



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-S-1784-SB-2007

Bohar Singh and Another

..... Appellants

VERSUS

State of Punjab

..... Respondent

CRR-2250-2007

Gurdip Singh

..... Petitioner

VERSUS

State of Punjab & Ors.

..... Respondents

Reserved on : 16.01.2026
Pronounced on : 30.03.2026

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. Parminder Singh-I, Advocate for the appellants
in CRA-S-1784-SB-2007

Mr. G.P.S. Bal, Advocate for the petitioner
in CRR-2250-2007.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

SURYA PARTAP SINGH, J.

This common judgment shall dispose of one appeal preferred
by the convicts and one revision petition preferred by the complainant-



Gurdip Singh. Since both the abovementioned cases, i.e. appeal and revision are arising out of the same judgment, both of them are being decided together.

2. The abovesaid appeal, preferred by the appellants/convicts, hereinafter being referred as ‘appellants’ only, has been filed against the judgment of conviction and order of sentence, recorded by the Court of learned Additional & Sessions Judge Sri Muktsar Sahib dated 31.08.2007, hereinafter being referred to as impugned judgment only.

3. With regard to same judgment, the Revision Petition has been preferred by the complainant-Gurdip Singh, who is aggrieved of the findings recorded by the learned trial Court, whereby instead of Section 302 of IPC, the accused have been convicted for the commission of offence punishable under Section 304 Part-II read with Section 34 of IPC only.

4. The abovementioned judgment of conviction and order of sentence have been passed in a trial arising out of FIR No.31 dated 06.02.2005, under Section 302/34 IPC, Police Station Lambi.

5. In nut-shell, the facts emerging from record are that, that the abovementioned FIR came into being at the instance of ‘Gurdip Singh’ hereinafter being referred as ‘complainant only’. The pith and substance of the abovementioned FIR was that on 06.02.2005 at about 07:15/07:30 A.M., the complainant, along with his father Gurjant Singh, had gone to Gurdwara Sahib to pay obeisance, and that after paying obeisance when both of them were returning home, there was a gap of about 20-30 yards between them.



According to complainant, when his father was in front of the house of 'Bohar Singh', 'Bohar Singh' and his son 'Gursewak Singh', both armed with *dangs* (wooden sticks), came there and 'Gursewak Singh' exhorted to teach a lesson to the father of the complainant, for defaming him. It was further stated by the complainant that thereafter, both of them launched an assault upon his father and inflicted one injury each with the help of wooden sticks being carried by them. As per complainant, he screamed for help, which was responded by his brother 'Kuldip Singh' and 'Shamsher Singh'. It was further alleged by the complainant that thereafter the assailants fled from the spot and he took his father to the hospital, where the doctor declared him dead.

6. It is the case of the prosecution that pursuant to abovementioned statement, formal FIR of this case was lodged and the investigation taken up.

7. According to prosecution, during the course of investigation the inquest report, Ex.PW6/B, was prepared and the spot was inspected. As per prosecution, during spot inspection the site plan of the place of occurrence, Ex.PW6/G, was prepared. As per prosecution during investigation, the postmortem report of the deceased was collected, the accused were arrested and the weapon of offence were recovered. The prosecution has further alleged that the assailants, namely 'Bohar Singh' and 'Gursewak Singh' were arrested, the weapon of offence were recovered from their possession and all other formalities were taken up. The prosecution has further alleged



that on completion of investigation, the final report under Section 173 of CrPC was filed before the Court, which led to trial.

8. To discharge its burden with regard to charge against the appellants, the prosecution in the instant case had relied upon the documentary as well as oral evidence. The documents relied upon, and marked with exhibits, by the prosecution were as under:-

- Ex.PW4/A - Rapat
- Ex.PA - FIR of this case
- Ex.PW6/B - Inquest report of the deceased
- Ex.PW6/C - Request for conducting postmortem
- Ex.PW6/G - Rough site plan
- Ex.PW6/E - Recovery memo
- Ex.PW6/F - Memo of grounds of arrest
- Ex.PC - Disclosure statement of Bohar Singh
- Ex.PD - Recovery memo of weapon
- Ex.PW5/B - Disclosure statement of Gursewak Singh
- Ex.PW5/C - Recovery memo of weapon of offence
- Ex.PX - FSL report

9. To provide support and corroboration to the above-mentioned documentary evidence, as many as eight witnesses were examined by the prosecution. Those witnesses were:-

- PW-1 - Gurdip Singh (complainant as well as eye-witness)
- PW-2 - Shamsher Singh, eye-witness of the occurrence
- PW-3 - Ajit Sharma, Draftsman
- PW-4 - HC Nirbhai Singh
- PW-5 - Inspector Gurjant Singh (Retd.)
- PW-6 - Sub-Inspector Karam Singh (Retd.)



