



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

CRA-D-853-DB of 2015 (O&M)

KULDEEP

.... APPELLANT

VERSUS

STATE OF HARYANA

... RESPONDENT

Reserved on : 13.10.2025
Pronounced on : 09.01.2026
Whether full judgment
is pronounced
or
operative part thereof : FULL

**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. Amit Kainth, Advocate
for Mr. Rahul Bhargava, Advocate
for the appellant.

Mr. Dhruv Dayal, Addl. A.G., Haryana.

PARMOD GOYAL, J.

This appeal is directed against the judgment of conviction and order of sentence both dated 05.03.2015 passed by Additional Sessions Judge, Gurgaon, in Sessions Case No. 23 of 01.07.2014 whereby appellant Kuldeep was held guilty under section 302 Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and was sentenced to undergo life imprisonment and pay a fine of Rs.5,000/- (in default to pay fine, to undergo RI for three months) under section 302 IPC.

2. After completion of investigation in FIR No.72/2014 dated 24.02.2014 registered with police Station DLF Phase II, Gurgaon. Final report/Challan against the appellant was presented on 22.04.2014. Charge under Section 302 IPC was framed, which was denied by accused, who claimed trial.

Appellant was put to trial for commission of offence under Section 302 of the IPC.

3. Prosecution case as put forth by way of statement of Dayanand (eyewitness/complainant), cousin brother of deceased-Rajbir, on the basis of which FIR was registered, is that on 24.02.2014 he (complainant) had gone to meet his cousin brother Rajbir (deceased), who was residing in a rented room with his wife and children at village Nathupur, Gurgaon. On that day Rajbir (deceased) and Kuldeep (accused) had an argument with regard to cleaning of area. Mother of Kuldeep took him inside the house. After sometime, at about 5.30 pm Dayanand (complainant) along with Rajbir (deceased) went out of the house and when they reached near Durga temple at johar/talab, Kuldeep attacked Rajbir with a knife/chura. He gave knife blows in the stomach and on the chest of Rajbir due to which deceased had fallen down. On seeing this Dayanand raised an alarm and many neighbors gathered at the spot. He then attended to the injured Rajbir and rushed him to Government Hospital, Gurgaon where he was declared brought dead. The complainant further asserted that the motive behind the occurrence was a heated argument over cleaning between Rajbir (deceased) and Kuldeep (accused).

4. Prosecution had examined 13 witnesses in support of its case. The assertions made in FIR dated 24.02.2014 were duly reiterated before Court on oath by author of FIR while appearing as PW-5 and were supported by PW-6 (wife of deceased). To prove its case, apart from examining eye witness i.e. PW-5 & PW-6, prosecution has also examined Dr. Yudhvir Singh as PW-13, who had conducted post-mortem on the dead body of deceased - Rajbir. Doctor PW-13 vide post-mortem report Ex. PW-13/B had stated injuries on the person and deceased and opinioned regarding cause of death.

5. Prosecution has also examined PW-1 - HC Satbir Singh regarding deposit of case property in maalkhanna by IO and regarding sending same to FSL, PW-2 - constable Basti Ram who had deposited case property with FSL after receiving it from PW-1, PW-3 - SHO Naveen who prepared the challan, PW-4 - Sanjay Kumar (brother of deceased) who had identified the dead body of deceased, PW-7 - Vinod Kumar Singh, Senior Scientific Assistant, FSL Madhuban who had prepared the crime scene report Ex. PW7/A, PW-8 – Girish Kumar draftsman who on demarcation of IO had prepared site plan Ex. PC, PW-9 - ASI Satpal Singh who had registered FIR Ex. PD, had made endorsement Ex. PD/1 on ruqqa and had sent special report to magistrate and higher police officers, PW-10 - ASI Rakesh Kumar and PW-11 - ESI Sunder Singh who remained associated with IO in investigation of case, witnessed picking of case property from crime scene, witnessed disclouser by accused and recovery of knife at the instance of accused and PW-12 investigating officer.

6. To counter the case of the prosecution, the accused in his statement under Section 313 Cr.P.C. denied the case and evidence led by prosecution, however had not led any evidence.

