had abated against him. Even, Rampal co-accused was ordered to be acquitted by the Trial Court and only the present three appellants were ordered to be convicted by the trial Court.

4. After the committal, the trial Court finds a prima facie case under Sections 148,302,307,323 r/w Section 149 of IPC against all the accused and also ordered the framing of charge under Section 25 of Arms Act against Darshan Singh, appellant No.2 only and they were charge-sheeted. However, the appellants pleaded that they were innocent and claimed to be tried by the Trial Court.

5. To substantiate the charge against the appellants, the prosecution examined Contable Ram Kumar as PW-1, who had delivered the Special Report



to Area Magistrate. Gurdev Singh, complainant was examined as PW-2, who reiterated his version as mentioned in the initial complaint Ex.P-1. The prosecution further examined Dr.B.R Kayat, Medical Officer as PW-3, who medico-legally examined Daya Kishan son of Dhup Singh and found the following injuries on his person:-

- 1. Four rounded lacerated punctured wound of size 3 mm x 3 mm on right side of face on the forehead medial side of eye brow below right eye on medial side and above right angle of mouth. Clotted blood was present. Bleeding on touch was present. margins were inverted. Slight blackening was present. x-ray was advised.*
- 2. Two round lacerated punctured wound of size 3 mm x 3 mm on left clavicle at medial end and middle part. Clotted blood was present. Bleeding on touch was present. margins were inverted. Slight blackening was present. X-ray was advised. Corresponding hole was present in T-shirt.*
- 3. A round lacerated punctured wound of size 3 mm 3 mm on anterior surface of left upper arm in upper part Clotted blood was present. Bleeding on touch was present. margins were inverted. Slight blackening was present. x-ray was advised. Corresponding hole was present in T-shirt.*
- 4. A round lacerated punctured wound of size 3 mm x 3 mm on side of chest 3 cm above and medial to left nipple. X-ray was advised.*
- 5. Two round lacerated punctured wounds of size 3 mm x 3 mm on anterior and medial surface of right upper arm in middle and lower part. X-ray was advised.*
- 6. Two round lacerated punctured wounds of size 3 mm x 3 mm on anterior surface of right forearm in upper part. X-ray was advised.*
- 7. Two round lacerated punctured wounds of size right ring finger. X-ray was advised. 3 mm x 3 mm on lateral surface of right thumb and right ring finger. X-ray was advised.*



8.A round lacerated punctured wound of size 3 mm x 3 mm on anterior surface of right leg below tibial tuberosity. X-ray was advised.

9.A round lacerated punctured wound of size 3 mm x 3 on left lateral side of abdomen at junction of chest and abdomen, X-ray was advised.

He further stated that clotted blood was present at the site of all the injuries and bleeding on touch was also present. Margins were inverted in all the injuries. Slight blackening was present at the margins of all the injuries and corresponding holes were present at T-shirt and pant. The clothes were taken and sealed in a parcel with seal "BK" and were handed over to the police. Injuries were caused by fire arm and proved the MLR Ex.P-2.

6. PW-3 Dr. B.R Kayat, Medical Officer also medico-legally examined Gurdev and found the following injuries:-

"1.Four round lacerated punctured wound of size 3 mm x 3 mm. margins were inverted. Clotted blood was present. Bleeding on touch was present. Slight blackening was present; (i) On partial region in anterior part on midline, (ii) on medial side of right eye brow, (iii) on left side of chest 4.5 cm above and medial to left nipple, (iv) on right side of abdominal wall 5.5 cm lateral to umbilicus. X-ray was advised.

2.Four round lacerated punctured wounds of size 3 mm x 3 mm each on (1) on anterior surface of right thigh in upper part, (ii) two on anterior surface of right knee above tibial tuberosity, (iii) antero medial surface of right leg in middle part. Clotted blood was present. Bleeding on touch was present. margins were inverted. Slight. blackening was present margins. X-ray was advised.



3. A round lacerated punctured wound of size 3 mm x 3 mm on right side of scrotum below penis rot. Clotted blood was present. Bleeding on the touch was present.. X-ray was advised.

4. Five round lacerated punctured wounds of size 3 mm x 3 mm on (i) anterior surface of left thigh in middle part, (ii) two on anterior surface of left leg in upper part, (iii) on anterior surface of left leg in middle part, (iv) on dorsum of left 4th toe. Clotted blood was present. Bleeding on touch was present. margins were inverted. X-ray was advised.