PW-7 - Dr. Ravinder Kumar Gupta
PW-8 - ASI Darshan Singh

10. Once the prosecution evidence was complete, the learned trial Court completed the essential formalities as enshrined under Section 313 CrPC. Thereafter, opportunity to lead defence evidence was afforded to the appellants. In their defence evidence, the appellants had examined only one witness and the document relied upon, and marked with exhibit, by the accused were as under:-

DW-1 - Surjit Singh Gill, Draftsman
Ex.DA - Site plan

11. Heard.

12. While assailing the impugned judgment of conviction and order of sentence, it has been contended by learned counsel for the appellants that the appellants are innocent, who have been falsely implicated in the present case, and that the impugned judgment and conviction is an outcome of improper appreciation of evidence and ignorance of law. According to learned counsel for the appellants, merely on the basis of assumptions and presumptions the improbable and unnaturally story, set out by the prosecution, has been believed by the learned trial Court and the prosecution evidence, which is full of inconsistencies, contradictions and deficiencies, has been believed. The learned counsel for the appellants has further contended that as per settled principles of law, the prosecution is supposed to prove charge, against the accused, beyond the shadow of all reasonable doubts, but in the case in hand, merely on the basis of conjectures and



surmises, it has been observed that the prosecution has been successful in discharging its abovesaid burden.

13. The learned counsel for the appellants has also contended that in the present case, one of the most significant aspect to be taken into consideration is that, that as per deposition of PW-1, the sole eye-witness examined by the prosecution who has supported the prosecution case, has testified that while returning home the deceased and the complainant had taken a longer route to their home, i.e. through the street in front of the house of appellants, whereas, as per normal course the other route, from Gurdwara Sahib to the house of deceased, is shorter. The learned counsel for the appellants has further contended that the presence of PW-1 at the time of incident was doubtful, as he neither made any effort to rescue his father, nor reacted to the act of the appellant, by resisting their act of inflicting injuries on the person of deceased.

14. The learned counsel for the appellants has further contended that in addition to above, the learned trial Court has also ignored the fact that the second witness, i.e. PW-2 Shamsher Singh, who has been projected as an eye-witness to the occurrence, has not supported the prosecution case qua the fact that injuries on the person of deceased were inflicted by the appellants in his presence.

15. The learned counsel for the appellants has further argued that the charge framed against the appellants was for the commission of offence punishable under Section 302 of IPC and for the commission of abovementioned offence, the intention to cause death is one of the essential



ingredients. As per learned counsel for the appellants, if there would be any intention to kill the deceased, in all probabilities, the assailants would have inflicted more injuries on the person of deceased and if there had been pre-meditated plan to kill him, more deadly weapon, instead of sticks, would have been used.

16. It has further been contended by learned counsel for the appellants that by withholding another alleged eye-witness of the occurrence, namely Kuldip Singh, the prosecution case has been rendered doubtful. As per learned counsel for the appellants the impugned verdict is against the fact as well as law and therefore, there is need for indulgence and interference in the impugned judgment by this Court in the exercise of its appellate jurisdiction.

17. The learned State Counsel, being assisted by learned counsel for the petitioner/complainant has controverted the abovementioned arguments. The learned State Counsel while defending the impugned judgment of conviction and order of sentence has contended that by proper appreciation of the evidence, a right conclusion has been drawn by the learned trial Court. According to learned State Counsel, in the present case there is very specific, categorical and reliable eye-witness account, proving the involvement of appellants in the commission of offence. As per learned State Counsel, the abovementioned ocular version of the story comprising of the testimonies of PW-1 and PW-2 is natural and the same has been duly supported by the medical evidence, comprising of the testimony of Medical Officer PW-7.