7. Learned Additional Sessions Judge, Gurugram, relying on evidence led by prosecution, accepted the deposition of PW-5 corroborated by other witnesses, held accused Kuldeep guilty of charges levelled against him. Aggrieved of judgment of conviction and order of sentence dated 05.03.2015, present appeal has been filed.

8. Learned counsel for the appellant has challenged judgment of conviction on the following grounds:

- (i) That the evidence of PW-5 cousin brother of deceased-Dayanand and PW-6, Birmati, wife of deceased is liable to be discarded as

they are closely related to the deceased and are interested witnesses;

- (ii) That no independent witness was associated during the course of investigation nor examined before the Court, and therefore testimonies of PW-5 and PW-6 do not inspire confidence;
- (iii) That prosecution has failed to establish any motive for the commission of alleged offences, as the purported motive that an argument had taken place between the deceased and accused regarding cleanliness in the area is wholly inadequate, improbable, and cannot be relied upon;
- (iv) That PW-5 was introduced at a later stage, and alleged murder of the deceased was, in fact, a blind murder;
- (v) That prosecution evidence is liable to be rejected in view of material contradictions and discrepancies in the testimonies of prosecution witnesses;
- (vi) That the alleged recovery, having been effected in the absence of any independent witness, is of no evidentiary value and is liable to be ignored;
- (vii) That the prosecution has failed to connect the alleged recovered knife with the commission of the offence.

9. On the other hand, learned State counsel has defended the impugned judgment of conviction and order of sentence, asserting the same to be well-reasoned and based upon proper appreciation of the evidence led by prosecution, in the absence of any plausible defence put forth by the accused.

10. Principal argument raised on behalf of appellant-accused pertains to the relationship of PW-5 and PW-6 with the deceased. It has been contended that since PW-5 and PW-6 are closely related to the deceased, they are interested witnesses, therefore, their testimonies are liable to be rejected.

11. The issue as to whether testimony of related witnesses can be relied

upon for convicting an accused is no longer *res integra*. It is well settled that witnesses related to the victim are competent witnesses and their evidence can be safely relied upon by the Court, provided the same is found to be consistent, cogent, trustworthy, and reliable.

12. Evidence of a related witness is required to be appreciated with due care, bearing in mind that such a witness may, in fact, be the most natural witness to the occurrence. It is also a matter of common knowledge that independent public witnesses are often reluctant to come forward to depose in criminal cases. Public persons avoid associating themselves with criminal investigations and trials for a variety of reasons, including fear of the accused, threats or intimidation, harassment at the hands of the police during investigation, inconvenience caused by repeated court appearances on account of adjournments and pressure from the accused side to resile from statements made to the police. These factors independently/collectively discourage public persons from joining the investigation or appearing before the Court.

13. In ***Mst. Dalbir Kaur & Ors. Vs. State of Punjab***, AIR 1977 SC 472, it was held:-

"Moreover a close relative who is a very natural witness cannot be regarded as an interested witness. The term "interested" postulates that the person concerned must have some direct interest in seeing that the accused person is somehow or the other convicted either because he had some animus with the accused or for some other reason."

Hon'ble the Supreme Court in ***Dilip Singh & Ors. Vs. The State of Punjab***, AIR 1953 SC 364 again held;

"We are unable to agree with the learned Judges of the High Court that the testimony of the two eye witnesses requires

*corroboration. If the foundation for such an observation is based on the fact that the witnesses are women and that the fate of seven men hangs on their testimony, we know of no such rule. If it is grounded on the reason that they are closely related to the deceased we are unable to concur. This is a fallacy common to many criminal cases and one which another Bench of this Court endeavoured to dispel in the case of **Rameshwar Vs. State of Rajasthan**, AIR 1952 SC 54 at p. 59(A) : (1952 Cri. LJ 547). We find, however, that it unfortunately still persists, if not in the judgments of the Courts, at any rate in the arguments of counsel."*

"A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted and that usually means unless the witness has cause, such as enmity against the accused, to wish to implicate him falsely. Ordinarily a close relation would be the last to screen the real culprit and falsely implicate an innocent person. it is true when feelings run high and there is personal cause for enmity that there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but foundation must be laid for such a criticism and the mere fact of relationship far from being a foundation is often sure guarantee of truth. However, we are not attempting any sweeping generalisation. Each case must be judged on its own facts. Our observations are only made to combat what is so often put forward in cases before us as a general rule of prudence. There is no such general rule. Each case must be limited to and be governed by its own facts."