He further stated that corresponding holes were present in the waist, shirt and pant and clothes were blood stained. Clothes were sealed and handed over to the police. The weapon used for causing injuries was fire arm and he proved the MLR as Ex.P-3.

7. On the same date, PW-3 Dr. B.R Kayat, Medical Officer, also examined Mahipal and found the following injuries on his person :-

1. A lacerated wound of size 5.5.cm x 0.5 cm into bone deep on midline in parital region in middle part. Clotted blood was present. Bleeding on touch was present. X-ray was advised.

2. A lacerated wound of size 5 cm x 0.5 cm into bone deep on the right parital region in posterior part. Clotted blood was present. Bleeding on touch was present. X-ray was advised.

3. A contusion of size 10 cm x 2 cm on right shoulder and Supra scapular region. Reddish in colour.

4. An abrasion of size 13 cm x 1.5 cm on posterior surface of right fore-arm in middle and lower part. Reddish in colour.

5. An abrasion of size 10 cm x 1.5 cm on posterior surface of left fore-arm in middle part. Reddish in colour.



All the injuries were caused with blunt weapon. Injuries No.1 & 2 were kept under observation while rest of the injuries were declared simple in nature. He proved the original MLR as Ex.P-4.

8. On the same day, PW-3 Dr. B.R Kayat, Medical Officer, medico-legally examined Smt. Krishna wife of Dhup Singh and found the following injuries on her person:-

1.A lacerated wound of size 1.5 cm x 0.5 cm into bone deep on left side of nose. Clotted blood was present. Bleeding on touch was present. x-ray was advised.

2.Defuse swelling of upper lip in middle part with an abrasion of size 2 cm x 1.5 cm on inner surface. Reddish in colour.

Injury No.1 was kept under observation, while injury No.2 was declared as simple. He proved original MLR as Ex.P5. PW-3 Dr. B.R Kayat examined Gurdev, Daya Kishan and Mahipal radiologically also and proved his reports Ex.P-7 to P-9 and X-ray films are Ex. P-10 to Ex.P24 of all the injured. He also gave his opinion Ex. P-25/A with regard to the injuries on the person of Gurdev, holding that the injures on the person of Gurdev Singh, were caused by fire arm. Similary, he gave opinion Ex.P-26/A and opined that the injuries suffered by Daya Kishan could be possible by a fire arm. Similarly, he also sealed the pellets, which were removed from the bodies of the injured and the same were handed over to the police. He was also a Member of the Board, which conducted the post mortem examination on the dead body of Smt. Rajpati wife of Nafe Singh. In his cross-examination, he stated that injuries on the person of Mahipal could be the result of brick bats. He did not find any fracture underneath the injuries No.1 and 2, which were kept under observation.



All the injuries on the person of Mahipal were simple in nature. Even, injuries on the person of Krishna were simple and superficial in nature. The prosecution further examined Kuldeep Singh, Draftsman as PW-4, who had prepared rough site plan (Ex.P-34). Similarly, PW-5 Ram Kumar, UGC had taken into possession the clothes and other belongings of Smt. Rajpati and handed over the same to Ram Mehar, Sub Inspector. The prosecution further examined Ramdhari son of Soran as PW-6, in his presence on 04.10.2000, Dal Singh got recovered a S.B.B.L gun. The gun was unloaded and another cartridge was also recovered from the left pocket of his shirt and arms license was also recovered from Dal Singh. Even, Inder Singh accused was arrested in his presence and a S.B.B.L gun along with two live cartridges were also recovered from him. Accused Kawala was arrested on 04.10.2000 and a *lathi* was recovered from him by the police. In his cross-examination, he admitted that Gurdev Singh, complainant was his brother. The prosecution further examined Dr. R.K Sharma, Medical Officer as PW-7, who conducted post mortem examination on the dead body of Smt. Rajpati on 04.10.2000. The relevant extract of his statement has been reproduced below:-

“1.21 round lacerated punctured wounds of entrance of size 3mm x 3mm and 4mm x 4mm on the antero lateral side of chest and upper part of left side of abdomen. Margins were inverted. Blackening of all wounds was present and clotted blood was present.

2.Eight round lacerated punctured wound of entrance on the antero lateral and medial surface of left upper arm and anterior surface of left shoulder margins were inverted. Blackening of wounds and clotted blood was present.