18. The learned State Counsel, along with learned counsel for the petitioner/complainant has also contended that the other supporting evidence comprised of the testimonies of official witnesses, who has proved the different steps taken by him during the course of investigation, has also supported the prosecution case, and that the abovenamed witnesses have successfully faced the test of cross-examination and therefore, the abovementioned evidence is reliable and good enough to discharge the burden of the prosecution with regard to proving of charge against the appellants.

19. The learned State Counsel has further contended that all the probabilities pointed out by learned counsel for the appellants, on the basis of which the prosecution story is being projected as unnatural, are nothing, but natural variation in natural course of deposition by witnesses, and that no major contradiction has surfaced in the testimonies of prosecution witnesses, which can impeached the credibility of the evidence adduced by the prosecution. In view of above, the learned State Counsel has contended that there is no scope for indulgence in the impugned verdict, and that the present appeal is devoid of merit and deserves dismissal.

20. The learned counsel for the revisionist/petitioner/complainant has further contended that the factual matrix of the case goes to show that the death of Gurjant Singh was the direct outcome of the act of the appellants/accused who had inflicted injuries on the person of Gurjant Singh, and therefore, the appellants should have been convicted for the commission of offence punishable under Section 302 IPC and not under Section 304-



Part-II IPC. The learned counsel for the petitioner/complainant, in view of above, has contended that by accepting the revision petition, the appellants be convicted for the commission of offence punishable under Section 302 IPC.

21. The record has been perused carefully.

22. Before advertng to any conclusion with regard to story set out by the prosecution, at the threshold itself, it is relevant to mention here that in the present case, charge framed against the appellants was for the commission of offence punishable under Section 302 of IPC. However, the learned trial Court, while discussing the fact situation of the case, convicted the appellants for the commission of offence punishable under Section 304 Part-II read with Section 34 IPC, instead of offence punishable under Section 302 IPC.

23. In order to discharge its burden, the prosecution in the present case has examined two alleged eye-witnesses of the occurrence, i.e. 'Gurdip Singh' the complainant himself and 'Shamsher Singh'. The complainant when appeared in witness-box as PW-1 has duly supported and corroborated the prosecution version by reproducing the facts almost identical to his statement, which served as foundation for the FIR, Ex.PA. The minor details, in which the events unfolded at the time of incident, have been reproduced by the PW-1 and the same are matching with the details given by him to the police just before registration of FIR.



24. A perusal of abovementioned testimony of PW-1 goes to show that firstly, there is no major deviation from his earlier statement given by the PW-1 and secondly, the PW-1 has very successfully faced the test of cross-examination. Although a thorough and probing cross-examination of PW-1 has taken place, but despite that the PW-1 has been successful in holding the ground and no major contradictions, which could have impeached the credibility of his deposition, surfaced in the testimony of PW-1.

25. In order to provide support and corroboration to the testimony of PW-1, the prosecution has examined another witness, who has been projected to be an eye-witness of the occurrence. He is Shamsheer Singh, examined as PW-2. The PW-2 although supported the prosecution case with regard to incident, but, he has failed to extend a firm support to the prosecution case with regard to identity of the assailants, as in the cross-examination, the PW-2 has deposed that he had not seen the appellants inflicting injuries on the person of deceased.

26. To provide further support and corroboration to the testimony of PW-1, the prosecution has primarily relied upon the testimonies of two witnesses, i.e. PW-7 Dr. Ravinder Kumar Gupta, the Medical Officer, who conducted the post-mortem examination of the body of deceased, and PW-6 SI Karam Singh, the Investigating Officer of the case. The PW-7 in his testimony deposed that during the process of post-mortem examination, following two injuries were found on the person of deceased:-



- i. Lacerated wound 1.5 cm x 1 cm over left side of the scalp, 2 cm from anterior hair line and 3 cm from midline. Clotted blood was present and underlying bone was fractured on dissection a big haematoma was seen.
- ii. Lacerated wound 1.5 cm x 2 cm present over the dorsum of right hand near the base of right index finger. Underlying bone fractured. Clotted blood was present.

27. According to PW-7, the cause of death was the head injury suffered by the deceased, which was *ante mortem* in nature. The PW-7 offered himself for cross-examination, but nothing significant could be extracted in his testimony, which can extended any kind of support to the case of appellants or which can be sufficient to impeach the credibility of his deposition.