Relative of a victim of offence would never like to involve a person who is not concerned with criminal act and allow the accused to go scot-free. Evidence of such witness, therefore, needs to be appreciated depending upon facts and circumstances of each case. Court as caution may, seek corroboration from other material facts, if needed. However, corroboration is not absolute rule. Trustworthy evidence of related eye-witness in absence of corroboration is sufficient to record

finding of guilt. A relative is not an interested witness unless it is shown that he wants to secure conviction of accused by all means, just or unjust.

14. In view of the settled legal position, the contention raised by learned counsel for the appellant that no reliance can be placed upon the testimony of witnesses merely because they are relatives of the deceased is misconceived and untenable.

15. In the present case, PW-5 has claimed himself to be the son of maternal uncle of the deceased, as deceased was his bua's (paternal aunt's) son. PW-6 is the wife of the deceased. PW-5 while lodging the complaint on the basis of which FIR No. 72 of 2014 dated 24.02.2014 was registered, categorically stated that on 24.02.2014 he had gone to visit his cousin Rajbir (the deceased), who was residing in a rented room along with his wife and children at village Nathupur, Gurgaon. He had further stated that an exchange of words had taken place between Rajbir and the accused Kuldeep regarding cleanliness work in the area in his presence. Thereafter, accused Kuldeep was taken away by his mother. Whereas, he along with Rajbir returned to house of Rajbir. PW-5 further deposed that after some time he and Rajbir went out of the house and while they were present at Johar/Talab near the Durga Temple, at about 5.30 p.m. the accused Kuldeep came there and attacked Rajbir with a knife. Kuldeep had inflicted knife blows on the stomach and chest of Rajbir. Upon sustaining injuries, Rajbir fell down. PW-5 raised an alarm and on hearing the same, some neighbours gathered at the spot, whereupon the accused fled away from the scene along with the knife. PW-5 further stated that thereafter Birmati (PW-6), the wife of Rajbir, also reached the spot. Rajbir was taken to hospital; however, he was declared brought dead. PW-5 had owned his statement duly signed by him Ex. PB made to the police, on the basis of which the FIR was registered.

16. PW-6, wife of the deceased Rajbir, also deposed that on 24.02.2014 a scuffle had taken place between her husband and their neighbour, i.e. accused Kuldeep, regarding cleanliness work in the nearby houses at village Nathupur. She stated that the accused had abused her husband and thereafter went to his house. She further deposed that her husband, along with PW-5 (whose nickname was "Kake") and her mother-in-law, returned to their house. She stated that the scuffle had taken place in the presence of PW-5 as well. PW-6 further deposed that after some time PW-5 and her husband Rajbir went for a walk towards the temple. Subsequently, she came to know that her husband had been stabbed by Kuldeep. Thereupon, she rushed to the spot and found her husband lying in pool of blood, where PW-5 and other persons were present. The police was called, and she, along with her mother-in-law, took Rajbir to the hospital, where he was declared dead. PW-6 duly identified the accused present in Court as the person who had killed her husband.

17. From the above-noted testimonies of PW-5 and PW-6, it clearly emerges that both the prosecution witnesses have disclosed the occurrence in a consistent manner before the Court, in line with their statements recorded by the police during the course of investigation. Nothing has been brought on record to show that either of the witnesses made any material improvement or exaggerated the manner of occurrence while deposing before the Court. Much emphasis has been laid by learned counsel for the appellant regarding the doubtful presence of PW-5 at the spot on the ground that PW-5 was not a resident of village Nathupur and that his presence was allegedly procured. However, upon careful consideration of evidence led by the prosecution, it stands clearly established that PW-5 is the son of the maternal uncle of the deceased i.e. deceased was his bua's son. Their close relationship provides a natural explanation for his presence at the spot. It is noteworthy that both PW-5 and PW-6 have consistently disclosed the

time of occurrence to be 5.30 p.m. on 24.02.2014. The statement Ex. PB, made by PW-5 to the police, was recorded at about 8.30 p.m., as is evident from the endorsement made by PW-12 on the complaint itself, on the basis of which the FIR was registered. Thus, the statement of PW-5 was recorded within less than three hours of the occurrence.