3.An abrasion of size 2 cm x .5 cm on the left lateral side of chest in the lower part with blackening of the wound.



On dissection of the chest the blood was found in the left pleural cavity, multiple lacerated punctured wound of size 5mm x 5mm on the antero lateral surface of both lobes of left lung directing downward and medially, piercing full thickness of lobe in upper and lower part, and few measuring 4 cm in depth in central part of left lung. Two pellets were recovered in the central part of the lung and one pellet was recovered from left diaphragm. All punctured wounds pierced the chest wall causing fracture of 9th and 10th rib on the left side of chest. On dissection of abdomen blood was found in the peritoneal cavity. Five lacerated punctured wounds of sizes 5mm x 5mm piercing the spleen was present, and one pellet was recovered from the spleen. One lacerated punctured wound of size 3mm x 3mm on anterior wall of the stomach, from which stomach contents were coming out. A large haematoma of size 6 cm x 3cm was found in the mesentery. Mesenteric artery was found ruptured. Two pellets were recovered from mesenteric haematoma and one pellet was recovered near the vertebral column. All the punctured wounds were directing downward medially and backward. Blood was present in the left pleural cavity. larynx and trachea were normal. Right lung was healthy and pale. Left lung already described. Both chambers of the heart were empty. Multiple punctured wounds were present in the peritoneum. Mouth, Pharynx and Oesophagus were healthy. Stomach already described with about 50 CC of semi-digested food material was present. In small intestine at multiple places congestion of external wall of intestine was present. Rest healthy with chyle was present. In large intestine at few places congestion of wall of large intestine was present. Rest part was healthy. Faecal matter was present. Liver was healthy but pale.



Spleen already described. Kidney was healthy but pale. Bladder was healthy with 20 CC of urine present in it. Organs of generation were healthy, both tubes were having leproscopic rings.

The cause of death in our opinion was due to Haemorrhage and shock resulting from multiple fire arm injuries which were already described and were antemortem in nature and were sufficient to cause death in ordinary course of nature”.

As per him, the probable time between injury and death was within few minutes and proved on record the post mortem report as Ex.P-47. In his cross-examination, he stated that the pellets were scattered within a diameter of 1.5 feet at the seat of injury No.1. The blackening of wound was not because of the gun powder, but because of the entrance of an individual pellet and heat. The prosecution further examined Virender Singh, Sub Inspector as PW-8, who had prepared the final report under Section 173 Cr.P.C and had submitted the challan in the Court. The prosecution further examined Satyawar Singh, Constable as PW-9, who had deposited the exhibits with the F.S.L. Similarly, the testimony of PW-10 Dalip Singh, Head Constable was formal in nature. PW-11, Pardeep Kumar, Record Keeper of SDM Office, Narwana, brought the summoned record of the case titled as “*State Vs.Ram Kishan*” and *State Vs.Om Parkash* i.e. the proceedings under Section 107 r/w Section 151 Cr.P.C and the same were dropped after expiry of statutory period of six months. PW-12, Roop Chand Ahlmad proved on record the arms license of Inder Singh, accused as Ex.P-63, whereas, arms license of Dal Singh is exhibited as Ex.P-64. The prosecution further examined Daya Kishan as PW-13, who was present along



with Onkar @ Kar and Gurdev Singh-PW-2 at the time of occurrence and supported the testimony of Gurdev Singh-PW-2.

9. The prosecution further examined Dr.S.C Mittal as PW-14, who had medico-legally examined Raj Kumar son of Parkash and found the following injuries on his person:-

“1. Multiple small rounded lacerated wound varying in size from 1mm to 3mm in size going deep in the muscles 11 in number on medial side of right thigh. Fresh bleeding was present. Edges of all wounds were blackened and singed. There was large swelling 35 cm x 18 cm on medial side of right thigh. X-ray of right thigh and knee was advised.

2. Multiple small rounded lacerated wound varying in size from 1mm to 3mm going deep in muscles, 14 in number on front and medial side of left thigh. Fresh bleeding was present. There was blackening and singing of edges of all wounds. X-ray of left thigh and Surgeon's opinion was advised.

3. One small rounded lacerated wound size 1 mm x 2 mm going deep in muscles over left iliac region of abdomen. Fresh bleeding was present. Edges were blackened and singed. Plain X-ray abdomen and Surgeon's opinion was advised.