28. The Investigating Officer of the case PW-6 Sub-Inspector Karam Singh (Retd.) has reproduced the steps, which were taken by him during the course of investigation and proved certain documents, such as the inquest report, Ex.PW6/B, the site plan of the place of occurrence, Ex.PW6/D, the memo with regard to custody of the articles belonging to the deceased, Ex.PW6/C etc.

29. In the present case, subsequent part of the investigation was conducted by ASI Darshan Singh. He has been examined as PW-8. The PW-8 has deposed that on 10.02.2005, when the investigation of the abovementioned case was assigned to him, he had interrogated the appellant No.1 Bohar Singh, who was already in custody and recorded his disclosure



statement, Ex.PC. According to PW-8, pursuant to abovementioned disclosure statement suffered by appellant No.1 Bohar Singh, the weapon of offence, i.e. stick, was recovered by him vide memo Ex.PD.

30. Another police official Inspector Gurjant Singh (Retd.), has been examined as PW-5, has deposed that on 01.04.2005, he arrested the appellant No.2 Gursewak Singh and on interrogation, the appellant No.2 suffered the disclosure statement, Ex.PW5/B, pursuant to which the weapon used by him for the commission of offence was recovered, vide recovery memo Ex.PW5/C. The site plan of place of recovery has been proved by the PW-5 as Ex.PW5/D.

31. All the abovesaid three witnesses have been subjected to sustained & probing cross-examination by learned defence counsel, but nothing significant has been extracted from them, which can lead to a conclusion that their testimonies are not worth reliable.

32. In addition to abovementioned evidence, the prosecution has also examined several other witnesses, whose testimonies are formal and supportive in nature. Amongst them PW-3 is the Draftsman, who prepared the scaled site plan of the place of occurrence and proved the same as PW3/A. Another witness HC Nirbhai Singh has proved the Daily Diary Report, recorded in the Daily Diary Register, as Ex.PW4/A.

33. As far as the abovementioned evidence adduced by the prosecution is concerned, a careful examination of the same reveals that:-



- i. there is a credible eye-witness account comprising of the testimony of PW-1 who not only has supported the prosecution case, but also successfully faced the test of cross-examination and his deposition is in consonance with the contents of FIR. Thus, the abovementioned eye-witness account is worth believable;
- ii. to provide corroboration to the testimony of PW-1, the Medical Officer (PW-7) has supported the FIR version, qua the fact that two injuries caused by blunt weapon were inflicted on the person of deceased;
- iii. the abovementioned ocular version of story is in consonance and thoroughly consistent with the medical evidence;
- iv. to provide support and corroboration to the test of abovementioned evidence, the official witnesses who are instrumental in the investigation of case at different points of time, i.e. PW-5, PW-6 and PW-8, have duly supported the prosecution case; and
- v. PW-5 and PW-8 have proved that the weapons of offence were recovered from the appellants 'Bohar Singh' and 'Gursewak Singh' at the instance of their respective disclosure statements. The recovery of weapons of offence at the instance of appellants adds credit to the prosecution case with regard to involvement of appellants in the commission of offence.

34. The abovementioned evidence adduced by the prosecution is thoroughly consistent, sufficient and good enough to discharge the burden of the prosecution, unless the credibility of abovementioned evidence is impeached by the defence version. In order to impeach the credibility of abovementioned prosecution evidence, there are only two points, which have cropped up in the instant case:-



- i. that a longer route was taken by the deceased, viz-a-viz alleged eye-witness, while returning home from Gurdwara Sahib. However, in view of the fact that both the places were situated in the same village taking a longer route cannot be a ground to discard the abovementioned consistent evidence. Usually, the cleanliness of the street, the width of the street, and other relevant factors are responsible for selecting a passage in a village. Thus, it is hereby held that the abovementioned ground in itself is not sufficient to disbelieve the consistent prosecution evidence;
- ii. that an eye-witness of the occurrence, namely Kuldip Singh has not been examined. With regard to above it is relevant that two eye-witnesses have already been examined by the prosecution as PW-1 and PW-2, and therefore, the examination of Kuldip would not have helped the prosecution case in any manner, whatsoever. Since, the examination of two witnesses with regard to the same fact is sufficient to prove the prosecution stand the abovementioned factors, too, cannot take away the credit of otherwise reliable prosecution evidence.