18. It is further significant to note that both PW-5 and PW-6 have duly stated that PW-5 was a resident of Hisar at the relevant time. Despite detailed and searching cross-examination of both the witnesses, nothing could be elicited so as to cast any doubt upon the presence of PW-5 at the spot at the relevant time. Prompt recording of the statement of PW-5 by the police effectively rules out the possibility of a planted or managed witness in a so-called blind murder case, particularly when PW-5 was not even a resident of Gurgaon and was residing at Hisar. The close relationship between PW-5 and the deceased, coupled with the prompt lodging of the FIR, further rules out any possibility of false implication. Admittedly, no suggestion or evidence has been put/led on behalf of the appellant that PW-5 had any motive or reason to falsely implicate the accused by shielding the real culprit.

19. It is also pertinent to note that neither PW-5 nor PW-6 has exaggerated the manner of occurrence in any manner. PW-5 has not claimed that PW-6 was present at the time of the initial scuffle between the deceased and the accused, and both PW-5 and PW-6 have consistently stated that PW-6 reached the spot only after the occurrence. Such natural and truthful narration further strengthens their credibility. Thus, the evidence of PW-5 and PW-6 appears to be cogent, trustworthy, and reliable. There was no reason for either of the witnesses to falsely implicate the accused. Their statements on oath are consistent with the version given in the FIR, which was lodged within a few hours of the occurrence,

and the same inspires confidence. No material discrepancy or contradiction could be brought out from their testimonies. PW-6, though not an eyewitness to the actual assault, has duly corroborated the presence of PW-5 both at the time of the earlier scuffle and at the time of the occurrence in which the deceased was killed.

20. Evidence of PW-13 doctor who had conducted post mortem examination further supports assertions of PW-5 & PW-6 that deceased had died unnatural death due to ante-mortem knife injuries as were found by PW-13 during examination. PW-13 vide post-mortem report Ex. PW-13/A had noted as under :

- 1) *Incised Wound, 3 X 1.5 CM, on left angle of mouth.*
- 2) *One stab incised wound, 4cm X 1cm seen transversely placed over laterally chesty on left side, Mid 1/3rd, 3 cm Medial to left nipple, lateral edge of the wound acute and medial edge seen rounded, on dissection wound seen penetrating the subcutaneous tissue, pectoral muscles and traversing through the 4-5 intercostal muscle space, tearing the upper lobe of pleura, lung correspondingly and piercing through the lung tissue to the corresponding surface of great vessels (Aorta), incising it near base of heart.*
- 3) *One stab incised wound, 4cm X 1cm, over epigastrium, lateral edge of the wound acute and medial edge seen rounded, on dissection wound seen penetrating the subcutaneous tissue, abdominal muscles.*
- 4) *One stab incised wound, 4cm X 1cm seen transversely placed over laterally chest on right side, at anterior axillary margin lateral edge of the wound acute and medical edge seen rounded, on dissection wound seen penetrating the subcutaneous tissue, pectoral muscles and traversing through the 102 intercostal muscle space, tearing the upper lobe of pleura, lung correspondingly.*
- 5) *One stab incised wound, 4 cm X 1cm, over left iliac region, lateral edge of the wound acute and medial. Edge seen rounded, on*

dissection would seen penetrating the subcutaneous tissue, abdominal muscles, loops if intestines seen protruding out.

- 6) *One stab incised wound, 4cm X 1cm, over right hypochondrium, lateral edge of the wound acute and medial edge seen rounded, on dissection wound seen penetrating the subcutaneous tissue, abdominal muscles. (All wounds with bright red clotted blood).*

Doctor had further noticed that Rigor Mortis had developed all over the body and post-mortem staining fixed over back except contact areas, eyes semi closed, cornea haz. were present. The doctor opined cause of death to be shock and haemorrhage following ante-mortem single edged sharp weapon injury, external injury described and its consequences were sufficient to cause death in normal course of nature. Presence of stab injuries as well as site of injuries noticed in post-mortem report matches with and corroborates the ocular account given by PW-5 at the time of lodging FIR and in court. As per FSL report Ex.PX, knife recovered from accused, clothes of deceased (torn shirt, seater underwear pants and chappal), lumps of earth & cotton swab reflect presence of blood/blood stains on all the articles. On further serological examination all the articles were found having human blood except for knife where material was found disintegrated. The evidence of other witnesses duly proves steps taken by police during investigation including disclosure statement and recovery of knife used in commission of offence at the behest of accused. Prosecution evidence is consistent and inspires confidence.