4. Three rounded lacerated wounds 1 mm to 3 mm on dorsum of left middle finger freshly bleeding was present. Edges were blackened and singed. One each rounded lacerated wound 1mm to 2mm in size on dorsum of left ring finger and left little finger. Fresh bleeding was present. Edges of the wound were blackened and singed. x-ray of left hand and fingers were advised. Opinion of Surgeon was also advised.

5. One rounded lacerated wound 1 mm to 2mm on dorsum of right ring finger. Edges were blackened and fresh bleeding was present. X-ray of right ring finger and opinion of Surgeon was advised.



6. One rounded lacerated wound 1mm to 2mm going deep in muscles on front of right shoulder joint. Fresh bleeding was present and edges of the wound were blackened. X-ray of right shoulder was advised.

7. One rounded lacerated wound 2mm x 3mm on front of left Chest upper part below clavicle. x-ray of left chest and opinion of Surgeon was advised.

8. One rounded lacerated wound 1mm x 2mm going deep on front of left lower chest and edges of the wound were blackened. X-ray of left chest and opinion of Surgeon was advised.

9. One rounded lacerated wound 2mm x 3mm on left hypoldriom region of abdomen going deep in abdomen. Fresh bleeding was present and edges of the wound were blackened. X-ray of abdomen and Surgeon's opinion was advised”.

He brought on record the MLR Ex.PA of the injured and stated that all the injuries were suspected to be caused by fire arm. He had taken into possession one pant, one underwear and one shirt of the injured by sealing the same with his own seal and handed over to the police. He did not conduct any radiological examination of the injured to ascertain the fire shot injuries as he had not detected any pellets in the body of Raj Kumar. He had referred the patient to Civil Hospital, Jind also. The prosecution further examined PW-15 Raj Kumar @ Kar, who was an eye witness along with PW-2 Gurdev and Daya Kishan PW-13 and supported their testimonies in all respects. The prosecution further examined Ram Mehar, Sub-Inspector, CIA Staff, Jind as PW-16, who had recorded the initial statement (Ex.P-1) of Gurdev Singh and sent the same for the registration of the case. He also found the dead body of Rajpati at the spot and prepared the inquest report Ex. P-50. Thereafter, he sent the body for post-mortem examination and moved application Ex. P-48 for the said purpose. He



also took into possession the blood stained earth and a brick from the spot, which were sealed and taken into possession vide the memo Ex.PF. He also took into possession four empty cartridges Ex.P-68 to Ex.P-71, which were sealed on the spot and taken into possession vide memo Ex.PH. He prepared the site plan Ex.PJ with correct marginal notes and recorded the statements of witnesses. He arrested Dal Singh and Inder Singh, accused and one S.B.B.L gun each and live cartridges were also taken into possession by him. Kawala, accused got recovered a *lathi* Ex.P44 which was taken into possession vide the memo Ex.P-41. Two live cartridges Ex.P-84 and Ex.P-85 were also taken into possession from Inder Singh accused. He also recorded the statements of the relevant witnesses under Section 161 Cr.P.C. The prosecution further examined PW-17 Prem Dass, Retired ASI, who was the initial IO in the present case and various articles were taken into possession by him.

10. After the statement of prosecution witnesses concluded, the statements of all the appellants were recorded under Section 313 Cr.P.C and the entire incriminating evidence was put to them, however, all the witnesses had taken a plea that they were innocent and had been falsely implicated in the present case.

11. Learned counsel for the appellants vehemently argued that the prosecution case was based on the testimonies of PW-2 Gurdev Singh, PW-13 Daya Kishan and PW-15 Raj Kumar @ Kar, who were all interested and inimical witnesses. In fact, there was enmity between both the sides since long and due to the old enmity, they have been falsely involved in the present case. Apart from that, it was also apparent that the version deposed by PW-2 Gurdev Singh and PW-13 Daya Kishan were contradictory to each other. PW-2 Gurdev



Singh stated that the dead body was lying in the street, whereas, PW-13 Daya Kishan stated that the dead body was lying on *Chabutra* (platform) in the street. Apart from that, other material witness namely Raj Kumar @ Kar PW-15 stated that Rajpati (since deceased) received the fire shot on the roof and then fell down on the *Chabutra*. Thus, the version of the prosecution was contradictory. Apart from that, the investigation in the present case was apparently tainted and the official witnesses had planted various recoveries on the appellants. Further, it has been admitted by the prosecution witnesses that the shots were fired from a distance of 100 yards and it was not possible to cause injuries by firing shots from such a distance. Still further, there was no motive on the part of the appellants to commit the crime and in absence of motive, the prosecution case is liable to be disbelieved by this Court. The prosecution has relied upon PW-2 Gurdev Singh, PW-13 Daya Kishan and PW-15 Raj Kumar @ Kar, who are the relatives of the complainant side and even though the occurrence had taken place in a street, no independent witnesses were examined by the prosecution. Consequently, the impugned judgment and order are liable to be set aside by this Court.

12. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the appellants. Learned counsel have extensively referred to the testimonies of PW-2 Gurdev Singh, PW-13 Daya Kishan and PW-15 Raj Kumar @ Kar and contended that except certain minor inconsistencies, all the three witnesses had fully supported the case of the prosecution. All the three witnesses were rustic villagers and such minor inconsistencies have been rightly ingored by the Trial Court. Apart from that, it was also apparent from the



medical evidence that the injuries were caused by fire arms, which were duly recovered from the appellants in the present case. Even, specific roles have been assigned to all the three appellants and their participation apparently stood proved in the present case. Still further, it is also apparent from the testimony of PW-11 Pardeep Kumar, Record Keeper of SDM Office, Narwana, that the parties were fighting with each other in the past also and a *Calendra* under Section 107/151 Cr.P.C was present in this regard. It is an admitted case of the parties that the parties were inimical towards each other and the said motive was well proved before the Trial Court.

13. We have heard learned counsel for the parties and perused the record carefully; with their able assistance.

14. The case of the prosecution was unfolded by PW-2 Gurdev Singh, who categorically stated that on 03.10.2000, while he was sitting on Chabutra, Daya Kishan PW-13 and PW-15 Raj Kumar @ Kar were having conversations. Darshan Singh, accused came there and asked as to why they were sitting there. On this, Gurdev replied that they were present at their own *Chabutra*. Darshan Singh, accused stated that he would teach a lesson for sitting on the Chabutra and went inside his house. After deliberations, Darshan, Inder Singh and Kawala, all three appellants along with Dal Singh (since deceased) came out of their house. Kawala was armed with a *lathi*, whereas, Dal Singh and Inder Singh were armed with gun each. Darshan Singh, accused was empty handed. Dal Singh fired a shot at Daya Kishan and Inder fired at Gurdev Singh. The pellets hit on both the legs of Gurdev Singh. Darshan snatched the licensed gun from the hands of his father namely Inder Singh and fired a shot on Raj Kumar @ Kar and Onkar. The pellets hit Raj Kumar @ Kar and they raise noise to save



them. Mahipal, Rajpati and Krishna also reached at the spot, in the meantime. On this, Dal Singh, accused again loaded his gun and fired shots at Rajpati, who succumbed to the injuries. The pellets had hit on her chest. Kawala, accused also gave two *lathi* blows to Mahipal on his head and then Rampal, accused came there. He pelted stones on Smt.Krishna, Virender and Nafe Singh. Many persons from village had also come there and on seeing, all the accused went inside their house with their respective weapons. The injured were shifted to the hospital in a Tata Sumo. He further deposed that there was a quarrel between both the sides, for which both the parties were sent for trial.

15. The main eye witness/complainant Gurdev Singh PW-2 was searchingly cross examined by the learned defence counsel and his testimony could not be shattered in any manner. Similarly, the statement of PW-2 Gurdev Singh was duly supported by the testimonies of PW-13 Daya Kishan and PW-15 Raj Kumar @ Kar. It has been pointed out that there was some contradiction with regard to the place of recovery of dead body in the testimonies of PW-2 Gurdev Singh and PW-13, Daya Kishan. However, both the places of recovery were in the same street. In fact, PW-2 Gurdev Singh had stated that the dead body was lying in the street, whereas, PW-13 Daya Kishan had stated that it was lying on the *Chabutra* in the street and PW-15, Raj Kumar @ Kar had stated that they had shifted the dead body to their house and then to the hospital. However, from the investigation conducted by the police, it was apparent that the articles were lifted by the police from the street itself. It clearly shows that the occurrence had taken place near the *Chabutra*, as is depicted in the site plan Ex.P-34. Even, it could be possible that after suffering injuries, the dead body of Rajpati might have been shifted at a distance of few feet by some villager in



the same street itself. Even otherwise, such a minor contradiction can never be a ground for disbelieving the testimonies of three eye witnesses, who withstood the test of cross-examination.