35. In the present case, this fact cannot be ignored that the appellants have been charged for the commission of offence punishable under Section 302 of IPC. However, in view of factual matrix of the case, wherein each of the assailant inflicted one injury each on the person of deceased with the help of blunt weapon proves that the motive of the appellants was not to cause the death of the victim. Had it been so firstly, multiple injuries would have been caused by the appellants and secondly, more deadly or dangerous weapons would have been used. The abovementioned conduct of the appellants speaks in volumes about their intention and in the above discussed fact-situation the only inference, which



can be drawn from the abovementioned act of the appellants, is that the intention of the appellants was not to commit murder of the victim Gurjant Singh. Thus, it is hereby observed that a right view has been taken by the learned trial Court while, instead of convicting the appellants for the commission of offence punishable under Sections 302/34 of IPC, the appellants have been convicted for the commission of offence punishable under Section 304 Part-II read with Section 34 IPC.

36. If the entire impact of the abovementioned discussion is taken cogently, it leads to a conclusion that in the present case the prosecution has been successful in proving beyond the shadow of reasonable doubt that with the help of *dangs* (wooden sticks) two injuries were inflicted by both the appellants on the person of deceased Gurjant Singh and the abovementioned injuries particularly the injuries caused by appellant No.2 Gursewak Singh, on the head of Gurjant Singh, was responsible for his death. Thus, it is hereby observed that there is no illegality or infirmity in the finding, recorded by the learned trial Court, to the effect that the injuries were inflicted by the appellants on the person of deceased and such injuries proved to be fatal.

37. Since the abovementioned injuries were responsible for the death of Gurjant Singh, a natural question crops up whether the same amounts to murder punishable under Section 302 IPC or the culpable homicide punishable under Section 304 Part-II IPC. With regard to above, it is relevant to note that it has already been discussed in the foregoing paragraphs that there was no intentions, of the appellants, to kill the



deceased. Hence it is hereby held that a right decision was taken by the learned trial Court while convicting the appellants for the commission of offence punishable under Section 304 Part-II IPC.

38. In view of above, this Court is of the opinion that with regard to judgment of conviction, under Section 304 Part-II there is no scope for the exercise of appellate jurisdiction of this Court and the abovementioned judgment deserves to be upheld. Hence, the judgment of conviction is hereby affirmed and the present appeal being devoid of merits is hereby dismissed qua the judgment of conviction.

39. As far as the quantum of sentence is concerned, following are the relevant factors which are supposed to be taken into consideration in instant cases, (i.e. appeal as well as revision):-

- i. that the weapon allegedly used by the appellants were blunt in nature;
- ii. that the appellants had inflicted one injury each on the person of deceased which means that they had no intention to kill him;
- iii. that the appellants had clean antecedents as they were having no criminal history; and
- iv. that the incident had taken place in the year 2005, i.e. more than twenty one years ago and from the date of incident there has been a peace in the locality, where the appellants and the family members of deceased are residing.

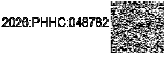
40. Taking into consideration the cumulative fact of all the abovementioned factors, it is hereby held that the appellants are entitled for a lenient view.



41. By virtue of impugned order on the quantum of sentence, the appellants have been sentenced to undergo rigorous imprisonment for a period of five years. However out of abovementioned five years, during the course of trial and thereafter, during the course of appeal, the appellants have already undergone sentence equivalent to the imprisonment for a period of two years, eight months and twenty two days. In the given fact situation, it is hereby held that the sentence already undergone by the appellants is sufficient to meet the ends of justice.

42. As a sequel to the aforesaid discussions, the instant appeal is hereby *partly allowed*. The judgment of conviction is upheld; but order on the point of quantum of sentence is modified, and the sentence awarded to the appellants is reduced to the period already undergone by them.

43. In view of observations in the foregoing paragraphs once the appeal has been partly allowed, while holding that the appellants were rightly held guilty for the commission of offence punishable under Section 304 Part-II read with Section 34 of IPC, and that they have to undergo sentence for imprisonment equal to the period of imprisonment, they have already undergone, it is hereby held that the Revision Petition preferred by the complainant-Gurdip Singh is devoid of merits and deserves dismissal. Accordingly, the same is hereby *dismissed*.



44. A photocopy of this order be placed on the file of connected case.

(SURYA PARTAP SINGH)
JUDGE

30.03.2026
Vinod

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No