21. There is indeed no absolute rule that in the absence of independent witnesses, evidence of related witness is liable to be ignored. Effect of non-examination of independent witness is dependent on facts and circumstances of each case.

22. The contention raised on behalf of learned counsel for the appellant

that the prosecution has failed to establish any motive is also devoid of merit. Both PW-5 and PW-6 have categorically stated that the deceased and the accused were neighbours. They have further consistently deposed that a scuffle had taken place between the deceased and the accused on the issue of cleanliness of the houses in the locality. Thus, from the unimpeachable testimonies of PW-5 and PW-6, it stands proved that relationship between the deceased and accused was strained and that there was a quarrel between them shortly prior to the occurrence. The said evidence sufficiently establishes the existence of motive for the commission of the offence.

23. In ***Krishna Pillai Sree Kumar & Anr. Vs. State of Kerala, 1981 AIR SC 1237***, Hon'ble the Supreme Court held that:-

“7. It is undisputed that some bad blood existed between the deceased on the one hand and the appellants on the other prior to the occurrence. The animosity may not have been very bitter but then it is too much to say that it could not possibly form a motive for the occurrence. The variation in human nature being so vast murders are known to have been actuated by much lesser motives. In any case, it is not a sine qua non for the success of the prosecution that the motive must be proved. So long as the other evidence remains convincing and is not open to reasonable doubt, a conviction may well be based on it.”

Therefore, in a case based upon ocular account, absence of motive or insufficiency of motive by itself is not sufficient to dislodge evidence of witnesses who are otherwise found trustworthy and reliable. In present case, on appreciation of evidence, evidence of PW-5 as well as PW-6 is found to be consistent, reliable and trustworthy. Therefore, presence of discord between complainant side and accused is sufficient to further corroborate case of prosecution.

24. In the present case, the ocular account given by PW-5 is consistent, cogent, and reliable. The presence of PW-5 at the spot stands duly established not

only through the testimony of PW-6 but also by the fact that the FIR was lodged by him promptly in less than three hours of the occurrence, despite PW-5 being a resident of Hisar, which is at a considerable distance from Gurgaon. Once the presence of the eyewitness is established and his testimony is found to be trustworthy, recovery of the weapon of offence pales into insignificance and only has corroborative value. In the present case, the evidence of PW-12, the Investigating Officer, duly corroborated by PW-10 and PW-11, establishes that the accused was interrogated on 25.02.2014, during which he suffered a disclosure statement and, pursuant thereto, the knife was recovered. The manner of recovery, as proved on record, is consistent and inspires confidence. Merely because the recovery was effected in the presence of police officials and no independent witness was associated, the same cannot be disbelieved. PW-12 has satisfactorily explained that although several persons were present at the place of recovery, none came forward to join the investigation. It is a matter of common knowledge that public persons generally avoid associating themselves with criminal investigations. In such circumstances, the Investigating Officer cannot be faulted for effecting the recovery in the presence of official witnesses alone.

25. Therefore, in the facts and circumstances of the present case, the recovery of the knife cannot be doubted. Moreover, in view of the consistent and reliable ocular evidence of PW-5, the recovery of the knife is only corroborative in nature and merely lends further assurance to the testimony of PW-5.

26. No other argument was raised.

27. Prosecution has successfully proved the commission of offences by appellant as charged beyond reasonable doubt. Conviction and sentence as recorded by learned Trial Court in its judgment and order dated 05.03.2015 is upheld.

28. Appeal is, accordingly, dismissed.
29. Pending miscellaneous application(s), if any, also stand(s) disposed
of, accordingly.

(LISA GILL)
JUDGE

09.01.2026
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned :

Whether reportable :

Uploaded on :

Yes/No

Yes/No

12.01.2026