16. Still further, even the testimonies of all three witnesses were duly corroborated by the testimony of PW-3 Dr. B.R Kayat, who had medico legally examined Daya Kishan/injured, Gurdev Singh/injured, Mahipal/injured and Smt.Krishna injured. It was apparent that injuries on the person of Daya Kishan and Gurdev were caused by fire arms and their MLRs were duly proved, whereas, injuries suffered by Mahipal were caused by blunt weapon. Similarly, injuries suffered by Smt. Krishna were also by way of blunt weapon. The prosecution had further examined PW-7 Dr. R. K Sharma, who had conducted the post mortem examination on the dead body of Smt. Rajpati and found three fire arm injuries on her person and she had finally succumbed to the fire arm injuries, which were sufficient to cause death in ordinary course of nature. Apart from that, it is also apparent from the injuries suffered by PW-2 Gurdev Singh and PW-13 Daya Kishan that they had suffered serious fire arm injuries on their person and their presence at the place of occurrence can never be doubted in view of the serious fire arm injuries suffered by them.

17. Still further, the prosecution had examined PW-17 Prem Dass, Retired A.S.I, who was part of the investigation in the present case. In his presence, the SHO had taken into possession four empty cartridges Ex.P-68 to P-71 vide the memo Ex.PH. Dal Singh accused got recovered a gun Ex. P-42 vide the recovery memo Ex.P-36. Similarly, Inder Singh got recovered his gun Ex.P-43 vide recovery memo Ex.P-37, along with his license Ex.P-39. Similarly, Kawala, appellant No.3/accused got recovered a *lathi* Ex.P44, which



was taken into possession vide the memo Ex.P-41. The police got recovered two live cartridges from Inder Singh, appellant No.1/accused also. Similarly, PW-16 Ram Mehar, S.I, duly corroborated the testimony of PW-17 Prem Dass, Retired A.S.I. PW-16, Ram Mehar, SI had conducted the initial investigation and even after his lengthy cross-examination, nothing material could be elicited from him.

18. Still further, this Court finds no substance in the argument raised by learned counsel for the appellants that the investigation in the present case was tainted and the recoveries were planted on them. In fact, from the testimony of PW-16 Ram Mehar, SI and PW-17 Prem Dass, Retired A.S.I, it is apparent that the investigation was properly conducted in the present case and their testimonies could not be assailed in any manner.

19. Apart from that, it is also admitted that the parties were already inimical towards each other and in the past also, there was a fight between both the sides. The prosecution examined PW-11 Pardeep Kumar, Record Keeper of SDM Office, Narwana, who had brought the summoned record of the cases titled as “State Vs.Ram Kishan” and State Vs.Om Parkash, whereby, the proceedings under Section 107/151 Cr.P.C were initiated. However, the proceedings were dropped after the expiry of statutory period of six months. Even otherwise, it is a case of eye witnesses account and this Court finds the testimonies of three eye witnesses namely PW-2 Gurdev Singh, PW-13 Daya Kishan and PW-15 Raj Kumar @ Kar to be worth placing reliance and there was no need to look for motive further. Even otherwise, the prosecution led sufficient evidence to prove the motive as well on the part of the appellants to commit the crime. Still further, the case of the prosecution was further



strengthened by the FSL reports Ex.PK and Ex.PK/1. From the FSL report, it was found that the live cartridges were fired from the guns, which were recovered from the accused in the present case and the holes on the clothes of the injured had been caused by the fire led pellets. Apart from that, the clothes of the injured, which were duly recovered by the police were found to be blood stained. Even, the bricks and other articles recovered from the spot were found to be blood stained.

20. We have carefully gone through the judgment passed by the Trial Court and find that the Trial Court has correctly appreciated the evidence led by the prosecution in the light of the settled cannons of law and even find no reasons to set aside the impugned judgment and order.

21. Accordingly, the impugned judgment dated 08.10.2004 and order of sentence dated 12.10.2004, passed by the Court of Additional Sessions Judge, (II), Jind are ordered to be upheld by this Court and the present appeal is ordered to be dismissed.

22. Ordered accordingly.

23. The appellants may be taken in custody forthwith, if on bail, to serve the remaining sentence.

(N.S.SHEKHAWAT)
JUDGE

(SUKHVINDER KAUR)
JUDGE

13.01.2026
hitesh

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